

43:21-3 ET AL.

LEGISLATIVE HISTORY CHECKLIST

NJSA 43:21-3 et al.

Laws of 1974 Chapter 86

Bill No. A 1799

Sponsor(s) Jackman & others

Date Introduced May 16

Committee: Assembly Labor

Senate -----

Amended during passage Yes

Amendments during passage denoted by asterisks

Date of passage: Assembly July 29

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Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly Yes No

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Fiscal Note Yes No

Veto message Yes No

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Reports Yes No

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ASSEMBLY, No. 1799

STATE OF NEW JERSEY

INTRODUCED MAY 16, 1974

By Assemblymen JACKMAN LEFANTE, SINSIMER, GALLO,
PERKINS and VAN WAGNER

Referred to Committee on Labor

AN ACT concerning unemployment compensation and temporary disability benefits, and amending sections 43:21-3, 43:21-4, 43:21-5, 43:21-6, 43:21-7 and 43:21-19 of the Revised Statutes, section 11 of chapter 110 of the laws of 1948, and section 1 of chapter 81 of the laws of 1944 **and supplementing chapter 21 of Title 43 of the Revised Statutes**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 43:21-3 is amended to read as follows:

2 43:21-3. (a) Payment of benefits. All benefits shall be promptly
3 paid from the fund through local employment offices in accordance
4 with such regulations as may be prescribed hereunder.

5 (b) Weekly benefits for unemployment.

6 With respect to an individual's benefit year commencing on or
7 after July 1, 1961, such individual, if eligible and unemployed
8 (as defined in subsection (m) of R. S. 43:21-19, shall be paid an
9 amount (except as to final payment) equal to his weekly benefit
10 rate less any remuneration paid or payable to him for such week
11 in excess of 20% of his weekly benefit rate (fractional part of a
12 dollar omitted) or \$5.00, whichever is the greater; provided that
13 such amount shall be computed to the next higher multiple of
14 \$1.00 if not already a multiple thereof.

15 (c) Weekly benefit rate.

16 (1) With respect to an individual whose benefit year commences
17 on or after July 1, 1961, and prior to January 1, 1968 his weekly
18 benefit rate under each benefit determination shall be an amount
19 equal to the weekly benefit rate set forth in Column B of the table
20 in this paragraph on the line in which in Column A there appears
21 his average weekly wage:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

	COLUMN A AVERAGE WEEKLY WAGE	COLUMN B WEEKLY BENEFIT RATE
22	\$18.00 or less	\$10.00
23	18.01 but not more than 19.50	11.00
24	19.51 but not more than 21.00	12.00
25	21.01 but not more than 22.50	13.00
26	22.51 but not more than 24.00	14.00
27	24.01 but not more than 25.50	15.00
28	25.51 but not more than 27.00	16.00
29	27.01 but not more than 28.50	17.00
30	28.51 but not more than 30.00	18.00
31	30.01 but not more than 31.50	19.00
32	31.51 but not more than 33.00	20.00
33	33.01 but not more than 34.50	21.00
34	34.51 but not more than 36.00	22.00
35	36.01 but not more than 37.50	23.00
36	37.51 but not more than 39.00	24.00
37	39.01 but not more than 40.50	25.00
38	40.51 but not more than 42.00	26.00
39	42.01 but not more than 43.50	27.00
40	43.51 but not more than 45.00	28.00
41	45.01 but not more than 47.50	29.00
42	47.51 but not more than 50.00	30.00
43	50.01 but not more than 52.50	31.00
44	52.51 but not more than 55.00	32.00
45	55.01 but not more than 57.50	33.00
46	57.51 but not more than 60.00	34.00
47	60.01 but not more than 63.00	35.00
48	63.01 but not more than 66.00	36.00
49	66.01 but not more than 69.00	37.00
50	69.01 but not more than 73.50	37.00
51	73.51 but not more than 76.00	39.00
52	76.01 but not more than 79.00	40.00
53	79.01 but not more than 82.00	41.00
54	82.01 but not more than 84.00	42.00
55	84.01 but not more than 86.00	43.00
56	86.01 but not more than 88.00	44.00
57	88.01 but not more than 90.00	45.00
58	90.01 but not more than 92.00	46.00
59	92.01 but not more than 94.00	47.00
60	94.01 but not more than 96.00	48.00
61	96.01 but not more than 98.00	49.00
62	98.01 or more	50.00

63 (2) With respect to an individual whose benefit year commences
 64 in any calendar year after December 31, 1967, his weekly benefit
 65 rate under each determination shall be two-thirds of his average
 66 weekly wage, subject to a maximum of 50% of the Statewide
 67 average weekly remuneration paid to workers by employers subject
 68 to this chapter (R. S. 43:21-1 et seq.), as determined and promul-
 69 gated by the Commissioner of Labor and Industry, and to a mini-
 70 mum of \$10.00; provided, however, that such individual's weekly
 71 benefit rate shall be computed to the next higher multiple of \$1.00
 72 if not already a multiple thereof. For the purposes of this para-
 73 graph, the "Statewide average weekly remuneration paid to
 74 workers by employers" shall be computed and determined by the
 75 Commissioner of Labor and Industry on or before September 1 of
 76 each year on the basis of one-fifty-second of the total remuneration
 77 reported for the preceding calendar year by employers subject to
 78 this chapter, divided by the average of the number of workers
 79 reported by such employers, and shall be effective as to benefit
 80 determinations in the calendar year following such computation
 81 and determination.

82 (d) Maximum total benefits.

83 (1) With respect to an individual to whom benefits shall be pay-
 84 able for benefit years prior to January 1, 1968, as provided in
 85 this section such individual shall be entitled to receive, under each
 86 successive benefit determination relating to each of his base year
 87 employers, a total amount of benefits equal to three-quarters of
 88 his base weeks from the employer in question multiplied by his
 89 weekly benefit rate; but the amount of benefits thus resulting under
 90 any such determination made with respect to an employer, shall be
 91 adjusted to the next higher multiple of \$1.00 if not already a mul-
 92 tiple thereof.

93 With respect to an individual to whom benefits shall be payable
 94 for benefit years commencing on or after January 1, 1968 as pro-
 95 vided in this section *and prior to* ***[July 1, 1974]*** *January 1, 1975**,
 96 such individual shall be entitled to receive, under each successive
 97 benefit determination relating to each of his base year employers,
 98 a total amount of benefits equal to one-third of his total wages in
 99 his base year or three-quarters of his base weeks from the employer
 100 in question multiplied by his weekly benefit rate, whichever is the
 101 higher; but the amount of benefits thus resulting under any such
 102 determination made with respect to an employer shall be adjusted
 103 to the next higher multiple of \$1.00 if not already a multiple thereof.
 104 *With respect to an individual to whom benefits shall be payable*

105 *for benefit years commencing on or after ***[July 1, 1974]*** *January*
 106 *1, 1975**, as provided in this section, such individual shall be entitled
 107 *to receive, under each successive benefit determination relating to*
 108 *each of his base year employers, a total amount of benefits equal*
 109 *to three-quarters of his base weeks from the employer in question*
 110 *multiplied by his weekly benefit rate; but the amount of benefits*
 111 *thus resulting under any such determination made with respect to*
 112 *any employer, shall be adjusted to the next higher multiple of \$1.00*
 113 *if not already a multiple thereof.*

114 (2) No such individual shall be entitled to receive benefits under
 115 this chapter (R. S. 43:21-1 et seq.) in excess of 26 times his weekly
 116 benefit rate in any benefit year under either of subsections (c)
 117 and (f) of section 43:21-4 of this chapter (R. S. 43:21-1 et seq.).
 118 In the event that any individual qualifies for benefits under both
 119 of said subsections during any benefit year, the maximum total
 120 amount of benefits payable under said subsections combined to
 121 such individual during the benefit year shall be one-and-one-half
 122 times the maximum amount of benefits payable under one of said
 123 subsections.

124 (3) The maximum total benefits of any individual shall be
 125 reduced by an amount equal to 17 times his weekly benefit rate upon
 126 the discovery by the division that such individual illegally received
 127 any sum as benefits contrary to the provisions of this chapter as the
 128 result of any false or fraudulent representation; provided, how-
 129 ever, that such reduction shall apply only to a benefit year in
 130 existence at the time of the discovery and to a benefit year estab-
 131 lished within 1 year from the time of such discovery.

1 2. R. S. 43:21-4 is amended to read as follows:

2 43:21-4. Benefit eligibility conditions. An unemployed individual
 3 shall be eligible to receive benefits with respect to any week only if
 4 it appears that:

5 (a) He has registered for work at, and thereafter continued to
 6 report at, an employment office in accordance with such regulations
 7 as the division may prescribe, except that the division may, by
 8 regulation, waive or alter either or both of the requirements of this
 9 subsection as to individuals attached to regular jobs, and as to such
 10 other types of cases or situations with respect to which the division
 11 finds that compliance with such requirements would be oppressive,
 12 or would be inconsistent with the purpose of this act; provided,
 13 that no such regulation shall conflict with subsection (a) of R. S.
 14 43:21-3.

15 (b) He has made a claim for benefits in accordance with the pro-
16 visions of subsection (a) of R. S. 43:21-6.

17 (c) He is able to work, and is available for work, and has demon-
18 strated that he is actively seeking work, except as hereinafter pro-
19 vided in this subsection or in subsection (f) of this section:

20 (1) No woman shall be deemed to be able or available for work
21 during the 4 weeks immediately before the expected birth of her
22 child or the 4 weeks immediately following the birth of her child, in
23 either of which cases the division may require the production of a
24 doctor's certificate to establish such dates;

25 (2) The director may, in his discretion, modify the requirement
26 of actively seeking work if, in his judgment, such modification of
27 this requirement is warranted by economic conditions.

28 No individual, who is otherwise eligible, shall be deemed ineligi-
29 ble, or unavailable for work, because he is on vacation, without pay,
30 during said week, if said vacation is not the result of his own action
31 as distinguished from any collective action of a collective bargaining
32 agent or other action beyond his individual control; nor subject to
33 such limitations and conditions as the division may prescribe, shall
34 any otherwise eligible individual who is attending a training pro-
35 gram which has been approved for him by the division to enhance
36 his employment opportunities be deemed unavailable for work or
37 ineligible because he is attending such training program, or because
38 he failed or refused to accept work while attending such program.

39 (d) He has been totally or partially unemployed for a waiting
40 period of 1 week in the benefit year which includes that week. When
41 benefits become payable with respect to the third consecutive week
42 next following the waiting period, he shall be eligible to receive
43 benefits as appropriate with respect to the waiting period. No week
44 shall be counted as a week of unemployment for the purposes of this
45 subsection:

46 (1) If benefits have been paid, or are payable with respect
47 thereto; provided, that the requirements of this paragraph shall be
48 waived with respect to any benefits paid or payable for a waiting
49 period as provided in this subsection;

50 (2) If it has constituted a waiting period week under temporary
51 disability benefits law;

52 (3) Unless the individual fulfills the requirements of subsections
53 (a) and (c) of this section;

54 (4) If with respect thereto, claimant was disqualified for benefits
55 in accordance with the provisions of subsection (d) of R. S. 43:21-5.

56 (e) With respect to a base year as defined in subsection (c) of

57 R. S. 43:21-19 he has established at least **17** 20 base weeks as
58 defined in subsection (t) **(1)** of R. S. 43:21-19, or, in the alterna-
59 tive, has earned **\$1,350.00** \$2,200.00 or more in his base year.

60 (f) (1) He has suffered any accident or sickness not compensable
61 under the Workmen's Compensation Law (Title 34 of the Revised
62 Statutes) and resulting in his total disability to perform any work
63 for remuneration, and would be eligible to receive benefits under
64 this chapter (R. S. 43:21-1 et seq.) (without regard to the maximum
65 amount of benefits payable during any benefit year) except for his
66 inability to work and has furnished notice and proof of claim to the
67 division, in accordance with its rules and regulations, and payment
68 is not precluded by the provisions of R. S. 43:21-3 (d); provided,
69 however, that no benefits shall be payable under this subsection to
70 any individual:

71 (A) For any period during which such individual is not under
72 the care of a legally licensed physician, dentist or chiropodist;

73 (B) For any period of disability due to pregnancy or result-
74 ing childbirth, miscarriage, or abortion, except for disability
75 existing during the 4 weeks immediately before the expected
76 birth of child, and the 4 weeks following the termination of the
77 pregnancy;

78 (C) For any period of disability due to willfully or intention-
79 ally self-inflicted injury, or to injuries sustained in the perpe-
80 tration by the individual of a high misdemeanor;

81 (D) For any week with respect to which or a part of which he
82 has received or is seeking benefits under any unemployment com-
83 pensation or disability benefit law of any other state or of the
84 United States; provided, that if the appropriate agency of such
85 other state or of the United States finally determines that
86 he is not entitled to such benefits, this disqualification shall not
87 apply;

88 (E) For any week with respect to which or part of which he
89 has received or is seeking disability benefits under the temporary
90 disability benefits law;

91 (F) For any period of disability commencing while such in-
92 dividual is a "covered individual" as defined in subsection
93 3 (b) of the temporary disability benefits law (P. L. 1948,
94 c. 110).

95 (2) Benefit payments under this subsection shall be charged to
96 and paid from the State disability benefits fund established by the
97 temporary disability benefits law, and shall not be charged to any
98 employer account in computing any employer's experience rate for
99 contributions payable under this chapter.

100 (g) Benefits based on service in employment defined in sub-
 101 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
 102 in the same amount and on the terms and subject to the same
 103 conditions as benefits payable on the basis of other service subject
 104 to the Unemployment Compensation Law; except that notwith-
 105 standing any other provisions of the Unemployment Compensa-
 106 tion Law, benefits based on service in an instructional, research,
 107 or principal administrative capacity in an institution of
 108 higher education shall not be paid to an individual for
 109 any week of unemployment or period of disability during the
 110 period between 2 successive academic years, or during a similar
 111 period between two regular terms, whether or not successive, or
 112 during a period of leave provided for in the individual's employ-
 113 ment, if the individual has a contract or other method of under-
 114 standing or contracts to perform services in any such capacity for
 115 any institution or institutions of higher education for both such
 116 academic years or both such terms. If, however, the individual
 117 performs service for an employer in an instructional, research or
 118 principal administrative capacity, as well as in any other capacity,
 119 and the amount of time in the other capacity is in excess of one-half
 120 of his total time, the exception contained in this subsection (g) shall
 121 not apply.

122 (h) Notwithstanding any other provision of this chapter, the
 123 director may, to the extent that he deems efficient and economical
 124 provide for consolidated administration by one or more repre-
 125 sentatives or deputies of claims made pursuant to subsection
 126 (f) of this section with those made pursuant to Article III (State
 127 plan) of the Temporary Disability Benefits Law.

1 3. R. S. 43:21-5 is amended to read as follows:

2 43:21-5. An individual shall be disqualified for benefits:

3 (a) For the week in which he has left work voluntarily without
 4 good cause attributable to such work, and for each week thereafter
 5 until he has earned in employment (which may be with an employ-
 6 ing unit having in employment one or more individuals) at least
 7 four times his weekly benefit rate, as determined in each case;
 8 provided, however, that no disqualification shall be applicable to
 9 a woman who left or was separated from her work solely by reason
 10 of her pregnancy.

11 (b) For the week in which he has been **[finally]** *suspended or*
 12 *discharged* for misconduct connected with his work, and for the 5
 13 weeks which immediately follow such week (in addition to the wait-
 14 ing period), as determined in each case. In the event such discharge
 15 should be rescinded by the employer voluntarily or as a result of

16 mediation or arbitration this subsection (b) shall not apply, pro-
17 vided, however, an individual who is restored to employment with
18 back pay shall return any benefits received under this chapter for
19 any week of unemployment for which he is subsequently compen-
20 sated by his employer.

21 (c) If it is found that he has failed, without good cause, either
22 to apply for available, suitable work when so directed by the em-
23 ployment office or the director or to accept suitable work when
24 offered him, or to return to his customary self-employment (if any)
25 when so directed by the director. Such disqualification shall con-
26 tinue for the week in which such failure occurred and for the 3
27 weeks which immediately follow such week (in addition to the
28 waiting period), as determined:

29 (1) In determining whether or not any work is suitable for an
30 individual, consideration shall be given to the degree of risk in-
31 volved to his health, safety and morals, his physical fitness and
32 prior training, his experience and prior earnings, his length of
33 unemployment and prospects for securing local work in his custo-
34 mary occupation, and the distance of the available work from his
35 residence.

36 (2) Notwithstanding any other provisions of this chapter, no
37 work shall be deemed suitable and benefits shall not be denied under
38 this chapter to any otherwise eligible individual for refusing to
39 accept new work under any of the following conditions: (a) If the
40 position offered is vacant due directly to a strike, lockout, or other
41 labor dispute; (b) If the remuneration, hours, or other conditions
42 of the work offered are substantially less favorable to the individual
43 than those prevailing for similar work in the locality; (c) If as a
44 condition of being employed the individual would be required to
45 join a company union or to resign from or refrain from joining
46 any bona fide labor organization.

47 (d) If it is found that his unemployment is due to a stoppage
48 of work which exists because of a labor dispute at the factory,
49 establishment or other premises at which he is or was last employed,
50 no disqualification under this subsection shall apply if it is shown
51 that:

52 (1) He is not participating in or financing or directly interested
53 in the labor dispute which caused the stoppage of work; and

54 (2) He does not belong to a grade or class of workers of which,
55 immediately before the commencement of the stoppage, there were
56 members employed at the premises at which the stoppage occurs,
57 any of whom are participating in or financing or directly interested

58 in the dispute; provided, that if in any case in which (1) or (2)
 59 above applies separate branches of work which are commonly con-
 60 ducted as separate businesses in separate premises are conducted
 61 in separate departments of the same premises, each such depart-
 62 ment shall, for the purposes of this subsection, be deemed to be a
 63 separate factory, establishment, or other premises;

64 (e) For any week with respect to which he is receiving or has
 65 received remuneration in lieu of notice.

66 (f) For any week with respect to which or a part of which he has
 67 received or is seeking unemployment benefits under an unemploy-
 68 ment compensation law of any other state or of the United States;
 69 provided, that if the appropriate agency of such other state or of
 70 the United States finally determines that he is not entitled to such
 71 unemployment benefits, this disqualification shall not apply.

72 (g) (1) For a period of 17 weeks from the date of the discovery
 73 by the division of the illegal receipt of benefits contrary to the
 74 provisions of this chapter as the result of any false or fraudulent
 75 representation and his maximum total benefits shall be reduced
 76 by an amount equal to 17 times his weekly benefit rate in the benefit
 77 year in existence at the time of the discovery and in a benefit year
 78 established within 1 year thereafter, but the maximum reduction
 79 shall not exceed 17 times the weekly benefit rate; provided, that
 80 any such disqualification may be appealed in the same manner as
 81 any other disqualification imposed hereunder; and, provided
 82 further, that a conviction in the courts of this State arising out of
 83 the illegal receipt of such benefits in any proceeding instituted
 84 against him, under the provisions of this chapter or any other law
 85 of this State, shall be conclusive upon the appeals tribunal and the
 86 board of review.

87 (2) A disqualification under this subsection shall not preclude
 88 the prosecution of any civil, criminal or administrative action or
 89 proceeding to enforce other provisions of this chapter for the
 90 assessment and collection of penalties or the refund of any amounts
 91 collected as benefits under the provisions of R. S. 43:21-16, or to
 92 enforce any other law where an individual obtains or attempts to
 93 obtain by theft or robbery or false statements or representations
 94 any money from any fund created or established under this chapter
 95 or any negotiatble or nonnegotiable instrument for the payment
 96 of money from such funds, or to recover money erroneously or
 97 illegally obtained by an individual from any fund created or estab-
 98 lished under this chapter.

1 4. R. S. 43:21-6 is amended to read as follows:

2 43:21-6. Claims for benefits.

3 (a) Filing. Claims for benefits shall be made in accordance
4 with such regulations as the Director of the Division of Employ-
5 ment Security of the Department of Labor and Industry of the
6 State of New Jersey may approve. Each employer shall post and
7 maintain on his premises printed notices of his subject status,
8 of such design, in such numbers, and at such places as the director
9 of the division may determine to be necessary to give notice
10 thereof to persons in the employer's service. Each employer shall
11 give to each individual at the time he becomes unemployed a printed
12 copy of benefit instructions. Both the aforesaid notices and in-
13 structions shall be supplied by the division to employers without
14 cost to them.

15 (b) (1) Procedure for making initial determinations with respect
16 to benefit years commencing on or after January 1, 1953.

17 A representative or representatives designated by the director
18 of the division and hereafter referred to as a "deputy" shall
19 promptly examine the claim, and shall notify the most recent
20 employing unit and, successively as necessary, each employer in
21 inverse chronological order during the base year. Such notification
22 shall require said employing unit and employer to furnish such
23 information to the deputy as may be necessary to determine the
24 claimant's eligibility and his benefit rights with respect to the
25 employer in question, and such notification shall also provide the
26 most recent chargeable employer in the base year with the name
27 and address of the most recent employing unit of the claimant.

28 In his discretion, the director may appoint special deputies to
29 make initial or subsequent determinations under subsections 4 (f)
30 and 5 (d) of this chapter.

31 If any employer or employing unit fails to respond to the request
32 for information within 7 days after the mailing of such request, the
33 deputy shall rely entirely on information from other sources,
34 including an affidavit to the best of the knowledge and belief of
35 the claimant with respect to his wages and time worked. Except
36 in the event of fraud, if it is determined that any information in
37 such affidavit is erroneous, no penalty shall be imposed on the
38 claimant.

39 The deputy shall promptly make an initial determination based
40 upon the available information. The initial determination shall
41 show the weekly benefit amount payable, the maximum duration
42 of benefits with respect to the employer to whom the determination
43 relates, and also shall show whether the claimant is ineligible or
44 disqualified for benefits under the initial determination. The

45 claimant and the employer whose account may be charged for
46 benefits payable pursuant to said determination shall be promptly
47 notified thereof.

48 Whenever an initial determination is based upon information
49 other than that supplied by an employer because such employer
50 failed to respond to the deputy's request for information, such
51 initial determination and any subsequent determination thereunder
52 shall be incontestable by the noncomplying employer, as to any
53 charges to his employer's account because of benefits paid prior
54 to the close of the calendar week following the receipt of his reply.
55 Such initial determination shall be altered if necessary upon receipt
56 of information from the employer, and any benefits paid or payable
57 with respect to weeks occurring subsequent to the close of the
58 calendar week following the receipt of the employer's reply shall
59 be paid in accordance with such altered initial determination.

60 The deputy shall issue a separate initial benefit determination
61 with respect to each of the claimant's base year employers, start-
62 ing with the most recent employer and continuing as necessary in
63 the inverse chronological order of the claimant's last date of
64 employment with each such employer. If an appeal is taken from
65 an initial determination as hereinafter provided by any employer
66 other than the first chargeable base-year employer, then such
67 appeal shall be limited in scope to include only 1 or more of the
68 following matters:

69 (A) The correctness of the benefit payments authorized to be
70 made under the determination;

71 (B) Fraud in connection with the claim pursuant to which the
72 initial determination is issued; or

73 (C) The refusal of suitable work offered by the chargeable
74 employer filing the appeal.

75 The amount of benefits payable under an initial determination
76 may be reduced or canceled if necessary to avoid payment of
77 benefits for a number of weeks in excess of the maximum specified
78 in subsection (d) of section 43:21-3 of this Title.

79 Unless the claimant or any interested party within 7 calendar
80 days after delivery of notification of an initial determination or
81 within 10 calendar days after such notification was mailed to his
82 or their last-known address and addresses, files an appeal from
83 such decision, such decision shall be final and benefits shall be paid
84 or denied in accordance therewith, except for such determinations
85 as may be altered in benefit amounts or duration as provided in
86 this paragraph. If an appeal is duly filed, benefits with respect

87 to the period covered by the appeal shall be payable only after a
88 determination of entitlement by the appellate tribunal; benefits
89 payable for periods pending an appeal and not in dispute shall be
90 paid as such benefits accrue; provided, that insofar as any such
91 appeal is or may be an appeal from a determination to the effect
92 that the claimant is disqualified under the provisions of R. S.
93 43:21-5 or any amendments thereof or supplements thereto, bene-
94 fits pending determination of the appeal shall be withheld only
95 for the period of disqualification as provided for in said section,
96 and notwithstanding such appeal the benefits otherwise provided
97 by this act shall be paid for the period subsequent to such period
98 of disqualification; and provided, also, that if there are two
99 determinations of entitlement, benefits for the period covered by
100 such determinations shall be paid regardless of any appeal which
101 may thereafter be taken, but no employer's account shall be charged
102 with benefits so paid if the decision is finally reversed.

103 (2) Procedure for making initial determinations in certain cases
104 of concurrent employment, with respect to benefit years commenc-
105 ing on or after January 1, 1953.

106 Notwithstanding any other provisions of this Title, if an
107 individual shows to the satisfaction of the deputy that there were
108 at least 13 weeks in his base period in each of which he earned
109 wages from two or more employers totaling ~~[\$15.00]~~ \$30.00 or more
110 but in each of which there was no single employer from whom he
111 earned as much as ~~[\$15.00]~~ \$30.00 then such individual's claim
112 shall be determined in accordance with the special provisions of
113 this paragraph. In such case, the deputy shall determine the
114 individual's eligibility for benefits, his average weekly wage, weekly
115 benefit rate and maximum total benefits as if all his base year
116 employers were a single employer. Such determination shall
117 apportion the liability for benefit charges thereunder to the indi-
118 vidual's several base year employers so that each employer's
119 maximum liability for charges thereunder bears approximately the
120 same relation to the maximum total benefits allowed as the wages
121 earned by the individual from each employer during the base year
122 bears to his total wages earned from all employers during the base
123 year. Such initial determination shall also specify the individual's
124 last date of employment within the base year with respect to each
125 base year employer, and such employers shall be charged for
126 benefits paid under said initial determination in the inverse
127 chronological order of such last dates of employment.

128 (3) Procedure for making subsequent determinations with

129 respect to benefit years commencing on or after January 1, 1953.
130 The deputy shall make determinations with respect to claims for
131 benefits thereafter in the course of the benefit year in accordance
132 with any initial determination allowing benefits, and under which
133 benefits have not been exhausted, and each notification of a benefit
134 payment shall be a notification of an affirmative subsequent
135 determination. The allowance of benefits by the deputy on any
136 such determination, or the denial of benefits by the deputy on any
137 such determination, shall be appealable in the same manner and
138 under the same limitations as is provided in the case of initial
139 determinations.

140 (c) Appeals. Unless such appeal is withdrawn, an appeal
141 tribunal, after affording the parties reasonable opportunity for
142 fair hearing, shall affirm or modify the findings of fact and the
143 determination. The parties shall be duly notified of such tribunal's
144 decision, together with its reasons therefor, which shall be deemed
145 to be the final decision of the board of review, unless within 10 days
146 after the date of notification or mailing of such decision, further
147 appeal is initiated pursuant to subsection (e) of this section.

148 (d) Appeal tribunals. To hear and decide disputed benefit
149 claims, including appeals from determinations with respect to
150 demands for refunds of benefits under section 43:21-16 (d) of this
151 chapter (R. S. 43:21-1 et seq.), the director with the approval of
152 the Commissioner of Labor and Industry shall establish one or
153 more impartial appeal tribunals consisting in each case of either
154 a salaried examiner or a body, consisting of three members, one of
155 whom shall be a salaried examiner, who shall serve as chairman,
156 one of whom shall be a representative of employers and the other
157 of whom shall be a representative of employees; each of the latter
158 two members shall serve at the pleasure of the commissioner and
159 be paid a fee of not more than \$20.00 per day of active service on
160 such tribunal plus necessary expenses. No person shall participate
161 on behalf of the division in any case in which he is an interested
162 party. The director may designate alternates to serve in the
163 absence or disqualification of any member of an appeal tribunal.
164 The chairman shall act alone in the absence or disqualification of
165 any other members and his alternates. In no case shall the hear-
166 ings proceed unless the chairman of the appeal tribunal is present.

167 (e) Board of review. The board of review may on its own motion
168 affirm, modify, or set aside any decision of an appeal tribunal on
169 the basis of the evidence previously submitted in such case, or
170 direct the taking of additional evidence, or may permit any of the

171 parties to such decision to initiate further appeals before it. The
172 board of review shall permit such further appeal by any of the
173 parties interested in a decision of an appeal tribunal which is not
174 unanimous and from any determination which has been overruled
175 or modified by any appeal tribunal. The board of review may
176 remove to itself or transfer to another appeal tribunal the proceed-
177 ings on any claim pending before an appeal tribunal. Any proceed-
178 ings so removed to the board of review shall be heard by a quorum
179 thereof in accordance with the requirements of subsection (c) of
180 this section. The board of review shall promptly notify the inter-
181 ested parties of its findings and decision.

182 (f) Procedure. The manner in which disputed benefit, claims, and
183 appeals from determinations with respect to (1) claims for benefits
184 and (2) demands for refunds of benefits under section 43:21-16 (d)
185 of this chapter (R. S. 43:21-1 et seq.) shall be presented, the
186 reports thereon required from the claimant and from employers,
187 and the conduct of hearings and appeals shall be in accordance
188 with rules prescribed by the board of review for determining the
189 rights of the parties, whether or not such rules conform to com-
190 mon law or statutory rules of evidence and other technical rules
191 of procedure. A full and complete record shall be kept of all
192 proceedings in connection with a disputed claim. All testimony
193 at any hearing upon a disputed claim shall be recorded, but need
194 not be transcribed unless the disputed claim is further appealed.

195 (g) Witness fees. Witnesses subpoenaed pursuant to this section
196 shall be allowed fees at a rate fixed by the director. Such fees and
197 all expenses of proceedings involving disputed claims shall be
198 deemed a part of the expense of administering this chapter
199 (R. S. 43:21-1 et seq.).

200 (h) Court review. Any decision of the board of review shall
201 become final as to any party upon the mailing of a copy thereof to
202 such party or to his attorney, or upon the mailing of a copy thereof
203 to such party at his last-known address. The Division of Employ-
204 ment Security and any party to a proceeding before the board of
205 review may secure judicial review of the final decision of the board
206 of review. Any party not joining in the appeal shall be made a
207 defendant; the board of review shall be deemed to be a party to
208 any judicial action involving the review of, or appeal from, any
209 of its decisions, and may be represented in any such judicial action
210 by any qualified attorney who may be a regular salaried employee
211 of the board of review or has been designated by it for that pur-
212 pose, or, at the board of review's request, by the Attorney General.

213 (i) Failure to give notice. The failure of any public officer or
 214 employee at any time heretofore or hereafter to give notice of
 215 determination or decision required in subsections (b), (c) and (e)
 216 of this section, as originally passed or amended, shall not relieve
 217 any employer's account of any charge by reason of any benefits
 218 paid unless and until that employer can show to the satisfaction
 219 of the director of the division that the said benefits, in whole or in
 220 part, would not have been charged or chargeable to his account had
 221 such notice been given. Any determination hereunder by the
 222 director shall be subject to court review.

1 5. R. S. 43:21-7 is amended to read as follows:

2 43:21-7. Contributions. Employers other than those liable for
 3 payment in lieu of contributions on the basis set forth in subsec-
 4 tion 3 of this act (C. 43:21-7.2), shall pay to the Division of Em-
 5 ployment Security for the Unemployment Compensation Fund,
 6 contributions as set forth in subsections (a), (b) and (c) hereof,
 7 and the provisions of subsections (d) and (e) shall be applicable
 8 to all employers consistent with the provisions of the Unemploy-
 9 ment Compensation Law and the Temporary Disability Benefits
 10 Law. (a) Payment.

11 (1) Contributions shall accrue and become payable by each em-
 12 ployer for each calendar year in which he is subject to this chapter
 13 (R. S. 43:21-1 et seq.), with respect to having individuals in his
 14 employ during such calendar year at the rates and on the basis
 15 hereinafter set forth. Such contributions shall become due and be
 16 paid by each employer to the Division of Employment Security for
 17 the fund in accordance with such regulations as may be prescribed,
 18 and shall not be deducted, in whole or in part, from the remunera-
 19 tion of individuals in his employ.

20 (2) In the payment of any contributions, a fractional part of a
 21 cent shall be disregarded unless it amounts to \$0.005 or more, in
 22 which case it shall be increased to \$0.01.

23 (b) Rate of contributions. Each employer shall pay the follow-
 24 ing contributions:

25 (1) For the calendar year 1947, and each calendar year there-
 26 after, $2\frac{7}{10}$ of wages paid by him during each such calendar year,
 27 except as otherwise prescribed by subsection (c) of this section.

28 (2) The "wages" of any individual, with respect to any one em-
 29 ployer as the term is used in this subsection (b) and in subsections
 30 (c), (d) and (e) of this section 7, shall include the first \$3,000.00
 31 paid during each calendar year prior to January 1, 1968,
 32 the first \$3,600.00 paid during each calendar year commencing on

33 or after January 1, 1968 and prior to January 1, 1972, [and] the
 34 first \$4,200.00 paid during each calendar year commencing on or
 35 after January 1, 1972[,] and prior to January 1, 1975, and the first
 36 \$4,800.00 paid during each calendar year commencing on or after
 37 January 1, 1975, for services performed either within or without
 38 this State; provided, that no contribution shall be required by this
 39 State with respect to services performed in another state if such
 40 other state imposes contribution liability with respect thereto. If
 41 an employer (hereinafter referred to as a successor employer)
 42 during any calendar year acquires substantially all the property
 43 used in a trade or business of another employer (hereinafter re-
 44 ferred to as a predecessor), or used in a separate unit of a trade
 45 or business of a predecessor, and immediately after the acquisition
 46 employs in his trade or business an individual who immediately
 47 prior to the acquisition was employed in the trade or business of
 48 such predecessor, then, for the purpose of determining whether
 49 the successor employer has paid wages with respect to employment
 50 equal to \$3,000.00 to such individual during any calendar year
 51 prior to January 1, 1968, or equal to \$3,600.00 during any calendar
 52 year commencing on or after January 1, 1968 and prior to Janu-
 53 ary 1, 1972, [and] the first \$4,200.00 paid during each calendar
 54 year commencing on or after January 1, 1972[,] and prior to
 55 January 1, 1975, and the first \$4,800.00 paid during each calendar
 56 year commencing on or after January 1, 1975, any wages paid to
 57 such individual by such predecessor during such calendar year
 58 and prior to such acquisition shall be considered as having been
 59 paid by such successor employer.

60 (3) For calendar years beginning on and after January 1, 1976,
 61 the "wages" of any individual as defined in the preceding para-
 62 graph (2) of this subsection (b) shall be established and promul-
 63 gated by the Commissioner of Labor and Industry on or before
 64 September 1 of the preceding year and shall be twenty-eight times
 65 the statewide average weekly remuneration paid to workers by
 66 employers, as determined under R. S. 43:21-3 (c) (2), raised to
 67 the next higher multiple of \$100.00 if not already a multiple thereof,
 68 provided that if the amount of wages so determined for a calendar
 69 year is less than the amount similarly determined for the preceding
 70 year, the greater amount will be used.

71 (c) Future rates based on benefit experience.

72 (1) A separate account for each employer shall be maintained
 73 and this shall be credited with all the contributions which he has
 74 paid on his own behalf on or before January 31 of any calendar year

75 with respect to employment occurring in preceding calendar years ;
76 provided, however, that if January 31 of any calendar year falls
77 on a Saturday or Sunday, an employer's account shall be credited
78 as of January 31 of such calendar year with all the contributions
79 which he has paid on or before the next succeeding day which is not
80 a Saturday or Sunday. But nothing in this chapter (R. S. 43:21-1
81 et seq.) shall be construed to grant any employer or individuals in
82 his service prior claims or rights to the amounts paid by him into
83 the fund either on his own behalf or on behalf of such individuals.
84 Benefits paid with respect to benefit years commencing on and after
85 January 1, 1953, to any individual on or before December 31 of any
86 calendar year with respect to unemployment in such calendar year
87 and in preceding calendar years shall be charged against the ac-
88 count or accounts of the employer or employers in whose employ-
89 ment such individual established base weeks constituting the basis
90 of such benefits. Benefits paid under a given benefit determination
91 shall be charged against the account of the employer to whom such
92 determination relates. When each benefit payment is made the di-
93 vision shall promptly send either a copy of the benefit check or other
94 form of notification to the employer against whose account the
95 benefits are to be charged. Such copy or notification shall identify
96 the employer against whose account the amount of such payment
97 is being charged, shall show at least the name and social security
98 account number of the claimant and shall specify the period of un-
99 employment to which said check applies. If the total amount of
100 benefits paid to a claimant and charged to the account of the ap-
101 propriate employer exceeds 50% of the total base-year base week
102 wages paid to the claimant by that employer, then such employer
103 may apply to the division to have canceled from his account such
104 excess benefit charges as specified above. Any such application
105 for the cancellation of excess charges shall be submitted by the
106 employer within 6 months from the date of the benefit check, pay-
107 ment of which creates such charges. In no event will the erasure
108 of such charges affect a contribution rate already assigned to the
109 employer with respect to any fiscal year commencing prior to the
110 date the application is received by the division.

111 The division shall furnish to each employer an annual summary
112 statement of benefits charged to his account.

113 (2) The Division of Employment Security may prescribe regula-
114 tions for the establishment, maintenance, and dissolution of joint
115 accounts by two or more employers, and shall, in accordance with
116 such regulations and upon application by two or more employers

117 to establish such an account, or to merge their several individual
118 accounts in a joint account, maintain such joint account as if it
119 constituted a single employer's account.

120 (3) Each employer's rate shall be $2\frac{1}{10}\%$, except as otherwise
121 provided in the following provisions: No employer's rate shall be
122 other than $2\frac{1}{10}\%$ unless and until there shall have been 3 calendar
123 years throughout which any individual in his employ could have
124 received benefits if eligible. No employer's rate shall be lower than
125 $2\frac{1}{10}\%$ unless assignment of such lower rate is consistent with the
126 conditions applicable to additional credit allowance for such year
127 under section 3303 (a) (1) of the Internal Revenue Code (U. S.
128 Code Title 26, section 3303 (a) (1)), any other provision of this
129 section to the contrary notwithstanding.

130 (4) (A) Each employer's rate for the 12 months commencing
131 July 1 of any calendar year shall be determined on the basis of his
132 record up to the beginning of such calendar year. If, at the begin-
133 ning of such calendar year, the total of all his contributions, paid
134 on his own behalf, for all past years exceed the total benefits
135 charged to his account for all such years, his contribution rate
136 shall be:

137 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less
138 than 5% of his average annual payroll (as defined in para-
139 graph (2), subsection (a) of section 43:21-19 of this Title);

140 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
141 than 6% of his average annual payroll;

142 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
143 than 7%, of his average annual payroll;

144 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
145 than 8%, of his average annual payroll;

146 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
147 than 9%, of his average annual payroll;

148 (6) 1%, if such excess equals or exceeds 9%, but is less
149 than 10%, of his average annual payroll;

150 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is
151 less than 11%, of his average annual payroll;

152 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11%, of his
153 average annual payroll.

154 (B) If the total of an employer's contributions, paid on his own
155 behalf, for all past periods for the purposes of this paragraph (4),
156 is less than the total benefits charged against his account during
157 the same period, his rate shall be:

158 (1) ~~$3\frac{7}{10}\%$~~ 4%, if such excess is less than 10% of his
159 average annual payroll;

160 (2) **【4%】** $4\frac{3}{10}\%$, if such excess equals or exceeds 10%,
 161 but is less than 20% of his average annual payroll;

162 (3) **【4 $\frac{3}{10}$ %】** $4\frac{6}{10}\%$, if such excess equals or exceeds 20%
 163 of his average annual payroll.

164 provided, however, if the total of the contributions of such an
 165 employer for the past 120 consecutive calendar months is more
 166 than the total benefits charged against his account during the same
 167 period, his rate shall be $2\frac{8}{10}\%$.

168 (C) The contribution rates prescribed by subparagraphs (A) and
 169 (B) of this paragraph (4) shall be increased or decreased in accord-
 170 ance with the provisions of paragraph (5) of this subsection (c).

171 (5) (A) If on March 31 of any calendar year the balance in the
 172 unemployment trust fund equals or exceeds 4% but is less than
 173 7% of the total taxable wages reported to the division as of that
 174 date in respect to employment during the preceding calendar year,
 175 the contribution rate, effective July 1 following, of each employer
 176 eligible for a contribution rate calculation based upon benefit ex-
 177 perience, shall be increased by $\frac{3}{10}$ of 1% over the contribution rate
 178 otherwise established under the provisions of paragraphs (3) or
 179 (4) of this subsection. If on March 31 of any calendar year the
 180 balance of the unemployment trust fund *exceeds* $2\frac{1}{2}\%$ but is less
 181 than 4% of the total taxable wages reported to the division of
 182 employment security as of that date in respect to employment
 183 during the preceding calendar year, the contribution rate, effective
 184 July 1 following, of each employer eligible for a contribution rate
 185 calculation based upon benefit experience, shall be increased by
 186 $\frac{1}{10}$ of 1% over the contribution rate otherwise established under
 187 the provisions of paragraphs (3) or (4) of this subsection. **【; pro-**
 188 **vided that the contribution rate of any employer increased pur-**
 189 **suant to the provisions of this subparagraph, when so increased,**
 190 **shall not exceed $4\frac{1}{10}\%$.**】****

191 If on March 31 of any calendar year the balance of the un-
 192 employment trust fund is less than $2\frac{1}{2}\%$ of the total taxable
 193 wages reported to the Division of Employment Security as of that
 194 date in respect to employment during the preceding calendar year,
 195 the contribution rate, effective July 1 following, of each employer
 196 (1) eligible for a contribution rate calculation based upon benefit
 197 experience, shall be increased by (i) $\frac{1}{10}$ of 1% over the contribu-
 198 tion rate otherwise established under the provisions of paragraphs
 199 (3), (4) (A) or (4) (B) **【(1) and (2)】** of this subsection, **【(ii) $\frac{3}{10}$**
 200 **of 1% over the contribution rate otherwise established under the**
 201 **provisions of paragraph (4) (B) (3) of this subsection】** and **【(iii)】**

202 (ii) an additional amount equal to 20% of the total rate established
203 herein, provided, however, that the final contribution rate for each
204 employer shall be computed to the nearest multiple of $\frac{1}{10}\%$ if not
205 already a multiple thereof; (2) not eligible for a contribution rate
206 calculation based upon benefit experience shall be increased by $\frac{6}{10}$
207 of 1% over the contribution rate otherwise established under the
208 provisions of paragraph (3) of this subsection.

209 (B) If on March 31 of any calendar year the balance in the
210 unemployment trust fund equals or exceeds 10% but is less than
211 $12\frac{1}{2}\%$ of the total taxable wages reported to the Division of Em-
212 ployment Security as of that date in respect to employment during
213 the preceding calendar year, the contribution rate, effective July 1
214 following, of each employer eligible for a contribution rate calcula-
215 tion based upon benefit experience, shall be reduced by $\frac{3}{10}$ of 1%
216 under the contribution rate otherwise established under the pro-
217 visions of paragraphs (3) and (4) of this subsection; provided, that
218 in no event shall the contribution rate of any employer be reduced
219 to less than $\frac{4}{10}$ of 1%. If on March 31 of any calendar year the
220 balance in the unemployment trust fund equals or exceeds $12\frac{1}{2}\%$
221 of the total taxable wages reported to the division as of that date
222 in respect to employment during the preceding calendar year, the
223 contribution rate, effective July 1 following, of each employer
224 eligible for a contribution rate calculation based upon benefit ex-
225 perience, shall be reduced by $\frac{5}{10}$ of 1% if his account for all past
226 periods reflects an excess of contributions paid over total benefits
227 charged of 3% or more of his average annual payroll, otherwise by
228 $\frac{3}{10}$ of 1% under the contribution rate otherwise established under
229 the provisions of paragraphs (3) and (4) of this subsection; pro-
230 vided, that in no event shall the contribution rate of any employer
231 be reduced to less than $\frac{4}{10}$ of 1%.

232 (C) The "balance" in the unemployment trust fund as the term
233 is used in subparagraphs (A) and (B) above shall not include
234 moneys credited to the State's account under section 903 of the
235 Social Security Act, as amended (Title 42, U. S. Code, section 1103),
236 during any period in which such moneys are appropriated for the
237 payment of expenses incurred in the administration of Unemploy-
238 ment Compensation Law.

239 (6) Additional contributions.

240 Notwithstanding any other provision of law, any employer who
241 has been assigned a contribution rate pursuant to subsection (c) of
242 this section for the year commencing July 1, 1948, and for any year
243 commencing July 1 thereafter, may voluntarily make payment of

244 additional contributions, and upon such payment shall receive a
245 recomputation of the experience rate applicable to such employer
246 including in the calculation the additional contribution so made.
247 Any such additional contribution shall be made during the 30-day
248 period following the date of the mailing to the employer of the
249 notice of his contribution rate as prescribed in this section, unless,
250 for good cause, the time for payment has been extended by the
251 director for not to exceed an additional 60 days; provided, that in
252 no event may such payments which are made later than 120 days
253 after the beginning of the year for which such rates are effective be
254 considered in determining the experience rate for the year in which
255 the payment is made. Any employer receiving any extended period
256 of time within which to make such additional payment and failing
257 to make such payment timely shall pay, in addition to the required
258 amount of additional payment, a penalty of 5% thereof or \$5.00,
259 whichever is greater, not to exceed \$50.00. Any adjustment under
260 this subsection shall be made only in the form of credits against
261 accrued or future contributions.

262 (7) Transfers.

263 (A) Upon the transfer of the organization, trade or business, or
264 substantially all the assets of an employer to a successor in interest,
265 whether by merger, consolidation, sale, transfer, descent or other-
266 wise, the Division of Employment Security shall transfer the em-
267 ployment experience of the predecessor employer to the successor in
268 interest, including credit for past years, contributions paid, annual
269 payrolls, benefit charges, et cetera, applicable to such predecessor
270 employer, pursuant to regulations adopted by the division, if the
271 division finds that the employment experience of the predecessor
272 employer with respect to the organization, trade, assets or business,
273 which has been transferred, may be considered indicative of the
274 future employment experience of the successor in interest. Unless
275 the predecessor employer was owned or controlled (by legally en-
276 forcible means or otherwise), directly or indirectly, by the succes-
277 sor in interest, or the predecessor employer and the successor in
278 interest were owned or controlled (by legally enforceable means or
279 otherwise), directly or indirectly, by the same interest or interests,
280 the transfer of the employment experience of the predecessor shall
281 not be effective if such successor in interest, within 4 months of the
282 date of such transfer of the organization, trade, assets or business,
283 or thereafter upon good cause shown, files a written notice with the
284 division protesting the transfer of the employment experience of
285 the predecessor employer.

286 (B) An employer, who transfers part of his or its organization,
 287 trade, assets or business to a successor in interest, whether by
 288 merger, consolidation, sale, transfer, descent or otherwise, may
 289 jointly make application with such successor in interest for transfer
 290 of that portion of the employment experience of the predecessor
 291 employer relating to the portion of the organization, trade, assets,
 292 or business transferred to the successor in interest, including credit
 293 for past years, contributions paid, annual payrolls, benefits charges,
 294 et cetera, applicable to such predecessor employer. The Division of
 295 Employment Security may allow such transfer of employment ex-
 296 perience pursuant to regulations adopted by the division, only if it
 297 finds that the employment experience of the predecessor employer
 298 with respect to the portion of the organization, trade, assets or
 299 business which has been transferred may be considered indicative
 300 of the future employment experience of the successor in interest.
 301 Credit shall be given to the successor in interest only for the years
 302 during which contributions were paid by the predecessor employer
 303 with respect to that part of the organization, trade, assets or busi-
 304 ness transferred.

305 (C) A transfer of the employment experience in whole or in part
 306 having become final, the predecessor employer thereafter shall not
 307 be entitled to consideration for an adjusted rate based upon his or
 308 its experience or the part thereof, as the case may be, which has
 309 thus been transferred. A successor in interest to whom employment
 310 experience or a part thereof is transferred pursuant to this sub-
 311 section shall, as of the date of the transfer of the organization,
 312 trade, assets or business, or part thereof, immediately become an
 313 employer if not theretofore an employer subject to this chapter
 314 (R. S. 43:21-1 et seq.).

315 (d) (1) Contribution of workers, transfers to temporary dis-
 316 ability benefit fund.

317 Each worker shall contribute to the fund 1% of his wages with
 318 respect to his employment which occurs on and after January 1,
 319 1971~~],~~ and prior to January 1, 1975, and after such employer has
 320 satisfied the conditions set forth in subsection (h) of section
 321 43:21-19 of this Title with respect to becoming an employer; pro-
 322 vided, however, that such contribution shall be at the rate of $\frac{1}{4}$ of
 323 1% of wages paid with respect to employment while the worker is
 324 in the employ of the State of New Jersey, or is covered by an ap-
 325 proved private plan under the Temporary Disability Benefits Law
 326 or while the worker is exempt from the provisions of the Tempo-
 327 rary Disability Benefits Law under section 7 of that law

328 (C. 43:21-31); and provided further that there shall be no contri-
329 butions by workers in the employ of any employer electing or re-
330 quired to make payments in lieu of contributions unless the em-
331 ployer is covered by the State plan under the Temporary Disability
332 Benefits Law (C. 43:21-37 et seq.), and in that case contributions
333 shall be at the rate of $\frac{3}{4}$ of 1% [.] , and for periods after January
334 1, 1975, each worker shall contribute to the fund 1% of his wages
335 with respect to his employment which occurs on and after January
336 1, 1975, and after such employer has satisfied the conditions set
337 forth in subsection (h) of section 43:21-19 of this Title with respect
338 to becoming an employer; provided, however, that such contribu-
339 tion shall be at the rate of $\frac{1}{2}$ of 1% of wages paid with respect to
340 employment while the worker is in the employ of the State of New
341 Jersey, or is covered by an approved private plan under the
342 Temporary Disability Benefits Law or while the worker is exempt
343 from the provisions of the Temporary Disability Benefits Law
344 under section 7 of that law (C. 43:21-31); and provided further
345 that there shall be no contributions by workers in the employ of any
346 employer electing or required to make payments in lieu of con-
347 tributions unless the employer is covered by the State plan under
348 the Temporary Disability Benefits Law (C. 43:21-37 et seq.), and
349 in that case contributions shall be at the rate of $\frac{1}{2}$ of 1%. Each
350 employer shall, notwithstanding any provision of law in this State
351 to the contrary, withhold in trust the amount of his workers' con-
352 tributions from their wages at the time such wages are paid, shall
353 show such deduction on his payroll records, shall furnish such evi-
354 dence thereof to his workers as the division may prescribe, and shall
355 transmit all such contributions, in addition to his own contributions,
356 to the office of the Division of Employment Security in such manner
357 and at such times as may be prescribed. If any employer fails to
358 deduct the contributions of any of his workers at the time their
359 wages are paid, or fails to make a deduction therefor at the time
360 wages are paid for the next succeeding payroll period, he alone shall
361 thereafter be liable for such contributions, and for the purpose of
362 section 43:21-14 of this Title, such contributions shall be treated as
363 employer's contributions required from him. As used in this chap-
364 ter (R. S. 43:21-1 et seq.), except when the context clearly requires
365 otherwise, the term "contributions" shall include the contributions
366 of workers pursuant to this section.

367 (2) (A) There shall be deposited in and credited to the State
368 Disability Benefits Fund, as established by law, three-fourths of
369 all worker contributions, received by the Division of Employment

370 Security with respect to wages paid prior to January 1, 1953, and
371 upon which the rate of contributions is 1%.

372 (B) There shall be deposited in and credited to the State Dis-
373 ability Benefits Fund, as established by law, two-thirds of all
374 worker contributions received by the Division of Employment
375 Security with respect to wages paid on and after January 1, 1953,
376 and prior to January 1, 1971, and upon which the rate of contribu-
377 tions is $\frac{3}{4}$ of 1%.

378 (C) There shall be deposited in and credited to the State Dis-
379 ability Benefits Fund as established by law, three quarters of all
380 worker contributions, received by the Division of Employment
381 Security with respect to wages paid on or after January 1, 1971~~],~~
382 *and prior to January 1, 1975*, and upon which the rate of contribu-
383 tions is 1%, *and with respect to wages paid on and after January*
384 *1, 1975, there shall be deposited in and credited to the State Dis-*
385 *ability Benefits Fund as established by law, one-half of all worker*
386 *contributions received by the Division of Employment Security*
387 *upon which the rate of contribution is 1%.*

388 (D) There shall be deposited in and credited to the State Dis-
389 ability Benefits Fund, as established by law, all worker contribu-
390 tions received by the Division of Employment Security with respect
391 to wages paid on or after January 1, 1972 *and prior to January 1,*
392 *1975*, upon which the rate of contributions is $\frac{3}{4}$ of 1% *and with*
393 *respect to wages paid on or after January 1, 1975, there shall be*
394 *deposited to the State Disability Benefits Fund, as established by*
395 *law, all worker contributions received by the Division of Employ-*
396 *ment Security from all employers, except the State of New Jersey,*
397 *upon which the rate of contributions is 1/2 of 1%.*

398 (3) If an employee receives wages from more than one employer
399 during any calendar year, and either the sum of his contributions
400 deposited in and credited to the State Disability Benefits Fund (in
401 accordance with paragraph (2) of this subsection) plus the amount
402 of his contributions, if any, required towards the cost of benefits
403 under one or more approved private plans under the provisions
404 of section 9 of the Temporary Disability Benefits Law (C. 43:21-33)
405 and deducted from his wages, or the sum of such latter contribu-
406 tions if the employee is covered during such calendar year, only
407 by two or more private plans, exceeds \$18.00 in any calendar year
408 prior to January 1, 1971, \$27.00 during the calendar year 1971,
409 ~~or~~ \$31.50 during ~~any calendar year thereafter,~~ *calendar years*
410 *1972, 1973 and 1974; \$24.00 during the calendar year 1975 or an*
411 *amount equal to 1/2 of 1% of the "wages" determined in accord-*

412 *ance with the provisions of R. S. 43:21-7(b) (3) during the*
413 *calendar years beginning on or after January 1, 1976, the employee*
414 *shall be entitled to a refund of the excess if he makes a claim to the*
415 *Division of Employment Security within 2 years after the end*
416 *of the calendar year in which the wages are received with respect*
417 *to which the refund is claimed and establishes his right to such*
418 *refund. Such refund shall be made by the Division of Employment*
419 *Security from the State Disability Benefits Fund. No interest shall*
420 *be allowed or paid with respect to any such refund. The division*
421 *shall in accordance with prescribed regulations, determine the*
422 *portion of the aggregate amount of such refunds made during any*
423 *calendar year which is applicable to private plans for which deduc-*
424 *tions were made under section 9 of the "Temporary Disability*
425 *Benefits Law," such determination to be based upon the ratio of the*
426 *amount of such wages exempt from contributions to such fund as*
427 *provided in subparagraph (B) of paragraph (1) of this subsection*
428 *with respect to coverage under private plans to the total wages so*
429 *exempt plus the amount of such wages subject to contributions to*
430 *the disability benefits fund as provided in subparagraph (B) of*
431 *paragraph (2) of this subsection. The division shall, in accordance*
432 *with prescribed regulations, prorate the amount so determined*
433 *among the applicable private plans in the proportion that the wages*
434 *covered by each plan bears to the total private plan wages involved*
435 *in such refunds, and shall assess against and recover from the em-*
436 *ployer, or the insurer if the insurer has indemnified the employer*
437 *with respect thereto, the amount so prorated. The provisions of*
438 *R. S. 43:21-14, with respect to collection of employer contributions*
439 *shall apply to such assessments. The amount so recovered by the*
440 *division shall be paid into the State Disability Benefits Fund.*

441 (4) If an individual does not receive any wages from the employ-
442 ing unit which for the purposes of this chapter (R. S. 43:21-1 et
443 seq.) is treated as his employer, or receives his wages from some
444 other employing unit, such employer shall nevertheless be liable for
445 such individual's contributions in the first instance; and after pay-
446 ment thereof such employer may deduct the amount of such contri-
447 butions from any sums payable by him to such employing unit, or
448 may recover the amount of such contributions from such employing
449 unit, or, in the absence of such an employing unit, from such indi-
450 vidual, in a civil action; provided, proceedings therefor are in-
451 stituted within 3 months after the date on which such contributions
452 are payable. General rules shall be prescribed whereby such an em-
453 ploying unit may recover the amount of such contributions from
454 such individuals in the same manner as if it were the employer.

455 (5) Every employer who has elected to become an employer sub-
456 ject to this chapter (R. S. 43:21-1 et seq.), or to cease to be an em-
457 ployer subject to this chapter (R. S. 43:21-1 et seq.), pursuant to
458 the provisions of section 43:21-8 of this Title, shall post and main-
459 tain printed notices of such election on his premises, of such design,
460 in such numbers, and at such places as the director may determine
461 to be necessary to give notice thereof to persons in his service.

462 (6) Contributions by workers, payable to the Division of Em-
463 ployment Security as herein provided, shall be exempt from
464 garnishment, attachment, execution, or any other remedy for the
465 collection of debts.

466 (e) Contributions by employers to State Disability Benefits
467 Fund.

468 (1) Except as hereinafter provided, each employer shall, in addi-
469 tion to the contributions required by subsections (a), (b), and (c)
470 of this section, contribute $\frac{1}{2}$ of 1% of the wages paid by such em-
471 ployer to workers with respect to employment unless he is not a
472 covered employer as defined in section 3 of the Temporary Disa-
473 bility Benefits Law (C. 43:21-27 (a)). Such contributions shall
474 become due and be paid by the employer to the Division of Em-
475 ployment Security for the State Disability Benefits Fund as
476 established by law, in accordance with such regulations as may be
477 prescribed, and shall not be deducted, in whole or in part, from the
478 remuneration of individuals in his employ. In the payment of any
479 contributions, a fractional part of a cent shall be disregarded unless
480 it amounts to \$0.005 or more, in which case it shall be increased
481 to \$0.01.

482 (2) During the continuance of coverage of a worker by an
483 approved private plan of disability benefits under the Temporary
484 Disability Benefits Law, the employer shall be exempt from the
485 contribution required by subparagraph (1) above with respect to
486 wages paid to such worker.

487 (3) (A) The rates of contribution as specified in subparagraph
488 (1) above shall be subject to modification as provided herein with
489 respect to employer contributions due on and after July 1, 1951.

490 (B) A separate disability benefits account shall be maintained
491 for each employer required to contribute to the State Disability
492 Benefits Fund and such account shall be credited with contributions
493 deposited in and credited to such fund with respect to employment
494 occurring on and after January 1, 1949. Each employer's account
495 shall be credited with all contributions paid on or before January

496 31 of any calendar year on his own behalf and on behalf of in-
497 dividuals in his service with respect to employment occurring in
498 preceding calendar years; provided, however, that if January 31
499 of any calendar year falls on a Saturday or Sunday an employer's
500 account shall be credited as of January 31 of such calendar year
501 with all the contributions which he has paid on or before the next
502 succeeding day which is not a Saturday or Sunday. But nothing in
503 this act shall be construed to grant any employer or individuals in
504 his service prior claims or rights to the amounts paid by him to the
505 fund either on his own behalf or on behalf of such individuals.
506 Benefits paid to any covered individual in accordance with Article
507 III of the Temporary Disability Benefits Law on or before De-
508 cember 31 of any calendar year with respect to disability in such
509 calendar year and in preceding calendar years shall be charged
510 against the account of the employer by whom such individual was
511 employed at the commencement of such disability or by whom he
512 was last employed if out of employment.

513 (C) The division may prescribe regulations for the establish-
514 ment, maintenance, and dissolution of joint accounts by two or more
515 employers, and shall, in accordance with such regulations and upon
516 application by two or more employers to establish such an account,
517 or to merge their several individual accounts in a joint account,
518 maintain such joint account as if it constituted a single employer's
519 account.

520 (D) Prior to July 1 of each calendar year, the Division of Em-
521 ployment Security shall make a preliminary determination of the
522 rate of contribution for the 12 months commencing on such July 1
523 for each employer subject to the contribution requirements of this
524 subsection (e).

525 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the pre-
526 ceding January 31 of such year such employer shall have been a
527 covered employer who has paid contributions to the State Disability
528 Benefits Fund with respect to employment in the 3 calendar years
529 immediately preceding such year.

530 (2) If the minimum requirements in (1) above have been fulfilled
531 and the credited contributions exceed the benefits charged by more
532 than \$500.00, such preliminary rate shall be as follows:

533 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
534 less than $1\frac{1}{4}$ % of his average annual payroll (as defined in
535 this chapter (R. S. 43:21-1 et seq.));

536 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
537 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

538 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds
539 $1\frac{1}{2}$ % of his average annual payroll.

540 (3) If the minimum requirements in (1) above have been fulfilled
541 and the contributions credited exceed the benefits charged but by
542 not more than \$500.00 plus 1% of his average annual payroll, or if
543 the benefits charged exceed the contributions credited but by not
544 more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of 1%.

545 (4) If the minimum requirements in (1) above have been fulfilled
546 and the benefits charged exceed the contributions credited by more
547 than \$500.00, such preliminary rate shall be as follows:

548 (i) $\frac{3}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$
549 of 1% of his average annual payroll;

550 (ii) $\frac{4}{100}$ of 1% if such excess over \$500.00 equals or exceeds
551 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual
552 payroll;

553 (iii) $\frac{5}{100}$ of 1% if such excess over \$500.00 equals or ex-
554 ceeds $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual
555 payroll;

556 (iv) $\frac{6}{100}$ of 1% if such excess over \$500.00 equals or ex-
557 ceeds $\frac{3}{4}$ of 1% but is less than 1% of his average annual
558 payroll;

559 (v) $\frac{7}{100}$ of 1% if such excess over \$500.00 equals or ex-
560 ceeds 1% of his average annual payroll.

561 (5) Determination of the preliminary rate as specified in (2),
562 (3) and (4) above shall be subject, however, to the condition that it
563 shall in no event be decreased by more than $\frac{1}{10}$ of 1% of wages or
564 increased by more than $\frac{2}{10}$ of 1% of wages from the preliminary
565 rate determined for the preceding year in accordance with (1), (2),
566 (3) or (4), whichever shall have been applicable.

567 (E) (1) Prior to July 1 of each calendar year the Division of
568 Employment Security shall determine the amount of the State Dis-
569 ability Benefits Fund as of December 31 of the preceding calendar
570 year increased by the contributions paid thereto during January of
571 the current calendar year with respect to employment occurring in
572 preceding calendar years. If such amount exceeds the total of the
573 amounts withdrawn from the unemployment trust fund pursuant
574 to section 23 of the Temporary Disability Benefits Law plus the
575 amount at the end of such preceding calendar year of the un-
576 employment disability account (as defined in section 22 of said
577 law), such excess shall be expressed as a percentage of the wages
578 on which contributions were paid to the State Disability Benefits
579 Fund on or before January 31 with respect to employment in the
580 preceding calendar year.

581 (2) The Division of Employment Security shall then make a
582 final determination of the rates of contribution for the 12 months
583 commencing July 1 of such year for employers whose preliminary
584 rates are determined as provided in (D) hereof, as follows:

585 (i) If the percentage determined in accordance with para-
586 graph (E) (1) of this subsection equals or exceeds $1\frac{1}{4}\%$ the
587 final employer rates shall be the preliminary rates determined
588 as provided in (D) hereof, except that if the employer's pre-
589 liminary rate is determined as provided in (D) (2) or (D) (3)
590 hereof, the final employer rate shall be the preliminary em-
591 ployer rate decreased by such percentage of excess taken to
592 the nearest $\frac{5}{100}$ of 1%, but in no case shall such final rate be
593 less than $\frac{1}{10}$ of 1%.

594 (ii) If the percentage determined in accordance with para-
595 graph (E) (1) of this subsection equals or exceeds $\frac{3}{4}$ of 1%
596 and is less than $1\frac{1}{4}$ of 1%, the final employer rates shall be
597 the preliminary employer rates.

598 (iii) If the percentage determined in accordance with para-
599 graph (E) (1) of this subsection is less than $\frac{3}{4}$ of 1%, but in
600 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the pre-
601 liminary employer rates determined as provided in (D) hereof
602 increased by the difference between $\frac{3}{4}$ of 1% and such per-
603 centage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
604 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case
605 of an employer whose preliminary rate is determined as pro-
606 vided in (D) (2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
607 employer whose preliminary rate is determined as provided in
608 (D) (1) and (D) (3) hereof, nor more than $\frac{3}{4}$ of 1% in the
609 case of an employer whose preliminary rate is determined as
610 provided in (D) (4) hereof.

611 (iv) If the amount of the State Disability Benefits Fund
612 determined as provided in paragraph (E) (1) of this subsection
613 is equal to or less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{3}$
614 of 1% in the case of an employer whose preliminary rate is
615 determined as provided in (D) (2) hereof $\frac{7}{10}$ of 1% in the
616 case of an employer whose preliminary rate is determined as
617 provided in (D) (1) and (D) (3) hereof, and 1.1% in the case
618 of an employer whose preliminary rate is determined as pro-
619 vided in (D) (4) hereof. Notwithstanding any other provision
620 of law or any determination made by the Division of Employ-
621 ment Security with respect to any 12-month period commencing
622 on July 1, 1970, the final rates for all employers for the period
623 beginning January 1, 1971, shall be as set forth herein.

1 6. Section 1 of P. L. 1944, c. 81 (C. 43:21-14.1) is amended to
2 read as follows:

3 1. Any employee who is paid wages by two or more employers
4 aggregating more than \$3,000.00 during any calendar year prior to
5 January 1, 1968, \$3,600.00 during any calendar year commencing
6 on or after January 1, 1968 and prior to January 1, 1972, **[or]**
7 \$4,200.00 during any calendar year commencing on or after Janu-
8 ary 1, 1972 *and prior to January 1, 1975, or \$4,800.00 during any*
9 *calendar year commencing on or after January 1, 1975, and prior*
10 *to January 1, 1976, and thereafter* ***[in]*** the amount of "wages"
11 *determined in accordance with the provisions of R. S. 43:21-7(b)(3)*
12 shall be entitled to a refund of the amount of contributions deducted
13 from such wages and paid to the Division of Employment Security
14 in excess of the contribution required on \$3,000.00 of such wages
15 paid during any calendar year prior to January 1, 1968, \$3,600.00
16 during any calendar year commencing on or after January 1, 1968
17 and prior to January 1, 1972, **[or]** \$4,200.00 during any calendar
18 year commencing on or after January 1, 1972 *and prior to January*
19 *1, 1975, or \$4,800.00 during any calendar year commencing on or*
20 *after January 1, 1975, and prior to January 1, 1976, and thereafter*
21 ***[in]*** the amount of "wages" determined in accordance with the
22 *provisions of R. S. 43:21-7(b)(3)* except that no such refund shall
23 be made unless the employee makes a claim, establishing his right
24 thereto, within 2 years after the calendar year in which the wages
25 are paid with respect to which refund of contribution is claimed.
26 No interest shall be allowed or paid with respect to any such refund.

1 7. R. S. 43:21-19 is amended to read as follows:

2 43:21-19. Definitions. As used in this chapter (R. S. 43:21-1
3 et seq.) unless the context clearly requires otherwise:

4 (a) (1) "Annual payroll" means the total amount of wages paid
5 during a calendar year (regardless of when earned) by an em-
6 ployer for employment.

7 (2) "Average annual payroll" means the average of the annual
8 payrolls of any employer for the last 3 or 5 preceding calendar
9 years, whichever average is higher, except that any year or years
10 throughout which an employer has had no "annual payroll"
11 because of military service shall be deleted from the reckoning;
12 the "average annual payroll" in such case is to be determined on
13 the basis of the prior 3 or 5 calendar years in each of which the
14 employer had an "annual payroll" in the operation of his business,
15 if the employer resumes his business within 12 months after
16 separation, discharge or release from such service, under conditions

17 other than dishonorable, and makes application to have his "aver-
18 age annual payroll" determined on the basis of such deletion
19 within 12 months after he resumes his business; provided, how-
20 ever, that "average annual payroll" solely for the purposes of
21 paragraph (3) of subsection (e) of section 43:21-7 of this Title
22 means the average of the annual payrolls of any employer on
23 which he paid contributions to the State Disability Benefits Fund
24 for the last 3 or 5 preceding calendar years, whichever average is
25 higher; provided further, that only those wages be included on
26 which employer contributions have been paid on or before January
27 31 (or the next succeeding day if such January 31 is a Saturday
28 or Sunday) immediately preceding the beginning of the 12 months'
29 period for which the employer's contribution rate is computed.

30 (b) "Benefits" means the money payments payable to an
31 individual, as provided in this chapter (R. S. 43:21-1 et seq.),
32 with respect to his unemployment.

33 (c) "Base year" with respect to benefit years commencing on
34 or after January 1, 1953, shall mean the 52 calendar weeks ending
35 with the second week immediately preceding an individual's benefit
36 year.

37 (d) "Benefit year" with respect to any individual means the
38 364 consecutive calendar days beginning with the day on, or as of,
39 which he first files a valid claim for benefits, and thereafter
40 beginning with the day on, or as of, which the individual next files
41 a valid claim for benefits after the termination of his last preceding
42 benefit year. Any claim for benefits made in accordance with sub-
43 section (a) of section 43:21-6 of this Title shall be deemed to be a
44 "valid claim" for the purpose of this subsection if (1) no remunera-
45 tion was paid or is payable for the day on which, or as of which he
46 files a claim for benefits, and no work is available to him with his
47 current employing unit on such day, or, he is unemployed for the
48 week in which, or as of which, he files a claim for benefits; and (2)
49 he has fulfilled the conditions imposed by subsection (e) of section
50 43:21-4 of this Title.

51 (e) "Division" means the Division of Employment Security of
52 the Department of Labor and Industry established by c. 446, P. L.
53 1948, and any transaction or exercise of authority by the director
54 of the division thereunder, or under this chapter (R. S. 43:21-1 et
55 seq.), shall be deemed to be performed by the division.

56 (f) "Contributions" means the money payments to the State
57 Unemployment Compensation Fund required by R. S. 43:21-7.
58 "Payments in lieu of contributions" means the money payments

59 to the State Unemployment Compensation Fund by employers
60 electing or required to make payments in lieu of contributions as
61 provided in section 3 or section 4 of this act (C. 43:21-7.2 and
62 43:21-7.3).

63 (g) "Employing unit" means any individual or type of orga-
64 nization, including the State, its political subdivisions, the State and
65 one or more other states, and the instrumentalities of the State and
66 of the State and one or more other states any partnership, associa-
67 tion, trust, estate, joint-stock company, insurance company or
68 corporation, whether domestic or foreign, or the receiver, trustee
69 in bankruptcy, trustee or successor thereof, or the legal repre-
70 sentative of a deceased person, which has or subsequent to January
71 1, 1936, had in its employ one or more individuals performing
72 services for it within this State. All individuals performing
73 services within this State for any employing unit which maintains
74 two or more separate establishments within this State shall be
75 deemed to be employed by a single employing unit for all the pur-
76 poses of this chapter (R. S. 43:21-1 et seq.). Each individual em-
77 ployed to perform or to assist in performing the work of any agent
78 or employee of an employing unit shall be deemed to be employed
79 by such employing unit for all the purposes of this chapter (R. S.
80 43:21-1 et seq.), whether such individual was hired or paid directly
81 by such employing unit or by such agent or employee; provided,
82 the employing unit had actual or constructive knowledge of the
83 work.

84 (h) "Employer" means:

85 (1) Any employing unit which after December 31, 1971, in either
86 the current or the preceding calendar year paid remuneration for
87 employment in the amount of \$1,000.00 or more;

88 (2) Any employing unit (whether or not an employing unit at the
89 time of acquisition) which acquired the organization, trade or
90 business, or substantially all the assets thereof, of another which
91 at the time of such acquisition was an employer subject to this
92 chapter (R. S. 43:21-1 et seq.);

93 (3) Any employing unit which acquired the organization, trade
94 or business, or substantially all the assets thereof, of another em-
95 ploying unit and which, if treated as a single unit with such other
96 employing unit, would be an employer under paragraph (1) of
97 this subsection;

98 (4) Any employing unit which together with one or more other
99 employing units is owned or controlled (by legally enforceable
100 means or otherwise), directly or indirectly by the same interests,

101 or which owns or controls one or more other employing units (by
 102 legally enforceable means or otherwise), and which, if treated as
 103 a single unit with such other employing unit or interest, would
 104 be an employer under paragraph (1) of this subsection;

105 (5) Any employing unit for which service in employment as
 106 defined in R. S. 43:21-19 (i) (1) (B), is performed after December
 107 31, 1971;

108 (6) Any employing unit for which service in employment as
 109 defined in R. S. 43:21-19 (i) (1) (C) is performed after December
 110 31, 1971 and which in either the current or the preceding calendar
 111 year paid remuneration for employment in the amount of \$1,000.00
 112 or more;

113 (7) Any employing unit not an employer by reason of any other
 114 paragraph of this subsection (h) for which, within either the
 115 current or preceding calendar year, service is or was performed
 116 with respect to which such employing unit is liable for any Federal
 117 tax against which credit may be taken for contributions required
 118 to be paid into a State unemployment fund; or which, as a condition
 119 for approval of the Unemployment Compensation Law for full
 120 tax credit against the tax imposed by the Federal Unemployment
 121 Tax Act is required pursuant to such act to be an employer under
 122 this chapter (R. S. 43:21-1 et seq.);

123 (8) Any employing unit which, having become an employer under
 124 paragraphs (1), (2), (3), (4), (5), (6) or (7) has not, under section
 125 43:21-8 ceased to be an employer subject to this chapter (R. S.
 126 43:21-1 et seq.); or

127 (9) For the effective period of its election pursuant to R. S.
 128 43:21-8 any other employing unit which has elected to become
 129 fully subject to this chapter (R. S. 43:21-1 et seq.);

130 (10) For the purposes of paragraphs (1) and (6), employment
 131 shall include service which would constitute employment but for
 132 the fact that such services deemed to be performed entirely within
 133 another state pursuant to an election under an arrangement
 134 entered into under R. S. 43:21-21 between this State and an agency
 135 charged with the administration of any other state or Federal
 136 Unemployment Compensation Law;

137 (11) Any employing unit subject to the provisions of the Federal
 138 Unemployment Tax Act within either the current or the preceding
 139 calendar year except for employment hereinafter excluded under
 140 paragraph (7) of subsection (i) of this section.

141 (i) (1) "Employment" means:

142 (A) Any service performed prior to January 1, 1972, which was

143 employment as defined in the Unemployment Compensation Law
 144 (R. S. 43:21-1 et seq.) prior to such date, and, subject to the other
 145 provisions of this subsection, service performed on or after January
 146 1, 1972, including service in interstate commerce, performed for
 147 remuneration or under any contract of hire, written or oral, ex-
 148 press or implied.

149 (B) Service performed after December 31, 1971 by an individual
 150 in the employ of this State or any of its instrumentalities or in
 151 the employ of this State and one or more other states or their
 152 instrumentalities for a hospital or institution of higher education
 153 located in this State, if such service is not excluded from employ-
 154 ment under paragraph (D) below.

155 (C) Service performed after December 31, 1971 by an individual
 156 in the employ of a religious, charitable, educational, or other
 157 organization, which is excluded from "employment" as defined in
 158 the Federal Unemployment Tax Act solely by reason of section
 159 3306 (c) (8) of that act, if such service is not excluded from em-
 160 ployment under paragraph (D) below.

161 (D) For the purposes of paragraphs (B) and (C), the term
 162 "employment" does not apply to services performed

163 (i) In the employ of (I) a church or convention or association
 164 of churches, or (II) an organization which is operated pri-
 165 marily for religious purposes and which is operated, super-
 166 vised, controlled or principally supported by a church or
 167 convention or association of churches;

168 (ii) By a duly ordained, commissioned, or licensed minister
 169 of a church in the exercise of his ministry or by a member
 170 of a religious order in the exercise of duties required by such
 171 order;

172 (iii) In the employ of a school which is not an institution
 173 of higher education;

174 (iv) In a facility conducted for the purpose of carrying out
 175 a program of rehabilitation of individuals whose earning
 176 capacity is impaired by age or physical or mental deficiency
 177 or injury or providing remunerative work for individuals who
 178 because of their impaired physical or mental capacity cannot
 179 be readily absorbed in the competitive labor market by an
 180 individual receiving such rehabilitation or remunerative work;

181 (v) As part of an unemployment work-relief or work-training
 182 program assisted in whole or in part by any Federal agency
 183 or an agency of a State or political subdivision thereof, by an
 184 individual receiving such work-relief or work-training; or

185 (vi) For a hospital in a State prison or other State cor-
186 rectional institution by an inmate of the prison or correctional
187 institution.

188 (E) The term "employment" shall include the services of an
189 individual who is a citizen of the United States, performed outside
190 the United States (except in Canada or the Virgin Islands) after
191 December 31, 1971 in the employ of an American employer (other
192 than the service which is deemed employment under the provisions
193 of paragraphs 43:21-19 (i) (2) or (5) or the parallel provisions of
194 another State's Unemployment Compensation Law), if

195 (E) (i) The American employer's principal place of business
196 in the United States is located in this State; or

197 (E) (ii) The American employer has no place of business in
198 the United States, but (I) the American employer is an individual
199 who is a resident of this State; or (II) the American employer is
200 a corporation which is organized under the laws of this State; or
201 (III) the American employer is a partnership or trust and the
202 number of partners or trustees who are residents of this State is
203 greater than the number who are residents of any other state; or

204 (E) (iii) None of the criteria of divisions (i) and (ii) of this sub-
205 paragraph (E) is met but the American employer has elected to
206 become an employer subject to the Unemployment Compensation
207 Law (R. S. 43:21-1 et seq.) in this State, or the American employer
208 having failed to elect to become an employer in any state, the
209 individual has filed a claim for benefits, based on such service,
210 under the law of this State.

211 (E) (iv) An "American employer" for the purposes of this
212 subparagraph (E), means (I) an individual who is a resident of the
213 United States; or (II) a partnership if two-thirds or more of the
214 partners are residents of the United States; or (III) a trust, if
215 all the trustees are residents of the United States, or (IV) a
216 corporation organized under the laws of the United States or of
217 any state.

218 (F) Notwithstanding R. S. 43:21-19 (i) (2), all service per-
219 formed after January 1, 1972 by an officer or member of the crew
220 of an American vessel or American aircraft on or in connection
221 with such vessel or aircraft, if the operating office from which the
222 operations of such vessel or aircraft operating within, or within
223 and without, the United States are ordinarily and regularly super-
224 vised, managed, directed, and controlled, is within this State.

225 (G) Notwithstanding any other provision of this subsection,
226 service in this State with respect to which the taxes required to

227 be paid under any Federal law imposing a tax against which credit
228 may be taken for contributions required to be paid into a State
229 unemployment fund or which as a condition for full tax credit
230 against the tax imposed by the Federal Unemployment Tax Act is
231 required to be covered under the Unemployment Compensation Law
232 (R. S. 43:21-1 et seq.).

233 (H) The term "United States" when used in a geographical
234 sense in subsection R. S. 43:21-19 (i) includes the States, the
235 District of Columbia, and the Commonwealth of Puerto Rico.

236 (2) The term "employment" shall include an individual's entire
237 service performed within or both within and without this State if:

238 (A) The service is localized in this State; or

239 (B) The service is not localized in any state but some of the
240 service is performed in this State, and (i) the base of operations,
241 or, if there is no base of operations, then the place from which
242 such service is directed or controlled, is in this State; or (ii) the
243 base of operations or place from which such service is directed or
244 controlled is not in any state in which some part of the service is
245 performed, but the individual's residence is in this State.

246 (3) Services performed within this State but not covered under
247 paragraph (2) of this subsection shall be deemed to be employment
248 subject to this chapter (R. S. 43:21-1 et seq.) if contributions are
249 not required and paid with respect to such services under an unem-
250 ployment compensation law of any other state or of the Federal
251 Government.

252 (4) Services not covered under paragraph (2) of this subsection
253 and performed entirely without this State, with respect to no part
254 of which contributions are required and paid under an Unemploy-
255 ment Compensation Law of any other state or of the Federal
256 Government, shall be deemed to be employment subject to this
257 chapter (R. S. 43:21-1 et seq.) if the individual performing such
258 services is a resident of this State and the employing unit for
259 whom such services are performed files with the division an election
260 that the entire service of such individual shall be deemed to be
261 employment subject to this chapter (R. S. 43:21-1 et seq.).

262 (5) Service shall be deemed to be localized within a state if

263 (A) The service is performed entirely within such state; or

264 (B) The service is performed both within and without such state,
265 but the service performed without such state is incidental to the
266 individual's service within the State, for example, is temporary
267 or transitory in nature or consists of isolated transactions.

268 (6) Services performed by an individual for remuneration shall

269 be deemed to be employment subject to this chapter (R. S. 43:21-1
270 et seq.) unless and until it is shown to the satisfaction of the division
271 that

272 (A) Such individual has been and will continue to be free from
273 control or direction over the performance of such service, both
274 under his contract of service and in fact; and

275 (B) Such service is either outside the usual course of the business
276 for which such service is performed, or that such service is per-
277 formed outside of all the places of business of the enterprise for
278 which such service is performed; and

279 (C) Such individual is customarily engaged in an independently
280 established trade, occupation, profession or business.

281 (7) Provided that such services are also exempted under the
282 Federal Unemployment Tax Act, as amended, or that contributions
283 with respect to such services are not required to be paid into a
284 State Unemployment Fund as a condition for a tax offset credit
285 against the tax imposed by the Federal Unemployment Tax Act,
286 as amended, the term "employment" shall not include

287 (A) Agricultural labor;

288 (B) Domestic service in a private home;

289 (C) Service performed by an individual in the employ of his
290 son, daughter or spouse, and service performed by a child under
291 the age of *~~21~~* *18* in the employ of his father or mother;

292 (D) Service performed in the employ of this State or of any
293 political subdivision thereof or of any instrumentality of this State
294 or its political subdivisions except as provided in R. S. 43:21-19
295 (i) (1) (B) above, and service in the employ of the South Jersey
296 Port Commission or its successors;

297 (E) Service performed in the employ of any other state or its
298 political subdivisions or of an instrumentality of any other state
299 or states or their political subdivisions: to the extent that such
300 instrumentality is with respect to such service exempt under the
301 Constitution of the United States from the tax imposed under the
302 Federal Unemployment Tax Act, as amended, except as provided
303 in R. S. 43:21-19 (i) (1) (B) above;

304 (F) Service performed in the employ of the United States
305 Government or of an instrumentality of the United States exempt
306 under the Constitution of the United States from the contributions
307 imposed by the Unemployment Compensation Law, except that to
308 the extent that the Congress of the United States shall permit
309 states to require any instrumentalities of the United States to make
310 payments into an unemployment fund under a State Unemployment

311 Compensation Law, all of the provisions of this act shall be
312 applicable to such instrumentalities, and to service performed for
313 such instrumentalities, in the same manner, to the same extent and
314 on the same terms as to all other employers, employing units,
315 individuals and services; provided, that if this State shall not be
316 certified for any year by the Secretary of Labor of the United
317 States under section 3304 of the Federal Internal Revenue Code
318 (26 U. S. C., sec. 3304), the payments required of such instru-
319 mentalities with respect to such year shall be refunded by the
320 division from the fund in the same manner and within the same
321 period as is provided in R. S. 43:21-14 (f) with respect to con-
322 tributions erroneously paid to or collected by the division;

323 (G) Services performed in the employ of fraternal beneficiary
324 societies, orders, or associations operating under the lodge system
325 or for the exclusive benefit of the members of a fraternity itself
326 operating under the lodge system and providing for the payment
327 of life, sick, accident, or other benefits to the members of such
328 society, order, or association, or their dependents;

329 (H) Services performed as a member of the board of directors,
330 a board of trustees, a board of managers, or a committee of any
331 bank, building and loan or savings and loan association, incorpo-
332 rated or organized under the laws of this State or of the United
333 States, where such services do not constitute the principal employ-
334 ment of the individual;

335 (I) Service with respect to which unemployment insurance is
336 payable under an unemployment insurance program established by
337 an Act of Congress;

338 (J) Service performed by agents of mutual fund brokers or
339 dealers in the sale of mutual funds or other securities, by agents
340 of insurance companies, exclusive of industrial insurance agents,
341 or by agents of investment companies, if the compensation to such
342 agents for such services is wholly on a commission basis;

343 (K) Services performed by real estate salesmen or brokers who
344 are compensated wholly on a commission basis;

345 (L) Services performed in the employ of any veterans' organiza-
346 tion chartered by Act of Congress or of any auxiliary thereof, no
347 part of the net earnings of which organization, or auxiliary thereof,
348 inures to the benefit of any private shareholder or individual;

349 (M) Service performed for or in behalf of the owner or operator
350 of any theatre, ballroom, amusement hall or other place of enter-
351 tainment, not in excess of 10 weeks in any calendar year for the
352 same owner or operator, by any leader or musician of a band or

353 orchestra, commonly called a "name band," entertainer, vaudeville
354 artist, actor, actress, singer or other entertainer;

355 (N) Services performed after January 1, 1973 by an individual
356 for a labor union organization, known and recognized as a union
357 local, as a member of a committee or committees reimbursed by the
358 union local for time lost from regular employment, or as a part-time
359 officer of a union local and the remuneration for such services is
360 less than \$1,000.00 in a calendar year;

361 (O) Services performed in the sale or distribution of merchan-
362 dise by home-to-home salespersons or in-the-home demonstrators
363 whose remuneration consists wholly of commissions or commissions
364 and bonuses.

365 (P) Service performed in the employ of a foreign government,
366 including service as a consular, nondiplomatic representative, or
367 other officer or employee;

368 (Q) Service performed in the employ of an instrumentality
369 wholly owned by a foreign government if (i) the service is of a
370 character similar to that performed in foreign countries by em-
371 ployees of the United States Government or of an instrumentality
372 thereof, and (ii) the division finds that the United States Secretary
373 of State has certified to the United States Secretary of the Treasury
374 that the foreign government with respect to whose instrumentality
375 exemption is claimed, grants an equivalent exemption with respect
376 to similar services performed in the foreign country by employees
377 of the United States Government and of instrumentalities thereof;

378 (R) Service in the employ of an international organization en-
379 titled to enjoy the privileges, exemptions and immunities under the
380 International Organization Immunities Act (22 U. S. C. 288 et seq.);

381 (S) Service covered by an election duly approved by an agency
382 charged with the administration of any other state or Federal
383 Unemployment Compensation or Employment Security Law, in
384 accordance with an arrangement pursuant to R. S. 43:21-21 during
385-386 the effective period of such election;

387 (T) Service performed in the employ of a school, college, or
388 university if such service is performed (i) by a student enrolled
389 at such school, college, or university on a full-time basis in an
390 educational program or completing such educational program
391 leading to a degree at any of the severally recognized levels, or
392 (ii) by the spouse of such a student, if such spouse is advised at
393 the time such spouse commences to perform such service that (I)
394 the employment of such spouse to perform such service is provided
395 under a program to provide financial assistance to such student

396 by such school, college, or university, and (II) such employment
397 will not be covered by any program of unemployment insurance;

398 (U) Service performed by an individual under the age of 22 who
399 is enrolled at a nonprofit or public educational institution which
400 normally maintains a regular faculty and curriculum and normally
401 has a regularly organized body of students in attendance at the
402 place where its educational activities are carried on, as a student
403 in a full-time program, taken for credit at such institution, which
404 combines academic instruction with work experience, if such service
405 is an integral part of such program, and such institution has so
406 certified to the employer, except that this subparagraph shall not
407 apply to service performed in a program established for or on
408 behalf of an employer or group of employers;

409 (V) Service performed in the employ of a hospital, if such ser-
410 vice is performed by a patient of the hospital; service performed
411 as a student nurse in the employ of a hospital or a nurses' training
412 school by an individual who is enrolled and regularly attending
413 classes in a nurses' training school approved under the laws of
414 this State; and service performed as an intern in the employ of
415 a hospital by an individual who has completed a 4-year course in
416 a medical school approved pursuant to the law of this State.

417 (8) If one-half or more of the services in any pay period per-
418 formed by an individual for an employing unit constitutes employ-
419 ment, all the services of such individual shall be deemed to be
420 employment; but if less than one-half of the service in any pay
421 period performed by an individual for an employing unit does not
422 constitute employment, then none of the service of such individual
423 shall be deemed to be employment. As used in this paragraph, the
424 term "pay period" means a period of not more than 31 consecutive
425 days for which a payment for service is ordinarily made by an em-
426 ploying unit to individuals in its employ.

427 (j) "Employment office" means a free public employment office,
428 or branch thereof operated by this State or maintained as a part
429 of a State-controlled system of public employment offices.

430 (k) "Fund" means the unemployment compensation fund estab-
431 lished by this chapter (R. S. 43:21-1 et seq.), to which all con-
432 tributions required and from which all benefits provided under this
433 chapter (R. S. 43:21-1 et seq.) shall be paid.

434 (l) "State" includes, in addition to the states of the United
435 States of America, the District of Columbia, the Virgin Islands and
436 Puerto Rico.

437 (m) Unemployment.

438 (1) An individual shall be deemed "unemployed" for any week
439 during which he is not engaged in full-time work and with respect
440 to which his remuneration is less than his weekly benefit rate,
441 including any week during which he is on vacation without pay;
442 provided, such vacation is not the result of the individual's volun-
443 tary action.

444 (2) The term "remuneration" with respect to any individual
445 for benefit years commencing on or after July 1, 1961, and as used
446 in this subsection, shall include only that part of the same which
447 in any week exceeds 20% of his weekly benefit rate (fractional parts
448 of a dollar omitted) or \$5.00 whichever is the larger.

449 (3) An individual's week of unemployment shall be deemed to
450 commence only after his registration at an employment office,
451 except as the division may by regulation otherwise prescribe.

452 (n) "Unemployment compensation administration fund" means
453 the unemployment compensation administration fund established
454 by this chapter (R. S. 43:21-1 et seq.), from which administrative
455 expenses under this chapter (R. S. 43:21-1 et seq.) shall be paid.

456 (o) "Wages" means remuneration paid by employers for em-
457 ployment; provided, however, that for eligibility and benefit pur-
458 poses wages earned but not paid when the amount thereof has been
459 calculated and is due as determined by the established and
460 customary practices of the employer shall be construed as having
461 been paid when earned. If a worker receives gratuities regularly
462 in the course of his employment from others than his employer,
463 his "wages" shall also include the gratuities so received if reported
464 in writing to his employer in accordance with regulations of the
465 Division of Employment Security, and if not so reported, his
466 "wages" shall be determined in accordance with the minimum
467 wage rates prescribed under any labor law or regulation of this
468 State or of the United States, or the amount or remuneration
469 actually received by the employee from his employer, whichever
470 is the higher.

471 (p) "Remuneration" means all compensation for personal ser-
472 vices, including commissions and bonuses and the cash value of all
473 compensation in any medium other than cash.

474 (q) "Week" means such period or periods of 7 consecutive days
475 ending at midnight, as the division may by regulation prescribe.

476 (r) "Calendar quarter" means the period of 3 consecutive
477 calendar months ending on March 31, June 30, September 30, or
478 December 31.

479 (s) "Investment company" means any company as defined in
480 paragraph 1-a of c. 322 of the laws of 1938, entitled "An act con-

481 cerning investment companies, and supplementing Title 17 of the
482 Revised Statutes by adding thereto a new chapter entitled 'invest-
483 ment companies.' "

484 (t) "Base week" means any calendar week of an individual's
485 base year during which he earned in employment from an employer
486 remuneration equal to not less than ~~[\$15.00]~~ \$30.00; provided, if in
487 any calendar week, an individual is in employment with more than
488 one employer, he may in such calendar week establish a base week
489 with respect to each such employer from whom the individual earns
490 remuneration equal to not less than ~~[\$15.00]~~ \$30.00 during such
491 week.

492 (u) "Average weekly wage" means the amount derived by
493 dividing an individual's total wages received during his base year
494 base weeks (as defined in subsection (t) of this section) from that
495 most recent base year employer with whom he has established at
496 least ~~[17]~~ 20 base weeks, by the number of base weeks in which
497 such wages were earned. In the event that such claimant had no em-
498 ployer in his base year with whom he had established at least ~~[17]~~
499 20 base weeks, then such individual's average weekly wage shall be
500 computed as if all of his base week wages were received from one
501 employer and as if all his base weeks of employment had been
502 performed in the employ of one employer.

503 If on application of a claimant it is determined that he has been
504 employed during at least the 4 weeks immediately preceding his
505 separation from employment by an employer on a substantially
506 reduced schedule of weekly hours due to lack of work, all weeks
507 of substantially reduced schedule within the base period and his
508 wages therefor shall be disregarded in computing his average
509 weekly wage.

510 (v) "Initial determination" means, subject to the provisions of
511 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as
512 measured by an eligible individual's base year employment with a
513 single employer covering all periods of employment with that em-
514 ployer during the base year. Subject to the provisions of R. S.
515 43:21-3 (d) (3) if an individual has been in employment in his
516 base year with more than one employer, no benefits shall be paid to
517 that individual under any successive initial determination until his
518 benefit rights have been exhausted under the next preceding initial
519 determination.

520 (w) "Last date of employment" means the last calendar day in
521 the base year of an individual on which he performed services in
522 employment for a given employer.

523 (x) "Most recent base year employer" means that employer

524 with whom the individual most recently, in point of time, performed
525 services in employment in the base year.

526 (y) "Institution of higher education" means an educational
527 institution which

528 (1) Admits as regular students only individuals having a cer-
529 tificate of graduation from a high school, or the recognized equiv-
530 alent of such a certificate;

531 (2) Is legally authorized in this State to provide a program of
532 education beyond high school;

533 (3) Provides an educational program for which it awards a
534 bachelor's or higher degree, or provides a program which is
535 acceptable for full credit toward such a degree, a program of post-
536 graduate or post-doctoral studies, or a program of training to
537 prepare students for gainful employment in a recognized occupa-
538 tion; and

539 (4) Is a public or other nonprofit institution.

540 Notwithstanding any of the foregoing provisions of this subsec-
541 tion, all colleges and universities in this State are institutions of
542 higher education for purposes of this section.

543 (z) "Hospital" means an institution which has been licensed,
544 certified or approved under the law of this State as a hospital.

1 8. Section 11 of P. L. 1948, c. 110 (C. 43:21-35) is amended to
2 read as follows:

3 11. (a) If the division is furnished satisfactory evidence that a
4 majority of the employees covered by an approved private plan
5 have made election in writing to discontinue such plan, the division
6 shall withdraw its approval of such plan effective at the end of the
7 calendar quarter next succeeding that in which such evidence is
8 furnished. Upon receipt of a petition therefor signed by not less
9 than 10% of the employees covered by an approved private plan,
10 the division shall require the employer upon 30 days' written notice
11 to conduct an election by ballot in writing to determine whether
12 or not a majority of the employees covered by such private plan
13 favor discontinuance thereof; provided, that such election shall
14 not be required more often than once in any 12-month period.

15 (b) Unless sooner permitted, for cause, by the division, no
16 approved private plan shall be terminated by an employer, in whole
17 or in part, until at least 30 days after written notice of intention
18 so to do has been given by the employer to the division and after
19 notices are conspicuously posted so as reasonably to assure their
20 being seen, or after individual notices are given to the employees
21 concerned.

22 (c) The division may after notice and hearing withdraw its
 23 approval of any approved private plan if it finds that there is
 24 danger that the benefits accrued or to accrue will not be paid, that
 25 the security for such payment is insufficient, or for other good
 26 cause shown. No employer, and no union or association represent-
 27 ing employees, shall so administer or apply the provisions of an
 28 approved private plan as to derive any profit therefrom. The
 29 division may withdraw its approval from any private plan which
 30 is administered or applied in violation of this provision.

31 (d) No termination of an approved private plan shall affect
 32 the payment of benefits, in accordance with the provisions of the
 33 plan, to disabled employees whose period of disability commenced
 34 prior to the date of termination. Employees who have ceased to
 35 be covered by an approved private plan because of its termination
 36 shall, subject to the limitations and restrictions of this act, become
 37 eligible forthwith for benefits from the State Disability Benefits
 38 Fund for disability commencing after such cessation, and contribu-
 39 tions with respect to their wages shall immediately become pay-
 40 able as otherwise provided by law. Any withdrawal of approval
 41 of a private plan pursuant to this section shall be reviewable by
 42 writ of certiorari or by such other procedure as may be provided
 43 by law.

44 (e) Anything in this act to the contrary notwithstanding a cov-
 45 ered employer who, under an approved private plan, is providing
 46 benefits at least equal to those required by the State plan [on
 47 December 31, 1971], may modify the benefits under the private
 48 plan so as to provide[, beginning January 1, 1972,] benefits not less
 49 than the benefits required by the State plan [on January 1, 1972];
 50 provided, that [effective January 1, 1972,] individuals covered
 51 under such plan shall not be required to contribute to such plan at a
 52 rate exceeding $\frac{3}{4}$ of 1% of the [first \$4,200.00 of wages paid to
 53 each covered individual in any calendar year] amount of "wages"
 54 established for any calendar year under the provisions of R. S.
 55 43:21-7(b) prior to January 1, 1975, and 1/2 of 1% for calendar
 56 years beginning on or after January 1, 1975. Notification of such
 57 proposed modification shall be given by the employer to the division
 58 and to the individuals covered under such plan, on or before
 59 [May 1, 1972] May 1 * [of the calendar year in which the modifica-
 60 tion is effective]**, 1975*.

1 *9. (New section) Notwithstanding any other provisions of R. S.
 2 43:21-7(c) to the contrary, if the balance in the unemployment

3 *trust fund on December 1, 1974 is less than 2 1/2% of the total*
4 *taxable wages reported to the division in respect to employment*
5 *during the calendar year 1973, the contribution rates for the 6*
6 *months commencing on January 1, 1975 shall be determined pur-*
7 *suant to R. S. 43:21-7(c) as amended by this act, on the basis of*
8 *the balance in the unemployment trust fund on March 31, 1974 and*
9 *on the basis of the contribution and benefit record of each employer*
10 *up to January 1, 1974.**

1 ***[9.]*** *10.* This act shall take effect ***[July 1, 1974]*** *January
2 1, 1975, but the Commissioner of Labor and Industry is authorized
3 to take such action prior to January 1, 1975 as may be necessary
4 to prepare for implementation of the provisions thereof*.

STATEMENT

High levels of unemployment have seriously depleted the Unemployment Compensation Trust Fund. As of March 31, 1974, the balance in the fund was only \$56 million. As recently as 1969, the balance was \$477 million. Under present conditions, income to the fund is less than the payout: \$333 million in 1973 against \$350 million. A minimum standard of adequacy calls for a balance of at least \$500 million.

Accordingly, the following changes are proposed to protect the solvency of the Fund and to preserve the Unemployment Compensation Program:

1. To raise the present \$4,200.00 ceiling on the amount of annual wages taxable with respect to each worker to \$4,800.00 in 1975 and thereafter to a flexible amount approximating 50% of the Statewide average annual wage for jobs covered by the Unemployment Compensation Law.

2. To establish a maximum contribution rate of 6.2% on accounts of employers who contribute less than the amounts paid in benefits to their workers.

3. To change the present division of the 1% contribution paid by workers from $\frac{1}{4}$ of 1% for unemployment insurance and $\frac{3}{4}$ of 1% for temporary disability insurance to $\frac{1}{2}$ of 1% for each.

4. To revise benefit eligibility provisions in line with present-day conditions. This includes changing the entitlement formula which requires at least 17 weeks work with a minimum of \$15.00 week earnings to 20 weeks with a \$30.00 minimum. The minimum yearly earnings necessary for a worker to qualify who has not had 20 weeks employment is raised from \$1,350.00 to \$2,200.00. The present one-third base year of earnings is dropped so that all workers may receive maximum benefits of three-quarters of weeks worked in the base year times the weekly benefit rate.

FROM THE OFFICE OF THE GOVERNOR

AUGUST 21, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Wednesday a bill designed to strengthen the Unemployment Trust Fund and to provide a more equitable method of contributions to the fund.

The bill, A 1799, sponsored by Assemblyman Christopher Jackman, D-Hudson, makes significant changes in the tax base used to determine employer-employee contributions to the trust fund and strengthens the requirements for receiving unemployment benefits.

"The new law relates fund contributions to inflation changes, just as benefits themselves already do," said Byrne. "Previously, contributions to the fund have been rigid, determined on a set income base."

"Hopefully, this flexibility will prevent a repetition of conditions which have brought the fund close to bankruptcy," the governor added.

Byrne said the new law will help restore the fiscal integrity of the fund by restructuring the unemployment insurance program.

"Prudent management dictates that the Unemployment Trust Fund must be restored to a reasonable minimum as quickly as possible," he said. "What we are seeking is a system which will be of maximum benefit to both employers and employees at the most reasonable cost."

Joseph A. Hoffman, state commissioner of Labor and Industry, said an Unemployment Insurance Task Force was recently established to re-evaluate all facets of unemployment insurance, including the law, its administration and funding.

He said the fund totalled only \$92 million as of July 31, 1974. He said this dangerously low level is the result of three years of higher than average unemployment in New Jersey.

The legislation signed by the Governor covers two major areas, taxing provisions and eligibility provisions.

The first new taxing provision increases the limit of annual wages used as a tax base from \$4200 to \$4800 in 1975. After 1975 a yearly base tied directly to inflationary pressures would be applied. This flexible yearly base would be determined by the statewide average weekly wage.

The second new taxing provision increases the payroll tax on deficit employers -- those whose workers draw more benefits than their employer contributes -- to a maximum of 6.2%.

The third new taxing provision changes the present allocation of worker contributions from 1/4 of 1% of wages for unemployment insurance and 3/4 of 1% for temporary disability insurance to 1/2 of 1% for each.

The second area covered by the new law deals with changes in benefit eligibility provisions.

Commissioner Hoffman said, "These benefit eligibility requirements give us a more realistic approach to the basic labor market situation. They are part and parcel of our overall attempt to strengthen the fund and give more balance to the program."

The first new change on eligibility is in basic entitlement. Up to now, the worker must have worked 17 weeks with at least \$15 a week earnings in the year preceding his claim, to be eligible for benefits. The new law provides that the worker be employed for 20 weeks with at least \$30 a week earnings in the year preceding that claim.

The second provision changes the eligibility requirement for benefits from at least 17 base weeks with a minimum of \$15 weekly earnings to 20 base weeks with a weekly minimum of \$30. The minimum base year earnings necessary for a worker to qualify if he did not have 20 base weeks of employment is increased from \$1350 to \$2200. The former law which used 1/3 base year earnings as an alternative in determining the maximum benefit amount has been eliminated, so that all workers will now receive a maximum benefit amount of 3/4 of his base weeks from the employer in question multiplied by his weekly benefit rate.

The third change provides that disqualifications shall be imposed for suspension from work for misconduct as well as for discharge for misconduct.

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