

§§1,2 -
C.11A:6-24.2 &
11A:6-24.3
§§4-7 -
C.43:21-20.12 to
43:21-20.15
§11 - Note

P.L. 2020, CHAPTER 57, *approved July 2, 2020*
Assembly, No. 4132 (*Third Reprint*)

1 AN ACT concerning certain benefits ¹**[and leave]**¹ provided to
2 workers, and amending and supplementing various parts of the
3 statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ³**[**1.NJ.S.11A:8-1 is amended to read as follows:
9

10 11A:8-1. a. A permanent employee may be laid off for
11 economy, efficiency or other related reason. A permanent
12 employee shall receive 45 days' written notice, unless in State
13 government a greater time period is ordered by the commission,
14 which shall be served personally or by certified mail, of impending
15 layoff or demotion and the reasons therefor. The requirements of
16 this section to provide 45 days' written notice of a layoff shall not
17 apply to employees who have their weekly hours of work reduced
18 and receive shared time unemployment benefits under a shared
19 work program approved pursuant to the provisions of
20 P.L.2011.c.154 (C.43:21-20.3 et seq.). The notice shall expire 120
21 days after service unless extended by the commission for good
22 cause. At the same time the notice is served, the appointing
23 authority shall provide the commission with a list of the names and
24 permanent titles of all employees receiving the notice. The Civil
25 Service Commission shall adopt rules to implement employee
26 layoff rights consistent with the provisions of this section. The
27 commission shall consult with the advisory board representing labor
28 organizations prior to such recommendations.

29 b. Permanent employees in the service of the State or a
30 political subdivision shall be laid off in inverse order of seniority.
31 As used in this subsection, "seniority" means the length of
32 continuous permanent service in the jurisdiction, regardless of title
held during the period of service, except that for police and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 11, 2020.

²Assembly floor amendments adopted May 14, 2020.

³Assembly amendments adopted in accordance with Governor's
recommendations July 2, 2020.

1 firefighting titles, "seniority" means the length of continuous
2 permanent service only in the current permanent title and any other
3 title that has lateral or demotional rights to the current permanent
4 title. Seniority for all titles shall be based on the total length of
5 calendar years, months and days in continuous permanent service
6 regardless of the length of the employee's work week, work year or
7 part-time status.

8 c. For purposes of State service, a "layoff unit" means a
9 department or autonomous agency and includes all programs
10 administered by that department or agency. For purposes of
11 political subdivision service, the "layoff unit" means a department
12 in a county or municipality, an entire autonomous agency, or an
13 entire school district, except that the commission may establish
14 broader layoff units.

15 d. For purposes of State service, "job location" means a county.
16 The commission shall assign a job location to every facility and
17 office within a State department or autonomous agency. For
18 purposes of local service, "job location" means the entire political
19 subdivision and includes any facility operated by the political
20 subdivision outside its geographic borders.

21 e. For purposes of determining lateral title rights in State and
22 political subdivision service, title comparability shall be determined
23 by the commission based upon whether the: (1) titles have
24 substantially similar duties and responsibilities; (2) education and
25 experience requirements for the titles are identical or similar; (3)
26 employees in an affected title, with minimal training and
27 orientation, could perform the duties of the designated title by
28 virtue of having qualified for the affected title; and (4) special
29 skills, licenses, certifications or registration requirements for the
30 designated title are similar and do not exceed those which are
31 mandatory for the affected title. Demotional title rights shall be
32 determined by the commission based upon the same criteria, except
33 that the demotional title shall have lower but substantially similar
34 duties and responsibilities as the affected title.

35 f. In State service, a permanent employee in a position affected
36 by a layoff action shall be provided with applicable lateral and
37 demotional title rights first, at the employee's option, within the
38 municipality in which the facility or office is located and then to the
39 job locations selected by the employee within the department or
40 autonomous agency. The employee shall select individual job
41 locations in preferential order from the list of all job locations and
42 shall indicate job locations at which the employee will accept lateral
43 and demotional title rights. In local service, a permanent employee
44 in a position affected by a layoff action shall be provided lateral and
45 demotional title rights within the layoff unit.

46 g. Following the employee's selection of job location
47 preferences, lateral and demotional title rights shall be provided in
48 the following order:

1 (1) a vacant position that the appointing authority has previously
2 indicated it is willing to fill;

3 (2) a position held by a provisional employee who does not have
4 permanent status in another title, and if there are multiple
5 employees at a job location, the specific position shall be
6 determined by the appointing authority;

7 (3) a position held by a provisional employee who has
8 permanent status in another title, and if there are multiple
9 provisional employees at a job location, the specific position shall
10 be determined based on level of the permanent title held and
11 seniority;

12 (4) the position held by the employee serving in a working test
13 period with the least seniority;

14 (5) in State service, and in local jurisdictions having a
15 performance evaluation program approved by the commission, the
16 position held by the permanent employee whose performance rating
17 within the most recent 12 months in the employee's permanent title
18 was significantly below standards or an equivalent rating;

19 (6) in State service, and in local jurisdictions having a
20 performance evaluation program approved by the commission, the
21 position held by the permanent employee whose performance rating
22 within the most recent 12 months in the employee's permanent title
23 was marginally below standards or an equivalent rating; and

24 (7) the position held by the permanent employee with the least
25 seniority.

26 h. A permanent employee shall be granted special
27 reemployment rights based on the employee's permanent title at the
28 time of the layoff action and the employee shall be certified for
29 reappointment after the layoff action to the same, lateral and lower
30 related titles. Special reemployment rights shall be determined by
31 the commission in the same manner as lateral and demotional
32 rights.

33 i. Notwithstanding the provisions above, at no time shall any
34 person on a military leave of absence for active service in the
35 Armed Forces of the United States or for active service in the
36 organized militia in time of war or emergency be laid off.

37 For the purposes of this section, "organized militia" means the
38 Army and Air National Guard of New Jersey or any other state, and
39 "active service" includes National Guard active service ordered by a
40 Governor of a state.

41 (cf: P.L.2019, c.286, s.3)]³

42
43 ³1. (New section) Notwithstanding the provisions of section 25
44 of P.L.2008, c.89 (C.11A:6-24.1) or any other law or regulation to
45 the contrary, a State employee participating in a furlough program
46 may be required or elect to take a furlough day on a paid holiday
47 granted to State government employees in calendar years 2020 and
48 2021. An employee who is required to or elects to take a furlough

1 day on a paid holiday shall not receive pay for the holiday. An
2 employee on furlough leave on the day before or on the day
3 following a holiday shall receive pay for the holiday as long as the
4 employee is not required, or does not elect, to take a furlough day
5 on the paid holiday.³

6
7 ³2. (New section) Notwithstanding the provisions of any other
8 law or regulation to contrary, the provisions of chapter 8 of Title
9 11A of the New Jersey Statutes shall not apply to employees who
10 have their weekly hours of work reduced and receive short time
11 compensation benefits under a shared work program approved
12 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.)
13 or who participate in a furlough program, except the provisions of
14 Title 11A of the New Jersey Statutes concerning the seniority rights
15 of an employee who participates in a shared work program or
16 furlough program shall continue and shall not be adversely affected
17 by participation in such programs.³

18
19 ³[2.] ³3. Section 9 of P.L.1996, c.138 (C.18A:7F-9) is amended
20 to read as follows:

21 9. a. In order to receive any State aid pursuant to P.L.2007, c.260
22 (C.18A:7F-43 et al.), a school district, charter school, renaissance
23 school project, county vocational school district, or county special
24 services school district shall comply with the rules and standards for
25 the equalization of opportunity which have been or may hereafter be
26 prescribed by law or formulated by the commissioner pursuant to law,
27 including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and
28 P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum
29 content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.),
30 and shall further comply with any directive issued by the
31 commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6).
32 The commissioner is hereby authorized to withhold all or part of a
33 district's State aid for failure to comply with any rule, standard or
34 directive. No State aid shall be paid to any district which has not
35 provided public school facilities for at least 180 days during the
36 preceding school year, but the commissioner, for good cause shown,
37 may remit the penalty.

38 b. Notwithstanding the provisions of subsection a. of this section
39 to the contrary, in the event that a school district is required to close
40 the schools of the district for more than three consecutive school days
41 due to a declared state of emergency, declared public health
42 emergency, or a directive by the appropriate health agency or officer to
43 institute a public health-related closure, the commissioner shall allow
44 the district to apply to the 180-day requirement established pursuant to
45 subsection a. of this section, one or more days of virtual or remote
46 instruction provided to students on the day or days the schools of the
47 district were closed if the program of virtual or remote instruction

1 meets such criteria as may be established by the commissioner. A
2 district that wants to use a program of virtual or remote instruction to
3 meet the 180-day requirement in accordance with this subsection shall,
4 with board of education approval, submit its proposed program of
5 virtual or remote instruction to the commissioner within 30 days of the
6 effective date of P.L.2020, c.27 and annually thereafter, provided
7 however that if the school district is unable to complete and submit its
8 proposed program within the 30-day period and the district is required
9 to close its schools for a declared state of emergency, declared public
10 health emergency, or a directive by the appropriate health agency or
11 officer to institute a public health-related closure, the commissioner
12 may retroactively approve the program.

13 A day of virtual or remote instruction, if instituted under a program
14 approved by the commissioner, shall be considered the equivalent of a
15 full day of school attendance for the purposes of meeting State and
16 local graduation requirements, the awarding of course credit, and such
17 other matters as determined by the commissioner.

18 If a program of virtual or remote instruction is implemented for the
19 general education students the same educational opportunities shall be
20 provided to students with disabilities. Special education and related
21 services, including speech language services, counseling services,
22 physical therapy, occupational therapy, and behavioral services, may
23 be delivered to students with disabilities through the use of electronic
24 communication or a virtual or online platform and as required by the
25 student's Individualized Education Program (IEP), to the greatest
26 extent practicable.

27 c. In the event that the State or local health department
28 determines that it is advisable to close or mandates closure of the
29 schools of a school district due to a declared state of emergency,
30 declared public health emergency, or a directive by the appropriate
31 health agency or officer to institute a public health-related closure, the
32 superintendent of schools shall have the authority to implement the
33 school district's program of virtual or remote instruction. The
34 superintendent shall consult with the board of education prior to such
35 decision if practicable. The superintendent shall ensure that students,
36 parents, staff, and the board of education or boards of education are
37 informed promptly of the superintendent's decision.

38 d. The commissioner shall define virtual and remote instruction
39 and establish guidance for its use. The guidance shall provide school
40 districts with information on:

41 (1) providing instruction to students who may not have access to a
42 computer or to sufficient broadband, or to any technology required for
43 virtual or remote instruction;

44 (2) the required length of a virtual or remote instruction day;

45 (3) the impact of virtual or remote instruction on the school lunch
46 and school breakfast programs;

47 (4) the impact of virtual or remote instruction on the schedule for
48 administering State assessments; and

1 (5) such other topics as the commissioner deems necessary.

2 e. (1) Nothing in subsection b., c., or d. of this section shall be
3 construed to limit, supersede or preempt the rights, privileges,
4 compensation, remedies, and procedures afforded to public school
5 employees or a collective bargaining unit under federal or State law or
6 any provision of a collective bargaining agreement entered into by the
7 school district. In the event of the closure of the schools of a school
8 district due to a declared state of emergency, declared public health
9 emergency, or a directive by the appropriate health agency or officer to
10 institute a public health-related closure for a period longer than three
11 consecutive school days, public school employees covered by a
12 collective negotiations agreement shall be entitled to compensation,
13 benefits, and emoluments as provided in the collective negotiations
14 agreement as if the school facilities remained open for any purpose
15 and for any time lost as a result of school closures or use of virtual or
16 remote instruction, except that additional compensation, benefits, and
17 emoluments may be negotiated for additional work performed.

18 (2) In the event of the closure of the schools of a school district
19 due to a declared state of emergency, declared public health
20 emergency, or a directive by the appropriate health agency or officer to
21 institute a public health-related closure for a period longer than three
22 consecutive school days, public school employees who are not covered
23 by a collective negotiations agreement shall be entitled to any benefits,
24 compensation, and emoluments to which they otherwise would be
25 entitled as if they had performed the work for such benefits,
26 compensation, and emoluments as if the school facilities remained
27 open for any purpose and for any time lost as a result of school
28 closures or use of virtual or remote instruction.

29 (3) If the schools of a school district are subject to a health-related
30 closure for a period longer than three consecutive school days, which
31 is the result of a declared state of emergency, declared public health
32 emergency, or a directive by the appropriate health agency or officer,
33 then the school district shall continue to make payments of benefits,
34 compensation, and emoluments pursuant to the terms of a contract
35 with a contracted service provider in effect on the date of the closure
36 as if the services for such benefits, compensation, and emoluments had
37 been provided, and as if the school facilities had remained open.
38 Payments received by a contracted service provider pursuant to this
39 paragraph shall be used to meet the payroll and fixed costs obligations
40 of the contracted service provider¹, and employees of the contracted
41 service provider shall be paid as if the school facilities had remained
42 open and in full operation¹. ²Upon request of the school district, the
43 contracted service provider shall certify, and provide any supporting
44 documentation to a school district as may be necessary to verify, that
45 payments received have been used solely to meet the payroll and fixed
46 costs of the contracted service provider. Any portion of those
47 payments not used to meet the payroll and fixed costs shall be returned
48 to the school district.¹² A school district shall make all reasonable

1 efforts to renegotiate a contract in good faith subject to this paragraph
2 and may direct contracted service providers, who are a party to a
3 contract and receive payments from the school district under this
4 paragraph, to provide services on behalf of the school district which
5 may reasonably be provided and are within the general expertise or
6 service provision of the original contract. Negotiations shall not
7 include indirect costs such as fuel or tolls. As a condition of
8 negotiations, a contracted service provider shall reveal to the school
9 district whether the entity has insurance coverage for business
10 interruption covering work stoppages. A school district shall not be
11 liable for the payment of benefits, compensation, and emoluments
12 pursuant to the terms of a contract with a contracted service provider
13 under this paragraph for services which otherwise would not have been
14 provided had the school facilities remained open. Nothing in this
15 paragraph shall be construed to require a school district to make
16 payments to a party in material breach of a contract with a contracted
17 service provider if the breach was not due to a closure resulting from a
18 declared state of emergency, declared public health emergency, or a
19 directive by the appropriate health agency or officer.

20 (4) If the schools of a school district are subject to a health-related
21 closure for a period longer than three consecutive school days, which
22 is the result of a declared state of emergency, declared public health
23 emergency, or a directive by the appropriate health agency or officer,
24 the school district shall be obligated to make payments for benefits,
25 compensation, and emoluments and all payments required pursuant to
26 P.L.1968, c.243 (C.18A:6-51 et seq.), to an educational services
27 commission, county special services school district, and a jointure
28 commission, and under any shared services agreement and cooperative
29 contract entered into with any other public entity. An educational
30 services commission, county special services school district, and
31 jointure commission shall continue to make payments of benefits,
32 compensation, and emoluments pursuant to the terms of a contract
33 with a contracted service provider or a shared services agreement in
34 effect on the date of the closure as if the services for such benefits,
35 compensation, and emoluments had been provided, and as if the school
36 facilities had remained open. Payments received by a contracted
37 service provider or public entity pursuant to this paragraph shall be
38 used to meet the payroll and fixed costs obligations of the contracted
39 service provider or public entity¹, and employees of the contracted
40 service provider or public entity shall be paid as if the school facilities
41 had remained open and in full operation¹. ¹Upon request of the school
42 district, the educational services commission, county special services
43 school district, and a jointure commission shall certify, and provide
44 any supporting documentation to a school district as may be necessary
45 to verify, that payments received have been used solely to meet the
46 payroll and fixed costs of the contracted service provider or public
47 entity. Any portion of those payments not used to meet the payroll and
48 fixed costs shall be returned to the school district.¹ An educational

1 services commission, county special services school district, jointure
2 commission or any lead school district under a shared services
3 agreement or cooperative contract, shall make all reasonable efforts to
4 renegotiate a contract in good faith subject to this paragraph and may
5 direct contracted service providers or public entities, who are a party to
6 a contract and receive payments under this paragraph, to provide
7 services which may reasonably be provided and are within the general
8 expertise or service provision of the original contract. Negotiations
9 shall not include indirect costs such as fuel or tolls. As a condition of
10 negotiations, a contracted service provider or public entity shall reveal
11 whether the entity has insurance coverage for business interruption
12 covering work stoppages.

13 (5) The provisions ¹of paragraphs (1) through (4)¹ of this
14 subsection e. shall not apply to any employee whose weekly hours of
15 work are reduced, and to whom unemployment benefits are provided,
16 pursuant to a shared work program approved pursuant to the
17 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.). ¹A contracted
18 service provider, educational services commission, county special
19 services school district, or jointure commission shall notify any
20 school district with which it has entered into a contract to provide
21 services of its intent to reduce the hours of work of its employees
22 pursuant to a shared work program approved pursuant to the
23 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.).
24 Notwithstanding the provisions of paragraph (3) of this subsection e.,
25 if a contracted service provider reduces the amount that it pays to its
26 employees providing services to a school district, and that reduction is
27 the result of a reduction of workhours of the those employees made
28 pursuant to a shared work program approved pursuant to the
29 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.), then the amount
30 paid by the public school district to the contracted service provider
31 shall be reduced by the same amount. Notwithstanding the provisions
32 of paragraph (4) of this subsection e., if an educational services
33 commission, county special services school district, or jointure
34 commission reduces the amount that it pays to its employees providing
35 services to a school district, and that reduction is the result of a
36 reduction of workhours of the those employees made pursuant to a
37 shared work program approved pursuant to the provisions of P.L.2011,
38 c.154 (C.43:21-20.3 et seq.), then the amount paid by the public school
39 district to the educational services commission, county special services
40 school district, or jointure commission shall be reduced by the same
41 amount.¹

42 f. For purposes of subsections b., c., d., and e. of this section,
43 “school district” shall include a charter school and a renaissance
44 school project.
45 (cf: P.L.2020, c.27, s.1)

46
47 ¹[3. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
48 read as follows:

1 3. As used in this act:

2 a. "Child" means a biological, adopted, foster child, or resource
3 family child, stepchild, legal ward, or child of a parent, including a
4 child who becomes the child of a parent pursuant to a valid written
5 agreement between the parent and a gestational carrier.

6 b. "Director" means the Director of the Division on Civil
7 Rights.

8 c. "Division" means the Division on Civil Rights in the
9 Department of Law and Public Safety.

10 d. "Employ" means to suffer or permit to work for
11 compensation, and includes ongoing, contractual relationships in
12 which the employer retains substantial direct or indirect control
13 over the employee's employment opportunities or terms and
14 conditions of employment.

15 e. "Employee" means a person who is employed for at least 12
16 months by an employer, with respect to whom benefits are sought
17 under this act, for not less than 1,000 base hours during the
18 immediately preceding 12-month period. Any time, up to a
19 maximum of 90 calendar days, during which a person is laid off or
20 furloughed by an employer due to that employer curtailing
21 operations because of a state of emergency declared after October
22 22, 2012, shall be regarded as time in which the person is employed
23 for the purpose of determining eligibility for leave time under this
24 act. In making the determination, the base hours per week during
25 the layoff or furlough shall be deemed to be the same as the average
26 number of hours worked per week during the rest of the 12-month
27 period.

28 f. "Employer" means a person or corporation, partnership,
29 individual proprietorship, joint venture, firm or company or other
30 similar legal entity which engages the services of an employee and
31 which:

32 (1) (Deleted by amendment, P.L.2019, c.37);

33 (2) (Deleted by amendment, P.L.2019, c.37);

34 (3) **【**With respect to the period of time from the 1,095th day
35 following the effective date of P.L.1989, c.261 (C.34:11B-1 et seq.)
36 through June 30, 2019, employs 50 or more employees for each
37 working day during each of 20 or more calendar workweeks in the
38 then current or immediately preceding calendar year; and**】** (Deleted
39 by amendment, P.L. , c.) (pending before the Legislature as
40 this bill)

41 (4) With respect to any period of time **【**on or after**】** from June
42 30, 2019 until the effective date of P.L. c. (pending before the
43 Legislature as this bill), employs 30 or more employees for each
44 working day during each of 20 or more calendar workweeks in the
45 then current or immediately preceding calendar year; and

46 (5) With respect to any period of time after the effective date of
47 P.L. c. (pending before the Legislature as this bill), employs
48 one or more employees for each working day during each of 20 or

1 more calendar workweeks in the then current or immediately
2 preceding calendar year.

3 "Employer" includes the State, any political subdivision thereof,
4 and all public offices, agencies, boards or bodies.

5 g. "Employment benefits" means all benefits and policies
6 provided or made available to employees by an employer, and
7 includes group life insurance, health insurance, disability insurance,
8 sick leave, annual leave, pensions, or other similar benefits.

9 h. "Parent" means a person who is the biological parent,
10 adoptive parent, foster parent, resource family parent, step-parent,
11 parent-in-law or legal guardian, having a "parent-child relationship"
12 with a child as defined by law, or having sole or joint legal or
13 physical custody, care, guardianship, or visitation with a child, or
14 who became the parent of the child pursuant to a valid written
15 agreement between the parent and a gestational carrier.

16 i. "Family leave" means leave from employment so that the
17 employee may provide care made necessary by reason of:

18 (1) the birth of a child of the employee, including a child born
19 pursuant to a valid written agreement between the employee and a
20 gestational carrier;

21 (2) the placement of a child into foster care with the employee
22 or in connection with adoption of such child by the employee;

23 (3) the serious health condition of a family member of the
24 employee; or.

25 (4) in the event of a state of emergency declared by the
26 Governor, or when indicated to be needed by the Commissioner of
27 Health or other public health authority, an epidemic of a
28 communicable disease, a known or suspected exposure to the
29 communicable disease, or efforts to prevent spread of a
30 communicable disease, which:

31 (a) requires in-home care or treatment of a child due to the
32 closure of the school or place of care of the child of the employee,
33 by order of a public official due to the epidemic or other public
34 health emergency;

35 (b) prompts the issuance by a public health authority of a
36 determination, including by mandatory quarantine, requiring or
37 imposing responsive or prophylactic measures as a result of illness
38 caused by an epidemic of a communicable disease or known or
39 suspected exposure to the communicable disease because the
40 presence in the community of a family member in need of care by
41 the employee, would jeopardize the health of others; or

42 (c) results in the recommendation of a health care provider or
43 public health authority, that a family member in need of care by the
44 employee voluntarily undergo self-quarantine as a result of
45 suspected exposure to a communicable disease because the presence
46 in the community of that family member in need of care by the
47 employee, would jeopardize the health of others.

1 j. "Family member" means a child, parent, parent-in-law,
 2 sibling, grandparent, grandchild, spouse, domestic partner, or one
 3 partner in a civil union couple, or any other individual related by
 4 blood to the employee, and any other individual that the employee
 5 shows to have a close association with the employee which is the
 6 equivalent of a family relationship.

7 k. "Reduced leave schedule" means leave scheduled for fewer
 8 than an employee's usual number of hours worked per workweek
 9 but not for fewer than an employee's usual number of hours worked
 10 per workday, unless agreed to by the employee and the employer.

11 l. "Serious health condition" means an illness, injury,
 12 impairment, or physical or mental condition which requires:

13 (1) inpatient care in a hospital, hospice, or residential medical
 14 care facility; or

15 (2) continuing medical treatment or continuing supervision by a
 16 health care provider.

17 m. "State of emergency" means a natural or man-made disaster
 18 or emergency for which a state of emergency has been declared by
 19 the President of the United States or the Governor, or for which a
 20 state of emergency has been declared by a municipal emergency
 21 management coordinator.

22 n. "Health care provider" means a duly licensed health care
 23 provider or other health care provider deemed appropriate by the
 24 director.

25 (cf: P.L.2020, c.23, s.1) **1**

26

27 **¹[4.] ³3. ¹** R.S.43:21-3 is amended to read as follows:

28 43:21-3. Benefits.

29 (a) Payment of benefits.

30 All benefits shall be promptly paid from the fund in accordance
 31 with such regulations as may be prescribed hereunder.

32 (b) Weekly benefits for unemployment.

33 (1) With respect to an individual's benefit year commencing on
 34 or after July 1, 1961 and before June 1, 2020¹, and after the time
 35 that federal financing of unemployment benefits in this State,
 36 pursuant to the "Coronavirus Aid, Relief, and Economic Security
 37 Act," Pub. Law 116-136, ceases¹, such individual, if eligible and
 38 unemployed (as defined in subsection (m) of R.S.43:21-19), shall
 39 be paid an amount (except as to final payment) equal to his weekly
 40 benefit rate less any remuneration, other than remuneration from
 41 self-employment paid to an individual who is receiving a self-
 42 employment assistance allowance, paid or payable to him for such
 43 week in excess of 20% of his weekly benefit rate (fractional part of
 44 a dollar omitted) or \$5.00, whichever is the greater; provided that
 45 such amount shall be computed to the next lower multiple of \$1.00
 46 if not already a multiple thereof.

1 (2) With respect to an individual's benefit year commencing on
2 or after June 1, 2020 ¹until the time that federal financing of
3 unemployment benefits in this State, pursuant to the "Coronavirus
4 Aid, Relief, and Economic Security Act," Pub. Law 116-136
5 ceases¹, such individual, if eligible and unemployed (as defined in
6 subsection (m) of R.S.43:21-19), shall be paid an amount (except as
7 to final payment) equal to his weekly benefit rate less any
8 remuneration, other than remuneration from self-employment paid
9 to an individual who is receiving a self-employment assistance
10 allowance, paid or payable to him for such week in excess of 40%
11 of his weekly benefit rate (fractional part of a dollar omitted) or
12 \$5.00, whichever is the greater; provided that such amount shall be
13 computed to the next lower multiple of \$1.00 if not already a
14 multiple thereof.

15 (c) Weekly benefit rate.

16 (1) With respect to an individual whose benefit year commences
17 after September 30, 1984, his weekly benefit rate under each
18 determination shall be 60% of his average weekly wage, subject to a
19 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly
20 remuneration paid to workers by employers subject to this chapter
21 (R.S.43:21-1 et seq.), as determined and promulgated by the
22 Commissioner of Labor and Workforce Development; provided,
23 however, that such individual's weekly benefit rate shall be
24 computed to the next lower multiple of \$1.00 if not already a
25 multiple thereof.

26 (2) Dependency benefits.

27 (A) With respect to an individual whose benefit year commences
28 after September 30, 1984, the individual's weekly benefit rate as
29 determined in paragraph (1) of this subsection (c) will be increased
30 by 7% for the first dependent and 4% each for the next two
31 dependents (up to a maximum of three dependents), computed to
32 the next lower multiple of \$1.00 if not already a multiple thereof,
33 except that the maximum weekly benefit rate payable for an
34 individual claiming dependency benefits shall not exceed the
35 maximum amount determined under paragraph (1) of this
36 subsection (c).

37 (B) For the purposes of this paragraph (2), a dependent is
38 defined as an individual's unemployed spouse or an unemployed
39 unmarried child (including a stepchild or a legally adopted child)
40 under the age of 19 or an unemployed unmarried child, who is
41 attending an educational institution as defined in subsection (y) of
42 R.S.43:21-19 on a full-time basis and is under the age of 22. If an
43 individual's spouse is employed during the week the individual files
44 an initial claim for benefits, this paragraph (2) shall not apply. If
45 both spouses establish a claim for benefits in accordance with the
46 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
47 entitled to dependency benefits as provided in this paragraph (2).

1 (C) Any determination establishing dependency benefits under
2 this paragraph (2) shall remain fixed for the duration of the
3 individual's benefit year and shall not be increased or decreased
4 unless it is determined by the division that the individual
5 wrongfully claimed dependency benefits as a result of false or
6 fraudulent representation.

7 (D) Notwithstanding the provisions of any other law, the
8 division shall use every available administrative means to insure
9 that dependency benefits are paid only to individuals who meet the
10 requirements of this paragraph (2). These administrative actions
11 may include, but shall not be limited to, the following:

12 (i) All married individuals claiming dependents under this
13 paragraph (2) shall be required to provide the social security
14 number of the individual's spouse. If the individual indicates that
15 the spouse is unemployed, the division shall match the social
16 security number of the spouse against available wage records to
17 determine whether earnings were reported on the last quarterly
18 earnings report filed by employers under R.S.43:21-14. If earnings
19 were reported, the division shall contact in writing the last employer
20 to determine whether the spouse is currently employed.

21 (ii) Where a child is claimed as a dependent by an individual
22 under this paragraph (2), the individual shall be required to provide
23 to the division the most recent federal income tax return filed by the
24 individual to assist the division in verifying the claim.

25 (3) For the purposes of this subsection (c), the "Statewide
26 average weekly remuneration paid to workers by employers" shall
27 be computed and determined by the Commissioner of Labor and
28 Workforce Development on or before September 1 of each year on
29 the basis of one-fifty-second of the total remuneration reported for
30 the preceding calendar year by employers subject to this chapter,
31 divided by the average of the number of workers reported by such
32 employers, and shall be effective as to benefit determinations in the
33 calendar year following such computation and determination.

34 (d) Maximum total benefits.

35 (1) (A) (Deleted by amendment, P.L.2003, c.107).

36 (B) (i) With respect to an individual for whom benefits shall be
37 payable for benefit years commencing on or after July 1, 1986, and
38 before July 1, 2003 as provided in this section, the individual shall
39 be entitled to receive a total amount of benefits equal to three-
40 quarters of the individual's base weeks with all employers in the
41 base year multiplied by the individual's weekly benefit rate; but the
42 amount of benefits thus resulting under that determination shall be
43 adjusted to the next lower multiple of \$1.00 if not already a
44 multiple thereof. With respect to an individual for whom benefits
45 shall be payable for benefit years commencing on or after July 1,
46 2003 as provided in this section, the individual shall be entitled to
47 receive a total amount of benefits equal to the number of the
48 individual's base weeks with all employers in the base year

1 multiplied by the individual's weekly benefit rate; but the amount of
2 benefits thus resulting under that determination shall be adjusted to
3 the next lower multiple of \$1.00 if not already a multiple thereof.

4 (ii) Except as provided pursuant to paragraph (1) of subsection
5 (c) of R.S.43:21-7, benefits paid to an individual for benefit years
6 commencing on or after July 1, 1986 shall be charged against the
7 accounts of the individual's base year employers in the following
8 manner:

9 Each week of benefits paid to an eligible individual shall be
10 charged against each base year employer's account in the same
11 proportion that the wages paid by each employer to the individual
12 during the base year bear to the wages paid by all employers to that
13 individual during the base year.

14 (iii) (Deleted by amendment, P.L.1997, c.255.)

15 (2) No such individual shall be entitled to receive benefits under
16 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
17 benefit rate in any benefit year under either of subsections (c) and
18 (f) of R.S. 43:21-4. In the event that any individual qualifies for
19 benefits under both of said subsections during any benefit year, the
20 maximum total amount of benefits payable under said subsections
21 combined to such individual during the benefit year shall be one
22 and one-half times the maximum amount of benefits payable under
23 one of said subsections.

24 (3) (Deleted by amendment, P.L.1984, c.24.)

25 (cf: P.L.2004, c.45, s.1)³

26
27 ¹**[5.]³** 4.¹ R.S.43:21-4 is amended to read as follows:

28 43:21-4. Benefit eligibility conditions. An unemployed
29 individual shall be eligible to receive benefits with respect to any
30 week eligible only if:

31 (a) The individual has filed a claim at an unemployment
32 insurance claims office and thereafter continues to report at an
33 employment service office or unemployment insurance claims
34 office, as directed by the division in accordance with such
35 regulations as the division may prescribe, except that the division
36 may, by regulation, waive or alter either or both of the requirements
37 of this subsection as to individuals attached to regular jobs, and as
38 to such other types of cases or situations with respect to which the
39 division finds that compliance with such requirements would be
40 oppressive, or would be inconsistent with the purpose of this act;
41 provided that no such regulation shall conflict with subsection (a) of
42 R.S.43:21-3.

43 (b) The individual has made a claim for benefits in accordance
44 with the provisions of subsection (a) of R.S.43:21-6.

45 (c) (1) The individual is able to work, and is available for work,
46 and has demonstrated to be actively seeking work, except as
47 hereinafter provided in this subsection or in subsection (f) of this
48 section.

1 (2) The director may modify the requirement of actively seeking
2 work if such modification of this requirement is warranted by
3 economic conditions.

4 (3) No individual, who is otherwise eligible, shall be deemed
5 ineligible, or unavailable for work, because the individual is on
6 vacation, without pay, during said week, if said vacation is not the
7 result of the individual's own action as distinguished from any
8 collective action of a collective bargaining agent or other action
9 beyond the individual's control.

10 (4) (A) Subject to such limitations and conditions as the
11 division may prescribe, an individual, who is otherwise eligible,
12 shall not be deemed unavailable for work or ineligible because the
13 individual is attending a training program approved for the
14 individual by the division to enhance the individual's employment
15 opportunities or because the individual failed or refused to accept
16 work while attending such program.

17 (B) For the purpose of this paragraph (4), any training program
18 shall be regarded as approved by the division for the individual if
19 the program and the individual meet the following requirements:

20 (i) The training is for a labor demand occupation and is likely to
21 enhance the individual's marketable skills and earning power,
22 except that the training may be for an occupation other than a labor
23 demand occupation if the individual is receiving short-time benefits
24 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
25 and the training is necessary to prevent a likely loss of jobs;

26 (ii) The training is provided by a competent and reliable private
27 or public entity approved by the Commissioner of Labor and
28 Workforce Development pursuant to the provisions of section 8 of
29 the "1992 New Jersey Employment and Workforce Development
30 Act," P.L.1992, c.43 (C.34:15D-8);

31 (iii) The individual can reasonably be expected to complete the
32 program, either during or after the period of benefits;

33 (iv) The training does not include on the job training or other
34 training under which the individual is paid by an employer for work
35 performed by the individual during the time that the individual
36 receives benefits; and

37 (v) The individual enrolls in vocational training, remedial
38 education or a combination of both on a full-time basis, except that
39 the training or education may be on a part-time basis if the
40 individual is receiving short-time benefits pursuant to the provisions
41 of P.L.2011, c.154 (C.43:21-20.3 et al.).

42 (C) If the requirements of subparagraph (B) of this paragraph (4)
43 are met, the division shall not withhold approval of the training
44 program for the individual for any of the following reasons:

45 (i) The training includes remedial basic skills education
46 necessary for the individual to successfully complete the vocational
47 component of the training;

1 (ii) The training is provided in connection with a program under
2 which the individual may obtain a college degree, including a post-
3 graduate degree;

4 (iii) The length of the training period under the program; or

5 (iv) The lack of a prior guarantee of employment upon
6 completion of the training.

7 (D) For the purpose of this paragraph (4), "labor demand
8 occupation" means an occupation for which there is or is likely to
9 be an excess of demand over supply for adequately trained workers,
10 including, but not limited to, an occupation designated as a labor
11 demand occupation by the Center for Occupational Employment
12 Information pursuant to the provisions of subsection d. of section
13 27 of P.L.2005, c.354 (C.34:1A-86).

14 (5) An unemployed individual, who is otherwise eligible, shall
15 not be deemed unavailable for work or ineligible solely by reason of
16 the individual's attendance before a court in response to a summons
17 for service on a jury.

18 (6) An unemployed individual, who is otherwise eligible, shall
19 not be deemed unavailable for work or ineligible solely by reason of
20 the individual's attendance at the funeral of an immediate family
21 member, provided that the duration of the attendance does not
22 extend beyond a two-day period.

23 For purposes of this paragraph, "immediate family member"
24 includes any of the following individuals: father, mother, mother-
25 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
26 child, child placed by the Division of Youth and Family Services in
27 the Department of Children and Families, sister or brother of the
28 unemployed individual and any relatives of the unemployed
29 individual residing in the unemployed individual's household.

30 (7) No individual, who is otherwise eligible, shall be deemed
31 ineligible or unavailable for work with respect to any week because,
32 during that week, the individual fails or refuses to accept work
33 while the individual is participating on a full-time basis in self-
34 employment assistance activities authorized by the division,
35 whether or not the individual is receiving a self-employment
36 allowance during that week.

37 (8) Any individual who is determined to be likely to exhaust
38 regular benefits and need reemployment services based on
39 information obtained by the worker profiling system shall not be
40 eligible to receive benefits if the individual fails to participate in
41 available reemployment services to which the individual is referred
42 by the division or in similar services, unless the division determines
43 that:

44 (A) The individual has completed the reemployment services; or

45 (B) There is justifiable cause for the failure to participate, which
46 shall include participation in employment and training, self-
47 employment assistance activities or other activities authorized by
48 the division to assist reemployment or enhance the marketable skills

1 and earning power of the individual and which shall include any
2 other circumstance indicated pursuant to this section in which an
3 individual is not required to be available for and actively seeking
4 work to receive benefits.

5 (9) An unemployed individual, who is otherwise eligible, shall
6 not be deemed unavailable for work or ineligible solely by reason of
7 the individual's work as a board worker for a county board of
8 elections on an election day.

9 (10) An individual who is employed by a shared work employer
10 and is otherwise eligible for benefits shall not be deemed ineligible
11 for short-time benefits because the individual is unavailable for
12 work with employers other than the shared work employer, so long
13 as:

14 (A) The individual is able to work and is available to work the
15 individual's normal full-time hours for the shared work employer;
16 or

17 (B) The individual is attending a training program which is in
18 compliance with the provisions of paragraph (4) of subsection (c) of
19 this section and the agreements and certifications required pursuant
20 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

21 (d) With respect to any benefit year commencing before January
22 1, 2002, the individual has been totally or partially unemployed for
23 a waiting period of one week in the benefit year which includes that
24 week. When benefits become payable with respect to the third
25 consecutive week next following the waiting period, the individual
26 shall be eligible to receive benefits as appropriate with respect to
27 the waiting period. No week shall be counted as a week of
28 unemployment for the purposes of this subsection:

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

33 (2) If it has constituted a waiting period week under the
34 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
35 et al.);

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

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

40 The waiting period provided by this subsection shall not apply to
41 benefit years commencing on or after January 1, 2002. An
42 individual whose total benefit amount was reduced by the
43 application of the waiting period to a claim which occurred on or
44 after January 1, 2002 and before the effective date of P.L.2002,
45 c.13, shall be permitted to file a claim for the additional benefits
46 attributable to the waiting period in the form and manner prescribed
47 by the division, but not later than the 180th day following the

1 effective date of P.L.2002, c.13 unless the division determines that
2 there is good cause for a later filing.

3 (e) (1) (Deleted by amendment, P.L.2001, c.17).

4 (2) (Deleted by amendment, P.L.2008, c.17).

5 (3) (Deleted by amendment, P.L.2008, c.17).

6 (4) With respect to benefit years commencing on or after
7 January 7, 2001 and before June 1 2020, except as otherwise
8 provided in paragraph (5) of this subsection, the individual has,
9 during his base year as defined in subsection (c) of R.S.43:21-19:

10 (A) Established at least 20 base weeks as defined in paragraphs
11 (2) and (3) of subsection (t) of R.S.43:21-19; or

12 (B) If the individual has not met the requirements of
13 subparagraph (A) of this paragraph (4), earned remuneration not
14 less than an amount 1,000 times the minimum wage in effect
15 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
16 1 of the calendar year preceding the calendar year in which the
17 benefit year commences, which amount shall be adjusted to the next
18 higher multiple of \$100 if not already a multiple thereof.

19 (5) With respect to benefit years commencing on or after
20 January 7, 2001 and before June 1, 2020¹, and after the time that
21 federal financing of unemployment benefits in this State, pursuant
22 to the “Coronavirus Aid, Relief, and Economic Security Act,” Pub.
23 Law 116-136, ceases¹, notwithstanding the provisions of paragraph
24 (4) of this subsection, an unemployed individual claiming benefits
25 on the basis of service performed in the production and harvesting
26 of agricultural crops shall, subject to the limitations of subsection
27 (i) of R.S.43:21-19, be eligible to receive benefits if during his base
28 year, as defined in subsection (c) of R.S.43:21-19, the individual:

29 (A) Has established at least 20 base weeks as defined in
30 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

31 (B) Has earned remuneration not less than an amount 1,000
32 times the minimum wage in effect pursuant to section 5 of
33 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
34 preceding the calendar year in which the benefit year commences,
35 which amount shall be adjusted to the next higher multiple of \$100
36 if not already a multiple thereof; or

37 (C) Has performed at least 770 hours of service in the
38 production and harvesting of agricultural crops.

39 (6) With respect to benefit years commencing on or after June 1,
40 2020¹, until the time that federal financing of unemployment
41 benefits in this State, pursuant to the “Coronavirus Aid, Relief, and
42 Economic Security Act,” Pub. Law 116-136 ceases¹, the individual,
43 during his base year as defined in subsection (c) of R.S.43:21-19:

44 (A) Has established at least 20 base weeks as defined in
45 ¹[paragraphs (2) and (3)] paragraph (4)¹ of subsection (t) of
46 R.S.43:21-19; or

1 (B) Has, if the individual has not met the requirements of
2 subparagraph (A) of this paragraph (6), earned remuneration not
3 less than an amount 500 times the minimum wage in effect pursuant
4 to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
5 calendar year preceding the calendar year in which the benefit year
6 commences, which amount shall be adjusted to the next higher
7 multiple of \$100 if not already a multiple thereof; or

8 (C) Has, if the individual has not met the requirements of
9 subparagraph (A) or subparagraph (B) of this paragraph (6),
10 performed at least 770 hours of service in the production and
11 harvesting of agricultural crops, subject to the limitations of
12 subparagraph (I) of paragraph (1) of subsection (i) of R.S.43:21-19.

13 (7) The individual applying for benefits in any successive
14 benefit year has earned at least six times his previous weekly
15 benefit amount and has had four weeks of employment since the
16 beginning of the immediately preceding benefit year. This
17 provision shall be in addition to the earnings requirements specified
18 in paragraph **[(4) or]** (5) or (6) of this subsection, as applicable.

19 (f) (1) The individual has suffered any accident or sickness not
20 compensable under the workers' compensation law, R.S.34:15-1 et
21 seq. and resulting in the individual's total disability to perform any
22 work for remuneration, and would be eligible to receive benefits
23 under this chapter (R.S.43:21-1 et seq.) (without regard to the
24 maximum amount of benefits payable during any benefit year)
25 except for the inability to work and has furnished notice and proof
26 of claim to the division, in accordance with its rules and
27 regulations, and payment is not precluded by the provisions of
28 R.S.43:21-3(d); provided, however, that benefits paid under this
29 subsection (f) shall be computed on the basis of only those base
30 year wages earned by the claimant as a "covered individual," as
31 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
32 27); provided further that no benefits shall be payable under this
33 subsection to any individual:

34 (A) For any period during which such individual is not under the
35 care of a legally licensed physician, dentist, optometrist, podiatrist,
36 practicing psychologist, advanced practice nurse, or chiropractor,
37 who, when requested by the division, shall certify within the scope
38 of the practitioner's practice, the disability of the individual, the
39 probable duration thereof, and, where applicable, the medical facts
40 within the practitioner's knowledge;

41 (B) (Deleted by amendment, P.L.1980, c.90.)

42 (C) For any period of disability due to willfully or intentionally
43 self-inflicted injury, or to injuries sustained in the perpetration by
44 the individual of a crime of the first, second or third degree;

45 (D) For any week with respect to which or a part of which the
46 individual has received or is seeking benefits under any
47 unemployment compensation or disability benefits law of any other
48 state or of the United States; provided that if the appropriate agency

1 of such other state or the United States finally determines that the
2 individual is not entitled to such benefits, this disqualification shall
3 not apply;

4 (E) For any week with respect to which or part of which the
5 individual has received or is seeking disability benefits under the
6 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
7 25 et al.);

8 (F) For any period of disability commencing while such
9 individual is a "covered individual," as defined in subsection (b) of
10 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
11 c.110 (C.43:21-27).

12 (2) The individual is taking family temporary disability leave to
13 provide care for a family member with a serious health condition or
14 to be with a child during the first 12 months after the child's birth or
15 placement of the child for adoption or as a foster child with the
16 individual, and the individual would be eligible to receive benefits
17 under R.S.43:21-1 et seq. (without regard to the maximum amount
18 of benefits payable during any benefit year) except for the
19 individual's unavailability for work while taking the family
20 temporary disability leave, and the individual has furnished notice
21 and proof of claim to the division, in accordance with its rules and
22 regulations, and payment is not precluded by the provisions of
23 R.S.43:21-3(d) provided, however, that benefits paid under this
24 subsection (f) shall be computed on the basis of only those base
25 year wages earned by the claimant as a "covered individual," as
26 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
27 27); provided further that no benefits shall be payable under this
28 subsection to any individual:

29 (A) For any week with respect to which or a part of which the
30 individual has received or is seeking benefits under any
31 unemployment compensation or disability benefits law of any other
32 state or of the United States; provided that if the appropriate agency
33 of such other state or the United States finally determines that the
34 individual is not entitled to such benefits, this disqualification shall
35 not apply;

36 (B) For any week with respect to which or part of which the
37 individual has received or is seeking disability benefits for a
38 disability of the individual under the "Temporary Disability
39 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

40 (C) For any period of family temporary disability leave
41 commencing while the individual is a "covered individual," as
42 defined in subsection (b) of section 3 of the "Temporary Disability
43 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

44 (D) For any period of family temporary disability leave for a
45 serious health condition of a family member of the claimant during
46 which the family member is not receiving inpatient care in a
47 hospital, hospice, or residential medical care facility and is not
48 subject to continuing medical treatment or continuing supervision

1 by a health care provider, who, when requested by the division,
2 shall certify within the scope of the provider's practice, the serious
3 health condition of the family member, the probable duration
4 thereof, and, where applicable, the medical facts within the
5 provider's knowledge.

6 (3) Benefit payments under this subsection (f) shall be charged
7 to and paid from the State disability benefits fund established by the
8 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
9 25 et al.), and shall not be charged to any employer account in
10 computing any employer's experience rate for contributions payable
11 under this chapter.

12 (g) Benefits based on service in employment defined in
13 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
14 in the same amount and on the terms and subject to the same
15 conditions as benefits payable on the basis of other service subject
16 to the "unemployment compensation law"; except that,
17 notwithstanding any other provisions of the "unemployment
18 compensation law":

19 (1) With respect to service performed after December 31, 1977,
20 in an instructional, research, or principal administrative capacity for
21 an educational institution, benefits shall not be paid based on such
22 services for any week of unemployment commencing during the
23 period between two successive academic years, or during a similar
24 period between two regular terms, whether or not successive, or
25 during a period of paid sabbatical leave provided for in the
26 individual's contract, to any individual if such individual performs
27 such services in the first of such academic years (or terms) and if
28 there is a contract or a reasonable assurance that such individual
29 will perform services in any such capacity for any educational
30 institution in the second of such academic years or terms;

31 (2) With respect to weeks of unemployment beginning after
32 September 3, 1982, on the basis of service performed in any other
33 capacity for an educational institution, benefits shall not be paid on
34 the basis of such services to any individual for any week which
35 commences during a period between two successive academic years
36 or terms if such individual performs such services in the first of
37 such academic years or terms and there is a reasonable assurance
38 that such individual will perform such services in the second of
39 such academic years or terms, except that if benefits are denied to
40 any individual under this paragraph (2) and the individual was not
41 offered an opportunity to perform these services for the educational
42 institution for the second of any academic years or terms, the
43 individual shall be entitled to a retroactive payment of benefits for
44 each week for which the individual filed a timely claim for benefits
45 and for which benefits were denied solely by reason of this clause;

46 (3) With respect to those services described in paragraphs (1)
47 and (2) above, benefits shall not be paid on the basis of such
48 services to any individual for any week which commences during

1 an established and customary vacation period or holiday recess if
2 such individual performs such services in the period immediately
3 before such vacation period or holiday recess, and there is a
4 reasonable assurance that such individual will perform such
5 services in the period immediately following such period or holiday
6 recess;

7 (4) With respect to any services described in paragraphs (1) and
8 (2) above, benefits shall not be paid as specified in paragraphs (1),
9 (2), and (3) above to any individual who performed those services
10 in an educational institution while in the employ of an educational
11 service agency, and for this purpose the term "educational service
12 agency" means a governmental agency or governmental entity
13 which is established and operated exclusively for the purpose of
14 providing those services to one or more educational institutions.

15 (5) With respect to services performed after the effective date of
16 P.L. , c. (pending before the legislature as this bill), as used in
17 this subsection:

18 "Established and customary vacation period or holiday recess"
19 includes those breaks scheduled during fall, winter, and spring
20 recesses when those vacation periods occur within a term or
21 semester. "Established and customary vacation period or holiday
22 recess" does not include the summer term or semester, unless, based
23 on objective criteria including enrollment and staffing, the summer
24 is not in fact a part of the academic year for a particular institution.

25 "Reasonable assurance" means a written, verbal, or implied
26 agreement that the employee will perform services in the same
27 capacity during the ensuing academic year or term as in the first
28 academic year or term. A person shall not be deemed to be
29 performing services "in the same capacity" unless those services are
30 rendered under the same terms or conditions of employment in the
31 ensuing year as in the first academic year or term.

32 An individual who is tenured or holds tenure track status is
33 considered to have reasonable assurance, unless advised otherwise.
34 For the purposes of this subsection, tenure track status means a
35 probationary faculty employee having an opportunity to be
36 reviewed for tenure.

37 A person is presumed not to have reasonable assurance under an
38 offer that is conditioned on enrollment, funding, program changes,
39 or other circumstances under the control of the employer. It is the
40 employer's burden to provide sufficient documentation to overcome
41 this presumption. Reasonable assurance shall be determined on a
42 case-by-case basis considering the totality of circumstances rather
43 than on the existence of any one factor. For an individual to be
44 regarded as having reasonable assurance of employment, the totality
45 of circumstances must show that it is highly probable that there is a
46 job available for the employee in the following academic year or
47 term. If any contingencies in the employment offer are within the
48 employer's control, the claimant shall not be regarded as having a

1 reasonable assurance of employment. Contingencies within the
2 employer's control include, but are not limited to, enrollment,
3 funding, including appropriations and the allocation of funding,
4 program changes, final course offering, and facility availability.

5 (h) Benefits shall not be paid to any individual on the basis of
6 any services, substantially all of which consist of participating in
7 sports or athletic events or training or preparing to so participate,
8 for any week which commences during the period between two
9 successive sports seasons (or similar periods) if such individual
10 performed such services in the first of such seasons (or similar
11 periods) and there is a reasonable assurance that such individual
12 will perform such services in the later of such seasons (or similar
13 periods).

14 (i) (1) Benefits shall not be paid on the basis of services
15 performed by an alien unless such alien is an individual who was
16 lawfully admitted for permanent residence at the time the services
17 were performed and was lawfully present for the purpose of
18 performing the services or otherwise was permanently residing in
19 the United States under color of law at the time the services were
20 performed (including an alien who is lawfully present in the United
21 States as a result of the application of the provisions of section
22 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
23 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
24 modifications of the provisions of section 3304(a)(14) of the
25 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) [as
26 provided by Pub.L.94-566], which specify other conditions or other
27 effective dates than stated herein for the denial of benefits based on
28 services performed by aliens and which modifications are required
29 to be implemented under State law as a condition for full tax credit
30 against the tax imposed by the Federal Unemployment Tax Act,
31 shall be deemed applicable under the provisions of this section.

32 (2) Any data or information required of individuals applying for
33 benefits to determine whether benefits are not payable to them
34 because of their alien status shall be uniformly required from all
35 applicants for benefits.

36 (3) In the case of an individual whose application for benefits
37 would otherwise be approved, no determination that benefits to such
38 individual are not payable because of alien status shall be made
39 except upon a preponderance of the evidence.

40 (j) Notwithstanding any other provision of this chapter, the
41 director may, to the extent that it may be deemed efficient and
42 economical, provide for consolidated administration by one or more
43 representatives or deputies of claims made pursuant to subsection
44 (f) of this section with those made pursuant to Article III (State
45 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
46 (C.43:21-25 et al.).

47 (cf: P.L.2019, c.37, s.5)]³

1 ¹[6.]³[5.¹ R.S.43:21-6 is amended to read as follows:

2 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
3 accordance with such regulations as the Director of the Division of
4 Unemployment and Temporary Disability Insurance of the
5 Department of Labor and Workforce Development of the State of
6 New Jersey may approve. Each employer shall post and maintain
7 on his premises printed notices of his subject status, of such design,
8 in such numbers and at such places as the director of the division
9 may determine to be necessary to give notice thereof to persons in
10 the employer's service. Each employer shall give to each individual
11 at the time he becomes unemployed, for any reason, whether the
12 unemployment is permanent or temporary, or, if the employer
13 provides the individual an advanced notification of a layoff, at the
14 time of that notification, a printed copy of benefit instructions. The
15 benefit instructions given to the individual shall include, but not be
16 limited to, the following information: (A) the date upon which the
17 individual becomes unemployed, and, in the case that the
18 unemployment is temporary, to the extent possible, the date upon
19 which the individual is expected to be recalled to work; and (B) that
20 the individual may lose some or all of the benefits to which he is
21 entitled if he fails to file a claim in a timely manner. Both the
22 aforesaid notices and instructions, including information detailing
23 the time sensitivity of filing a claim, shall be supplied by the
24 division to employers without cost to them. Nothing in this section
25 shall be construed so as to require an employer to re-hire an
26 individual formerly in the employer's service.

27 (2) Any claimant may choose to certify, cancel or close his
28 claim for unemployment insurance benefits at any time, 24 hours a
29 day and seven days a week, via the Internet on a website developed
30 by the division; however, any claim that is certified, cancelled or
31 closed after 7:00 PM will not be processed by the division until the
32 next scheduled posting date.

33 (3) If an employer provides advanced notification of a layoff
34 pursuant to paragraph (1) of this subsection a., the notified
35 individual may file for benefits at the time of the notification, and
36 the division, upon finding that the claim is valid, shall pay the
37 benefit upon the commencement of the period of unemployment.

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

40 A representative or representatives designated by the director of
41 the division and hereafter referred to as a "deputy" shall promptly
42 examine the claim, and shall notify the most recent employing unit
43 and, successively as necessary, each employer in inverse
44 chronological order during the base year. Such notification shall
45 require said employing unit and employer to furnish such
46 information to the deputy as may be necessary to determine the
47 claimant's eligibility and his benefit rights with respect to the
48 employer in question.

1 In his discretion, the director may appoint special deputies to
2 make initial or subsequent determinations under subsection (f) of
3 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

4 If any employer or employing unit fails to respond to the request
5 for information within 10 days after the mailing, or communicating
6 by electronic means, of such request, the deputy shall rely entirely
7 on information from other sources, including an affidavit to the best
8 of the knowledge and belief of the claimant with respect to his
9 wages and time worked. Except in the event of fraud, if it is
10 determined that any information in such affidavit is erroneous, no
11 penalty shall be imposed on the claimant.

12 The deputy shall make an initial determination contingent upon
13 the receipt of all necessary information and notify the claimant no
14 later than three weeks from the date on which the division received
15 the claim for benefits. If an initial determination cannot be made
16 due to the lack of documentation, notification will be sent to the
17 claimant providing a status of the claim. The division will then
18 have an additional two weeks to obtain the missing information in
19 order to make the initial determination and advise the claimant
20 accordingly. The initial determination shall show the weekly benefit
21 amount payable, the maximum duration of benefits with respect to
22 the employer to whom the determination relates, and the ratio of
23 benefits chargeable to the employer's account for benefit years
24 commencing on or after July 1, 1986, and also shall show whether
25 the claimant is ineligible or disqualified for benefits under the
26 initial determination. The employer whose account may be charged
27 for benefits payable pursuant to said determination shall be
28 promptly notified thereof.

29 Whenever an initial determination is based upon information
30 other than that supplied by an employer because such employer
31 failed to respond to the deputy's request for information, such initial
32 determination and any subsequent determination thereunder shall be
33 incontestable by the noncomplying employer, as to any charges to
34 his employer's account because of benefits paid prior to the close of
35 the calendar week following the receipt of his reply. Such initial
36 determination shall be altered if necessary upon receipt of
37 information from the employer, and any benefits paid or payable
38 with respect to weeks occurring subsequent to the close of the
39 calendar week following the receipt of the employer's reply shall be
40 paid in accordance with such altered initial determination.

41 The deputy shall issue a separate initial benefit determination
42 with respect to each of the claimant's base year employers, starting
43 with the most recent employer and continuing as necessary in the
44 inverse chronological order of the claimant's last date of
45 employment with each such employer. If an appeal is taken from
46 an initial determination, as hereinafter provided, by any employer
47 other than the first chargeable base year employer or for benefit
48 years commencing on or after July 1, 1986, that employer from

1 whom the individual was most recently separated, then such appeal
2 shall be limited in scope to include only one or more of the
3 following matters:

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

6 (B) Fraud in connection with the claim pursuant to which the
7 initial determination is issued;

8 (C) The refusal of suitable work offered by the chargeable
9 employer filing the appeal;

10 (D) Gross misconduct as provided in subsection (b) of
11 R.S.43:21-5.

12 The amount of benefits payable under an initial determination
13 may be reduced or canceled if necessary to avoid payment of
14 benefits for a number of weeks in excess of the maximum specified
15 in subsection (d) of R.S.43:21-3.

16 Unless the claimant or any interested party, within seven
17 calendar days after delivery of notification of an initial
18 determination or within 10 calendar days after such notification was
19 mailed to his or their last-known address and addresses, files an
20 appeal from such decision, such decision shall be final and benefits
21 shall be paid or denied in accordance therewith, except for such
22 determinations as may be altered in benefit amounts or duration as
23 provided in this paragraph. Benefits payable for periods pending an
24 appeal and not in dispute shall be paid as such benefits accrue;
25 provided that insofar as any such appeal is or may be an appeal
26 from a determination to the effect that the claimant is disqualified
27 under the provisions of R.S.43:21-5 or any amendments thereof or
28 supplements thereto, benefits pending determination of the appeal
29 shall be withheld only for the period of disqualification as provided
30 for in said section, and notwithstanding such appeal, the benefits
31 otherwise provided by this act shall be paid for the period
32 subsequent to such period of disqualification; and provided, also,
33 that if there are two determinations of entitlement, benefits for the
34 period covered by such determinations shall be paid regardless of
35 any appeal which may thereafter be taken, but no employer's
36 account shall be charged with benefits so paid, if the decision is
37 finally reversed.

38 (2) Procedure for making initial determinations in certain cases
39 of concurrent employment, with respect to benefit years
40 commencing on or after January 1, 1953 and prior to benefit years
41 commencing on or after July 1, 1986.

42 Notwithstanding any other provisions of this Title, if an
43 individual shows to the satisfaction of the deputy that there were at
44 least 13 weeks in his base period in each of which he earned wages
45 from two or more employers totaling \$30.00 or more but in each of
46 which there was no single employer from whom he earned as much
47 as \$100.00, then such individual's claim shall be determined in
48 accordance with the special provisions of this paragraph. In such

1 case, the deputy shall determine the individual's eligibility for
2 benefits, his average weekly wage, weekly benefit rate and
3 maximum total benefits as if all his base year employers were a
4 single employer. Such determination shall apportion the liability
5 for benefit charges thereunder to the individual's several base year
6 employers so that each employer's maximum liability for charges
7 thereunder bears approximately the same relation to the maximum
8 total benefits allowed as the wages earned by the individual from
9 each employer during the base year bears to his total wages earned
10 from all employers during the base year. Such initial determination
11 shall also specify the individual's last date of employment within
12 the base year with respect to each base year employer, and such
13 employers shall be charged for benefits paid under said initial
14 determination in the inverse chronological order of such last date of
15 employment.

16 (3) Procedure for making subsequent determinations with
17 respect to benefit years commencing on or after January 1, 1953.
18 The deputy shall make determinations with respect to claims for
19 benefits thereafter in the course of the benefit year, in accordance
20 with any initial determination allowing benefits, and under which
21 benefits have not been exhausted, and each notification of a benefit
22 payment shall be a notification of an affirmative subsequent
23 determination. The allowance of benefits by the deputy on any such
24 determination, or the denial of benefits by the deputy on any such
25 determination, shall be appealable in the same manner and under
26 the same limitations as is provided in the case of initial
27 determinations.

28 (c) Appeals. Unless such appeal is withdrawn, an appeal
29 tribunal, after affording the parties reasonable opportunity for fair
30 hearing, shall affirm or modify the findings of fact and the
31 determination. The parties shall be duly notified of such tribunal's
32 decision, together with its reasons therefor, which shall be deemed
33 to be the final decision of the board of review, unless further appeal
34 is initiated pursuant to subsection (e) of this section within 10 days
35 after the date of notification or mailing of the decision for any
36 decision made on or before December 1, 2010, or within 20 days
37 after the date of notification or mailing of such decision for any
38 decision made after December 1, 2010.

39 (d) Appeal tribunals. To hear and decide disputed benefit
40 claims, including appeals from determinations with respect to
41 demands for refunds of benefits under subsection (d) of R.S.43:21-
42 16, the director with the approval of the Commissioner of Labor and
43 Workforce Development shall establish impartial appeal tribunals
44 consisting of a salaried body of examiners under the supervision of
45 a Chief Appeals Examiner, all of whom shall be appointed pursuant
46 to the provisions of Title 11A of the New Jersey Statutes, Civil
47 Service and other applicable statutes.

1 (e) Board of review. The board of review may on its own
2 motion affirm, modify, or set aside any decision of an appeal
3 tribunal on the basis of the evidence previously submitted in such
4 case, or direct the taking of additional evidence, or may permit any
5 of the parties to such decision to initiate further appeals before it.
6 The board of review shall permit such further appeal by any of the
7 parties interested in a decision of an appeal tribunal which is not
8 unanimous and from any determination which has been overruled or
9 modified by any appeal tribunal. The board of review may remove
10 to itself or transfer to another appeal tribunal the proceedings on
11 any claim pending before an appeal tribunal. Any proceedings so
12 removed to the board of review shall be heard by a quorum thereof
13 in accordance with the requirements of subsection (c) of this
14 section. The board of review shall promptly notify the interested
15 parties of its findings and decision.

16 (f) Procedure. The manner in which disputed benefit claims,
17 and appeals from determinations with respect to (1) claims for
18 benefits and (2) demands for refunds of benefits under subsection
19 (d) of R.S.43:21-16 shall be presented, the reports thereon required
20 from the claimant and from employers, and the conduct of hearings
21 and appeals shall be in accordance with rules prescribed by the
22 board of review for determining the rights of the parties, whether or
23 not such rules conform to common law or statutory rules of
24 evidence and other technical rules of procedure. A full and
25 complete record shall be kept of all proceedings in connection with
26 a disputed claim. All testimony at any hearing upon a disputed
27 claim shall be recorded, but need not be transcribed unless the
28 disputed claim is further appealed.

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

34 (h) Court review. Any decision of the board of review shall
35 become final as to any party upon the mailing of a copy thereof to
36 such party or to his attorney, or upon the mailing of a copy thereof
37 to such party at his last-known address. The Division of
38 Unemployment and Temporary Disability Insurance and any party
39 to a proceeding before the board of review may secure judicial
40 review of the final decision of the board of review. Any party not
41 joining in the appeal shall be made a defendant; the board of review
42 shall be deemed to be a party to any judicial action involving the
43 review of, or appeal from, any of its decisions, and may be
44 represented in any such judicial action by any qualified attorney,
45 who may be a regular salaried employee of the board of review or
46 has been designated by it for that purpose, or, at the board of
47 review's request, by the Attorney General.

1 (i) Failure to give notice. The failure of any public officer or
2 employee at any time heretofore or hereafter to give notice of
3 determination or decision required in subsections (b), (c) and (e) of
4 this section, as originally passed or amended, shall not relieve any
5 employer's account of any charge by reason of any benefits paid,
6 unless and until that employer can show to the satisfaction of the
7 director of the division that the said benefits, in whole or in part,
8 would not have been charged or chargeable to his account had such
9 notice been given. Any determination hereunder by the director
10 shall be subject to court review.

11 (j) With respect to benefit payments made on or after October
12 22, 2013, an employer's account shall not be relieved of charges
13 related to a benefit payment that was made erroneously from the
14 division if it is determined that:

15 (1) The erroneous benefit payment was made because the
16 employer, or an agent of the employer, failed to respond in a timely
17 or adequate manner to a request from the division for information
18 related to the claim for benefits; and

19 (2) The employer, or an agent of the employer, has established a
20 pattern of failing to respond in a timely or adequate manner to
21 requests from the division for information related to claims for
22 benefits.

23 Determinations of the division prohibiting the relief of charges
24 pursuant to this subsection shall be subject to appeal in the same
25 manner as other determinations of the division related to the
26 charging of employer accounts.

27 For purposes of subsection (j) of this section:

28 "Erroneous benefit payment" means a benefit payment that,
29 except for the failure by the employer, or an agent of the employer,
30 to respond in a timely or adequate manner to a request from the
31 division for information with respect to the claim for benefits,
32 would not have been made; and

33 "Pattern of failing" means repeated documented failure on the
34 part of the employer, or an agent of the employer, to respond to
35 requests from the division to the employer or employer's agent for
36 information related to a claim for benefits, except that an employer,
37 or an agent of an employer, shall not be determined to have engaged
38 in a "pattern of failing" if the number of failures to respond to
39 requests from the division for information related to claims for
40 benefits during the previous 365 calendar days is less than three, or
41 if the number of failures is less than two percent of the number of
42 requests from the division, whichever is greater.

43 (k) The Department of Labor and Workforce Development shall
44 establish and maintain a procedure by which personnel access rights
45 to the department's primary system for unemployment claims
46 receipt and processing are comprehensively reviewed every
47 calendar quarter. The procedure shall include an evaluation of
48 access needs to the primary unemployment claims receipt and

1 processing system for all department personnel and the adjustment,
2 addition, or deletion of access rights for department personnel based
3 on the quarterly review.

4 (cf: P.L.2017, c.163, s.1)]³

5
6 ¹[7.]³[6.¹ R.S.43:21-19 is amended to read as follows:

7 43:21-19. Definitions. As used in this chapter (R.S.43:21-
8 1 et seq.), unless the context clearly requires otherwise:

9 (a) (1) "Annual payroll" means the total amount of wages paid
10 during a calendar year (regardless of when earned) by an employer
11 for employment.

12 (2) "Average annual payroll" means the average of the annual
13 payrolls of any employer for the last three or five preceding
14 calendar years, whichever average is higher, except that any year or
15 years throughout which an employer has had no "annual payroll"
16 because of military service shall be deleted from the reckoning; the
17 "average annual payroll" in such case is to be determined on the
18 basis of the prior three or five calendar years in each of which the
19 employer had an "annual payroll" in the operation of his business, if
20 the employer resumes his business within 12 months after
21 separation, discharge or release from such service, under conditions
22 other than dishonorable, and makes application to have his "average
23 annual payroll" determined on the basis of such deletion within 12
24 months after he resumes his business; provided, however, that
25 "average annual payroll" solely for the purposes of paragraph (3) of
26 subsection (e) of R.S.43:21-7 means the average of the annual
27 payrolls of any employer on which he paid contributions to the
28 State disability benefits fund for the last three or five preceding
29 calendar years, whichever average is higher; provided further that
30 only those wages be included on which employer contributions have
31 been paid on or before January 31 (or the next succeeding day if
32 such January 31 is a Saturday or Sunday) immediately preceding
33 the beginning of the 12-month period for which the employer's
34 contribution rate is computed.

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

38 (c) (1) "Base year" with respect to benefit years commencing
39 on or after July 1, 1986, shall mean the first four of the last five
40 completed calendar quarters immediately preceding an individual's
41 benefit year.

42 With respect to a benefit year commencing on or after July 1,
43 1995, if an individual does not have sufficient qualifying weeks or
44 wages in his base year to qualify for benefits, the individual shall
45 have the option of designating that his base year shall be the
46 "alternative base year," which means the last four completed
47 calendar quarters immediately preceding the individual's benefit
48 year; except that, with respect to a benefit year commencing on or

1 after October 1, 1995, if the individual also does not have sufficient
2 qualifying weeks or wages in the last four completed calendar
3 quarters immediately preceding his benefit year to qualify for
4 benefits, "alternative base year" means the last three completed
5 calendar quarters immediately preceding his benefit year and, of the
6 calendar quarter in which the benefit year commences, the portion
7 of the quarter which occurs before the commencing of the benefit
8 year.

9 The division shall inform the individual of his options under this
10 section as amended by P.L.1995, c.234. If information regarding
11 weeks and wages for the calendar quarter or quarters immediately
12 preceding the benefit year is not available to the division from the
13 regular quarterly reports of wage information and the division is not
14 able to obtain the information using other means pursuant to State
15 or federal law, the division may base the determination of eligibility
16 for benefits on the affidavit of an individual with respect to weeks
17 and wages for that calendar quarter. The individual shall furnish
18 payroll documentation, if available, in support of the affidavit. A
19 determination of benefits based on an alternative base year shall be
20 adjusted when the quarterly report of wage information from the
21 employer is received if that information causes a change in the
22 determination.

23 (2) With respect to a benefit year commencing on or after June
24 1, 1990 for an individual who immediately preceding the benefit
25 year was subject to a disability compensable under the provisions of
26 the "Temporary Disability Benefits Law," P.L.1948, c.110
27 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
28 five completed calendar quarters immediately preceding the
29 individual's period of disability, if the employment held by the
30 individual immediately preceding the period of disability is no
31 longer available at the conclusion of that period and the individual
32 files a valid claim for unemployment benefits after the conclusion
33 of that period. For the purposes of this paragraph, "period of
34 disability" means the period defined as a period of disability by
35 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
36 c.110 (C.43:21-27). An individual who files a claim under the
37 provisions of this paragraph (2) shall not be regarded as having left
38 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

39 (3) With respect to a benefit year commencing on or after June
40 1, 1990 for an individual who immediately preceding the benefit
41 year was subject to a disability compensable under the provisions of
42 the workers' compensation law (chapter 15 of Title 34 of the
43 Revised Statutes), "base year" shall mean the first four of the last
44 five completed calendar quarters immediately preceding the
45 individual's period of disability, if the period of disability was not
46 longer than two years, if the employment held by the individual
47 immediately preceding the period of disability is no longer
48 available at the conclusion of that period and if the individual files a

1 valid claim for unemployment benefits after the conclusion of that
2 period. For the purposes of this paragraph, "period of disability"
3 means the period from the time at which the individual becomes
4 unable to work because of the compensable disability until the time
5 that the individual becomes able to resume work and continue work
6 on a permanent basis. An individual who files a claim under the
7 provisions of this paragraph (3) shall not be regarded as having left
8 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

9 (d) "Benefit year" with respect to any individual means the 364
10 consecutive calendar days beginning with the day on, or as of,
11 which he first files a valid claim for benefits, and thereafter
12 beginning with the day on, or as of, which the individual next files a
13 valid claim for benefits after the termination of his last preceding
14 benefit year. Any claim for benefits made in accordance with
15 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
16 for the purpose of this subsection if (1) he is unemployed for the
17 week in which, or as of which, he files a claim for benefits; and (2)
18 he has fulfilled the conditions imposed by subsection (e) of
19 R.S.43:21-4.

20 (e) (1) "Division" means the Division of Unemployment and
21 Temporary Disability Insurance of the Department of Labor and
22 Workforce Development, and any transaction or exercise of
23 authority by the director of the division thereunder, or under this
24 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
25 the division.

26 (2) "Controller" means the Office of the Assistant
27 Commissioner for Finance and Controller of the Department of
28 Labor and Workforce Development, established by the 1982
29 Reorganization Plan of the Department of Labor.

30 (f) "Contributions" means the money payments to the State
31 Unemployment Compensation Fund, required by R.S.43:21-7.
32 "Payments in lieu of contributions" means the money payments to
33 the State Unemployment Compensation Fund by employers electing
34 or required to make payments in lieu of contributions, as provided
35 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
36 7.3).

37 (g) "Employing unit" means the State or any of its
38 instrumentalities or any political subdivision thereof or any of its
39 instrumentalities or any instrumentality of more than one of the
40 foregoing or any instrumentality of any of the foregoing and one or
41 more other states or political subdivisions or any individual or type
42 of organization, any partnership, association, trust, estate, joint-
43 stock company, insurance company or corporation, whether
44 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
45 successor thereof, or the legal representative of a deceased person,
46 which has or subsequent to January 1, 1936, had in its employ one
47 or more individuals performing services for it within this State. All
48 individuals performing services within this State for any employing

1 unit which maintains two or more separate establishments within
2 this State shall be deemed to be employed by a single employing
3 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
4 individual employed to perform or to assist in performing the work
5 of any agent or employee of an employing unit shall be deemed to
6 be employed by such employing unit for all the purposes of this
7 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
8 paid directly by such employing unit or by such agent or employee;
9 provided the employing unit had actual or constructive knowledge
10 of the work.

11 (h) "Employer" means:

12 (1) Any employing unit which in either the current or the
13 preceding calendar year paid remuneration for employment in the
14 amount of \$1,000.00 or more;

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

20 (3) Any employing unit which acquired the organization, trade
21 or business, or substantially all the assets thereof, of another
22 employing unit and which, if treated as a single unit with such other
23 employing unit, would be an employer under paragraph (1) of this
24 subsection;

25 (4) Any employing unit which together with one or more other
26 employing units is owned or controlled (by legally enforceable
27 means or otherwise), directly or indirectly by the same interests, or
28 which owns or controls one or more other employing units (by
29 legally enforceable means or otherwise), and which, if treated as a
30 single unit with such other employing unit or interest, would be an
31 employer under paragraph (1) of this subsection;

32 (5) Any employing unit for which service in employment as
33 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
34 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
35 performed after December 31, 1977;

36 (6) Any employing unit for which service in employment as
37 defined in R.S.43:21-19 (i) (1) ~~[(c)]~~ (C) is performed after
38 December 31, 1971 and which in either the current or the preceding
39 calendar year paid remuneration for employment in the amount of
40 \$1,000.00 or more;

41 (7) Any employing unit not an employer by reason of any other
42 paragraph of this subsection (h) for which, within either the current
43 or preceding calendar year, service is or was performed with respect
44 to which such employing unit is liable for any federal tax against
45 which credit may be taken for contributions required to be paid into
46 a state unemployment fund; or which, as a condition for approval of
47 the "unemployment compensation law" for full tax credit against
48 the tax imposed by the Federal Unemployment Tax Act, is required

1 pursuant to such act to be an employer under this chapter
2 (R.S.43:21-1 et seq.);

3 (8) (Deleted by amendment; P.L.1977, c.307.)

4 (9) (Deleted by amendment; P.L.1977, c.307.)

5 (10) (Deleted by amendment; P.L.1977, c.307.)

6 (11) Any employing unit subject to the provisions of the
7 Federal Unemployment Tax Act within either the current or the
8 preceding calendar year, except for employment hereinafter
9 excluded under paragraph (7) of subsection (i) of this section;

10 (12) Any employing unit for which agricultural labor in
11 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
12 December 31, 1977;

13 (13) Any employing unit for which domestic service in
14 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
15 December 31, 1977;

16 (14) Any employing unit which having become an employer
17 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
18 has not under R.S.43:21-8 ceased to be an employer; or for the
19 effective period of its election pursuant to R.S.43:21-8, any other
20 employing unit which has elected to become fully subject to this
21 chapter (R.S.43:21-1 et seq.).

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

23 (A) Any service performed prior to January 1, 1972, which was
24 employment as defined in the "unemployment compensation law"
25 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
26 provisions of this subsection, service performed on or after January
27 1, 1972, including service in interstate commerce, performed for
28 remuneration or under any contract of hire, written or oral, express
29 or implied.

30 (B) (i) Service performed after December 31, 1971 by an
31 individual in the employ of this State or any of its instrumentalities
32 or in the employ of this State and one or more other states or their
33 instrumentalities for a hospital or institution of higher education
34 located in this State, if such service is not excluded from
35 "employment" under paragraph (D) below.

36 (ii) Service performed after December 31, 1977, in the employ
37 of this State or any of its instrumentalities or any political
38 subdivision thereof or any of its instrumentalities or any
39 instrumentality of more than one of the foregoing or any
40 instrumentality of the foregoing and one or more other states or
41 political subdivisions, if such service is not excluded from
42 "employment" under paragraph (D) below.

43 (C) Service performed after December 31, 1971 by an individual
44 in the employ of a religious, charitable, educational, or other
45 organization, which is excluded from "employment" as defined in
46 the Federal Unemployment Tax Act, solely by reason of section
47 3306 (c)(8) of that act, if such service is not excluded from
48 "employment" under paragraph (D) below.

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

3 (i) In the employ of (I) a church or convention or association of
4 churches, or (II) an organization, or school which is operated
5 primarily for religious purposes and which is operated, supervised,
6 controlled or principally supported by a church or convention or
7 association of churches;

8 (ii) By a duly ordained, commissioned, or licensed minister of a
9 church in the exercise of his ministry or by a member of a religious
10 order in the exercise of duties required by such order;

11 (iii) Prior to January 1, 1978, in the employ of a school which
12 is not an institution of higher education, and after December 31,
13 1977, in the employ of a governmental entity referred to in
14 R.S.43:21-19 (i) (1) (B), if such service is performed by an
15 individual in the exercise of duties

16 (aa) as an elected official;

17 (bb) as a member of a legislative body, or a member of the
18 judiciary, of a state or political subdivision;

19 (cc) as a member of the State National Guard or Air National
20 Guard;

21 (dd) as an employee serving on a temporary basis in case of
22 fire, storm, snow, earthquake, flood or similar emergency;

23 (ee) in a position which, under or pursuant to the laws of this
24 State, is designated as a major nontenured policy making or
25 advisory position, or a policy making or advisory position, the
26 performance of the duties of which ordinarily does not require more
27 than eight hours per week; or

28 (iv) By an individual receiving rehabilitation or remunerative
29 work in a facility conducted for the purpose of carrying out a
30 program of rehabilitation of individuals whose earning capacity is
31 impaired by age or physical or mental deficiency or injury or
32 providing remunerative work for individuals who because of their
33 impaired physical or mental capacity cannot be readily absorbed in
34 the competitive labor market;

35 (v) By an individual receiving work-relief or work-training as
36 part of an unemployment work-relief or work-training program
37 assisted in whole or in part by any federal agency or an agency of a
38 state or political subdivision thereof; or

39 (vi) Prior to January 1, 1978, for a hospital in a State prison or
40 other State correctional institution by an inmate of the prison or
41 correctional institution and after December 31, 1977, by an inmate
42 of a custodial or penal institution.

43 (E) The term "employment" shall include the services of an
44 individual who is a citizen of the United States, performed outside
45 the United States after December 31, 1971 (except in Canada and in
46 the case of the Virgin Islands, after December 31, 1971) and prior
47 to January 1 of the year following the year in which the U.S.
48 Secretary of Labor approves the unemployment compensation law

1 of the Virgin Islands, under section 3304 (a) of the Internal
2 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
3 American employer (other than the service which is deemed
4 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
5 the parallel provisions of another state's unemployment
6 compensation law), if

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

9 (ii) The American employer has no place of business in the
10 United States, but (I) the American employer is an individual who
11 is a resident of this State; or (II) the American employer is a
12 corporation which is organized under the laws of this State; or (III)
13 the American employer is a partnership or trust and the number of
14 partners or trustees who are residents of this State is greater than the
15 number who are residents of another state; or

16 (iii) None of the criteria of divisions (i) and (ii) of this
17 subparagraph (E) is met but the American employer has elected to
18 become an employer subject to the "unemployment compensation
19 law" (R.S.43:21-1 et seq.) in this State, or the American employer
20 having failed to elect to become an employer in any state, the
21 individual has filed a claim for benefits, based on such service,
22 under the law of this State;

23 (iv) An "American employer," for the purposes of this
24 subparagraph (E), means (I) an individual who is a resident of the
25 United States; or (II) a partnership, if two-thirds or more of the
26 partners are residents of the United States; or (III) a trust, if all the
27 trustees are residents of the United States; or (IV) a corporation
28 organized under the laws of the United States or of any state.

29 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
30 after January 1, 1972 by an officer or member of the crew of an
31 American vessel or American aircraft on or in connection with such
32 vessel or aircraft, if the operating office from which the operations
33 of such vessel or aircraft operating within, or within and without,
34 the United States are ordinarily and regularly supervised, managed,
35 directed, and controlled, is within this State.

36 (G) Notwithstanding any other provision of this subsection,
37 service in this State with respect to which the taxes required to be
38 paid under any federal law imposing a tax against which credit may
39 be taken for contributions required to be paid into a state
40 unemployment fund or which as a condition for full tax credit
41 against the tax imposed by the Federal Unemployment Tax Act is
42 required to be covered under the "unemployment compensation
43 law" (R.S.43:21-1 et seq.).

44 (H) The term "United States" when used in a geographical sense
45 in subsection R.S.43:21-19 (i) includes the states, the District of
46 Columbia, the Commonwealth of Puerto Rico and, effective on the
47 day after the day on which the U.S. Secretary of Labor approves for
48 the first time under section 3304 (a) of the Internal Revenue Code

1 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
2 submitted to the Secretary by the Virgin Islands for such approval,
3 the Virgin Islands.

4 (I) (i) Service performed after December 31, 1977 in
5 agricultural labor in a calendar year for an entity which is an
6 employer as defined in the "unemployment compensation law,"
7 (R.S.43:21-1 et seq.) as of January 1 of such year; or for an
8 employing unit which

9 (aa) during any calendar quarter in either the current or the
10 preceding calendar year paid remuneration in cash of \$20,000.00 or
11 more for individuals employed in agricultural labor, or

12 (bb) for some portion of a day in each of 20 different calendar
13 weeks, whether or not such weeks were consecutive, in either the
14 current or the preceding calendar year, employed in agricultural
15 labor 10 or more individuals, regardless of whether they were
16 employed at the same moment in time.

17 (ii) for the purposes of this subsection any individual who is a
18 member of a crew furnished by a crew leader to perform service in
19 agricultural labor for any other entity shall be treated as an
20 employee of such crew leader

21 (aa) if such crew leader holds a certification of registration
22 under the Migrant and Seasonal Agricultural Worker Protection
23 Act, [Pub.L.97-470] (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
24 (C.34:8A-7 et seq.); or substantially all the members of such crew
25 operate or maintain tractors, mechanized harvesting or cropdusting
26 equipment, or any other mechanized equipment, which is provided
27 by such crew leader; and

28 (bb) if such individual is not an employee of such other person
29 for whom services were performed.

30 (iii) For the purposes of subparagraph (I) (i) in the case of any
31 individual who is furnished by a crew leader to perform service in
32 agricultural labor or any other entity and who is not treated as an
33 employee of such crew leader under (I) (ii)

34 (aa) such other entity and not the crew leader shall be treated as
35 the employer of such individual; and

36 (bb) such other entity shall be treated as having paid cash
37 remuneration to such individual in an amount equal to the amount
38 of cash remuneration paid to such individual by the crew leader
39 (either on his own behalf or on behalf of such other entity) for the
40 service in agricultural labor performed for such other entity.

41 (iv) For the purpose of subparagraph (I)(ii), the term "crew
42 leader" means an individual who

43 (aa) furnishes individuals to perform service in agricultural
44 labor for any other entity;

45 (bb) pays (either on his own behalf or on behalf of such other
46 entity) the individuals so furnished by him for the service in
47 agricultural labor performed by them; and

1 (cc) has not entered into a written agreement with such other
2 entity under which such individual is designated as an employee of
3 such other entity.

4 (J) Domestic service after December 31, 1977 performed in the
5 private home of an employing unit which paid cash remuneration of
6 \$1,000.00 or more to one or more individuals for such domestic
7 service in any calendar quarter in the current or preceding calendar
8 year.

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

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

12 (B) The service is not localized in any state but some of the
13 service is performed in this State, and (i) the base of operations, or,
14 if there is no base of operations, then the place from which such
15 service is directed or controlled, is in this State; or (ii) the base of
16 operations or place from which such service is directed or
17 controlled is not in any state in which some part of the service is
18 performed, but the individual's residence is in this State.

19 (3) Services performed within this State but not covered under
20 paragraph (2) of this subsection shall be deemed to be employment
21 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
22 required and paid with respect to such services under an
23 unemployment compensation law of any other state or of the federal
24 government.

25 (4) Services not covered under paragraph (2) of this subsection
26 and performed entirely without this State, with respect to no part of
27 which contributions are required and paid under an unemployment
28 compensation law of any other state or of the federal government,
29 shall be deemed to be employment subject to this chapter
30 (R.S.43:21-1 et seq.) if the individual performing such services is a
31 resident of this State and the employing unit for whom such
32 services are performed files with the division an election that the
33 entire service of such individual shall be deemed to be employment
34 subject to this chapter (R.S.43:21-1 et seq.).

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

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

37 (B) The service is performed both within and without such state,
38 but the service performed without such state is incidental to the
39 individual's service within the state; for example, is temporary or
40 transitory in nature or consists of isolated transactions.

41 (6) Services performed by an individual for remuneration shall
42 be deemed to be employment subject to this chapter (R.S.43:21-
43 1 et seq.) unless and until it is shown to the satisfaction of the
44 division that:

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

1 (B) Such service is either outside the usual course of the
2 business for which such service is performed, or that such service is
3 performed outside of all the places of business of the enterprise for
4 which such service is performed; and

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

7 (7) Provided that such services are also exempt under the
8 Federal Unemployment Tax Act, as amended, or that contributions
9 with respect to such services are not required to be paid into a state
10 unemployment fund as a condition for a tax offset credit against the
11 tax imposed by the Federal Unemployment Tax Act, as amended,
12 the term "employment" shall not include:

13 (A) Agricultural labor performed prior to January 1, 1978; and
14 after December 31, 1977, only if performed in a calendar year for
15 an entity which is not an employer as defined in the "unemployment
16 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
17 calendar year; or unless performed for an employing unit which

18 (i) during a calendar quarter in either the current or the
19 preceding calendar year paid remuneration in cash of \$20,000.00 or
20 more to individuals employed in agricultural labor, or

21 (ii) for some portion of a day in each of 20 different calendar
22 weeks, whether or not such weeks were consecutive, in either the
23 current or the preceding calendar year, employed in agricultural
24 labor 10 or more individuals, regardless of whether they were
25 employed at the same moment in time;

26 (B) Domestic service in a private home performed prior to
27 January 1, 1978; and after December 31, 1977, unless performed in
28 the private home of an employing unit which paid cash
29 remuneration of \$1,000.00 or more to one or more individuals for
30 such domestic service in any calendar quarter in the current or
31 preceding calendar year;

32 (C) Service performed by an individual in the employ of his son,
33 daughter or spouse, and service performed by a child under the age
34 of 18 in the employ of his father or mother;

35 (D) Service performed prior to January 1, 1978, in the employ of
36 this State or of any political subdivision thereof or of any
37 instrumentality of this State or its political subdivisions, except as
38 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
39 employ of the South Jersey Port Corporation or its successors;

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

47 (F) Service performed in the employ of the United States
48 Government or of any instrumentality of the United States exempt

1 under the Constitution of the United States from the contributions
2 imposed by the "unemployment compensation law," except that to
3 the extent that the Congress of the United States shall permit states
4 to require any instrumentalities of the United States to make
5 payments into an unemployment fund under a state unemployment
6 compensation law, all of the provisions of this act shall be
7 applicable to such instrumentalities, and to service performed for
8 such instrumentalities, in the same manner, to the same extent and
9 on the same terms as to all other employers, employing units,
10 individuals and services; provided that if this State shall not be
11 certified for any year by the Secretary of Labor of the United States
12 under section 3304 of the federal Internal Revenue Code of 1986
13 (26 U.S.C. s.3304), the payments required of such instrumentalities
14 with respect to such year shall be refunded by the division from the
15 fund in the same manner and within the same period as is provided
16 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
17 or collected by the division;

18 (G) Services performed in the employ of fraternal beneficiary
19 societies, orders, or associations operating under the lodge system
20 or for the exclusive benefit of the members of a fraternity itself
21 operating under the lodge system and providing for the payment of
22 life, sick, accident, or other benefits to the members of such society,
23 order, or association, or their dependents;

24 (H) Services performed as a member of the board of directors, a
25 board of trustees, a board of managers, or a committee of any bank,
26 building and loan, or savings and loan association, incorporated or
27 organized under the laws of this State or of the United States, where
28 such services do not constitute the principal employment of the
29 individual;

30 (I) Service with respect to which unemployment insurance is
31 payable under an unemployment insurance program established by
32 an Act of Congress;

33 (J) Service performed by agents of mutual fund brokers or
34 dealers in the sale of mutual funds or other securities, by agents of
35 insurance companies, exclusive of industrial insurance agents or by
36 agents of investment companies, if the compensation to such agents
37 for such services is wholly on a commission basis;

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

40 (L) Services performed in the employ of any veterans'
41 organization chartered by Act of Congress or of any auxiliary
42 thereof, no part of the net earnings of which organization, or
43 auxiliary thereof, inures to the benefit of any private shareholder or
44 individual;

45 (M) Service performed for or in behalf of the owner or operator
46 of any theater, ballroom, amusement hall or other place of
47 entertainment, not in excess of 10 weeks in any calendar year for
48 the same owner or operator, by any leader or musician of a band or

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

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

9 (O) Services performed in the sale or distribution of merchandise
10 by home-to-home salespersons or in-the-home demonstrators whose
11 remuneration consists wholly of commissions or commissions and
12 bonuses;

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

16 (Q) Service performed in the employ of an instrumentality
17 wholly owned by a foreign government if (i) the service is of a
18 character similar to that performed in foreign countries by
19 employees of the United States Government or of an instrumentality
20 thereof, and (ii) the division finds that the United States Secretary
21 of State has certified to the United States Secretary of the Treasury
22 that the foreign government, with respect to whose instrumentality
23 exemption is claimed, grants an equivalent exemption with respect
24 to similar services performed in the foreign country by employees
25 of the United States Government and of instrumentalities thereof;

26 (R) Service in the employ of an international organization
27 entitled to enjoy the privileges, exemptions and immunities under
28 the International Organizations Immunities Act
29 (22 U.S.C. s.288 et seq.);

30 (S) Service covered by an election duly approved by an agency
31 charged with the administration of any other state or federal
32 unemployment compensation or employment security law, in
33 accordance with an arrangement pursuant to R.S.43:21-21 during
34 the effective period of such election;

35 (T) Service performed in the employ of a school, college, or
36 university if such service is performed (i) by a student enrolled at
37 such school, college, or university on a full-time basis in an
38 educational program or completing such educational program
39 leading to a degree at any of the severally recognized levels, or (ii)
40 by the spouse of such a student, if such spouse is advised at the time
41 such spouse commences to perform such service that (I) the
42 employment of such spouse to perform such service is provided
43 under a program to provide financial assistance to such student by
44 such school, college, or university, and (II) such employment will
45 not be covered by any program of unemployment insurance;

46 (U) Service performed by an individual who is enrolled at a
47 nonprofit or public educational institution which normally
48 maintains a regular faculty and curriculum and normally has a

1 regularly organized body of students in attendance at the place
2 where its educational activities are carried on, as a student in a full-
3 time program, taken for credit at such institution, which combines
4 academic instruction with work experience, if such service is an
5 integral part of such program, and such institution has so certified
6 to the employer, except that this subparagraph shall not apply to
7 service performed in a program established for or on behalf of an
8 employer or group of employers;

9 (V) Service performed in the employ of a hospital, if such
10 service is performed by a patient of the hospital; service performed
11 as a student nurse in the employ of a hospital or a nurses' training
12 school by an individual who is enrolled and regularly attending
13 classes in a nurses' training school approved under the laws of this
14 State;

15 (W) Services performed after the effective date of this
16 amendatory act by agents of mutual benefit associations if the
17 compensation to such agents for such services is wholly on a
18 commission basis;

19 (X) Services performed by operators of motor vehicles weighing
20 18,000 pounds or more, licensed for commercial use and used for
21 the highway movement of motor freight, who own their equipment
22 or who lease or finance the purchase of their equipment through an
23 entity which is not owned or controlled directly or indirectly by the
24 entity for which the services were performed and who were
25 compensated by receiving a percentage of the gross revenue
26 generated by the transportation move or by a schedule of payment
27 based on the distance and weight of the transportation move;

28 (Y) (Deleted by amendment, P.L.2009, c.211.)

29 (Z) Services performed, using facilities provided by a travel
30 agent, by a person, commonly known as an outside travel agent,
31 who acts as an independent contractor, is paid on a commission
32 basis, sets his own work schedule and receives no benefits, sick
33 leave, vacation or other leave from the travel agent owning the
34 facilities.

35 (8) If one-half or more of the services in any pay period
36 performed by an individual for an employing unit constitutes
37 employment, all the services of such individual shall be deemed to
38 be employment; but if more than one-half of the service in any pay
39 period performed by an individual for an employing unit does not
40 constitute employment, then none of the service of such individual
41 shall be deemed to be employment. As used in this paragraph, the
42 term "pay period" means a period of not more than 31 consecutive
43 days for which a payment for service is ordinarily made by an
44 employing unit to individuals in its employ.

45 (9) Services performed by the owner of a limousine franchise
46 (franchisee) shall not be deemed to be employment subject to the
47 "unemployment compensation law," R.S.43:21-1 et seq., with
48 regard to the franchisor if:

1 (A) The limousine franchisee is incorporated;

2 (B) The franchisee is subject to regulation by the Interstate
3 Commerce Commission;

4 (C) The limousine franchise exists pursuant to a written
5 franchise arrangement between the franchisee and the franchisor as
6 defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

7 (D) The franchisee registers with the Department of Labor and
8 Workforce Development and receives an employer registration
9 number.

10 (10) Services performed by a legal transcriber, or certified court
11 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
12 shall not be deemed to be employment subject to the
13 "unemployment compensation law," R.S.43:21-1 et seq., if those
14 services are provided to a third party by the transcriber or reporter
15 who is referred to the third party pursuant to an agreement with
16 another legal transcriber or legal transcription service, or certified
17 court reporter or court reporting service, on a freelance basis,
18 compensation for which is based upon a fee per transcript page, flat
19 attendance fee, or other flat minimum fee, or combination thereof,
20 set forth in the agreement.

21 For purposes of this paragraph (10): "legal transcription service"
22 and "legal transcribing" mean making use, by audio, video or voice
23 recording, of a verbatim record of court proceedings, depositions,
24 other judicial proceedings, meetings of boards, agencies,
25 corporations, or other bodies or groups, and causing that record to
26 be printed in readable form or produced on a computer screen in
27 readable form; and "legal transcriber" means a person who engages
28 in "legal transcribing."

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

32 (k) (Deleted by amendment, P.L.1984, c.24.)

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

36 (m) "Unemployment."

37 (1) An individual shall be deemed "unemployed" for any week
38 during which:

39 (A) The individual is not engaged in full-time work and with
40 respect to which his remuneration is less than his weekly benefit
41 rate, including any week during which he is on vacation without
42 pay; provided such vacation is not the result of the individual's
43 voluntary action, except that for benefit years commencing on or
44 after July 1, 1984, an officer of a corporation, or a person who has
45 more than a 5% equitable or debt interest in the corporation, whose
46 claim for benefits is based on wages with that corporation shall not
47 be deemed to be unemployed in any week during the individual's
48 term of office or ownership in the corporation; or

1 (B) The individual is eligible for and receiving a self-
2 employment assistance allowance pursuant to the requirements of
3 P.L.1995, c.394 (C.43:21-67 et al.).

4 (2) The term "remuneration" with respect to any individual for
5 benefit years commencing on or after July 1, 1961, and as used in
6 this subsection, shall include only that part of the same which in
7 any week exceeds 20% of his weekly benefit rate (fractional parts
8 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
9 include any moneys paid to an individual by a county board of
10 elections for work as a board worker on an election day.

11 (3) An individual's week of unemployment shall be deemed to
12 commence only after the individual has filed a claim at an
13 unemployment insurance claims office, except as the division may
14 by regulation otherwise prescribe.

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

19 (o) "Wages" means remuneration paid by employers for
20 employment. If a worker receives gratuities regularly in the course
21 of his employment from other than his employer, his "wages" shall
22 also include the gratuities so received, if reported in writing to his
23 employer in accordance with regulations of the division, and if not
24 so reported, his "wages" shall be determined in accordance with the
25 minimum wage rates prescribed under any labor law or regulation
26 of this State or of the United States, or the amount of remuneration
27 actually received by the employee from his employer, whichever is
28 the higher.

29 (p) "Remuneration" means all compensation for personal
30 services, including commission and bonuses and the cash value of
31 all compensation in any medium other than cash.

32 (q) "Week" means for benefit years commencing on or after
33 October 1, 1984, the calendar week ending at midnight Saturday, or
34 as the division may by regulation prescribe.

35 (r) "Calendar quarter" means the period of three consecutive
36 calendar months ending March 31, June 30, September 30, or
37 December 31.

38 (s) "Investment company" means any company as defined in
39 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

40 (t) (1) (Deleted by amendment, P.L.2001, c.17).

41 (2) **["Base week,"** commencing on or after January 1, 1996 and
42 before January 1, 2001, means:

43 (A) Any calendar week during which the individual earned in
44 employment from an employer remuneration not less than an
45 amount which is 20% of the Statewide average weekly
46 remuneration defined in subsection (c) of R.S.43:21-3 which
47 amount shall be adjusted to the next higher multiple of \$1.00 if not
48 already a multiple thereof, except that if in any calendar week an

1 individual subject to this subparagraph (A) is in employment with
2 more than one employer, the individual may in that calendar week
3 establish a base week with respect to each of the employers from
4 whom the individual earns remuneration equal to not less than the
5 amount defined in this subparagraph (A) during that week; or

6 (B) If the individual does not establish in his base year 20 or
7 more base weeks as defined in subparagraph (A) of this paragraph
8 (2), any calendar week of an individual's base year during which the
9 individual earned in employment from an employer remuneration
10 not less than an amount 20 times the minimum wage in effect
11 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
12 1 of the calendar year preceding the calendar year in which the
13 benefit year commences, which amount shall be adjusted to the next
14 higher multiple of \$1.00 if not already a multiple thereof, except
15 that if in any calendar week an individual subject to this
16 subparagraph (B) is in employment with more than one employer,
17 the individual may in that calendar week establish a base week with
18 respect to each of the employers from whom the individual earns
19 remuneration not less than the amount defined in this subparagraph
20 (B) during that week.】 (Deleted by amendment, P.L. _____,
21 c.)(pending before the Legislature as this bill)

22 (3) "Base week," commencing on or after January 1, 2001 and
23 before January 1, 2020¹, and after the time that federal financing of
24 unemployment benefits in this State, pursuant to the "Coronavirus
25 Aid, Relief, and Economic Security Act," Pub. Law 116-136,
26 ceases¹, means any calendar week during which the individual
27 earned in employment from an employer remuneration not less than
28 an amount 20 times the minimum wage in effect pursuant to section
29 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
30 year preceding the calendar year in which the benefit year
31 commences, which amount shall be adjusted to the next higher
32 multiple of \$1.00 if not already a multiple thereof, except that if in
33 any calendar week an individual subject to this paragraph (3) is in
34 employment with more than one employer, the individual may in
35 that calendar week establish a base week with respect to each of the
36 employers from whom the individual earns remuneration equal to
37 not less than the amount defined in this paragraph (3) during that
38 week.

39 (4) "Base week," commencing on or after January 1, 2020 ¹until
40 the time that federal financing of unemployment benefits in this
41 State, pursuant to the "Coronavirus Aid, Relief, and Economic
42 Security Act," Pub. Law 116-136 ceases¹, means any calendar week
43 during which the individual earned in employment from an
44 employer remuneration not less than an amount 10 times the
45 minimum wage in effect pursuant to section 5 of P.L.1966, c.113
46 (C.34:11-56a4) on October 1 of the calendar year preceding the
47 calendar year in which the benefit year commences, which amount

1 shall be adjusted to the next higher multiple of \$1.00 if not already
2 a multiple thereof, except that if in any calendar week an individual
3 subject to this paragraph (4) is in employment with more than one
4 employer, the individual may in that calendar week establish a base
5 week with respect to each of the employers from whom the
6 individual earns remuneration equal to not less than the amount
7 defined in this paragraph (4) during that week.

8 (u) "Average weekly wage" means the amount derived by
9 dividing an individual's total wages received during his base year
10 base weeks (as defined in subsection (t) of this section) from that
11 most recent base year employer with whom he has established at
12 least 20 base weeks, by the number of base weeks in which such
13 wages were earned. In the event that such claimant had no employer
14 in his base year with whom he had established at least 20 base
15 weeks, then such individual's average weekly wage shall be
16 computed as if all of his base week wages were received from one
17 employer and as if all his base weeks of employment had been
18 performed in the employ of one employer.

19 For the purpose of computing the average weekly wage, the
20 monetary alternative in subparagraph (B) of paragraph **[(2)] (4)** of
21 subsection (e) of R.S.43:21-4 shall only apply in those instances
22 where the individual did not have at least 20 base weeks in the base
23 year. For benefit years commencing on or after July 1, 1986,
24 "average weekly wage" means the amount derived by dividing an
25 individual's total base year wages by the number of base weeks
26 worked by the individual during the base year; provided that for the
27 purpose of computing the average weekly wage, the maximum
28 number of base weeks used in the divisor shall be 52.

29 (v) "Initial determination" means, subject to the provisions of
30 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
31 measured by an eligible individual's base year employment with a
32 single employer covering all periods of employment with that
33 employer during the base year.

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

37 (x) "Most recent base year employer" means that employer with
38 whom the individual most recently, in point of time, performed
39 service in employment in the base year.

40 (y) (1) "Educational institution" means any public or other
41 nonprofit institution (including an institution of higher education):

42 (A) In which participants, trainees, or students are offered an
43 organized course of study or training designed to transfer to them
44 knowledge, skills, information, doctrines, attitudes or abilities from,
45 by or under the guidance of an instructor or teacher;

46 (B) Which is approved, licensed or issued a permit to operate as
47 a school by the State Department of Education or other government

1 agency that is authorized within the State to approve, license or
2 issue a permit for the operation of a school; and

3 (C) Which offers courses of study or training which may be
4 academic, technical, trade, or preparation for gainful employment in
5 a recognized occupation.

6 (2) "Institution of higher education" means an educational
7 institution which:

8 (A) Admits as regular students only individuals having a
9 certificate of graduation from a high school, or the recognized
10 equivalent of such a certificate;

11 (B) Is legally authorized in this State to provide a program of
12 education beyond high school;

13 (C) Provides an educational program for which it awards a
14 bachelor's or higher degree, or provides a program which is
15 acceptable for full credit toward such a degree, a program of post-
16 graduate or post-doctoral studies, or a program of training to
17 prepare students for gainful employment in a recognized
18 occupation; and

19 (D) Is a public or other nonprofit institution.

20 Notwithstanding any of the foregoing provisions of this
21 subsection, all colleges and universities in this State are institutions
22 of higher education for purposes of this section.

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

25 (cf: P.L.2017, c.230, s.1)]³

26

27 ¹[8.] ³[7.1] ^{4.}³ (New section) Sections ¹[8] ³[7.1] ^{4.}³ through
28 ¹[11] ³[10.1] ^{7.}³ of this act shall be known and may be cited as the
29 "Employee Job-Sharing Furlough Protection Act."
30

31 ¹[9.] ³[8.1] ^{5.}³ (New section) To facilitate the providing of the
32 maximum possible benefits for employees and savings for
33 employers in the State from the federal financing of unemployment
34 benefits provided in connection with short-time compensation
35 programs pursuant to section 2108 of the "Coronavirus Aid, Relief,
36 and Economic Security Act," Pub. Law 116-136 and from federal
37 financing of emergency increases in unemployment benefits under
38 section 2104 of that act, the division shall, during the period from
39 the effective date of this act until December 31, 2020, undertake the
40 following actions:

41 a. Make available to all employers who may be eligible to
42 participate in a shared work program pursuant to P.L.2011, c.154
43 (C.43:21-20.3 et seq.) for which full federal funding of short-time
44 unemployment benefits is available pursuant to section 2108 of the
45 "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law
46 116-136, a guidance document which explains:

47 (1) what the employer is required to do to establish, pursuant to
48 P.L.2011, c.154 (C.43:21-20.3 et seq.), shared work programs

1 eligible for the federal funding, including providing certification to
2 the division that any union representing employees in collective
3 bargaining has entered into a written agreement regarding the terms
4 of the program and certification that the employer will continue
5 providing any current health insurance and pension coverage, paid
6 time off and other benefits in the manner required by P.L.2011,
7 c.154 (C.43:21-20.3 et seq.);

8 (2) procedures for an employer to make an application for
9 approval of a shared work program, including an explanation of
10 how the employer may make preliminary calculations of benefits to
11 be paid to participating employees to expedite the commencement
12 of the payment of the benefits in the shortest possible time;

13 b. Provide any eligible employer with ³[any assistance
14 requested by the employer] guidance³ in making an application;

15 c. Permit an application for approval of a shared work program
16 to be submitted to, and approved by, the division in advance of the
17 date on which reduced hours of employment are to commence to
18 permit payment of benefits under the program immediately upon
19 that commencement³], or, as an alternative, permit the payment]³
20 of ³[benefits under a shared work program to commence
21 immediately upon the date of an application by an eligible employer
22 for approval of the program, and pay, for any period of shared work
23 under the program, amounts of benefits which are based on
24 determinations made by the division or based on preliminary
25 determinations made by the employer pursuant to paragraph (2) of
26 subsection a. of this section, which the division shall review and, if
27 appropriate, revise, and shall subsequently pay any underpayment in
28 benefits, or collect from subsequent benefits any overpayment in
29 benefits, including the collecting of an amount equal to all benefits
30 paid, if the application is rejected, without penalty to the employees
31 and, if the division finds that the employer made a good faith effort
32 to follow the division's guidance, impose no penalty on the
33 employer for the overpayment;]³

34 d. Permit employers who have fully laid off employees to
35 resume employing those employees on a partial basis in a manner
36 consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3
37 et seq.), and establish a shared work program to make short-time
38 benefits available to those employees; ³and³

39 e. Permit, upon the approval of a shared work program, of the
40 payment of benefits retroactively back to the time that ³the³ shared
41 work ³application was submitted and³ commenced in a manner
42 consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3
43 et seq.)³];

44 f. Contact each employer which is a non-profit organization
45 subject to the provisions of section 3 of P.L.1971, c.346 (C.43:21-
46 7.2) or a governmental entity or instrumentality subject to the
47 provisions of section 4 of P.L.1971, c.346 (C.43:21-7.3) to provide

1 that employer, in addition to the guidance document indicated in
 2 subsection a. of this section, information regarding the potential
 3 reduction in the expenses of that employer from participating in a
 4 shared work program pursuant to P.L.2011, c.154 (C.43:21-20.3 et
 5 seq.) for which full federal funding of short-time unemployment
 6 benefits is available pursuant to section 2108 of the “Coronavirus
 7 Aid, Relief, and Economic Security Act,” Pub. Law 116-136³.

8
 9 ¹[10.] ³[9.1] ^{6.}³ (New section) A public employee enrolled in a
 10 State-administered retirement system or fund, and the employer of
 11 that employee, shall be required to make contributions to the system
 12 or fund during the period that the employee is ³[on a furlough]
 13 participating in a shared work program³ pursuant to ³[section]³
 14 ¹[9] ³[8¹] of this act, P.L. , c. (C.) (pending before the
 15 Legislature as this bill) and³ P.L.2011, c.154 (C.43:21-20.3 et
 16 seq.). The contributions shall be based on the base salary or
 17 compensation, as defined by the retirement system or fund, that
 18 would have been paid to the employee if the employee had not been
 19 ³[on furlough] participating in a shared work program. No
 20 deduction for the payment of such contributions shall be made from
 21 the unemployment compensation or short-time compensation
 22 benefits of the employee³. The employee’s service credit as a
 23 member of the system or fund shall include the period ³[of
 24 furlough] during which the employee participated in a shared work
 25 program³. For all purposes under the retirement system or fund, the
 26 period ³[of furlough] during which the employee participated in a
 27 shared work program³ and the base salary or compensation upon
 28 which contribution were made during ³[the] such³ period ³[of
 29 furlough]³ shall be recognized by the retirement system or fund.
 30 The seniority rights and health benefits coverage of an employee
 31 who participates in ³[this furlough] a shared work³ program shall
 32 continue and shall not be adversely affected by participation. The
 33 employer shall enter into a written agreement with any collective
 34 bargaining agent representing the employees regarding the terms of
 35 the program, including terms regarding attendance in training
 36 programs while receiving short-time benefits, and provide
 37 certification, and the copy, of the agreement to the division as
 38 required by P.L.2011, c.154 (C.43:21-20.3 et seq.). This section
 39 shall not be construed to conflict with any applicable provisions of
 40 federal law.

41
 42 ¹[11.] ³[10.1] ^{7.}³ (New section) a. The division shall, not later
 43 than March 31, 2021, issue, make public on the website of the
 44 Department of Labor and Workforce Development, and submit to
 45 the Governor and Legislature, pursuant to section 2 of P.L.1991,
 46 c.164 (C.52:14-19.1), a report on all shared work programs

1 approved during calendar year 2020 pursuant to P.L.2011, c.154
2 (C.43:21-20.3 et seq.) and the impact of federal financing of those
3 programs pursuant to section 2108 of the “Coronavirus Aid, Relief,
4 and Economic Security Act,” Pub. Law 116-136 and of federal
5 financing pursuant to section 2104 of that act of emergency
6 increases in unemployment benefits for participants in approved
7 shared work programs.

8 b. The report shall provide separately for governmental
9 employers, for-profit private employers, and nonprofit employers,
10 during calendar year 2020:

11 (1) The total number of participating employers and employees,
12 the total amount of unemployment benefits paid to participants, the
13 portion of those benefits that was pandemic unemployment
14 compensation, the total wage compensation that was paid to
15 participants during participation in the program, and the share, if
16 any, of the benefit costs not paid or reimbursed by the federal
17 government;

18 (2) The minimum, maximum, and average duration of programs,
19 the average weekly benefit, and the average weekly wage paid
20 during participation in the program;

21 (3) ³【The number of participating employers who provided, and
22 the total number of employees who received, health insurance
23 coverage, and the total number of participating employers who
24 provided, and the total number of employees who received, pension
25 coverage;

26 (4) ³【The number of participating employers who entered into
27 agreements with collective bargaining agents regarding the terms of
28 the program, and the total number of employees covered by those
29 agreements; ³and³

30 ³【(5)】 (4) ³ The total reduction in payroll costs due to reduced
31 hours of paid employment by participants³】;

32 (6) In the case of governmental employers and, separately,
33 nonprofit employers, the portion of the participating employers that
34 elected to make payments in lieu of contributions pursuant to
35 section 3 of P.L.1971, c.346 (C.43:21-7.2) or section 4 of P.L.1971,
36 c.346 (C.43:21-7.3), the portion of participating employees who
37 were employed by those employers, the portion of benefits that
38 were paid by those employers, and the total reduction in cost to
39 those employers due to federal financing of short-time
40 compensation³】.

41 c. ³【The report shall provide an estimate of the total cost of
42 unemployment benefits to the unemployment compensation fund if
43 employers who used federally-funded, approved shared work
44 programs to partially lay off employees had instead reduced work
45 hours by the same amount, by fully laying off a smaller number of
46 employees, and the effect that would have had on employer
47 contribution rates.

1 d.】³ The report shall provide, for each calendar year from 2012
2 through 2019, the total number of employers and employees
3 participating in approved shared work programs and the total
4 amount of unemployment benefits paid to participating employees.

5
6 ³8. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
7 as follows:

8 7. There is hereby established the Public Employees'
9 Retirement System of New Jersey in the Division of Pensions and
10 Benefits of the Department of the Treasury. The membership of the
11 retirement system shall include:

12 a. The members of the former "State Employees' Retirement
13 System of New Jersey" enrolled as such as of December 30, 1954,
14 who shall not have claimed for refund their accumulated deductions
15 in said system as provided in this section;

16 b. Any person becoming an employee of the State or other
17 employer after January 2, 1955 and every veteran, other than a
18 retired member who returns to service pursuant to subsection b. of
19 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
20 whose appointments are seasonal, becoming an employee of the
21 State or other employer after such date, including a temporary
22 employee with at least one year's continuous service. The
23 membership of the retirement system shall not include those
24 persons appointed to serve as described in paragraphs (2) and (3) of
25 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
26 person who was a member of the retirement system prior to the
27 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
28 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and
29 C.43:15A-135) and continuously thereafter; and

30 c. Every employee veteran in the employ of the State or other
31 employer on January 2, 1955, who is not a member of any
32 retirement system supported wholly or partly by the State.

33 d. Membership in the retirement system shall be optional for
34 elected officials other than veterans, and for school crossing guards,
35 who having become eligible for benefits under other pension
36 systems are so employed on a part-time basis. Elected officials
37 commencing service on or after the effective date of sections 1
38 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,
39 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not
40 be eligible for membership in the retirement system based on
41 service in the elective public office, except that an elected official
42 enrolled in the retirement system as of that effective date who
43 continues to hold that elective public office or, for an elected
44 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),
45 another elective public office, without a break in service shall be
46 eligible to continue membership in the retirement system under the
47 terms and conditions of enrollment. Service in the Legislature shall
48 be considered a single elective public office. Any part-time school

1 crossing guard who is eligible for benefits under any other pension
2 system and who was hired as a part-time school crossing guard
3 prior to March 4, 1976, may at any time terminate his membership
4 in the retirement system by making an application in writing to the
5 board of trustees of the retirement system. Upon receiving such
6 application, the board of trustees shall terminate his enrollment in
7 the system and direct the employer to cease accepting contributions
8 from the member or deducting from the compensation paid to the
9 member. State employees who become members of any other
10 retirement system supported wholly or partly by the State as a
11 condition of employment shall not be eligible for membership in
12 this retirement system. Notwithstanding any other law to the
13 contrary, all other persons accepting employment in the service of
14 the State shall be required to enroll in the retirement system as a
15 condition of their employment, regardless of age.

16 (1) Before or on November 1, 2008, no person in employment,
17 office or position, for which the annual salary or remuneration is
18 fixed at less than \$1,500.00, shall be eligible to become a member
19 of the retirement system.

20 (2) After November 1, 2008, a person who was a member of the
21 retirement system on that date and continuously thereafter shall be
22 eligible to be a member of the retirement system in employment,
23 office or position, for which the annual salary or remuneration is
24 fixed at \$1,500 or more.

25 (3) After November 1, 2008 and before or on the effective date
26 of P.L.2010, c.1, a person who was not a member of the retirement
27 system on November 1, 2008, or who was a member of the
28 retirement system on that date but not continuously thereafter, and
29 who is in employment, office or position, for which the annual
30 salary or remuneration is certified by the applicable public entity at
31 \$7,500 or more, shall be eligible to become a member of the
32 retirement system. The \$7,500 minimum annual salary or
33 remuneration amount shall be adjusted annually by the Director of
34 the Division of Pensions and Benefits, by regulation, in accordance
35 with changes in the Consumer Price Index but by no more than 4
36 percent. "Consumer Price Index" means the average of the annual
37 increase, expressed as a percentage, in the consumer price index for
38 all urban consumers in the New York City and Philadelphia
39 metropolitan statistical areas during the preceding calendar year as
40 reported by the United States Department of Labor.

41 (4) After the effective date of P.L.2010, c.1, no person in an
42 employment, office or position of the State, or an agency, board,
43 commission, authority or instrumentality of the State, for which the
44 hours of work are fixed at fewer than 35 per week shall be eligible
45 to become a member of the retirement system; and no person in
46 employment, office or position with a political subdivision of the
47 State, or an agency, board, commission, authority or instrumentality
48 of a political subdivision of the State, for which the hours of work

1 are fixed by an ordinance or resolution of the political subdivision,
2 or agency, board, commission, authority or instrumentality thereof,
3 at fewer than 32 per week shall be eligible to become a member of
4 the retirement system. Any hour or part thereof, during which the
5 person does not work due to the person's participation in a
6 voluntary or mandatory furlough program shall not be deducted in
7 determining if a person's hours of work are fixed at fewer than 35 or
8 32 per week, as appropriate, for the purpose of eligibility and the
9 person's service credit as a member of the system or fund shall
10 include the period of mandatory or voluntary furlough provided the
11 person continues to make contributions based on the person's base
12 salary or compensation. If the pay of a furloughed person is
13 insufficient to withhold the entirety of the person's regular
14 contributions, then the person shall remit the entirety of the regular
15 contribution which was not withheld from the person's pay to the
16 Division of Pensions and Benefits in the Department of the
17 Treasury in a manner determined by the division, except that no
18 deduction for the payment of such contributions shall be made from
19 the unemployment compensation benefits of the employee.

20 e. Membership of any person in the retirement system shall
21 cease if he shall discontinue his service for more than two
22 consecutive years.

23 f. The accumulated deductions of the members of the former
24 "State Employees' Retirement System" which have been set aside in
25 a trust fund designated as Fund A as provided in section 5 of this
26 act and which have not been claimed for refund prior to February 1,
27 1955 shall be transferred from said Fund A to the Annuity Savings
28 Fund of the Retirement System, provided for in section 25 of this
29 act. Each member whose accumulated deductions are so transferred
30 shall receive the same prior service credit, pension credit, and
31 membership credit in the retirement system as he previously had in
32 the former "State Employees' Retirement System" and shall have
33 such accumulated deductions credited to his individual account in
34 the Annuity Savings Fund. Any outstanding obligations of such
35 member shall be continued.

36 g. Any school crossing guard electing to terminate his
37 membership in the retirement system pursuant to subsection d. of
38 this section shall, upon his request, receive a refund of his
39 accumulated deductions as of the date of his appointment to the
40 position of school crossing guard. Such refund of contributions
41 shall serve as a waiver of all benefits payable to the employee, to
42 his dependent or dependents, or to any of his beneficiaries under the
43 retirement system.

44 h. A temporary employee who is employed under the federal
45 Workforce Investment Act shall not be eligible for membership in
46 the system. Membership for temporary employees employed under
47 the federal Job Training Partnership Act, Pub.L.97-300 (29
48 U.S.C.s.1501) who are in the system on September 19, 1986 shall

1 be terminated, and affected employees shall receive a refund of
2 their accumulated deductions as of the date of commencement of
3 employment in a federal Job Training Partnership Act program.
4 Such refund of contributions shall serve as a waiver of all benefits
5 payable to the employee, to his dependent or dependents, or to any
6 of his beneficiaries under the retirement system.

7 i. Membership in the retirement system shall be optional for a
8 special service employee who is employed under the federal Older
9 American Community Service Employment Act, Pub.L.94-135 (42
10 U.S.C.s.3056). Any special service employee employed under the
11 federal Older American Community Service Employment Act,
12 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
13 the effective date of P.L.1996, c.139 may terminate membership in
14 the retirement system by making an application in writing to the
15 board of trustees of the retirement system. Upon receiving the
16 application, the board shall terminate enrollment in the system and
17 the member shall receive a refund of accumulated deductions as of
18 the date of commencement of employment in a federal Older
19 American Community Service Employment Act program. This
20 refund of contributions shall serve as a waiver of all benefits
21 payable to the employee, to any dependent or dependents, or to any
22 beneficiary under the retirement system.

23 j. An employee of the South Jersey Port Corporation who was
24 employed by the South Jersey Port Corporation as of the effective
25 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
26 employed within 365 days of such effective date by a subsidiary
27 corporation or other corporation, which has been established by the
28 Delaware River Port Authority pursuant to subdivision (m) of
29 Article I of the compact creating the Delaware River Port Authority
30 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
31 146), shall be eligible to continue membership while an employee
32 of such subsidiary or other corporation.

33 k. An employee of a renaissance school project established
34 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon
35 commencement of employment.³

36 (cf: P.L.2018, c.129, s.2)

37
38 ³9. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
39 read as follows:

40 2. As used in P.L.1961, c.49 (C.52:14-17.26 et seq.):

41 (a) The term "State" means the State of New Jersey.

42 (b) The term "commission" means the State Health Benefits
43 Commission, created by section 3 of P.L.1961, c.49 (C.52:14-
44 17.27).

45 (c) (1) The term "employee" means an appointive or elective
46 officer, a full-time employee of the State of New Jersey, or a full-
47 time employee of an employer other than the State who appears on
48 a regular payroll and receives a salary or wages for an average of

1 the number of hours per week as prescribed by the governing body
2 of the participating employer which number of hours worked shall
3 be considered full-time, determined by resolution, and not less than
4 20.

5 (2) After the effective date of P.L.2010, c.2, the term
6 "employee" means (i) a full-time appointive or elective officer
7 whose hours of work are fixed at 35 or more per week, a full-time
8 employee of the State, or a full-time employee of an employer other
9 than the State who appears on a regular payroll and receives a
10 salary or wages for an average of the number of hours per week as
11 prescribed by the governing body of the participating employer
12 which number of hours worked shall be considered full-time,
13 determined by resolution, and not less than 25, or (ii) an appointive
14 or elective officer, an employee of the State, or an employee of an
15 employer other than the State who has or is eligible for health
16 benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et
17 seq.) or sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1
18 et seq.) on that effective date and continuously thereafter provided
19 the officer or employee is covered by the definition in paragraph (1)
20 of this subsection. Any hour or part thereof, during which an
21 employee does not work due to the employee's participation in a
22 voluntary or mandatory furlough program shall not be deducted in
23 determining if a person's hours of work are fixed at fewer than 35 or
24 32 per week, as appropriate, for the purpose of eligibility for health
25 benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et
26 seq.) provided the employee continues to pay contributions for
27 coverage during the period of furlough. If the pay of a furloughed
28 employee is insufficient to withhold the entirety of the employee's
29 contribution, then the employee shall remit the portion of the
30 contribution not withheld from the employee's pay to the Division
31 of Pensions and Benefits in the Department of the Treasury in a
32 manner determined by the division, except that no deduction for the
33 payment of such contributions shall be made from the
34 unemployment compensation benefits of the employee. For the
35 purposes of this act an employee of Rutgers, The State University
36 of New Jersey, shall be deemed to be an employee of the State, and
37 an employee of the New Jersey Institute of Technology shall be
38 considered to be an employee of the State during such time as the
39 Trustees of the Institute are party to a contractual agreement with
40 the State Treasurer for the provision of educational services. The
41 term "employee" shall further mean, for purposes of this act, a
42 former employee of the South Jersey Port Corporation, who is
43 employed by a subsidiary corporation or other corporation, which
44 has been established by the Delaware River Port Authority pursuant
45 to subdivision (m) of Article I of the compact creating the Delaware
46 River Port Authority (R.S.32:3-2), as defined in section 3 of
47 P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued

1 membership in the Public Employees' Retirement System pursuant
2 to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

3 For the purposes of this act the term "employee" shall not
4 include persons employed on a short-term, seasonal, intermittent or
5 emergency basis, persons compensated on a fee basis, persons
6 having less than two months of continuous service or persons whose
7 compensation from the State is limited to reimbursement of
8 necessary expenses actually incurred in the discharge of their
9 official duties, provided, however, that the term "employee" shall
10 include persons employed on an intermittent basis to whom the
11 State has agreed to provide coverage under P.L.1961, c.49
12 (C.52:14-17.25 et seq.) in accordance with a binding collective
13 negotiations agreement. An employee paid on a 10-month basis,
14 pursuant to an annual contract, will be deemed to have satisfied the
15 two-month waiting period if the employee begins employment at
16 the beginning of the contract year. The term "employee" shall also
17 not include retired persons who are otherwise eligible for benefits
18 under this act but who, although they meet the age or disability
19 eligibility requirement of Medicare, are not covered by Medicare
20 Hospital Insurance, also known as Medicare Part A, and Medicare
21 Medical Insurance, also known as Medicare Part B. A determination
22 by the commission that a person is an eligible employee within the
23 meaning of this act shall be final and shall be binding on all parties.

24 (d) (1) The term "dependents" means an employee's spouse,
25 partner in a civil union couple or an employee's domestic partner as
26 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the
27 employee's unmarried children under the age of 23 years who live
28 with the employee in a regular parent-child relationship. "Children"
29 shall include stepchildren, legally adopted children and children
30 placed by the Division of Child Protection and Permanency in the
31 Department of Children and Families, provided they are reported
32 for coverage and are wholly dependent upon the employee for
33 support and maintenance. A spouse, partner in a civil union couple,
34 domestic partner or child enlisting or inducted into military service
35 shall not be considered a dependent during the military service. The
36 term "dependents" shall not include spouses, partners in a civil
37 union couple or domestic partners of retired persons who are
38 otherwise eligible for the benefits under this act but who, although
39 they meet the age or disability eligibility requirement of Medicare,
40 are not covered by Medicare Hospital Insurance, also known as
41 Medicare Part A, and Medicare Medical Insurance, also known as
42 Medicare Part B.

43 (2) Notwithstanding the provisions of paragraph (1) of this
44 subsection to the contrary and subject to the provisions of paragraph
45 (3) of this subsection, for the purposes of an employer other than
46 the State that is participating in the State Health Benefits Program
47 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
48 "dependents" means an employee's spouse or partner in a civil

1 union couple and the employee's unmarried children under the age
2 of 23 years who live with the employee in a regular parent-child
3 relationship. "Children" shall include stepchildren, legally adopted
4 children and children placed by the Division of Child Protection
5 and Permanency in the Department of Children and Families
6 provided they are reported for coverage and are wholly dependent
7 upon the employee for support and maintenance. A spouse, partner
8 in a civil union couple or child enlisting or inducted into military
9 service shall not be considered a dependent during the military
10 service. The term "dependents" shall not include spouses or partners
11 in a civil union couple of retired persons who are otherwise eligible
12 for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who,
13 although they meet the age or disability eligibility requirement of
14 Medicare, are not covered by Medicare Hospital Insurance, also
15 known as Medicare Part A, and Medicare Medical Insurance, also
16 known as Medicare Part B.

17 (3) An employer other than the State that is participating in the
18 State Health Benefits Program pursuant to section 3 of P.L.1964,
19 c.125 (C.52:14-17.34) may adopt a resolution providing that the
20 term "dependents" as defined in paragraph (2) of this subsection
21 shall include domestic partners as provided in paragraph (1) of this
22 subsection.

23 (e) The term "carrier" means a voluntary association,
24 corporation or other organization, including a health maintenance
25 organization as defined in section 2 of the "Health Maintenance
26 Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully
27 engaged in providing or paying for or reimbursing the cost of,
28 personal health services, including hospitalization, medical and
29 surgical services, under insurance policies or contracts, membership
30 or subscription contracts, or the like, in consideration of premiums
31 or other periodic charges payable to the carrier.

32 (f) The term "hospital" means (1) an institution operated
33 pursuant to law which is primarily engaged in providing on its own
34 premises, for compensation from its patients, medical diagnostic
35 and major surgical facilities for the care and treatment of sick and
36 injured persons on an inpatient basis, and which provides such
37 facilities under the supervision of a staff of physicians and with 24
38 hour a day nursing service by registered graduate nurses, or (2) an
39 institution not meeting all of the requirements of (1) but which is
40 accredited as a hospital by the Joint Commission on Accreditation
41 of Hospitals. In no event shall the term "hospital" include a
42 convalescent nursing home or any institution or part thereof which
43 is used principally as a convalescent facility, residential center for
44 the treatment and education of children with mental disorders, rest
45 facility, nursing facility or facility for the aged or for the care of
46 drug addicts or alcoholics.

47 (g) The term "State managed care plan" means a health care
48 plan under which comprehensive health care services and supplies

1 are provided to eligible employees, retirees, and dependents: (1)
2 through a group of doctors and other providers employed by the
3 plan; or (2) through an individual practice association, preferred
4 provider organization, or point of service plan under which services
5 and supplies are furnished to plan participants through a network of
6 doctors and other providers under contracts or agreements with the
7 plan on a prepayment or reimbursement basis and which may
8 provide for payment or reimbursement for services and supplies
9 obtained outside the network. The plan may be provided on an
10 insured basis through contracts with carriers or on a self-insured
11 basis, and may be operated and administered by the State or by
12 carriers under contracts with the State.

13 (h) The term "Medicare" means the program established by the
14 "Health Insurance for the Aged Act," Title XVIII of the "Social
15 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
16 or its successor plan or plans.

17 (i) The term "traditional plan" means a health care plan which
18 provides basic benefits, extended basic benefits and major medical
19 expense benefits as set forth in section 5 of P.L.1961, c.49
20 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
21 dependents for expenses for covered health care services and
22 supplies through payments to providers or reimbursements to
23 participants.

24 (j) The term "successor plan" means a State managed care plan
25 that shall replace the traditional plan and that shall provide benefits
26 as set forth in subsection (B) of section 5 of P.L.1961, c.49
27 (C.52:14-17.29) with provisions regarding reimbursements and
28 payments as set forth in paragraph (1) of subsection (C) of section 5
29 of P.L.1961, c.49 (C.52:14-17.29).³
30 (cf: P.L.2012, c.16, s.137)

31

32 ³10. R.S.43:21-4 is amended to read as follows:

33 43:21-4. Benefit eligibility conditions. An unemployed
34 individual shall be eligible to receive benefits with respect to any
35 week eligible only if:

36 (a) The individual has filed a claim at an unemployment
37 insurance claims office and thereafter continues to report at an
38 employment service office or unemployment insurance claims
39 office, as directed by the division in accordance with such
40 regulations as the division may prescribe, except that the division
41 may, by regulation, waive or alter either or both of the requirements
42 of this subsection as to individuals attached to regular jobs, and as
43 to such other types of cases or situations with respect to which the
44 division finds that compliance with such requirements would be
45 oppressive, or would be inconsistent with the purpose of this act;
46 provided that no such regulation shall conflict with subsection (a) of
47 R.S.43:21-3.

1 (b) The individual has made a claim for benefits in accordance
2 with the provisions of subsection (a) of R.S.43:21-6.

3 (c) (1) The individual is able to work, and is available for work,
4 and has demonstrated to be actively seeking work, except as
5 hereinafter provided in this subsection or in subsection (f) of this
6 section.

7 (2) The director may modify the requirement of actively seeking
8 work if such modification of this requirement is warranted by
9 economic conditions.

10 (3) No individual, who is otherwise eligible, shall be deemed
11 ineligible, or unavailable for work, because the individual is on
12 vacation, without pay, during said week, if said vacation is not the
13 result of the individual's own action as distinguished from any
14 collective action of a collective bargaining agent or other action
15 beyond the individual's control.

16 (4) (A) Subject to such limitations and conditions as the
17 division may prescribe, an individual, who is otherwise eligible,
18 shall not be deemed unavailable for work or ineligible because the
19 individual is attending a training program approved for the
20 individual by the division to enhance the individual's employment
21 opportunities or because the individual failed or refused to accept
22 work while attending such program.

23 (B) For the purpose of this paragraph (4), any training program
24 shall be regarded as approved by the division for the individual if
25 the program and the individual meet the following requirements:

26 (i) The training is for a labor demand occupation and is likely to
27 enhance the individual's marketable skills and earning power,
28 except that the training may be for an occupation other than a labor
29 demand occupation if the individual is receiving short-time benefits
30 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
31 and the training is necessary to prevent a likely loss of jobs;

32 (ii) The training is provided by a competent and reliable private
33 or public entity approved by the Commissioner of Labor and
34 Workforce Development pursuant to the provisions of section 8 of
35 the "1992 New Jersey Employment and Workforce Development
36 Act," P.L.1992, c.43 (C.34:15D-8);

37 (iii) The individual can reasonably be expected to complete the
38 program, either during or after the period of benefits;

39 (iv) The training does not include on the job training or other
40 training under which the individual is paid by an employer for work
41 performed by the individual during the time that the individual
42 receives benefits; and

43 (v) The individual enrolls in vocational training, remedial
44 education or a combination of both on a full-time basis, except that
45 the training or education may be on a part-time basis if the
46 individual is receiving short-time benefits pursuant to the provisions
47 of P.L.2011, c.154 (C.43:21-20.3 et al.).

1 (C) If the requirements of subparagraph (B) of this paragraph (4)
2 are met, the division shall not withhold approval of the training
3 program for the individual for any of the following reasons:

4 (i) The training includes remedial basic skills education
5 necessary for the individual to successfully complete the vocational
6 component of the training;

7 (ii) The training is provided in connection with a program under
8 which the individual may obtain a college degree, including a post-
9 graduate degree;

10 (iii) The length of the training period under the program; or

11 (iv) The lack of a prior guarantee of employment upon
12 completion of the training.

13 (D) For the purpose of this paragraph (4), "labor demand
14 occupation" means an occupation for which there is or is likely to
15 be an excess of demand over supply for adequately trained workers,
16 including, but not limited to, an occupation designated as a labor
17 demand occupation by the Center for Occupational Employment
18 Information pursuant to the provisions of subsection d. of section
19 27 of P.L.2005, c.354 (C.34:1A-86).

20 (5) An unemployed individual, who is otherwise eligible, shall
21 not be deemed unavailable for work or ineligible solely by reason of
22 the individual's attendance before a court in response to a summons
23 for service on a jury.

24 (6) An unemployed individual, who is otherwise eligible, shall
25 not be deemed unavailable for work or ineligible solely by reason of
26 the individual's attendance at the funeral of an immediate family
27 member, provided that the duration of the attendance does not
28 extend beyond a two-day period.

29 For purposes of this paragraph, "immediate family member"
30 includes any of the following individuals: father, mother, mother-
31 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
32 child, child placed by the Division of Youth and Family Services in
33 the Department of Children and Families, sister or brother of the
34 unemployed individual and any relatives of the unemployed
35 individual residing in the unemployed individual's household.

36 (7) No individual, who is otherwise eligible, shall be deemed
37 ineligible or unavailable for work with respect to any week because,
38 during that week, the individual fails or refuses to accept work
39 while the individual is participating on a full-time basis in self-
40 employment assistance activities authorized by the division,
41 whether or not the individual is receiving a self-employment
42 allowance during that week.

43 (8) Any individual who is determined to be likely to exhaust
44 regular benefits and need reemployment services based on
45 information obtained by the worker profiling system shall not be
46 eligible to receive benefits if the individual fails to participate in
47 available reemployment services to which the individual is referred

1 by the division or in similar services, unless the division determines
2 that:

3 (A) The individual has completed the reemployment services; or

4 (B) There is justifiable cause for the failure to participate, which
5 shall include participation in employment and training, self-
6 employment assistance activities or other activities authorized by
7 the division to assist reemployment or enhance the marketable skills
8 and earning power of the individual and which shall include any
9 other circumstance indicated pursuant to this section in which an
10 individual is not required to be available for and actively seeking
11 work to receive benefits.

12 (9) An unemployed individual, who is otherwise eligible, shall
13 not be deemed unavailable for work or ineligible solely by reason of
14 the individual's work as a board worker for a county board of
15 elections on an election day.

16 (10) An individual who is employed by a shared work employer
17 and is otherwise eligible for benefits shall not be deemed ineligible
18 for short-time benefits because the individual is unavailable for
19 work with employers other than the shared work employer, so long
20 as:

21 (A) The individual is able to work and is available to work the
22 individual's normal full-time hours for the shared work employer;
23 or

24 (B) The individual is attending a training program which is in
25 compliance with the provisions of paragraph (4) of subsection (c) of
26 this section and the agreements and certifications required pursuant
27 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

28 (d) With respect to any benefit year commencing before January
29 1, 2002, the individual has been totally or partially unemployed for
30 a waiting period of one week in the benefit year which includes that
31 week. When benefits become payable with respect to the third
32 consecutive week next following the waiting period, the individual
33 shall be eligible to receive benefits as appropriate with respect to
34 the waiting period. No week shall be counted as a week of
35 unemployment for the purposes of this subsection:

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

40 (2) If it has constituted a waiting period week under the
41 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
42 et al.);

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

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

47 The waiting period provided by this subsection shall not apply to
48 benefit years commencing on or after January 1, 2002. An

1 individual whose total benefit amount was reduced by the
2 application of the waiting period to a claim which occurred on or
3 after January 1, 2002 and before the effective date of P.L.2002,
4 c.13, shall be permitted to file a claim for the additional benefits
5 attributable to the waiting period in the form and manner prescribed
6 by the division, but not later than the 180th day following the
7 effective date of P.L.2002, c.13 unless the division determines that
8 there is good cause for a later filing.

9 (e) (1) (Deleted by amendment, P.L.2001, c.17).

10 (2) (Deleted by amendment, P.L.2008, c.17).

11 (3) (Deleted by amendment, P.L.2008, c.17).

12 (4) With respect to benefit years commencing on or after
13 January 7, 2001, except as otherwise provided in paragraph (5) of
14 this subsection, the individual has, during his base year as defined
15 in subsection (c) of R.S.43:21-19:

16 (A) Established at least 20 base weeks as defined in paragraphs
17 (2) and (3) of subsection (t) of R.S.43:21-19; or

18 (B) If the individual has not met the requirements of
19 subparagraph (A) of this paragraph (4), earned remuneration not
20 less than an amount 1,000 times the minimum wage in effect
21 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
22 1 of the calendar year preceding the calendar year in which the
23 benefit year commences, which amount shall be adjusted to the next
24 higher multiple of \$100 if not already a multiple thereof.

25 (5) With respect to benefit years commencing on or after
26 January 7, 2001, notwithstanding the provisions of paragraph (4) of
27 this subsection, an unemployed individual claiming benefits on the
28 basis of service performed in the production and harvesting of
29 agricultural crops shall, subject to the limitations of subsection (i)
30 of R.S.43:21-19, be eligible to receive benefits if during his base
31 year, as defined in subsection (c) of R.S.43:21-19, the individual:

32 (A) Has established at least 20 base weeks as defined in
33 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

34 (B) Has earned remuneration not less than an amount 1,000
35 times the minimum wage in effect pursuant to section 5 of
36 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
37 preceding the calendar year in which the benefit year commences,
38 which amount shall be adjusted to the next higher multiple of \$100
39 if not already a multiple thereof; or

40 (C) Has performed at least 770 hours of service in the
41 production and harvesting of agricultural crops.

42 (6) The individual applying for benefits in any successive
43 benefit year has earned at least six times his previous weekly
44 benefit amount and has had four weeks of employment since the
45 beginning of the immediately preceding benefit year. This
46 provision shall be in addition to the earnings requirements specified
47 in paragraph (4) or (5) of this subsection, as applicable.

1 (f) (1) The individual has suffered any accident or sickness not
2 compensable under the workers' compensation law, R.S.34:15-1 et
3 seq. and resulting in the individual's total disability to perform any
4 work for remuneration, and would be eligible to receive benefits
5 under this chapter (R.S.43:21-1 et seq.) (without regard to the
6 maximum amount of benefits payable during any benefit year)
7 except for the inability to work and has furnished notice and proof
8 of claim to the division, in accordance with its rules and
9 regulations, and payment is not precluded by the provisions of
10 R.S.43:21-3(d); provided, however, that benefits paid under this
11 subsection (f) shall be computed on the basis of only those base
12 year wages earned by the claimant as a "covered individual," as
13 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
14 27); provided further that no benefits shall be payable under this
15 subsection to any individual:

16 (A) For any period during which such individual is not under the
17 care of a legally licensed physician, dentist, optometrist, podiatrist,
18 practicing psychologist, advanced practice nurse, or chiropractor,
19 who, when requested by the division, shall certify within the scope
20 of the practitioner's practice, the disability of the individual, the
21 probable duration thereof, and, where applicable, the medical facts
22 within the practitioner's knowledge;

23 (B) (Deleted by amendment, P.L.1980, c.90.)

24 (C) For any period of disability due to willfully or intentionally
25 self-inflicted injury, or to injuries sustained in the perpetration by
26 the individual of a crime of the first, second or third degree;

27 (D) For any week with respect to which or a part of which the
28 individual has received or is seeking benefits under any
29 unemployment compensation or disability benefits law of any other
30 state or of the United States; provided that if the appropriate agency
31 of such other state or the United States finally determines that the
32 individual is not entitled to such benefits, this disqualification shall
33 not apply;

34 (E) For any week with respect to which or part of which the
35 individual has received or is seeking disability benefits under the
36 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
37 25 et al.);

38 (F) For any period of disability commencing while such
39 individual is a "covered individual," as defined in subsection (b) of
40 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
41 c.110 (C.43:21-27).

42 (2) The individual is taking family temporary disability leave to
43 provide care for a family member with a serious health condition or
44 to be with a child during the first 12 months after the child's birth or
45 placement of the child for adoption or as a foster child with the
46 individual, and the individual would be eligible to receive benefits
47 under R.S.43:21-1 et seq. (without regard to the maximum amount
48 of benefits payable during any benefit year) except for the

1 individual's unavailability for work while taking the family
2 temporary disability leave, and the individual has furnished notice
3 and proof of claim to the division, in accordance with its rules and
4 regulations, and payment is not precluded by the provisions of
5 R.S.43:21-3(d) provided, however, that benefits paid under this
6 subsection (f) shall be computed on the basis of only those base
7 year wages earned by the claimant as a "covered individual," as
8 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
9 27); provided further that no benefits shall be payable under this
10 subsection to any individual:

11 (A) For any week with respect to which or a part of which the
12 individual has received or is seeking benefits under any
13 unemployment compensation or disability benefits law of any other
14 state or of the United States; provided that if the appropriate agency
15 of such other state or the United States finally determines that the
16 individual is not entitled to such benefits, this disqualification shall
17 not apply;

18 (B) For any week with respect to which or part of which the
19 individual has received or is seeking disability benefits for a
20 disability of the individual under the "Temporary Disability
21 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

22 (C) For any period of family temporary disability leave
23 commencing while the individual is a "covered individual," as
24 defined in subsection (b) of section 3 of the "Temporary Disability
25 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

26 (D) For any period of family temporary disability leave for a
27 serious health condition of a family member of the claimant during
28 which the family member is not receiving inpatient care in a
29 hospital, hospice, or residential medical care facility and is not
30 subject to continuing medical treatment or continuing supervision
31 by a health care provider, who, when requested by the division,
32 shall certify within the scope of the provider's practice, the serious
33 health condition of the family member, the probable duration
34 thereof, and, where applicable, the medical facts within the
35 provider's knowledge.

36 (3) Benefit payments under this subsection (f) shall be charged
37 to and paid from the State disability benefits fund established by the
38 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
39 25 et al.), and shall not be charged to any employer account in
40 computing any employer's experience rate for contributions payable
41 under this chapter.

42 (g) Benefits based on service in employment defined in
43 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
44 in the same amount and on the terms and subject to the same
45 conditions as benefits payable on the basis of other service subject
46 to the "unemployment compensation law"; except that,
47 notwithstanding any other provisions of the "unemployment
48 compensation law":

1 (1) With respect to service performed after December 31, 1977,
2 in an instructional, research, or principal administrative capacity for
3 an educational institution, benefits shall not be paid based on such
4 services for any week of unemployment commencing during the
5 period between two successive academic years, or during a similar
6 period between two regular terms, whether or not successive, or
7 during a period of paid sabbatical leave provided for in the
8 individual's contract, to any individual if such individual performs
9 such services in the first of such academic years (or terms) and if
10 there is a contract or a reasonable assurance that such individual
11 will perform services in any such capacity for any educational
12 institution in the second of such academic years or terms;

13 (2) With respect to weeks of unemployment beginning after
14 September 3, 1982, on the basis of service performed in any other
15 capacity for an educational institution, benefits shall not be paid on
16 the basis of such services to any individual for any week which
17 commences during a period between two successive academic years
18 or terms if such individual performs such services in the first of
19 such academic years or terms and there is a reasonable assurance
20 that such individual will perform such services in the second of
21 such academic years or terms, except that if benefits are denied to
22 any individual under this paragraph (2) and the individual was not
23 offered an opportunity to perform these services for the educational
24 institution for the second of any academic years or terms, the
25 individual shall be entitled to a retroactive payment of benefits for
26 each week for which the individual filed a timely claim for benefits
27 and for which benefits were denied solely by reason of this clause;

28 (3) With respect to those services described in paragraphs (1)
29 and (2) above, benefits shall not be paid on the basis of such
30 services to any individual for any week which commences during
31 an established and customary vacation period or holiday recess if
32 such individual performs such services in the period immediately
33 before such vacation period or holiday recess, and there is a
34 reasonable assurance that such individual will perform such
35 services in the period immediately following such period or holiday
36 recess;

37 (4) With respect to any services described in paragraphs (1) and
38 (2) above, benefits shall not be paid as specified in paragraphs (1),
39 (2), and (3) above to any individual who performed those services
40 in an educational institution while in the employ of an educational
41 service agency, and for this purpose the term "educational service
42 agency" means a governmental agency or governmental entity
43 which is established and operated exclusively for the purpose of
44 providing those services to one or more educational institutions;

45 (5) With respect to services performed after the effective date of
46 P.L. , c. (pending before the Legislature as this bill), and only
47 upon written notification from the United States Department of
48 Labor that the amendatory language added to this section by that act

1 conforms to the “Between and Within Terms” denial provisions of
2 26 U.S.C. s.3304, as used in this subsection:

3 “Established and customary vacation period or holiday recess”
4 includes those breaks scheduled during fall, winter, and spring
5 recesses when those vacation periods occur within a term or
6 semester. “Established and customary vacation period or holiday
7 recess” does not include the summer term or semester, unless, based
8 on objective criteria including enrollment and staffing, the summer
9 is not in fact a part of the academic year for a particular institution.

10 “Reasonable assurance” means a written, verbal, or implied
11 agreement that the employee will perform services in the same
12 capacity during the ensuing academic year or term as in the first
13 academic year or term. A person shall not be deemed to be
14 performing services “in the same capacity” unless those services are
15 rendered under the same terms or conditions of employment in the
16 ensuing year as in the first academic year or term.

17 An individual who is tenured or holds tenure track status is
18 considered to have reasonable assurance, unless advised otherwise.
19 For the purposes of this subsection, tenure track status means a
20 probationary faculty employee having an opportunity to be
21 reviewed for tenure.

22 A person is presumed not to have reasonable assurance under an
23 offer that is conditioned on enrollment, funding, program changes,
24 or other circumstances under the control of the employer. It is the
25 employer's burden to provide sufficient documentation to overcome
26 this presumption. Reasonable assurance shall be determined on a
27 case-by-case basis considering the totality of circumstances rather
28 than on the existence of any one factor. For an individual to be
29 regarded as having reasonable assurance of employment, the totality
30 of circumstances must show that it is highly probable that there is a
31 job available for the employee in the following academic year or
32 term. If any contingencies in the employment offer are within the
33 employer's control, the claimant shall not be regarded as having a
34 reasonable assurance of employment. Contingencies within the
35 employer's control include, but are not limited to, enrollment,
36 funding, including appropriations and the allocation of funding,
37 program changes, final course offering, and facility availability.

38 (h) Benefits shall not be paid to any individual on the basis of
39 any services, substantially all of which consist of participating in
40 sports or athletic events or training or preparing to so participate,
41 for any week which commences during the period between two
42 successive sports seasons (or similar periods) if such individual
43 performed such services in the first of such seasons (or similar
44 periods) and there is a reasonable assurance that such individual
45 will perform such services in the later of such seasons (or similar
46 periods).

47 (i) (1) Benefits shall not be paid on the basis of services
48 performed by an alien unless such alien is an individual who was

1 lawfully admitted for permanent residence at the time the services
2 were performed and was lawfully present for the purpose of
3 performing the services or otherwise was permanently residing in
4 the United States under color of law at the time the services were
5 performed (including an alien who is lawfully present in the United
6 States as a result of the application of the provisions of section
7 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
8 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
9 modifications of the provisions of section 3304(a)(14) of the
10 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
11 provided by Pub.L.94-566, which specify other conditions or other
12 effective dates than stated herein for the denial of benefits based on
13 services performed by aliens and which modifications are required
14 to be implemented under State law as a condition for full tax credit
15 against the tax imposed by the Federal Unemployment Tax Act,
16 shall be deemed applicable under the provisions of this section.

17 (2) Any data or information required of individuals applying for
18 benefits to determine whether benefits are not payable to them
19 because of their alien status shall be uniformly required from all
20 applicants for benefits.

21 (3) In the case of an individual whose application for benefits
22 would otherwise be approved, no determination that benefits to such
23 individual are not payable because of alien status shall be made
24 except upon a preponderance of the evidence.

25 (j) Notwithstanding any other provision of this chapter, the
26 director may, to the extent that it may be deemed efficient and
27 economical, provide for consolidated administration by one or more
28 representatives or deputies of claims made pursuant to subsection
29 (f) of this section with those made pursuant to Article III (State
30 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-25 et al.).³

32 (cf: P.L.2019, c.37, s.5)

33
34 ¹12. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
35 read as follows:

36 2. Purpose. This act shall be liberally construed as remedial
37 legislation enacted upon the following declarations of public policy
38 and legislative findings of fact:

39 The public policy of this State, already established, is to protect
40 employees against the suffering and hardship generally caused by
41 involuntary unemployment. But the "unemployment compensation
42 law" provides benefit payments to replace wage loss caused by
43 involuntary unemployment only so long as an individual is "able to
44 work, and is available for work," and fails to provide any protection
45 against wage loss suffered because of inability to perform the duties
46 of a job interrupted by nonoccupational illness, injury, or other
47 disability of the individual or of members of the individual's family.
48 Nor is there any other comprehensive and systematic provision for

1 the protection of working people against loss of earnings due to a
2 nonoccupational sickness, accident, or other disability.

3 The prevalence and incidence of nonoccupational sickness,
4 accident, and other disability among employed people is greatest
5 among the lower income groups, who either cannot or will not
6 voluntarily provide out of their own resources against the hazard of
7 an earnings loss caused by nonoccupational sickness, accident, or
8 other disability. Disabling sickness or accident occurs throughout
9 the working population at one time or another, and approximately
10 fifteen per centum (15%) of the number of people at work may be
11 expected to suffer disabling illness of more than one week each
12 year.

13 It was found, prior to the enactment of the "Temporary Disability
14 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), that then
15 existing voluntary plans for the payment of cash sickness benefits
16 covered less than one-half of the number of working people of this
17 State who were covered by the "unemployment compensation law,"
18 and that even that degree of voluntary protection afforded uneven,
19 unequal and sometimes uncertain protection among the various
20 voluntary benefit programs.

21 While the enactment of that law has provided stable protection
22 for New Jersey's disabled workers, very few workers are protected
23 from income losses caused by the need to take time off from work
24 to care for family members who are incapable of self-care,
25 including newborn and newly-adopted children. The growing
26 portion of middle-income families in which all adult family
27 members work, largely due to economic necessity, points to the
28 desperate need for replacement income when a working family
29 member must take time to care for family members who are unable
30 to take care of themselves. Moreover, the United States is the only
31 industrialized nation in the world which does not have a mandatory
32 workplace-based program for such income support. It is therefore
33 desirable and necessary to fill the gap in existing provisions for
34 protection against the loss of earnings caused by involuntary
35 unemployment, by extending such protection to meet the hazard of
36 earnings loss due to inability to work caused by nonoccupational
37 sickness, accidents, or other disabilities of workers and members of
38 their families. Developing systems that help families adapt to the
39 competing interests of work and home not only benefits workers,
40 but also benefits employers by reducing employee turnover and
41 increasing worker productivity.

42 The foregoing facts and considerations require that there be a
43 uniform minimum program providing in a systematic manner for
44 the payment of reasonable benefits to replace partially such
45 earnings loss and to meet the continuing need for benefits where an
46 individual becomes disabled during unemployment or needs to care
47 for family members incapable of self-care. In order to maintain
48 consumer purchasing power, relieve the serious menace to health,

1 morals and welfare of the people caused by insecurity and the loss
2 of earnings, to reduce the necessity for public relief of needy
3 persons, to increase workplace productivity and alleviate the
4 enormous and growing stress on working families of balancing the
5 demands of work and family needs, and in the interest of the health,
6 welfare and security of the people of this State, such a system,
7 enacted under the police power, is hereby established, requiring the
8 payment of reasonable cash benefits to eligible individuals who are
9 subject to accident or illness which is not compensable under the
10 worker's compensation law or who need to care for family members
11 incapable of self-care.

12 **【**While the Legislature recognizes the pressing need for benefits
13 for workers taking leave to care for family members incapable of
14 self-care, it also finds that the need of workers for leave during their
15 own disability continues to be especially acute, as a disabled worker
16 has less discretion about taking time off from work than a worker
17 caring for a family member. Notwithstanding any interpretation of
18 law which may be construed as providing a worker with rights to
19 take action against an employer who fails or refuses to restore the
20 worker to employment after the worker's own disability, the
21 Legislature does not intend that the policy established by P.L.2008,
22 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during
23 periods of family temporary disability leave to care for family
24 members incapable of self-care be construed as granting any worker
25 an entitlement to be restored by the employer to employment held
26 by the worker prior to taking family temporary disability leave or
27 any right to take action, in tort, or for breach of an implied
28 provision of the employment agreement, or under common law,
29 against an employer who fails or refuses to restore the worker to
30 employment after the family temporary disability leave, and the
31 Legislature does not intend that the policy of providing benefits
32 during family temporary disability leave be construed as increasing,
33 reducing or otherwise modifying any entitlement of a worker to
34 return to employment or right of the worker to take action under the
35 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
36 et seq.).**】**

37 Since the enactment of the "Temporary Disability Benefits Law,"
38 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated
39 State temporary disability benefits plan, or "State plan," has proven
40 to be highly efficient and cost effective in providing temporary
41 disability benefits to New Jersey workers. The State plan
42 guarantees the availability of coverage for all employers, regardless
43 of experience, with low overhead costs and a rapid processing of
44 claims and appeals by knowledgeable, impartial public employees.
45 Consequently, the percentage of all employers using the State plan
46 increased from 64% in 1952 to 98% in 2006, while the percentage
47 of employees covered by the State plan increased from 28% to 83%.
48 A publicly-operated, nonprofit State plan is therefore indispensable

1 to achieving the goals of the "Temporary Disability Benefits Law,"
2 P.L.1948, c.110 (C.43:21-25 et al.).
3 (cf: P.L.2019, c.37, s.7)】¹

4
5 ¹【13. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to
6 read as follows:

7 10. a. Family temporary disability leave shall be compensable
8 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for
9 any period of family temporary disability leave taken by a covered
10 individual which commences after June 30, 2009.

11 b. An individual shall not simultaneously receive disability
12 benefits for family temporary disability leave and any other
13 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or
14 any unemployment compensation, or any paid sick leave, vacation
15 time or other leave at full pay from the employer of the individual.

16 c. The employer of an individual may, notwithstanding any
17 other provision of law, including the provisions of N.J.S.18A:30-1
18 et seq., permit the individual, during a period of family temporary
19 disability leave, to use any paid sick leave, vacation time or other
20 leave at full pay made available by the employer before the
21 individual uses disability benefits for family temporary disability
22 leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.). Nothing in
23 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as nullifying
24 any provision of an existing collective bargaining agreement or
25 employer policy, or preventing any new provision of a collective
26 bargaining agreement or employer policy, which provides
27 employees more generous leave or gives employees greater rights to
28 select which kind of leave is used or select the order in which the
29 different kinds of leave are used. Nothing in P.L.2008, c.17
30 (C.43:21-39.1 et al.) shall be construed as preventing an employer
31 from providing more generous benefits than are provided under
32 P.L.2008, c.17 (C.43:21-39.1 et al.) or providing benefits which
33 supplement the benefits provided under P.L.2008, c.17 (C.43:21-
34 39.1 et al.) for some or all of the employer's employees.

35 d. An individual who is entitled to leave under the provisions
36 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
37 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
38 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
39 family temporary disability leave pursuant to P.L.2008, c.17
40 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the
41 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
42 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
43 U.S.C. s.2601 et seq.). [Nothing in P.L.2008, c.17 (C.43:21-39.1 et
44 al.) shall be construed to grant an employee any entitlement to be
45 restored by the employer to employment held by the employee prior
46 to taking family temporary disability leave or any right to take
47 action against an employer who refuses to restore the employee to
48 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-

1 39.1 et al.) shall be construed to increase, reduce or otherwise
2 modify any entitlement of an employee to return to employment or
3 right of the employee to take action under the provisions of the
4 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.). If an
5 employee receives benefits for family temporary disability leave
6 pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) with respect to
7 employment with an employer who is not an employer as defined in
8 the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and
9 that employer fails or refuses to restore the employee to
10 employment after the period of family temporary disability leave,
11 that failure or refusal shall not be a wrongful discharge in violation
12 of a clear mandate of public policy, and the employee shall not have
13 a cause of action against that employer, in tort, or for breach of an
14 implied provision of the employment agreement, or under common
15 law, for that failure or refusal.]

16 e. An employee taking family temporary disability leave or an
17 employer from whom the employee is taking the leave shall have
18 the same right to appeal a determination of a benefit for the family
19 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1
20 et al.) as an employee or employer has to appeal a determination of
21 a benefit for the disability of the employee under the "Temporary
22 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and
23 any regulations adopted pursuant to the "Temporary Disability
24 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

25 f. In the event of a period of family temporary disability leave
26 of any individual covered under the State plan, the employer shall,
27 not later than the ninth day of the period of family temporary
28 disability leave, or not later than the ninth day after the employee
29 notifies the employer of an anticipated period of family temporary
30 disability leave pursuant to subsection h. of this section, whichever
31 comes first, including any time in which the employer provides sick
32 leave, vacation or other fully paid leave, issue to the individual and
33 to the division printed notices on division forms containing the
34 name, address and Social Security number of the individual, such
35 wage information as the division may require to determine the
36 individual's eligibility for benefits, including any sick pay, vacation
37 or other fully paid time off provided by the employer during the
38 period of family temporary disability leave, and the name, address,
39 and division identity number of the employer. Not later than 30
40 days after the commencement of the period of family temporary
41 disability leave for which the notice is furnished by the employer,
42 the individual shall furnish to the division a notice and claim for
43 family temporary disability leave benefits. Upon the submission of
44 the notices by the employer and the individual, and the
45 commencement of the compensable portion of the family temporary
46 disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), the
47 division may issue benefit payments. In the case of family
48 temporary disability leave taken to care for a family member with a

1 serious health condition, the benefits may be paid for periods not
2 exceeding three weeks pending the receipt of the certification
3 required pursuant to subsection b. of section 11 of P.L.2008, c.17
4 (C.43:21-39.2). Failure to furnish notice and certification in the
5 manner above provided shall not invalidate or reduce any claim if it
6 shall be shown to the satisfaction of the division not to have been
7 reasonably possible to furnish the notice and certification and that
8 the notice and certification was furnished as soon as reasonably
9 possible.

10 g. Each covered employer shall conspicuously post
11 notification, in a place or places accessible to all employees in each
12 of the employer's workplaces, in a form issued by regulation
13 promulgated by the commissioner, of each covered employee's
14 rights regarding benefits payable pursuant to this section. The
15 employer shall also provide each employee of the employer with a
16 written copy of the notification: (1) not later than 30 days after the
17 form of the notification is issued by regulation; (2) at the time of the
18 employee's hiring, if the employee is hired after the issuance; (3)
19 whenever the employee notifies the employer that the employee is
20 taking time off for circumstances under which the employee is
21 eligible for benefits pursuant to this section; and (4) at any time,
22 upon the first request of the employee.

23 h. With respect to any period of family temporary disability
24 leave commencing on or after October 4, 2019 if an individual
25 knows in advance when the period will commence, the individual
26 may notify the employer of the anticipated period of family
27 temporary disability leave and submit to the division a claim for
28 benefits for that period, which shall include a statement of when the
29 period will commence and any certification required pursuant to
30 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2), prior
31 to, but not more than 60 days prior to, the date that the period will
32 commence. The division shall process that claim immediately and,
33 upon finding that the claim is valid, shall pay the benefit upon the
34 commencement of the period of family temporary disability leave,
35 except that if the division receives the claim less than 30 days
36 before the commencement of the period, the division shall make the
37 payment not more than 30 days after the receipt of the claim. The
38 periods of family temporary disability leave to which the provisions
39 of this subsection apply shall include, but not be limited to, any of
40 the following if the commencement date of the leave is known in
41 advance: periods of leave for care of a child of the individual after
42 adoption, the placement of a child into foster care, or childbirth,
43 including childbirth under a valid agreement between the individual
44 and a gestational carrier; periods of leave for scheduled medical
45 procedures, treatments, or appointments for a family member of the
46 individual; and periods of leave for scheduled ongoing care of a
47 family member of the individual. If the individual did not establish
48 enough base weeks or have enough total earnings during the base

1 year preceding the week the individual submits the claim, the
2 division shall notify the individual that the individual may file the
3 claim again upon or after the commencement of the period of
4 family temporary disability leave and the division shall then
5 reconsider the individual's eligibility for benefits based on the base
6 year preceding the week in which the period of family temporary
7 disability leave commences.

8 (cf: P.L.2019, c.37, s.13)】¹

9
10 ¹【14. Section 24 of P.L.2019, c.37 (C.43:21-55.2) is amended to
11 read as follows:

12 24. a. An employer shall not discharge, harass, threaten, or
13 otherwise discriminate or retaliate against an employee with respect
14 to the compensation, terms, conditions, or privileges of employment
15 on the basis that the employee requested or took any temporary
16 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.),
17 or family temporary disability leave benefits pursuant to P.L.2008,
18 c.17 (C.43:21-39.1 et al.), including retaliation by refusing to
19 **【restore】** reinstate the employee to employment following a period
20 of leave【, except that, pursuant to section 2 of P.L.1948, c.110
21 (C.43:21-26), nothing in this section or any other section of
22 P.L.1948, c.110 (C.43:21-25 et al.) or P.L.2008, c.17 (C.43:21-39.1
23 et al.) shall be construed as increasing, reducing or otherwise
24 modifying any entitlement provided to a worker by the provisions
25 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) to
26 be restored to employment by the employer after a period of family
27 temporary disability leave】 in the position held when the leave
28 commenced or an equivalent position of like seniority, status,
29 employment benefits, pay and other terms and conditions of
30 employment, except that if, during period of leave, the employer
31 reduces the number of employees and that reduction would have
32 caused the employee to have been laid off if the employee had not
33 been on leave, the employee shall not be entitled to reinstatement,
34 but only if the employer notifies the employee of the employee's
35 right to file a claim for unemployment benefits after the leave
36 period ends as provided by paragraph (2) of subsection (c) of
37 R.S.43:21-19.

38 b. Upon a violation of subsection a. of this section, an
39 employee or former employee may, as an alternative to any action
40 that the employee is permitted to take for the violation pursuant to
41 the provisions of P.L.1948, c.110 (C.43:21-25 et al.), P.L.2008, c.17
42 (C.43:21-39.1 et al.), or the "Family Leave Act," P.L.1989, c.261
43 (C.34:11B-1 et seq.), institute a civil action in the Superior Court
44 for relief【. All】 in which all remedies available in common law
45 tort actions shall be available to a prevailing plaintiff. The court
46 may also order any or all of the following relief:

1 (1) an assessment of a civil fine of not less than \$1,000 and not
2 more than \$2,000 for the first violation of any of the provisions of
3 this section and not more than \$5,000 for each subsequent violation;

4 (2) an injunction to restrain the continued violation of any of the
5 provisions of this section;

6 (3) reinstatement of the employee to the same position or to a
7 position equivalent to that which the employee held prior to
8 unlawful discharge or retaliatory action;

9 (4) reinstatement of full fringe benefits and seniority rights;

10 (5) compensation for any lost wages, benefits and other
11 remuneration; and

12 (6) payment of reasonable costs and attorney's fees.

13 (cf: P.L.2019, c.37, s.24).¹

14
15 ¹**[15.] 11.**¹ This act shall take effect ³**[immediately¹]** on June
16 29, 2020³ **],** provided that:

17 a. in the case of any employer who becomes subject to the
18 provisions of P.L.1989, c.261 (C.34:11B-1 et seq.) because of the
19 provisions of paragraph (5) of subsection f. of section 3 of
20 P.L.1989, c.261 (C.34:11B-3), the provisions of P.L.1989, c.261
21 (C.34:11B-1 et seq.) shall apply to the employer only with respect
22 to periods of family leave which take place, in full or in part, after
23 the effective date of this act; and

24 b. in the case of any employer who becomes subject to the
25 provisions of section 24 of P.L.2019, c.37 (C.43:21-55.2) because
26 of the changes made in that section by P.L. ,

27 c. (C.)(pending before the Legislature as this bill) the
28 provisions of section 24 of P.L.2019, c.37 (C.43:21-55.2) shall
29 apply to the employer only with respect to periods of disability for
30 family temporary disability leave which take place, in full or in
31 part, after the effective date of this act¹.

32
33
34 _____
35
36 Concerns benefits provided to workers.