

[First Reprint]

ASSEMBLY, No. 822

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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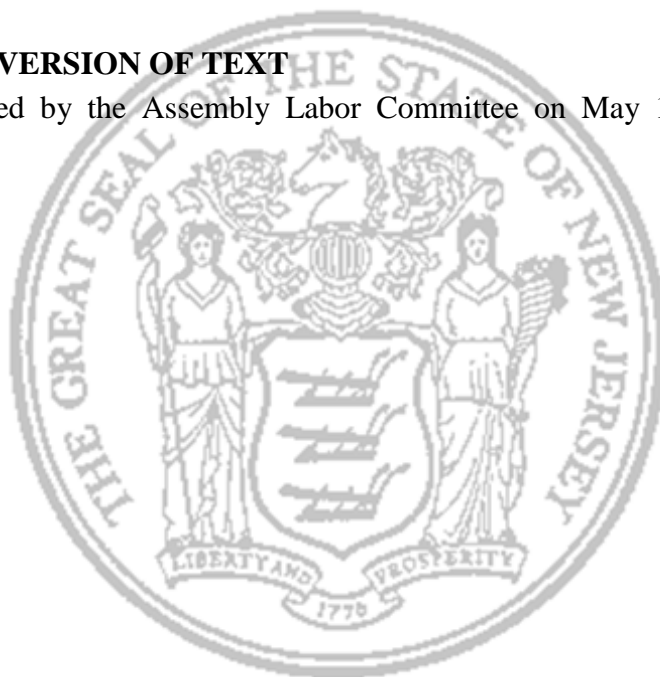
**Assemblyman Mukherji, Assemblywoman Sumter, Assemblyman Atkins,
Assemblywoman Jaffer and Assemblyman Spearman**

SYNOPSIS

Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on May 19, 2022, with amendments.



(Sponsorship Updated As Of: 9/22/2022)

1 AN ACT concerning the employment rights of domestic workers and
2 amending and supplementing various parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
9 such as in-home child care, house cleaning, home care, cooking,
10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
12 contribution to the State’s economy and prosperity, including but
13 not limited to, by providing support services that enable other
14 individuals to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and
16 persons of color who work in or about private homes, isolated from
17 other workers.

18 d. Since 2007, the National Domestic Workers Alliance
19 (NDWA) has advocated for respect for domestic workers by
20 including them in national, State, and local labor protection laws.
21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
22 Freehold, New Labor and Wind of the Spirit, in collaboration with
23 the Center for Women at Work at Rutgers University, released a
24 report which found low pay, lack of benefits, and rampant wage
25 theft occurs throughout the domestic worker industry, and that there
26 is a lack of enforcement regarding existing rights of domestic
27 workers.

28 e. At least 10 other states and two cities have enacted
29 legislation to provide rights, benefits, and protections for domestic
30 workers.

31 f. The Legislature therefore finds that it is in the best interest
32 of the State of New Jersey and its residents to provide rights,
33 benefits, and protections to the countless domestic workers
34 providing valuable services throughout the State.

35

36 2. (New section) As used in P.L. , c. (C.) (pending
37 before the Legislature as this bill):

38 “Casual work” means work that is:

39 (1) irregular, uncertain, or incidental in nature and duration; and

40 (2) different in nature from the type of paid work in which the
41 worker is customarily engaged.

42 “Domestic services” means services of a household nature and
43 performed by an individual in or about a private home on a permanent
44 or temporary basis, and includes services performed by a domestic
45 worker.

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 ALA committee amendments adopted May 19, 2022.

1 "Domestic worker" or "worker" means hourly and salaried
2 employees, independent contractors, full-time and part-time
3 individuals and temporary individuals and is narrowly construed to
4 mean any worker who:

5 (1) works for one or more employers; and
6 (2) is an individual who works in residence for the purposes of
7 providing any of the following services: caring for a child; serving as a
8 companion or caretaker for a sick, convalescing, or elderly person, or a
9 person with a disability; housekeeping or house cleaning; cooking;
10 providing food or butler service; parking cars; cleaning laundry;
11 gardening; personal organizing, or for any other domestic service
12 purpose; provided that the term domestic worker does not include:

13 (a) A family member, with "family member" meaning a spouse,
14 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
15 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
16 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
17 brother, or half sister, whether the individual is related by blood,
18 marriage, or adoption;

19 (b) An individual primarily engaged in house sitting, pet sitting, or
20 dog walking;

21 (c) An individual working at a business operated primarily out of
22 the residence, such as a home day-care business;

23 (d) An individual whose primary work involves household repair
24 or maintenance, such as a roofer, plumber, mason, painter or other
25 similar contractor;

26 (e) A home health care worker while they are paid through public
27 funds, such as a home health care worker while paid through
28 Medicaid or Medicare;

29 (f) An individual established as a kinship legal guardian, as
30 defined by section 2. of P.L.2001, c. 250 (C.3B:12A-2), of a child who
31 lives in the residence, or an individual who participates in the Kinship
32 Navigator Program, as authorized by the Department of Children and
33 Families, as a caregiver of a child who lives in the residence and
34 receives services provided by a kinship navigator service provider; or

35 (g) An individual less than 18 years of age.

36 "Department" means the Department of Labor and Workforce
37 Development.

38 "Employment agency" means any person or entity that procures, or
39 attempts to procure, directly or indirectly through placement in a
40 physical or virtual labor pool:

41 (1) employees, independent contractors, or domestic workers for
42 employers or companies seeking the services of employees,
43 independent contractors, or domestic workers; and

44 (2) after the procurement is complete, continues involvement in
45 the terms of exchange of domestic services with the employees,
46 independent contractors, or domestic workers through activities,
47 including, but not limited to:

1 (a) processing or distributing or withholding workers' payment
2 that the workers are owed from ¹["hiring entities"] employers¹ or
3 clients;

4 (b) levying fees, fines, or discipline for unsatisfactory worker
5 behavior that happened during an employment, independent contractor
6 engagement, or other job, including the termination of workers;

7 (c) rating workers on an ongoing basis and publicly sharing those
8 ratings to employers or clients;

9 (d) adjusting wages or payment based on ratings from employers
10 or clients; or

11 (e) other forms of continued involvement after procurement that
12 evidence ongoing control.

13 ¹["Hiring entity" means any employer, as defined in section 1 of
14 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker, and
15 also means any person, firm, business, partnership, association,
16 corporation, limited liability company, or other entity, including
17 referral, employment, and internet based or on-demand platforms, that
18 provides compensation directly or indirectly to a domestic worker for
19 the performance of domestic services and any person or persons acting
20 directly or indirectly in the interest of the employer in relation to the
21 domestic worker.]¹

22 "Live-in domestic worker" includes any individuals, who, as part
23 of their employment, reside in the personal residence of the ¹["hiring
24 entity"] employer.¹

25 "Referral agency" means any person or entity that procures, or
26 attempts to procure, directly or indirectly through placement in a
27 physical or virtual labor pool:

28 (1) employees, independent contractors, or domestic workers for
29 employers or companies seeking the services of employees,
30 independent contractors, or domestic workers; and

31 (2) after the procurement does not continue involvement in the
32 terms of exchange of domestic services with the employees,
33 independent contractors, or domestic workers in any way, with the
34 exception of the following:

35 (a) continuing to display or host or advertise, either through
36 physical means or virtual means, the workers' contact information, job
37 qualifications, resume, image, or digital profile which employers or
38 clients can use to independently contact employees, independent
39 contractors, or domestic workers about employment, independent
40 contractor engagement, or domestic workers about employment,
41 independent contractor engagements, or other jobs; or

42 (b) removing, either through physical means or virtual means, the
43 workers' contact information, job qualifications, resume, image, or
44 digital profile which employers or clients can use to independently
45 contact employees, upon the mandate of any federal, State, or local

46 "Wage" means compensation due to the work of a domestic
47 worker, payable in legal tender of the United States or checks on banks

1 convertible into cash on demand at full face value, subject to any
2 deductions, charges, or allowances as may be permitted by rules of the
3 department.

4 "Written" or "writing" means a printed or printable communication
5 in physical or electronic form, including a communication that is
6 transmitted through email, text message, or a computer system, or is
7 otherwise sent and maintained electronically.

8

9 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
10 follows:

11 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a different
12 meaning clearly appears from the context:

13 a. "Person" includes one or more individuals, partnerships,
14 associations, organizations, labor organizations, corporations, legal
15 representatives, trustees, trustees in bankruptcy, receivers, and
16 fiduciaries.

17 b. "Employment agency" **【**includes any person undertaking to
18 procure employees or opportunities for others to work**】** shall have the
19 same meaning as in section 2 of P.L. , c. (C.) (pending before
20 the Legislature as this bill).

21 c. "Labor organization" includes any organization which exists
22 and is constituted for the purpose, in whole or in part, of collective
23 bargaining, or of dealing with employers concerning grievances, terms
24 or conditions of employment, or of other mutual aid or protection in
25 connection with employment.

26 d. "Unlawful employment practice" and "unlawful
27 discrimination" include only those unlawful practices and acts
28 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

29 e. "Employer" includes all persons as defined in subsection a. of
30 this section ¹**【**and "hiring entities" as defined by section 2 of P.L. , c.
31 (C.) (pending before the Legislature as this bill).**】**¹ unless
32 otherwise specifically exempt under another section of P.L.1945, c.169
33 (C.10:5-1 et seq.), and includes the State, any political or civil
34 subdivision thereof, and all public officers, agencies, boards, or bodies.

35 f. **【**"Employee" does not include any individual employed in the
36 domestic service of any person.**】** (Deleted by amendment, P.L. , c.)
37 (pending before the Legislature as this bill)

38 g. "Liability for service in the Armed Forces of the United States"
39 means subject to being ordered as an individual or member of an
40 organized unit into active service in the Armed Forces of the United
41 States by reason of membership in the National Guard, naval militia or
42 a reserve component of the Armed Forces of the United States, or
43 subject to being inducted into such armed forces through a system of
44 national selective service.

45 h. "Division" means the "Division on Civil Rights" created by
46 P.L.1945, c.169 (C.10:5-1 et seq.).

- 1 i. "Attorney General" means the Attorney General of the State of
2 New Jersey or the Attorney General's representative or designee.
- 3 j. "Commission" means the Commission on Civil Rights created
4 by P.L.1945, c.169 (C.10:5-1 et seq.).
- 5 k. "Director" means the Director of the Division on Civil Rights.
- 6 l. "A place of public accommodation" shall include, but not be
7 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
8 camp, day camp, or resort camp, whether for entertainment of transient
9 guests or accommodation of those seeking health, recreation, or rest;
10 any producer, manufacturer, wholesaler, distributor, retail shop, store,
11 establishment, or concession dealing with goods or services of any
12 kind; any restaurant, eating house, or place where food is sold for
13 consumption on the premises; any place maintained for the sale of ice
14 cream, ice and fruit preparations or their derivatives, soda water or
15 confections, or where any beverages of any kind are retailed for
16 consumption on the premises; any garage, any public conveyance
17 operated on land or water or in the air or any stations and terminals
18 thereof; any bathhouse, boardwalk, or seashore accommodation; any
19 auditorium, meeting place, or hall; any theatre, motion-picture house,
20 music hall, roof garden, skating rink, swimming pool, amusement and
21 recreation park, fair, bowling alley, gymnasium, shooting gallery,
22 billiard and pool parlor, or other place of amusement; any comfort
23 station; any dispensary, clinic, or hospital; any public library; and any
24 kindergarten, primary and secondary school, trade or business school,
25 high school, academy, college and university, or any educational
26 institution under the supervision of the State Board of Education or the
27 Commissioner of Education of the State of New Jersey. Nothing
28 herein contained shall be construed to include or to apply to any
29 institution, bona fide club, or place of accommodation, which is in its
30 nature distinctly private; nor shall anything herein contained apply to
31 any educational facility operated or maintained by a bona fide
32 religious or sectarian institution, and the right of a natural parent or
33 one in loco parentis to direct the education and upbringing of a child
34 under his control is hereby affirmed; nor shall anything herein
35 contained be construed to bar any private secondary or post-secondary
36 school from using in good faith criteria other than race, creed, color,
37 national origin, ancestry, gender identity, or expression or affectional
38 or sexual orientation in the admission of students.
- 39 m. "A publicly assisted housing accommodation" shall include all
40 housing built with public funds or public assistance pursuant to
41 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
42 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
43 and all housing financed in whole or in part by a loan, whether or not
44 secured by a mortgage, the repayment of which is guaranteed or
45 insured by the federal government or any agency thereof.
- 46 n. The term "real property" includes real estate, lands, tenements
47 and hereditaments, corporeal and incorporeal, and leaseholds,
48 provided, however, that, except as to publicly assisted housing

1 accommodations, the provisions of this act shall not apply to the
2 rental: (1) of a single apartment or flat in a two-family dwelling, the
3 other occupancy unit of which is occupied by the owner as a residence;
4 or (2) of a room or rooms to another person or persons by the owner or
5 occupant of a one-family dwelling occupied by the owner or occupant
6 as a residence at the time of such rental. Nothing herein contained
7 shall be construed to bar any religious or denominational institution or
8 organization, or any organization operated for charitable or
9 educational purposes, which is operated, supervised, or controlled by
10 or in connection with a religious organization, in the sale, lease, or
11 rental of real property, from limiting admission to or giving preference
12 to persons of the same religion or denomination or from making such
13 selection as is calculated by such organization to promote the religious
14 principles for which it is established or maintained. Nor does any
15 provision under this act regarding discrimination on the basis of
16 familial status apply with respect to housing for older persons.

17 o. "Real estate broker" includes a person, firm, or corporation
18 who, for a fee, commission, or other valuable consideration, or by
19 reason of promise or reasonable expectation thereof, lists for sale,
20 sells, exchanges, buys or rents, or offers or attempts to negotiate a sale,
21 exchange, purchase, or rental of real estate or an interest therein, or
22 collects or offers or attempts to collect rent for the use of real estate, or
23 solicits for prospective purchasers or assists or directs in the procuring
24 of prospects or the negotiation or closing of any transaction which
25 does or is contemplated to result in the sale, exchange, leasing, renting,
26 or auctioning of any real estate, or negotiates, or offers or attempts or
27 agrees to negotiate a loan secured or to be secured by mortgage or
28 other encumbrance upon or transfer of any real estate for others; or any
29 person who, for pecuniary gain or expectation of pecuniary gain
30 conducts a public or private competitive sale of lands or any interest in
31 lands. In the sale of lots, the term "real estate broker" shall also
32 include any person, partnership, association, or corporation employed
33 by or on behalf of the owner or owners of lots or other parcels of real
34 estate, at a stated salary, or upon a commission, or upon a salary and
35 commission or otherwise, to sell such real estate, or any parts thereof,
36 in lots or other parcels, and who shall sell or exchange, or offer or
37 attempt or agree to negotiate the sale or exchange, of any such lot or
38 parcel of real estate.

39 p. "Real estate salesperson" includes any person who, for
40 compensation, valuable consideration or commission, or other thing of
41 value, or by reason of a promise or reasonable expectation thereof, is
42 employed by and operates under the supervision of a licensed real
43 estate broker to sell or offer to sell, buy or offer to buy or negotiate the
44 purchase, sale, or exchange of real estate, or offers or attempts to
45 negotiate a loan secured or to be secured by a mortgage or other
46 encumbrance upon or transfer of real estate, or to lease or rent, or offer
47 to lease or rent any real estate for others, or to collect rents for the use
48 of real estate, or to solicit for prospective purchasers or lessees of real

1 estate, or who is employed by a licensed real estate broker to sell or
2 offer to sell lots or other parcels of real estate, at a stated salary, or
3 upon a commission, or upon a salary and commission, or otherwise to
4 sell real estate, or any parts thereof, in lots or other parcels.

5 q. "Disability" means physical or sensory disability, infirmity,
6 malformation, or disfigurement which is caused by bodily injury, birth
7 defect, or illness including epilepsy and other seizure disorders, and
8 which shall include, but not be limited to, any degree of paralysis,
9 amputation, lack of physical coordination, blindness or visual
10 impairment, deafness or hearing impairment, muteness or speech
11 impairment, or physical reliance on a service or guide dog, wheelchair,
12 or other remedial appliance or device, or any mental, psychological, or
13 developmental disability, including autism spectrum disorders,
14 resulting from anatomical, psychological, physiological, or
15 neurological conditions which prevents the typical exercise of any
16 bodily or mental functions or is demonstrable, medically or
17 psychologically, by accepted clinical or laboratory diagnostic
18 techniques. Disability shall also mean AIDS or HIV infection.

19 r. "Blind person" or "person who is blind" means any individual
20 whose central visual acuity does not exceed 20/200 in the better eye
21 with correcting lens or whose visual acuity is better than 20/200 if
22 accompanied by a limit to the field of vision in the better eye to such a
23 degree that its widest diameter subtends an angle of no greater than 20
24 degrees.

25 s. "Guide dog" means a dog used to assist persons who are deaf,
26 or which is fitted with a special harness so as to be suitable as an aid to
27 the mobility of a person who is blind, and is used by a person who is
28 blind and has satisfactorily completed a specific course of training in
29 the use of such a dog, and has been trained by an organization
30 generally recognized by agencies involved in the rehabilitation of
31 persons with disabilities, including, but not limited to, those persons
32 who are blind or deaf, as reputable and competent to provide dogs with
33 training of this type.

34 t. "Guide or service dog trainer" means any person who is
35 employed by an organization generally recognized by agencies
36 involved in the rehabilitation of persons with disabilities, including,
37 but not limited to, those persons who are blind, have visual
38 impairments, or are deaf or have hearing impairments, as reputable and
39 competent to provide dogs with training, as defined in this section, and
40 who is actually involved in the training process.

41 u. "Housing accommodation" means any publicly assisted
42 housing accommodation or any real property, or portion thereof, which
43 is used or occupied, or is intended, arranged, or designed to be used or
44 occupied, as the home, residence, or sleeping place of one or more
45 persons, but shall not include any single family residence the
46 occupants of which rent, lease, or furnish for compensation not more
47 than one room therein.

- 1 v. "Public facility" means any place of public accommodation and
2 any street, highway, sidewalk, walkway, public building, and any other
3 place or structure to which the general public is regularly, normally, or
4 customarily permitted or invited.
- 5 w. "Deaf person" or "person who is deaf" means any person
6 whose hearing is so severely impaired that the person is unable to hear
7 and understand conversational speech through the unaided ear alone,
8 and who must depend primarily on an assistive listening device or
9 visual communication such as writing, lip reading, sign language, and
10 gestures.
- 11 x. "Atypical hereditary cellular or blood trait" means sickle cell
12 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
13 fibrosis trait.
- 14 y. "Sickle cell trait" means the condition wherein the major
15 natural hemoglobin components present in the blood of the individual
16 are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
17 defined by standard chemical and physical analytic techniques,
18 including electrophoresis; and the proportion of hemoglobin A is
19 greater than the proportion of hemoglobin S or one natural parent of
20 the individual is shown to have only normal hemoglobin components
21 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
22 proportions by standard chemical and physical analytic tests.
- 23 z. "Hemoglobin C trait" means the condition wherein the major
24 natural hemoglobin components present in the blood of the individual
25 are hemoglobin A (normal) and hemoglobin C as defined by standard
26 chemical and physical analytic techniques, including electrophoresis;
27 and the proportion of hemoglobin A is greater than the proportion of
28 hemoglobin C or one natural parent of the individual is shown to have
29 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
30 hemoglobin F) in normal proportions by standard chemical and
31 physical analytic tests.
- 32 aa. "Thalassemia trait" means the presence of the thalassemia gene
33 which in combination with another similar gene results in the chronic
34 hereditary disease Cooley's anemia.
- 35 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
36 which in combination with another similar gene results in the chronic
37 hereditary disease Tay-Sachs.
- 38 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
39 gene which in combination with another similar gene results in the
40 chronic hereditary disease cystic fibrosis.
- 41 dd. "Service dog" means any dog individually trained to the
42 requirements of a person with a disability including, but not limited to
43 minimal protection work, rescue work, pulling a wheelchair or
44 retrieving dropped items. This term shall include a "seizure dog"
45 trained to alert or otherwise assist persons with epilepsy or other
46 seizure disorders.
- 47 ee. "Qualified Medicaid applicant" means an individual who is a
48 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

- 1 ff. "AIDS" means acquired immune deficiency syndrome as
2 defined by the Centers for Disease Control and Prevention of the
3 United States Public Health Service.
- 4 gg. "HIV infection" means infection with the human
5 immunodeficiency virus or any other related virus identified as a
6 probable causative agent of AIDS.
- 7 hh. "Affectional or sexual orientation" means male or female
8 heterosexuality, homosexuality, or bisexuality by inclination, practice,
9 identity, or expression, having a history thereof or being perceived,
10 presumed, or identified by others as having such an orientation.
- 11 ii. "Heterosexuality" means affectional, emotional, or physical
12 attraction or behavior which is primarily directed towards persons of
13 the other gender.
- 14 jj. "Homosexuality" means affectional, emotional, or physical
15 attraction or behavior which is primarily directed towards persons of
16 the same gender.
- 17 kk. "Bisexuality" means affectional, emotional, or physical
18 attraction or behavior which is directed towards persons of either
19 gender.
- 20 ll. "Familial status" means being the natural parent of a child, the
21 adoptive parent of a child, the resource family parent of a child, having
22 a "parent and child relationship" with a child as defined by State law,
23 or having sole or joint legal or physical custody, care, guardianship, or
24 visitation with a child, or any person who is pregnant or is in the
25 process of securing legal custody of any individual who has not
26 attained the age of 18 years.
- 27 mm. "Housing for older persons" means housing:
- 28 (1) provided under any State program that the Attorney General
29 determines is specifically designed and operated to assist persons who
30 are elderly (as defined in the State program); or provided under any
31 federal program that the United States Department of Housing and
32 Urban Development determines is specifically designed and operated
33 to assist persons who are elderly (as defined in the federal program); or
34 (2) intended for, and solely occupied by, persons 62 years of age
35 or older; or
- 36 (3) intended and operated for occupancy by at least one person 55
37 years of age or older per unit. In determining whether housing
38 qualifies as housing for older persons under this paragraph, the
39 Attorney General shall adopt regulations which require at least the
40 following factors:
- 41 (a) the existence of significant facilities and services specifically
42 designed to meet the physical or social needs of older persons, or if the
43 provision of such facilities and services is not practicable, that such
44 housing is necessary to provide important housing opportunities for
45 older persons; and
- 46 (b) that at least 80 percent of the units are occupied by at least one
47 person 55 years of age or older per unit; and

1 (c) the publication of, and adherence to, policies and procedures
2 which demonstrate an intent by the owner or manager to provide
3 housing for persons 55 years of age or older.

4 Housing shall not fail to meet the requirements for housing for
5 older persons by reason of: persons residing in such housing as of
6 September 13, 1988 not meeting the age requirements of this
7 subsection, provided that new occupants of such housing meet the age
8 requirements of this subsection; or unoccupied units, provided that
9 such units are reserved for occupancy by persons who meet the age
10 requirements of this subsection.

11 nn. "Genetic characteristic" means any inherited gene or
12 chromosome, or alteration thereof, that is scientifically or medically
13 believed to predispose an individual to a disease, disorder, or
14 syndrome, or to be associated with a statistically significant increased
15 risk of development of a disease, disorder, or syndrome.

16 oo. "Genetic information" means the information about genes,
17 gene products, or inherited characteristics that may derive from an
18 individual or family member.

19 pp. "Genetic test" means a test for determining the presence or
20 absence of an inherited genetic characteristic in an individual,
21 including tests of nucleic acids such as DNA, RNA, and mitochondrial
22 DNA, chromosomes, or proteins in order to identify a predisposing
23 genetic characteristic.

24 qq. "Domestic partnership" means a domestic partnership
25 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

26 rr. "Gender identity or expression" means having or being
27 perceived as having a gender related identity or expression whether or
28 not stereotypically associated with a person's assigned sex at birth.

29 ss. "Civil Union" means a legally recognized union of two eligible
30 individuals established pursuant to R.S.37:1-1 et seq. and P.L.2006,
31 c.103 (C.37:1-28 et al.).

32 tt. "Premium wages" means additional remuneration for night,
33 weekend, or holiday work, or for standby or irregular duty.

34 uu. "Premium benefit" means an employment benefit, such as
35 seniority, group life insurance, health insurance, disability insurance,
36 sick leave, annual leave, or an educational or pension benefit that is
37 greater than the employment benefit due the employee for an
38 equivalent period of work performed during the regular work schedule
39 of the employee.

40 vv. "Race" is inclusive of traits historically associated with race,
41 including, but not limited to, hair texture, hair types, and protective
42 hairstyles.

43 ww. "Protective hairstyles" includes, but is not limited to, such
44 hairstyles as braids, locks, and twists.

45 xx. "Family member" means a child, parent, parent-in-law, sibling,
46 grandparent, grandchild, spouse, partner in a civil union couple,
47 domestic partner, or any other individual related by blood to the
48 person, and any other individual that the person shows to have a close

1 association with the person which is the equivalent of a family
2 relationship.

3 (cf: P.L.2019, c.436, s.2)

4

5 4. Section 2 of P.L.1965, c.154 (C.34:6A-2) is amended to read as
6 follows:

7 2. The following terms wherever used or referred to in this act
8 shall have the following meaning:

9 (a) "Act" means this act and rules and regulations promulgated
10 hereunder.

11 (b) "Board" means the Industrial Safety Board established under
12 this act.

13 (c) "Bureau" means the Bureau of Engineering and Safety in the
14 Division of Labor, Department of Labor and Industry established
15 under this act.

16 (d) "Commissioner" means the Commissioner of the Department
17 of Labor and Industry or his authorized representatives.

18 (e) "Committee" means the New Jersey State Industrial Safety
19 Committee established under this act.

20 (f) "Department" means the Department of Labor and Industry.

21 (g) "Employee" means any person engaged in service to an
22 employer for wages, salary or other compensation.

23 (h) "Employer" means any person or corporation, partnership,
24 individual proprietorship, joint venture, firm, company or other similar
25 legal entity who engages the services of an employee and who pays his
26 wages, salary, or other compensation; and any person exercising
27 supervision of employees on an employer's behalf ¹]; and includes all
28 "hiring entities" as defined by section 2 of P.L. , c. (C.)
29 (pending before the Legislature as this bill)]¹.

30 (i) "Owner" means the person possessing legal or equitable title.
31 For the purposes of this act "Person possessing equitable title" shall
32 mean that person or corporation, partnership, individual proprietorship,
33 joint venture, firm, company or other legal entity that has actual
34 control over the premises used in whole or in part as a place of
35 employment.

36 (j) "Place of employment" means any building or other premises
37 occupied by an employer in or about which an employee customarily
38 is suffered or permitted to work.

39 (k) "Domestic worker" means all persons defined as a domestic
40 worker by section 2 of P.L. , c. (C.) (pending before the
41 Legislature as bill).

42 (cf: P.L.1965, c.154, s.2)

43

44 5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to read as
45 follows:

46 6. a. The commissioner shall enforce the provisions of this act,
47 make complaints against persons violating its provisions and prosecute
48 violations of the same.

1 b. The commissioner shall have the power and authority, without
2 notice or delay during regular working hours or other reasonable
3 hours within reasonable limits and in a reasonable manner, to enter
4 and inspect any place of employment and all pertinent conditions,
5 structures, machinery, apparatus, devices, equipment and materials
6 and to question privately the owner and any employer or employee.

7 c. In the case where the ¹【place of employment is a residential
8 dwelling and the employee is a domestic worker】 employer is an
9 individual or group of individuals and the place of employment is the
10 employer's residential dwelling¹, the commissioner or the
11 commissioner's authorized representative shall initiate telephone
12 contact with the ¹【hiring entity】 employer¹ as soon as possible, but
13 not later than 14 calendar days after receipt of a complaint charging a
14 violation.

15 When telephone contact is successfully made, the commissioner or
16 the authorized representative shall:

17 (1) Notify the ¹【hiring entity】 employer¹ of the existence of any
18 alleged unsafe or unhealthful condition;

19 (2) Describe the alleged hazard and any specific regulatory
20 standard alleged to have been violated;

21 (3) Inform the ¹【hiring entity】 employer¹ that the ¹【entity】
22 employer¹ is required to investigate and abate any hazard discovered
23 during the investigation regarding violations of section 3 of P.L.1965,
24 c.154 (C.34:6A-3);

25 (4) Inform the ¹【hiring entity】 employer¹ by letter sent by
26 facsimile or email, or by certified mail if the employer cannot receive
27 facsimile or email, of each alleged hazard and each specific allegation
28 of a violation of a standard;

29 (5) Inform the ¹【hiring entity】 employer¹ that if the department
30 determines that the ¹【hiring entity's】 employer's¹ response is
31 unsatisfactory for any reason, the department shall seek permission
32 from the ¹【hiring entity】 employer¹ to enter the residential dwelling to
33 investigate the matter, and if permission is denied, may secure an
34 inspection warrant to conduct an onsite inspection of the residential
35 dwelling; and

36 (6) Provide the complainant with copies of the law and regulations
37 alleged to have been violated, the department's letter to the employer,
38 and all subsequent correspondence concerning the investigation of any
39 alleged hazards;

40 d. ¹【A hiring entity】 An employer¹ subject to investigation shall:

41 (1) Provide the department, within 14 days of the ¹【hiring
42 entity's】 employer's¹ receipt of the department's letter, a response
43 describing the results of the employer's investigation of the alleged
44 hazard and a description of all actions taken, in the process of being
45 taken, or planned to be taken, by the ¹【hiring entity】 employer¹ to
46 abate the alleged hazard;

1 (2) Provide a copy of the commissioner or the commissioner's
2 authorized representative's letter to the domestic worker, and all
3 subsequent correspondence from and to the ¹["hiring entity"] employer¹
4 to the affected domestic worker, or prominently post the letter and
5 correspondence in the method prescribed by letter sent pursuant to
6 subsection c. of this section regarding each alleged hazard and each
7 specific standard to have been violated;

8 e. For complaints alleging serious illness or injury or death while
9 performing domestic services as defined by section 2 of P.L. , c.
10 (C.) (pending before the Legislature as this bill), the
11 commissioner or the authorized representative may enter the premises
12 with permission or with an inspection warrant issued pursuant to
13 subsection b. of this section without first initiating the telephone
14 contact described in subsection c. of this section.

15 f. Notwithstanding any other provision of this chapter to the
16 contrary, investigations of complaints in domestic services as defined
17 by section 2 of P.L. , c. (C.) (pending before the Legislature
18 as this bill), shall be conducted in a manner to avoid any unwarranted
19 invasion of personal privacy and shall not contain any personal,
20 financial, or medical information of the individuals residing in the
21 residential dwelling that is not pertinent to the investigation of the
22 complaint.

23 g. No person shall obstruct, hinder or delay or interfere with by
24 force or otherwise the performance by the commissioner of any duty
25 under the provisions of this act.

26 (cf: P.L.1973, c.259, s.1)

27
28 6. Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to read as
29 follows:

30 9. The commissioner shall make and promulgate rules and
31 regulations reasonably necessary to implement the purposes of this act.
32 Such rules and regulations shall have the force and effect of law and
33 shall be enforced in the manner provided in this act.

34 The commissioner shall ¹["make and promulgate rules to ensure the
35 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to the
36 hiring entities of domestic workers. These rules shall include the
37 establishment of a mechanism to receive complaints within the
38 department that prompts inspections by the commissioner in
39 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6)"] provide for
40 the adoption of all applicable occupational standards, amendments, or
41 changes adopted or recognized by the Secretary of Labor under the
42 authority of the "Occupational Safety and Health Act of 1970," which
43 shall be applicable to domestic workers employed by individuals in the
44 residences of the individuals¹.

45 Buildings or other structures in use on the effective date of this act
46 as a place of employment other than a place where the manufacturing
47 of goods of any kind is carried on shall not be made to comply with
48 the requirements of rules and regulations promulgated hereunder

1 substantially affecting such building or other structures unless such
2 compliance is essential to correct an unsafe or unhealthful condition
3 which constitutes a serious and substantial threat to the health or
4 safety of employees.

5 The commissioner shall before promulgation furnish a copy of
6 proposed rules and regulations to the members of the committee for its
7 review and recommendations. Within 90 days of the receipt of said
8 proposed rules and regulations the committee shall provide the
9 commissioner and the board with its written recommendations.
10 Following receipt of the committee's recommendations or upon the
11 expiration of 90 days, the commissioner shall furnish to every member
12 of the board a copy of the proposed rules and regulations with or
13 without change in his discretion and at the same time a notice of intent
14 to promulgate proposed rules and regulations shall be published by the
15 commissioner. This notice of intent shall state briefly the purpose of
16 the proposed rules and regulations, shall state that a copy of the
17 proposed rules and regulations may be obtained by any person upon
18 written request to the department, and shall fix the date, time and place
19 for a public hearing on the proposed rules and regulations, which date
20 shall be not less than 21 days after the publication of the notice. All
21 person appearing at such hearing shall be given the opportunity to be
22 heard. Rules and regulations, as so proposed or as changed by the
23 commissioner after such hearing, may be promulgated by the
24 commissioner 90 days following delivery to the board to be effective
25 on such date as the rules and regulations shall provide unless
26 disapproved by a majority of the board and if so disapproved such
27 rules or regulations shall not become effective. Within 30 days after
28 the public hearing and on 30 days' notice the commissioner shall call a
29 meeting of the board for the purpose of discussing the proposed rules
30 and regulations. If any changes were made in the proposed rules or
31 regulations following the public hearing, a copy of such change shall
32 accompany such notice. At any meeting called for such purpose
33 disapproval shall be by vote of the majority of the members of the
34 board.

35 (cf: P.L.1965, c.154, s.9)

36

37 7. Section 19 of P.L.1965, c.154 (C.34:6A-19) is amended to
38 read as follows:

39 19. Any person violating any of the provisions of this act shall
40 be liable to a penalty of not less than **【\$25.00】** \$975 nor more than
41 **【\$500.00】** \$13,653 to be collected in a civil action by a summary
42 proceeding under the Penalty Enforcement Law **【(N.J.S. 2A:58-1)】**
43 of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding
44 the penalties prescribed in this section, the penalty amounts shall be
45 subject to adjustment by the commissioner to remain consistent
46 with the federal Occupational Safety and Health Act of 1970 (29
47 U.S.C. s. 651 et seq.). 50 percent of the sum collected as a penalty
48 pursuant to this subsection shall be provided to the employee

1 harmed by violation. Any violation of the act by an officer, agent or
 2 employee shall also be a violation of the act by his employer if such
 3 employer had knowledge of and actual control over the cause of
 4 such violation. Where the violation is of a continuing nature each
 5 day during which it continues, after the date given by which the
 6 violation must be eliminated in the order by the commissioner, shall
 7 constitute an additional, separate and distinct offense, except during
 8 the time an appeal from said order may be taken or is pending.

9 The commissioner is hereby authorized and empowered to
 10 compromise and settle any claim for a penalty under this section in
 11 such amount in the discretion of the commissioner as may appear
 12 appropriate and equitable under all of the circumstances.

13 Nothing in this subsection shall affect the rights of employees or
 14 any remedies available to employees provided by section 5 of
 15 P.L.1986, c.105 (C.34:19-5) or any other provision of law.

16 (cf: P.L.1965 c.154, s.19)

17
 18 8. Section 22 of P.L.1965, c.154 (C.34:6A-22) is amended to read
 19 as follows:

20 22. This act is not intended to apply and shall not apply to the
 21 following:

22 (a) Places of employment under the exclusive jurisdiction of the
 23 Federal Government with respect to the health and safety of
 24 employees;

25 (b) Places of employment subject to the provisions of the Mine
 26 Safety Act, P.L.1954, c. 197;

27 (c) Employment and places of employment subject to the
 28 provisions of the Construction Safety Act, P.L.1962, c. 45;

29 (d) **【Domestic employment;】** (Deleted by amendment, P.L. , c.)
 30 (pending before the Legislature as this bill)

31 (e) Transportation equipment coming under the jurisdiction of the
 32 Interstate Commerce Commission, Federal Aviation Administration,
 33 or of the New Jersey Division of Motor Vehicles;

34 (f) **【Institutions requiring a license issued by the Department of**
 35 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**
 36 (Deleted by amendment, P.L. , c.) (pending before the Legislature
 37 as this bill)

38 (g) Schools, colleges and universities;

39 (h) Places of employment with fewer than 4 employees, except
 40 places of employment ¹**【of】** by individuals for¹ domestic services¹ in
 41 the residences of the individuals¹; employment in which the
 42 manufacturing of goods of any kind is carried on; and except as
 43 hereinafter provided in paragraph (o) of this section;

44 (i) Agricultural employment;

45 (j) Banks and other financial institutions;

46 (k) Places of employment in which the employees are primarily
 47 engaged in office operations and buildings under the actual control of

1 one employer and in which the employees are primarily engaged in
2 office operations or laboratories primarily engaged in research,
3 development, or testing conducted on premises, in separate buildings,
4 or in building sections devoted exclusively to these operations;

5 (l) Public utilities which own, operate, manage or control any
6 autobus, canal, express, railroad, street railway, traction railway,
7 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
8 telephone or telegraph system, plant or equipment for public use,
9 under privileges granted by the State or by any political subdivision
10 thereof, with respect to work operations performed in connection with
11 the plant or facilities of such public utility located in the public streets
12 and highways, roads and alleys, private rights-of-way, or upon their
13 customers' premises;

14 (m) Liquefied petroleum gas bulk plants and facilities subject to
15 the jurisdiction and supervision of the Superintendent of State Police,
16 pursuant to chapter 139 of the laws of 1950 (N.J.S.A. 21:1B-1 to
17 21:1B-8);

18 (n) Natural gas pipeline utilities subject to the provisions of the
19 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to 48:10-
20 9); and

21 (o) Establishments with fewer than 10 employees and which are
22 devoted exclusively to the sale of goods, or furnishing of services, at
23 retail.

24 (cf: P.L.1965, c.154, s.22)

25

26 ¹[9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
27 read as follows:

28 2. As used in this act:

29 (a) "Commissioner" means the Commissioner of Labor and
30 Workforce Development.

31 (b) "Director" means the director in charge of the bureau
32 referred to in section 3 of this act.

33 (c) "Wage board" means a board created as provided in section
34 10 of this act.

35 (d) "Wages" means any moneys due an employee from an
36 employer for services rendered or made available by the employee
37 to the employer as a result of their employment relationship
38 including commissions, bonus and piecework compensation and
39 including the fair value of any food or lodgings supplied by an
40 employer to an employee, and, until December 31, 2018, "wages"
41 includes any gratuities received by an employee for services
42 rendered for an employer or a customer of an employer. The
43 commissioner may, by regulation, establish the average value of
44 gratuities received by an employee in any occupation and the fair
45 value of food and lodging provided to employees in any occupation,
46 which average values shall be acceptable for the purposes of
47 determining compliance with this act in the absence of evidence of
48 the actual value of such items.

- 1 (e) "Regular hourly wage" means the amount that an employee
2 is regularly paid for each hour of work as determined by dividing
3 the total hours of work during the week into the employee's total
4 earnings for the week, exclusive of overtime premium pay.
- 5 (f) "Employ" includes to suffer or to permit to work.
- 6 (g) "Employer" includes any individual, partnership,
7 association, corporation, and the State and any county,
8 municipality, or school district in the State, or any agency,
9 authority, department, bureau, or instrumentality thereof, or any
10 person or group of persons acting directly or indirectly in the
11 interest of an employer in relation to an employee, and includes
12 "hiring entities" as defined in section 2 of P.L. , c. (C.)
13 (pending before the Legislature as this bill).
- 14 (h) "Employee" includes any individual employed by an
15 employer.
- 16 (i) "Occupation" means any occupation, service, trade,
17 business, industry or branch or group of industries or employment
18 or class of employment in which employees are gainfully employed.
- 19 (j) "Minimum fair wage order" means a wage order
20 promulgated pursuant to this act.
- 21 (k) "Fair wage" means a wage fairly and reasonably
22 commensurate with the value of the service or class of service
23 rendered and sufficient to meet the minimum cost of living
24 necessary for health.
- 25 (l) "Oppressive and unreasonable wage" means a wage which is
26 both less than the fair and reasonable value of the service rendered
27 and less than sufficient to meet the minimum cost of living
28 necessary for health.
- 29 (m) "Limousine" means a motor vehicle used in the business of
30 carrying passengers for hire to provide prearranged passenger
31 transportation at a premium fare on a dedicated, nonscheduled,
32 charter basis that is not conducted on a regular route and with a
33 seating capacity in no event of more than 14 passengers, not
34 including the driver, provided, that such a motor vehicle shall not
35 have a seating capacity in excess of four passengers, not including
36 the driver, beyond the maximum passenger seating capacity of the
37 vehicle, not including the driver, at the time of manufacture.
38 "Limousine" shall not include taxicabs, hotel or airport shuttles and
39 buses, buses employed solely in transporting school children or
40 teachers to and from school, vehicles owned and operated directly
41 or indirectly by businesses engaged in the practice of mortuary
42 science when those vehicles are used exclusively for providing
43 transportation related to the provision of funeral services or vehicles
44 owned and operated without charge or remuneration by a business
45 entity for its own purposes.
- 46 (n) "Seasonal employment" means employment during a year by
47 an employer that is a seasonal employer, or employment by a non-
48 profit or government entity of an individual who is not employed by

1 that employer outside of the period of that year commencing on
2 May 1 and ending September 30, or employment by a governmental
3 entity in a recreational program or service during the period
4 commencing on May 1 and ending September 30, except that
5 "seasonal employment" does not include employment of employees
6 engaged to labor on a farm on either a piece-rate or regular hourly
7 rate basis.

8 (o) "Seasonal employer" means an employer who exclusively
9 provides its services in a continuous period of not more than ten
10 weeks during the months of June, July, August, and September, or
11 an employer for which, during the immediately previous calendar
12 year, not less than two thirds of the employer's gross receipts were
13 received in a continuous period of not more than sixteen weeks or
14 for which not less than 75 percent of the wages paid by the
15 employer during the immediately preceding year were paid for work
16 performed during a single calendar quarter.

17 (p) "Small employer" means any employer who employed less
18 than six employees for every working day during each of a majority
19 of the calendar workweeks in the current calendar year and less than
20 six employees for every working day during not less than 48
21 calendar workweeks in the preceding calendar year, except that, if
22 the employer was newly established during the preceding calendar
23 year, the employer shall be regarded as a "small employer" if the
24 employer employed less than six employees for every working day
25 during all of the weeks of that year, and during a majority of the
26 calendar workweeks in the current calendar year, and, if the
27 employer is newly established during the current calendar year, the
28 employer shall be regarded as a "small employer" if the employer
29 employed less than six employees for every working day during a
30 majority of the calendar workweeks in the current calendar year.

31 (q) "Long-term care facility direct care staff member" means
32 any health care professional licensed or certified pursuant to Title
33 26 or Title 45 of the Revised Statutes who is employed by a long-
34 term care facility and who provides personal care, assistance, or
35 treatment services directly to residents of the facility in the course
36 of the professional's regular duties.

37 (cf: P.L.2020, c.89, s.1)]¹

38

39 ¹**[10.] 9.** Section 5 of P.L.1966, c.113 (C.34:11-56a4) is
40 amended to read as follows:

41 5. a. Except as provided in subsections c., d., e. g., and i. of
42 this section, each employer shall pay to each of his employees
43 wages at a rate of not less than \$8.85 per hour as of January 1, 2019
44 and, on January 1 of 2020 and January 1 of each subsequent year,
45 the minimum wage shall be increased by any increase in the
46 consumer price index for all urban wage earners and clerical
47 workers (CPI-W) as calculated by the federal government for the 12
48 months prior to the September 30 preceding that January 1, except

1 that any of the following rates shall apply if it exceeds the rate
2 determined in accordance with the applicable increase in the CPI-W
3 for the indicated year: on July 1, 2019, the minimum wage shall be
4 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
5 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,
6 inclusive, the minimum wage shall be increased from the rate of the
7 preceding year by \$1.00 per hour. If the federal minimum hourly
8 wage rate set by section 6 of the federal "Fair Labor Standards Act
9 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
10 level higher than the State minimum wage rate set by this
11 subsection, then the State minimum wage rate shall be increased to
12 the level of the federal minimum wage rate and subsequent
13 increases based on increases in the CPI-W pursuant to this section
14 shall be applied to the higher minimum wage rate. If an applicable
15 wage order has been issued by the commissioner under section 17
16 (C.34:11-56a16) of this act, the employer shall also pay not less
17 than the wages prescribed in said order. The wage rates fixed in
18 this section shall not be applicable to [part-time employees
19 primarily engaged in the care and tending of children in the home of
20 the employer, to] persons under the age of 18 not possessing a
21 special vocational school graduate permit issued pursuant to section
22 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
23 salesmen of motor vehicles, or to persons employed as outside
24 salesmen as such terms shall be defined and delimited in regulations
25 adopted by the commissioner, or to persons employed in a volunteer
26 capacity and receiving only incidental benefits at a county or other
27 agricultural fair by a nonprofit or religious corporation or a
28 nonprofit or religious association which conducts or participates in
29 that fair.

30 b. (1) An employer shall also pay each employee not less than
31 1 1/2 times such employee's regular hourly rate for each hour of
32 working time in excess of 40 hours in any week, except that this
33 overtime rate shall not apply: to any individual employed in a bona
34 fide executive, administrative, or professional capacity; or to
35 employees engaged to labor on a farm or employed in a hotel; or to
36 an employee of a common carrier of passengers by motor bus; or to
37 a limousine driver who is an employee of an employer engaged in
38 the business of operating limousines; or to employees engaged in
39 labor relative to the raising or care of livestock.

40 (2) Employees engaged on a piece-rate or regular hourly rate
41 basis to labor on a farm shall be paid for each day worked not less
42 than the applicable minimum hourly wage rate multiplied by the
43 total number of hours worked.

44 (3) Full-time students may be employed by the college or
45 university at which they are enrolled at not less than 85% of the
46 effective applicable minimum wage rate.

47 c. Employees of a small employer, and employees who are
48 engaged in seasonal employment, except for employees who

1 customarily and regularly receive gratuities or tips who shall be
2 subject to the provisions of subsections a. and d. of this section,
3 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1
4 of 2020 and January 1 of each subsequent year, that minimum wage
5 rate shall be increased by any increase in the consumer price index
6 for all urban wage earners and clerical workers (CPI-W) as
7 calculated by the federal government for the 12 months prior to the
8 September 30 preceding that January 1, except that any of the
9 following rates shall apply if it exceeds the rate determined in
10 accordance with the applicable increase in the CPI-W for the
11 indicated year: on January 1, 2020, the minimum wage shall be
12 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,
13 inclusive, the minimum wage shall be increased from the rate of the
14 preceding year by eighty cents per hour, and, in 2026, the minimum
15 wage shall be increased from the rate of the preceding year by
16 seventy cents per hour, and, in each year from 2027 to 2028
17 inclusive, the minimum wage for employees subject to this
18 subsection c. shall be increased by the same amount as the increase
19 for employees subject to subsection a. of this section based on CPI-
20 W increases, plus one half of the difference between \$15.00 per
21 hour and the minimum wage in effect in 2026 for employees
22 pursuant to subsection a. of this section, so that, by 2028, the
23 minimum wage for employees subject to this subsection shall be the
24 same as the minimum wage in effect for employees subject to
25 subsection a. of this section. If the federal minimum hourly wage
26 rate set by section 6 of the federal "Fair Labor Standards Act of
27 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
28 level higher than the State minimum wage rate set by this
29 subsection, then the State minimum wage rate shall be increased to
30 the level of the federal minimum wage rate and subsequent
31 increases based on increases in the CPI-W pursuant to this
32 subsection shall be applied to the higher minimum wage rate.

33 d. Employees engaged on a piece-rate or regular hourly rate
34 basis to labor on a farm shall be paid \$8.85 per hour as of January
35 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent
36 year, that minimum wage rate shall be increased by any increase in
37 the consumer price index for all urban wage earners and clerical
38 workers (CPI-W) as calculated by the federal government for the 12
39 months prior to the September 30 preceding that January 1, except
40 that any of the following rates shall apply if it exceeds the rate
41 determined in accordance with the applicable increase in the CPI-W
42 for the indicated year:

43 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
44 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
45 hour; and on January 1 of each year from 2023 to 2024, inclusive,
46 the minimum wage shall be increased from the rate of the preceding
47 year by eighty cents per hour; and

1 (2) subject to the provisions of paragraph (3) of this subsection
2 d., minimum wage rates shall be increased as follows: on January 1
3 of 2025, the minimum wage shall be increased to \$13.40, and on
4 January 1 of each year from 2026 to 2027, inclusive, the minimum
5 wage shall be increased from the rate of the preceding year by
6 eighty cents per hour, and, in each year from 2028 to 2030
7 inclusive, the minimum wage for employees subject to this
8 subsection d. shall be increased during that year by the same
9 amount as the increase in that year for employees subject to
10 subsection a. of this section based on CPI-W increases, plus one
11 third of the difference between \$15.00 per hour and the minimum
12 wage in effect in 2027 for employees pursuant to subsection a. of
13 this section, so that, by 2030, the minimum wage for employees
14 subject to this subsection shall be the same as the minimum wage in
15 effect for employees subject to subsection a. of this section.

16 (3) Not later than March 31, 2024, the commissioner and the
17 Secretary of Agriculture shall review the report issued by the
18 commissioner pursuant to subsection b. of section 4 of P.L.2019,
19 c.32 (C.34:11-56a4.10) and shall consider any information provided
20 by the secretary regarding the impact on farm employers and the
21 viability of the State's agricultural industry of the increases of the
22 minimum wage made pursuant to paragraph (1) of this subsection,
23 and the potential impact of the increases which would be set by
24 paragraph (2) of this subsection, including comparisons with the
25 wage rates in the agricultural industries in other states, and shall
26 recommend: approval of the increases set forth in paragraph (2) of
27 this subsection; disapproval of the increases set forth in paragraph
28 (2) of this subsection; or an alternative manner of changing the
29 minimum wage after 2024 for employees engaged on a piece-rate or
30 regular hourly rate basis to labor on a farm. In contemplation of the
31 possibility that the commissioner and the secretary are unable to
32 agree on the recommendation required by this paragraph, by
33 December 31, 2021, the Governor shall appoint a public member
34 subject to advice and consent by the Senate, who will serve as a tie-
35 breaking member if needed. The increases set forth in paragraph
36 (2) of this subsection shall take effect unless there is a
37 recommendation pursuant to this paragraph to disapprove the
38 increases or for an alternative manner of changing the minimum
39 wage after 2024 for employees engaged on a piece-rate or regular
40 hourly rate basis to labor on a farm and the Legislature, not later
41 than June 30, 2024, enacts a concurrent resolution approving the
42 implementation of that recommendation. Beginning in 2024, the
43 commissioner, secretary, and public member shall meet biennially
44 to make either a one or two year recommendation to the Legislature
45 for implementation by way of concurrent resolution.

46 (4) If the federal minimum hourly wage rate set by section 6 of
47 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
48 a successor federal law, is raised to a level higher than the State

1 minimum wage rate set by this subsection, then the State minimum
2 wage rate shall be increased to the level of the federal minimum
3 wage rate and subsequent increases based on increases in the CPI-
4 W pursuant to this subsection shall be applied to the higher
5 minimum wage rate.

6 e. With respect to an employee who customarily and regularly
7 receives gratuities or tips, every employer is entitled to a credit for
8 the gratuities or tips received by the employee against the hourly
9 wage rate that would otherwise be paid to the employee pursuant to
10 subsection a. of this section of the following amounts: after
11 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
12 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
13 calendar years 2020, 2021 and 2022, \$7.87 per hour; during
14 calendar year 2023, \$8.87 per hour; and during calendar year 2024
15 and subsequent calendar years, \$9.87 per hour.

16 f. Notwithstanding the provisions of this section to the
17 contrary, every trucking industry employer shall pay to all drivers,
18 helpers, loaders and mechanics for whom the Secretary of
19 Transportation may prescribe maximum hours of work for the safe
20 operation of vehicles, pursuant to section 31502(b) of the federal
21 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
22 than 1 1/2 times the minimum wage required pursuant to this
23 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
24 industry shall be paid no less than the minimum wage rate as
25 provided in this section and N.J.A.C. 12:56-3.1. As used in this
26 section, "trucking industry employer" means any business or
27 establishment primarily operating for the purpose of conveying
28 property from one place to another by road or highway, including
29 the storage and warehousing of goods and property. Such an
30 employer shall also be subject to the jurisdiction of the Secretary of
31 Transportation pursuant to the federal Motor Carrier Act, 49
32 U.S.C.s.31501 et seq., whose employees are exempt under section
33 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
34 U.S.C. s.213(b)(1), which provides an exemption to employees
35 regulated by section 207 of the federal "Fair Labor Standards Act of
36 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
37 U.S.C. s.501 et al.

38 g. Commencing on January 1, 2020, a training wage of not less
39 than 90 percent of the minimum wage rate otherwise set pursuant to
40 subsection a. of this section may be paid to an employee who is
41 enrolled in an established employer on-the-job or other training
42 program which meets standards set by regulations adopted by the
43 commissioner. The period during which an employer may pay the
44 training wage to the employee shall be the first 120 hours of work
45 after hiring the employee in employment in an occupation in which
46 the employee has no previous similar or related experience. An
47 employer shall not utilize any employee paid the training wage in a
48 manner which causes, induces, encourages or assists any

1 displacement or partial displacement of any currently employed
2 worker, including any previous recipient of the training wage, by
3 reducing hours of a currently employed worker, replacing a current
4 or laid off employee with a trainee, or by relocating operations
5 resulting in a loss of employment at a previous workplace, or in a
6 manner which replaces, supplants, competes with or duplicates any
7 approved apprenticeship program. An employer who pays an
8 employee a training wage shall make a good faith effort to continue
9 to employ the employee after the period of the training wage
10 expires and shall not hire the employee at the training wage unless
11 there is a reasonable expectation that there will be regular
12 employment, paying at or above the effective minimum wage, for
13 the trainee upon the successful completion of the period of the
14 training wage. If the commissioner determines that an employer
15 has made repeated, knowing violations of the provisions of this
16 subsection regarding the payment of a training wage, the
17 commissioner shall suspend the employer's right to pay a training
18 wage for a period set pursuant to regulations adopted by the
19 commissioner, but not less than three years.

20 h. The provisions of this section shall not be construed as
21 prohibiting any political subdivision of the State from adopting an
22 ordinance, resolution, regulation or rule, or entering into any
23 agreement, establishing any standard for vendors, contractors and
24 subcontractors of the subdivision regarding wage rates or overtime
25 compensation which is higher than the standards provided for in
26 this section, and no provision of any other State or federal law
27 establishing a minimum standard regarding wages or other terms
28 and conditions of employment shall be construed as preventing a
29 political subdivision of the State from adopting an ordinance,
30 resolution, regulation or rule, or entering into any agreement,
31 establishing a standard for vendors, contractors and subcontractors
32 of the subdivision which is higher than the State or federal law or
33 which otherwise provides greater protections or rights to employees
34 of the vendors, contractors and subcontractors of the subdivision,
35 unless the State or federal law expressly prohibits the subdivision
36 from adopting the ordinance, resolution, regulation or rule, or
37 entering into the agreement.

38 i. Effective on the first day of the second month next following
39 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
40 minimum wage for long-term care facility direct care staff members
41 shall be in an amount that is \$3 higher than the prevailing minimum
42 wage established pursuant to subsection a. of this section.

43 (cf: P.L.2020, c.89, s.2)

44

45 ¹ **11.10.1** Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended
46 to read as follows:

47 1. As used in this act:

- 1 a. "Employee" includes any person, either male or female,
 2 employed by an employer, but shall not include persons performing
 3 volunteer service for nonprofit organizations or corporations nor
 4 persons employed on a farm~~],~~ or in domestic service in a private
 5 home,~~]~~ or in a hotel.
- 6 b. "Employer" includes any person acting directly or indirectly in
 7 the interest, or as agent, of an employer in relation to an employee and
 8 further includes one or more individuals, partnerships, corporations,
 9 associations, legal representatives, trustees, trustees in bankruptcy, or
 10 receivers, ¹~~]~~ and "hiring entities" as defined by section 2 of P.L. , c
 11 (C.) (pending before the Legislature as this bill),]¹ such term
 12 shall not include nonprofit hospital associations or corporations.
- 13 c. "Employ" includes to suffer or permit to work.
- 14 d. "Occupation" includes any industry, trade, business or branch
 15 thereof, or any employment or class of employment.
- 16 e. "Commissioner" means the Commissioner of Labor and
 17 ~~Industry]~~ Workforce Development of the State of New Jersey.
 18 (cf: P.L.1952, c.9, s.1)

19

20 ¹~~]~~ 11.¹ R.S.34:15-36 is amended to read as follows:

21 34:15-36. "Willful negligence" within the intent of this chapter
 22 shall consist of (1) deliberate act or deliberate failure to act, or (2) such
 23 conduct as evidences reckless indifference to safety, or (3)
 24 intoxication, operating as the proximate cause of injury, or (4)
 25 unlawful use of a controlled dangerous substance as defined in the
 26 "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
 27 (C.24:21-1 et seq.).

28 "Employer" ~~]~~ is declared to be synonymous with master, and]
 29 includes natural persons, partnerships, ~~]~~ and] ¹~~]~~ and]¹ corporations¹~~]~~,
 30 and "hiring entities" as defined by section 2 of P.L. , c. (C.)
 31 (pending before the Legislature as this bill)]¹; "employee" ~~]~~ is
 32 synonymous with servant, and] includes all natural persons, including
 33 officers of corporations, who perform service for an employer for
 34 financial consideration, exclusive of (1) employees eligible under the
 35 federal "Longshore and Harbor Workers' Compensation Act," 44 Stat.
 36 1424 (33 U.S.C.s.901 et seq.), for benefits payable with respect to
 37 accidental death or injury, or occupational disease or infection; and (2)
 38 casual employments, which shall be defined~~]~~, if in connection with the
 39 employer's business, as employment the occasion for which arises by
 40 chance or is purely accidental; or if not in connection with any
 41 business of the employer, as employment not regular, periodic or
 42 recurring;~~]~~ as work that is:

- 43 (a) irregular, uncertain, or incidental in nature or duration; and
 44 (b) different in nature from the type of paid work in which the
 45 worker is customarily engaged, provided, however, that forest fire
 46 wardens and forest firefighters employed by the State of New Jersey
 47 shall, in no event, be deemed casual employees.

1 An individual providing services for remuneration shall be
2 regarded as an employee of an employer for the purposes of the
3 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
4 shown to the satisfaction of the division that:

5 (a) the individual has been and will continue to be free from
6 control or direction over the performance of such service, both under
7 his contract of service and in fact; and

8 (b) the service is either outside the usual course of the business for
9 which the service is performed, or that such service is performed
10 outside of all the places of business of the enterprise for which such
11 service is performed; and

12 (c) the individual is customarily engaged in an independently
13 established trade, occupation, profession, or business.

14 A self-employed person, partners of a limited liability partnership,
15 members of a limited liability company or partners of a partnership
16 who actively perform services on behalf of the self-employed person's
17 business, the limited liability partnership, limited liability company or
18 the partnership shall be deemed an "employee" of the business, limited
19 liability partnership, limited liability company or partnership for
20 purposes of receipt of benefits and payment of premiums pursuant to
21 this chapter, if the business, limited liability partnership, limited
22 liability company or partnership elects, when the workers'
23 compensation policy of the business, limited liability partnership,
24 limited liability company or partnership is purchased or renewed, to
25 obtain coverage for the person, the limited liability partners, the
26 limited liability company members or the partners. If the business,
27 limited liability partnership, limited liability company or partnership
28 elects to obtain coverage for the self-employed person, limited liability
29 partners, limited liability company members or the partners, the
30 election may only be made at purchase or at renewal and may not be
31 withdrawn during the policy term. If the business, limited liability
32 partnership, limited liability company or partnership performs services
33 covered under a homeowner's policy or other policies providing
34 comprehensive personal liability insurance for domestic **[servants]**
35 employees, household employees or the dependents thereof, the
36 workers' compensation policy of the business, limited liability
37 partnership, limited liability company or partnership shall have
38 primary responsibility for the payment of benefits. Notwithstanding
39 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
40 liability partnership, limited liability company or partnership shall not
41 be required to purchase a policy unless the business, limited liability
42 partnership, limited liability company or partnership is an "employer"
43 of a least one employee as defined in this section who is not a self-
44 employed person, limited liability partner, limited liability company
45 member or partner actively performing services on behalf of the
46 business, limited liability partnership, limited liability company or
47 partnership.

1 Notwithstanding any other provision of law to the contrary, no
2 insurer or insurance producer as defined in section [2 of P.L.1987,
3 c.293 (C.17:22A-2)] 3 of P.L.2001, c.210 (c.17:22A-28) shall be
4 liable in an action for damages on account of the failure of a business,
5 limited liability partnership, limited liability company or partnership to
6 elect to obtain workers' compensation coverage for a self-employed
7 person, limited liability partner, limited liability company member or
8 partner, unless the insurer or insurance producer causes damage by a
9 willful, wanton or grossly negligent act of commission or omission.
10 Every application for workers' compensation made on or after the
11 effective date of this amendatory act shall include notice, as approved
12 by the Commissioner of Banking and Insurance, concerning the
13 availability of workers' compensation coverage for self-employed
14 persons, limited liability partners, limited liability company members
15 or partners. That application shall also contain a notice of election of
16 coverage and shall clearly state that coverage for self-employed
17 persons, limited liability partners, limited liability company members
18 and partners shall not be provided under the policy unless the
19 application containing the notice of election is executed and filed with
20 the insurer or insurance producer. The application containing the
21 notice of election shall also contain a statement that the insurer or
22 insurance producer shall not be liable in an action for damages on
23 account of the failure of a business, limited liability partnership,
24 limited liability company or partnership to elect to obtain workers'
25 compensation coverage for a self-employed person, limited liability
26 partner, limited liability company member or partner, unless the
27 insurer or insurance producer causes damage by a willful, wanton or
28 grossly negligent act of commission or omission. The failure of a self-
29 employed person, limited liability partnership, limited liability
30 company or partnership to elect to obtain workers' compensation
31 coverage for the self-employed person, the limited liability partners,
32 the limited liability company members or the partners shall not affect
33 benefits available under any other accident or health policy.

34 Employment shall be deemed to commence when an employee
35 arrives at the employer's place of employment to report for work and
36 shall terminate when the employee leaves the employer's place of
37 employment, excluding areas not under the control of the employer;
38 provided, however, when the employee is required by the employer to
39 be away from the employer's place of employment, the employee shall
40 be deemed to be in the course of employment when the employee is
41 engaged in the direct performance of duties assigned or directed by the
42 employer; but the employment of employee paid travel time by an
43 employer for time spent traveling to and from a job site or of any
44 employee who utilizes an employer authorized vehicle shall
45 commence and terminate with the time spent traveling to and from a
46 job site or the authorized operation of a vehicle on business authorized
47 by the employer. Travel by a policeman, fireman, or a member of a

1 first aid or rescue squad, in responding to and returning from an
2 emergency, shall be deemed to be in the course of employment.

3 Employment shall also be deemed to commence when an
4 employee is traveling in a ridesharing arrangement between his or her
5 place of residence or terminal near such place and his or her place of
6 employment, if one of the following conditions is satisfied: the vehicle
7 used in the ridesharing arrangement is owned, leased or contracted for
8 by the employer, or the employee is required by the employer to travel
9 in a ridesharing arrangement as a condition of employment.

10 Employment shall also be deemed to commence, if an employer
11 provides or designates a parking area for use by an employee, when an
12 employee arrives at the parking area prior to reporting for work and
13 shall terminate when an employee leaves the parking area at the end of
14 a work period; provided that, if the site of the parking area is separate
15 from the place of employment, an employee shall be deemed to be in
16 the course of employment while the employee travels directly from the
17 parking area to the place of employment prior to reporting for work
18 and while the employee travels directly from the place of employment
19 to the parking area at the end of a work period.

20 "Disability permanent in quality and partial in character" means a
21 permanent impairment caused by a compensable accident or
22 compensable occupational disease, based upon demonstrable objective
23 medical evidence, which restricts the function of the body or of its
24 members or organs; included in the criteria which shall be considered
25 shall be whether there has been a lessening to a material degree of an
26 employee's working ability. Subject to the above provisions, nothing
27 in this definition shall be construed to preclude benefits to a worker
28 who returns to work following a compensable accident even if there be
29 no reduction in earnings. Injuries such as minor lacerations, minor
30 contusions, minor sprains, and scars which do not constitute
31 significant permanent disfigurement, and occupational disease of a
32 minor nature such as mild dermatitis and mild bronchitis shall not
33 constitute permanent disability within the meaning of this definition.

34 "Disability permanent in quality and total in character" means a
35 physical or neuropsychiatric total permanent impairment caused by a
36 compensable accident or compensable occupational disease, where no
37 fundamental or marked improvement in such condition can be
38 reasonably expected.

39 Factors other than physical and neuropsychiatric impairments may
40 be considered in the determination of permanent total disability, where
41 such physical and neuropsychiatric impairments constitute at least
42 75% or higher of total disability.

43 "Ridesharing" means the transportation of persons in a motor
44 vehicle, with a maximum carrying capacity of not more than 15
45 passengers, including the driver, where such transportation is
46 incidental to the purpose of the driver. This term shall include such
47 ridesharing arrangements known as carpools and vanpools.

1 "Medical services, medical treatment, physicians' services and
2 physicians' treatment" shall include, but not be limited to, the services
3 which a chiropractor is authorized by law to perform and which are
4 authorized by an employer pursuant to the provisions of R.S.34:15-1 et
5 seq.

6 (cf: P.L.2021, c.334, s.1)

7
8 ¹~~13.~~ 12. ¹ R.S.34:15-92 is amended to read as follows:

9 34:15-92. ~~Each employer~~ Employers ¹~~and hiring entities~~ ¹ of
10 domestic ~~servants or household employees~~ workers and every stock
11 company or mutual association affording insurance for the liability of
12 such employers by reason of that employment shall be exempted from
13 the provisions of ~~R.S. 34:15-79, and~~ R.S. 34:15-80~~.~~ The
14 provisions of ~~and~~ R.S. 34:15-81 ~~shall not be applicable where the~~
15 insurance coverage is afforded pursuant to P.L....., c..... (now
16 pending before the Legislature as Assembly Bill No. 949 of 1978)~~,~~
17 but are required to provide written notice of insurance coverage and
18 cancellation of a policy.

19 (cf: P.L.1979, c.380, s.3)

20
21 ¹~~14.~~ R.S.43:21-19 is amended to read as follows:

22 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
23 seq.), unless the context clearly requires otherwise:

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

27 (2) "Average annual payroll" means the average of the annual
28 payrolls of any employer for the last three or five preceding
29 calendar years, whichever average is higher, except that any year or
30 years throughout which an employer has had no "annual payroll"
31 because of military service shall be deleted from the reckoning; the
32 "average annual payroll" in such case is to be determined on the
33 basis of the prior three or five calendar years in each of which the
34 employer had an "annual payroll" in the operation of his business, if
35 the employer resumes his business within 12 months after
36 separation, discharge or release from such service, under conditions
37 other than dishonorable, and makes application to have his "average
38 annual payroll" determined on the basis of such deletion within 12
39 months after he resumes his business; provided, however, that
40 "average annual payroll" solely for the purposes of paragraph (3) of
41 subsection (e) of R.S.43:21-7 means the average of the annual
42 payrolls of any employer on which he paid contributions to the
43 State disability benefits fund for the last three or five preceding
44 calendar years, whichever average is higher; provided further that
45 only those wages be included on which employer contributions have
46 been paid on or before January 31 (or the next succeeding day if
47 such January 31 is a Saturday or Sunday) immediately preceding

1 the beginning of the 12-month period for which the employer's
2 contribution rate is computed.

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

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

10 With respect to a benefit year commencing on or after July 1,
11 1995, if an individual does not have sufficient qualifying weeks or
12 wages in his base year to qualify for benefits, the individual shall
13 have the option of designating that his base year shall be the
14 "alternative base year," which means the last four completed
15 calendar quarters immediately preceding the individual's benefit
16 year; except that, with respect to a benefit year commencing on or
17 after October 1, 1995, if the individual also does not have sufficient
18 qualifying weeks or wages in the last four completed calendar
19 quarters immediately preceding his benefit year to qualify for
20 benefits, "alternative base year" means the last three completed
21 calendar quarters immediately preceding his benefit year and, of the
22 calendar quarter in which the benefit year commences, the portion
23 of the quarter which occurs before the commencing of the benefit
24 year.

25 The division shall inform the individual of his options under this
26 section as amended by P.L.1995, c.234. If information regarding
27 weeks and wages for the calendar quarter or quarters immediately
28 preceding the benefit year is not available to the division from the
29 regular quarterly reports of wage information and the division is not
30 able to obtain the information using other means pursuant to State
31 or federal law, the division may base the determination of eligibility
32 for benefits on the affidavit of an individual with respect to weeks
33 and wages for that calendar quarter. The individual shall furnish
34 payroll documentation, if available, in support of the affidavit. A
35 determination of benefits based on an alternative base year shall be
36 adjusted when the quarterly report of wage information from the
37 employer is received if that information causes a change in the
38 determination.

39 (2) 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 "Temporary Disability Benefits Law," P.L.1948, c.110
43 (C.43:21-25 et seq.), "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 employment held by the
46 individual immediately preceding the period of disability is no
47 longer available at the conclusion of that period and the individual
48 files a valid claim for unemployment benefits after the conclusion

1 of that period. For the purposes of this paragraph, "period of
2 disability" means the period defined as a period of disability by
3 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
4 c.110 (C.43:21-27). An individual who files a claim under the
5 provisions of this paragraph (2) shall not be regarded as having left
6 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

7 (3) With respect to a benefit year commencing on or after June
8 1, 1990 for an individual who immediately preceding the benefit
9 year was subject to a disability compensable under the provisions of
10 the workers' compensation law (chapter 15 of Title 34 of the
11 Revised Statutes), "base year" shall mean the first four of the last
12 five completed calendar quarters immediately preceding the
13 individual's period of disability, if the period of disability was not
14 longer than two years, if the employment held by the individual
15 immediately preceding the period of disability is no longer
16 available at the conclusion of that period and if the individual files a
17 valid claim for unemployment benefits after the conclusion of that
18 period. For the purposes of this paragraph, "period of disability"
19 means the period from the time at which the individual becomes
20 unable to work because of the compensable disability until the time
21 that the individual becomes able to resume work and continue work
22 on a permanent basis. An individual who files a claim under the
23 provisions of this paragraph (3) shall not be regarded as having left
24 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

25 (d) "Benefit year" with respect to any individual means the 364
26 consecutive calendar days beginning with the day on, or as of,
27 which he first files a valid claim for benefits, and thereafter
28 beginning with the day on, or as of, which the individual next files a
29 valid claim for benefits after the termination of his last preceding
30 benefit year. Any claim for benefits made in accordance with
31 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
32 for the purpose of this subsection if (1) he is unemployed for the
33 week in which, or as of which, he files a claim for benefits; and (2)
34 he has fulfilled the conditions imposed by subsection (e) of
35 R.S.43:21-4.

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

42 (2) "Controller" means the Office of the Assistant
43 Commissioner for Finance and Controller of the Department of
44 Labor and Workforce Development, established by the 1982
45 Reorganization Plan of the Department of Labor.

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

1 the State Unemployment Compensation Fund by employers electing
2 or required to make payments in lieu of contributions, as provided
3 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
4 7.3).

5 (g) "Employing unit" means the State or any of its
6 instrumentalities or any political subdivision thereof or any of its
7 instrumentalities or any instrumentality of more than one of the
8 foregoing or any instrumentality of any of the foregoing and one or
9 more other states or political subdivisions or any individual or type
10 of organization, any partnership, association, trust, estate, joint-
11 stock company, insurance company or corporation, whether
12 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
13 successor thereof, or the legal representative of a deceased person,
14 which has or subsequent to January 1, 1936, had in its employ one
15 or more individuals performing services for it within this State. All
16 individuals performing services within this State for any employing
17 unit which maintains two or more separate establishments within
18 this State shall be deemed to be employed by a single employing
19 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
20 individual employed to perform or to assist in performing the work
21 of any agent or employee of an employing unit shall be deemed to
22 be employed by such employing unit for all the purposes of this
23 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
24 paid directly by such employing unit or by such agent or employee;
25 provided the employing unit had actual or constructive knowledge
26 of the work.

27 (h) "Employer" means:

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

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

36 (3) Any employing unit which acquired the organization, trade
37 or business, or substantially all the assets thereof, of another
38 employing unit and which, if treated as a single unit with such other
39 employing unit, would be an employer under paragraph (1) of this
40 subsection;

41 (4) Any employing unit which together with one or more other
42 employing units is owned or controlled (by legally enforceable
43 means or otherwise), directly or indirectly by the same interests, or
44 which owns or controls one or more other employing units (by
45 legally enforceable means or otherwise), and which, if treated as a
46 single unit with such other employing unit or interest, would be an
47 employer under paragraph (1) of this subsection;

- 1 (5) Any employing unit for which service in employment as
2 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
3 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
4 performed after December 31, 1977;
- 5 (6) Any employing unit for which service in employment as
6 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
7 1971 and which in either the current or the preceding calendar year
8 paid remuneration for employment in the amount of \$1,000.00 or
9 more;
- 10 (7) Any employing unit not an employer by reason of any other
11 paragraph of this subsection (h) for which, within either the current
12 or preceding calendar year, service is or was performed with respect
13 to which such employing unit is liable for any federal tax against
14 which credit may be taken for contributions required to be paid into
15 a state unemployment fund; or which, as a condition for approval of
16 the "unemployment compensation law" for full tax credit against
17 the tax imposed by the Federal Unemployment Tax Act, is required
18 pursuant to such act to be an employer under this chapter
19 (R.S.43:21-1 et seq.);
- 20 (8) (Deleted by amendment; P.L.1977, c.307.)
- 21 (9) (Deleted by amendment; P.L.1977, c.307.)
- 22 (10) (Deleted by amendment; P.L.1977, c.307.)
- 23 (11) Any employing unit subject to the provisions of the Federal
24 Unemployment Tax Act within either the current or the preceding
25 calendar year, except for employment hereinafter excluded under
26 paragraph (7) of subsection (i) of this section;
- 27 (12) Any employing unit for which agricultural labor in
28 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
29 December 31, 1977;
- 30 (13) (a) Any employing unit for which domestic service in
31 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
32 December 31, 1977 and before January 1, 2022; and
- 33 (b) Any employing unit or hiring entity for domestic services as
34 defined in section 2 of P.L. , c. (C.)(pending before the
35 Legislature as this bill);
- 36 (14) Any employing unit which having become an employer
37 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
38 has not under R.S.43:21-8 ceased to be an employer; or for the
39 effective period of its election pursuant to R.S.43:21-8, any other
40 employing unit which has elected to become fully subject to this
41 chapter (R.S.43:21-1 et seq.).
- 42 (i) (1) "Employment" means:
- 43 (A) Any service performed prior to January 1, 1972, which was
44 employment as defined in the "unemployment compensation law"
45 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
46 provisions of this subsection, service performed on or after January
47 1, 1972, including service in interstate commerce, performed for

1 remuneration or under any contract of hire, written or oral, express
2 or implied.

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

9 (ii) Service performed after December 31, 1977, in the employ
10 of this State or any of its instrumentalities or any political
11 subdivision thereof or any of its instrumentalities or any
12 instrumentality of more than one of the foregoing or any
13 instrumentality of the foregoing and one or more other states or
14 political subdivisions, if such service is not excluded from
15 "employment" under paragraph (D) below.

16 (C) Service performed after December 31, 1971 by an individual
17 in the employ of a religious, charitable, educational, or other
18 organization, which is excluded from "employment" as defined in
19 the Federal Unemployment Tax Act, solely by reason of section
20 3306 (c)(8) of that act, if such service is not excluded from
21 "employment" under paragraph (D) below.

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

24 (i) In the employ of (I) a church or convention or association of
25 churches, or (II) an organization, or school which is operated
26 primarily for religious purposes and which is operated, supervised,
27 controlled or principally supported by a church or convention or
28 association of churches;

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

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

37 (aa) as an elected official;

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

40 (cc) as a member of the State National Guard or Air National
41 Guard;

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

44 (ee) in a position which, under or pursuant to the laws of this
45 State, is designated as a major nontenured policy making or
46 advisory position, or a policy making or advisory position, the
47 performance of the duties of which ordinarily does not require more
48 than eight hours per week; or

1 (iv) By an individual receiving rehabilitation or remunerative
2 work in a facility conducted for the purpose of carrying out a
3 program of rehabilitation of individuals whose earning capacity is
4 impaired by age or physical or mental deficiency or injury or
5 providing remunerative work for individuals who because of their
6 impaired physical or mental capacity cannot be readily absorbed in
7 the competitive labor market;

8 (v) By an individual receiving work-relief or work-training as
9 part of an unemployment work-relief or work-training program
10 assisted in whole or in part by any federal agency or an agency of a
11 state or political subdivision thereof; or

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

16 (E) The term "employment" shall include the services of an
17 individual who is a citizen of the United States, performed outside
18 the United States after December 31, 1971 (except in Canada and in
19 the case of the Virgin Islands, after December 31, 1971) and prior
20 to January 1 of the year following the year in which the U.S.
21 Secretary of Labor approves the unemployment compensation law
22 of the Virgin Islands, under section 3304 (a) of the Internal
23 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
24 American employer (other than the service which is deemed
25 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
26 the parallel provisions of another state's unemployment
27 compensation law), if

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

30 (ii) The American employer has no place of business in the
31 United States, but (I) the American employer is an individual who
32 is a resident of this State; or (II) the American employer is a
33 corporation which is organized under the laws of this State; or (III)
34 the American employer is a partnership or trust and the number of
35 partners or trustees who are residents of this State is greater than the
36 number who are residents of another state; or

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

44 (iv) An "American employer," for the purposes of this
45 subparagraph (E), means (I) an individual who is a resident of the
46 United States; or (II) a partnership, if two-thirds or more of the
47 partners are residents of the United States; or (III) a trust, if all the

1 trustees are residents of the United States; or (IV) a corporation
2 organized under the laws of the United States or of any state.

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

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

18 (H) The term "United States" when used in a geographical sense
19 in subsection R.S.43:21-19 (i) includes the states, the District of
20 Columbia, the Commonwealth of Puerto Rico and, effective on the
21 day after the day on which the U.S. Secretary of Labor approves for
22 the first time under section 3304 (a) of the Internal Revenue Code
23 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
24 submitted to the Secretary by the Virgin Islands for such approval,
25 the Virgin Islands.

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

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

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

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

43 (aa) if such crew leader holds a certification of registration
44 under the Migrant and Seasonal Agricultural Worker Protection
45 Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
46 (C.34:8A-7 et seq.); or substantially all the members of such crew
47 operate or maintain tractors, mechanized harvesting or cropdusting

- 1 equipment, or any other mechanized equipment, which is provided
2 by such crew leader; and
- 3 (bb) if such individual is not an employee of such other person
4 for whom services were performed.
- 5 (iii) For the purposes of subparagraph (I) (i) in the case of any
6 individual who is furnished by a crew leader to perform service in
7 agricultural labor or any other entity and who is not treated as an
8 employee of such crew leader under (I) (ii)
- 9 (aa) such other entity and not the crew leader shall be treated as
10 the employer of such individual; and
- 11 (bb) such other entity shall be treated as having paid cash
12 remuneration to such individual in an amount equal to the amount
13 of cash remuneration paid to such individual by the crew leader
14 (either on his own behalf or on behalf of such other entity) for the
15 service in agricultural labor performed for such other entity.
- 16 (iv) For the purpose of subparagraph (I)(ii), the term "crew
17 leader" means an individual who
- 18 (aa) furnishes individuals to perform service in agricultural
19 labor for any other entity;
- 20 (bb) pays (either on his own behalf or on behalf of such other
21 entity) the individuals so furnished by him for the service in
22 agricultural labor performed by them; and
- 23 (cc) has not entered into a written agreement with such other
24 entity under which such individual is designated as an employee of
25 such other entity.
- 26 (J) (i) Domestic service after December 31, 1977 and before
27 January 1, 2022 performed in the private home of an employing unit
28 which paid cash remuneration of \$1,000.00 or more to one or more
29 individuals for such domestic service in any calendar quarter in the
30 current or preceding calendar year.
- 31 (ii) Domestic services as defined by section 2 of P.L. , c.
32 (C.) (pending before the Legislature as this bill) after
33 December 31, 2021 in either the current or preceding calendar year
34 paid remuneration for employment in the amount of \$1,000 or
35 more.
- 36 (2) The term "employment" shall include an individual's entire
37 service performed within or both within and without this State if:
- 38 (A) The service is localized in this State; or
- 39 (B) The service is not localized in any state but some of the
40 service is performed in this State, and (i) the base of operations, or,
41 if there is no base of operations, then the place from which such
42 service is directed or controlled, is in this State; or (ii) the base of
43 operations or place from which such service is directed or
44 controlled is not in any state in which some part of the service is
45 performed, but the individual's residence is in this State.
- 46 (3) Services performed within this State but not covered under
47 paragraph (2) of this subsection shall be deemed to be employment
48 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not

1 required and paid with respect to such services under an
2 unemployment compensation law of any other state or of the federal
3 government.

4 (4) Services not covered under paragraph (2) of this subsection
5 and performed entirely without this State, with respect to no part of
6 which contributions are required and paid under an unemployment
7 compensation law of any other state or of the federal government,
8 shall be deemed to be employment subject to this chapter
9 (R.S.43:21-1 et seq.) if the individual performing such services is a
10 resident of this State and the employing unit for whom such
11 services are performed files with the division an election that the
12 entire service of such individual shall be deemed to be employment
13 subject to this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

27 (B) Such service is either outside the usual course of the
28 business for which such service is performed, or that such service is
29 performed outside of all the places of business of the enterprise for
30 which such service is performed; and

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

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

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

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

47 (ii) for some portion of a day in each of 20 different calendar
48 weeks, whether or not such weeks were consecutive, in either the

1 current or the preceding calendar year, employed in agricultural
2 labor 10 or more individuals, regardless of whether they were
3 employed at the same moment in time;

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

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

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

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

25 (F) Service performed in the employ of the United States
26 Government or of any instrumentality of the United States exempt
27 under the Constitution of the United States from the contributions
28 imposed by the "unemployment compensation law," except that to
29 the extent that the Congress of the United States shall permit states
30 to require any instrumentalities of the United States to make
31 payments into an unemployment fund under a state unemployment
32 compensation law, all of the provisions of this act shall be
33 applicable to such instrumentalities, and to service performed for
34 such instrumentalities, in the same manner, to the same extent and
35 on the same terms as to all other employers, employing units,
36 individuals and services; provided that if this State shall not be
37 certified for any year by the Secretary of Labor of the United States
38 under section 3304 of the federal Internal Revenue Code of 1986
39 (26 U.S.C. s.3304), the payments required of such instrumentalities
40 with respect to such year shall be refunded by the division from the
41 fund in the same manner and within the same period as is provided
42 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
43 or collected by the division;

44 (G) Services performed in the employ of fraternal beneficiary
45 societies, orders, or associations operating under the lodge system
46 or for the exclusive benefit of the members of a fraternity itself
47 operating under the lodge system and providing for the payment of

- 1 life, sick, accident, or other benefits to the members of such society,
2 order, or association, or their dependents;
- 3 (H) Services performed as a member of the board of directors, a
4 board of trustees, a board of managers, or a committee of any bank,
5 building and loan, or savings and loan association, incorporated or
6 organized under the laws of this State or of the United States, where
7 such services do not constitute the principal employment of the
8 individual;
- 9 (I) Service with respect to which unemployment insurance is
10 payable under an unemployment insurance program established by
11 an Act of Congress;
- 12 (J) Service performed by agents of mutual fund brokers or
13 dealers in the sale of mutual funds or other securities, by agents of
14 insurance companies, exclusive of industrial insurance agents or by
15 agents of investment companies, if the compensation to such agents
16 for such services is wholly on a commission basis;
- 17 (K) Services performed by real estate salesmen or brokers who
18 are compensated wholly on a commission basis;
- 19 (L) Services performed in the employ of any veterans'
20 organization chartered by Act of Congress or of any auxiliary
21 thereof, no part of the net earnings of which organization, or
22 auxiliary thereof, inures to the benefit of any private shareholder or
23 individual;
- 24 (M) Service performed for or in behalf of the owner or operator
25 of any theater, ballroom, amusement hall or other place of
26 entertainment, not in excess of 10 weeks in any calendar year for
27 the same owner or operator, by any leader or musician of a band or
28 orchestra, commonly called a "name band," entertainer, vaudeville
29 artist, actor, actress, singer or other entertainer;
- 30 (N) Services performed after January 1, 1973 by an individual
31 for a labor union organization, known and recognized as a union
32 local, as a member of a committee or committees reimbursed by the
33 union local for time lost from regular employment, or as a part-time
34 officer of a union local and the remuneration for such services is
35 less than \$1,000.00 in a calendar year;
- 36 (O) Services performed in the sale or distribution of merchandise
37 by home-to-home salespersons or in-the-home demonstrators whose
38 remuneration consists wholly of commissions or commissions and
39 bonuses;
- 40 (P) Service performed in the employ of a foreign government,
41 including service as a consular, nondiplomatic representative, or
42 other officer or employee;
- 43 (Q) Service performed in the employ of an instrumentality
44 wholly owned by a foreign government if (i) the service is of a
45 character similar to that performed in foreign countries by
46 employees of the United States Government or of an instrumentality
47 thereof, and (ii) the division finds that the United States Secretary
48 of State has certified to the United States Secretary of the Treasury

1 that the foreign government, with respect to whose instrumentality
2 exemption is claimed, grants an equivalent exemption with respect
3 to similar services performed in the foreign country by employees
4 of the United States Government and of instrumentalities thereof;

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

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

14 (T) Service performed in the employ of a school, college, or
15 university if such service is performed (i) by a student enrolled at
16 such school, college, or university on a full-time basis in an
17 educational program or completing such educational program
18 leading to a degree at any of the severally recognized levels, or (ii)
19 by the spouse of such a student, if such spouse is advised at the time
20 such spouse commences to perform such service that (I) the
21 employment of such spouse to perform such service is provided
22 under a program to provide financial assistance to such student by
23 such school, college, or university, and (II) such employment will
24 not be covered by any program of unemployment insurance;

25 (U) Service performed by an individual who is enrolled at a
26 nonprofit or public educational institution which normally
27 maintains a regular faculty and curriculum and normally has a
28 regularly organized body of students in attendance at the place
29 where its educational activities are carried on, as a student in a full-
30 time program, taken for credit at such institution, which combines
31 academic instruction with work experience, if such service is an
32 integral part of such program, and such institution has so certified
33 to the employer, except that this subparagraph shall not apply to
34 service performed in a program established for or on behalf of an
35 employer or group of employers;

36 (V) Service performed in the employ of a hospital, if such
37 service is performed by a patient of the hospital; service performed
38 as a student nurse in the employ of a hospital or a nurses' training
39 school by an individual who is enrolled and regularly attending
40 classes in a nurses' training school approved under the laws of this
41 State;

42 (W) Services performed after the effective date of this
43 amendatory act by agents of mutual benefit associations if the
44 compensation to such agents for such services is wholly on a
45 commission basis;

46 (X) Services performed by operators of motor vehicles weighing
47 18,000 pounds or more, licensed for commercial use and used for
48 the highway movement of motor freight, who own their equipment

1 or who lease or finance the purchase of their equipment through an
2 entity which is not owned or controlled directly or indirectly by the
3 entity for which the services were performed and who were
4 compensated by receiving a percentage of the gross revenue
5 generated by the transportation move or by a schedule of payment
6 based on the distance and weight of the transportation move;

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

8 (Z) Services performed, using facilities provided by a travel
9 agent, by a person, commonly known as an outside travel agent,
10 who acts as an independent contractor, is paid on a commission
11 basis, sets his own work schedule and receives no benefits, sick
12 leave, vacation or other leave from the travel agent owning the
13 facilities.

14 (8) If one-half or more of the services in any pay period
15 performed by an individual for an employing unit constitutes
16 employment, all the services of such individual shall be deemed to
17 be employment; but if more than one-half of the service in any pay
18 period performed by an individual for an employing unit does not
19 constitute employment, then none of the service of such individual
20 shall be deemed to be employment. As used in this paragraph, the
21 term "pay period" means a period of not more than 31 consecutive
22 days for which a payment for service is ordinarily made by an
23 employing unit to individuals in its employ.

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

28 (A) The limousine franchisee is incorporated;

29 (B) The franchisee is subject to regulation by the Interstate
30 Commerce Commission;

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

34 (D) The franchisee registers with the Department of Labor and
35 Workforce Development and receives an employer registration
36 number.

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

1 For purposes of this paragraph (10): "legal transcription service"
2 and "legal transcribing" mean making use, by audio, video or voice
3 recording, of a verbatim record of court proceedings, depositions,
4 other judicial proceedings, meetings of boards, agencies,
5 corporations, or other bodies or groups, and causing that record to
6 be printed in readable form or produced on a computer screen in
7 readable form; and "legal transcriber" means a person who engages
8 in "legal transcribing."

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

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

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

16 (m) "Unemployment."

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

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

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

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

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

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

47 (o) "Wages" means remuneration paid by employers for
48 employment. If a worker receives gratuities regularly in the course

1 of his employment from other than his employer, his "wages" shall
2 also include the gratuities so received, if reported in writing to his
3 employer in accordance with regulations of the division, and if not
4 so reported, his "wages" shall be determined in accordance with the
5 minimum wage rates prescribed under any labor law or regulation
6 of this State or of the United States, or the amount of remuneration
7 actually received by the employee from his employer, whichever is
8 the higher.

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

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

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

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

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

21 (2) "Base week," commencing on or after January 1, 1996 and
22 before January 1, 2001, means:

23 (A) Any calendar week during which the individual earned in
24 employment from an employer remuneration not less than an
25 amount which is 20% of the Statewide average weekly
26 remuneration defined in subsection (c) of R.S.43:21-3 which
27 amount shall be adjusted to the next higher multiple of \$1.00 if not
28 already a multiple thereof, except that if in any calendar week an
29 individual subject to this subparagraph (A) is in employment with
30 more than one employer, the individual may in that calendar week
31 establish a base week with respect to each of the employers from
32 whom the individual earns remuneration equal to not less than the
33 amount defined in this subparagraph (A) during that week; or

34 (B) If the individual does not establish in his base year 20 or
35 more base weeks as defined in subparagraph (A) of this paragraph
36 (2), any calendar week of an individual's base year during which the
37 individual earned in employment from an employer remuneration
38 not less than an amount 20 times the minimum wage in effect
39 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
40 1 of the calendar year preceding the calendar year in which the
41 benefit year commences, which amount shall be adjusted to the next
42 higher multiple of \$1.00 if not already a multiple thereof, except
43 that if in any calendar week an individual subject to this
44 subparagraph (B) is in employment with more than one employer,
45 the individual may in that calendar week establish a base week with
46 respect to each of the employers from whom the individual earns
47 remuneration not less than the amount defined in this subparagraph
48 (B) during that week.

1 (3) "Base week," commencing on or after January 1, 2001,
2 means any calendar week during which the individual earned in
3 employment from an employer remuneration not less than an
4 amount 20 times the minimum wage in effect pursuant to section 5
5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
6 year preceding the calendar year in which the benefit year
7 commences, which amount shall be adjusted to the next higher
8 multiple of \$1.00 if not already a multiple thereof, except that if in
9 any calendar week an individual subject to this paragraph (3) is in
10 employment with more than one employer, the individual may in
11 that calendar week establish a base week with respect to each of the
12 employers from whom the individual earns remuneration equal to
13 not less than the amount defined in this paragraph (3) during that
14 week.

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

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

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

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

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

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

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

5 (B) Which is approved, licensed or issued a permit to operate as
6 a school by the State Department of Education or other government
7 agency that is authorized within the State to approve, license or
8 issue a permit for the operation of a school; and

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

12 (2) "Institution of higher education" means an educational
13 institution which:

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

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

19 (C) Provides an educational program for which it awards a
20 bachelor's or higher degree, or provides a program which is
21 acceptable for full credit toward such a degree, a program of post-
22 graduate or post-doctoral studies, or a program of training to
23 prepare students for gainful employment in a recognized
24 occupation; and

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

26 Notwithstanding any of the foregoing provisions of this
27 subsection, all colleges and universities in this State are institutions
28 of higher education for purposes of this section.

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

31 (cf: P.L.2017, c.230, s.1)¹

32

33 ¹13. R.S.43:21-19 is amended to read as follows:

34 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
35 seq.), unless the context clearly requires otherwise:

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

39 (2) "Average annual payroll" means the average of the annual
40 payrolls of any employer for the last three or five preceding calendar
41 years, whichever average is higher, except that any year or years
42 throughout which an employer has had no "annual payroll" because of
43 military service shall be deleted from the reckoning; the "average
44 annual payroll" in such case is to be determined on the basis of the
45 prior three or five calendar years in each of which the employer had an
46 "annual payroll" in the operation of his business, if the employer
47 resumes his business within 12 months after separation, discharge or
48 release from such service, under conditions other than dishonorable,

1 and makes application to have his "average annual payroll" determined
2 on the basis of such deletion within 12 months after he resumes his
3 business; provided, however, that "average annual payroll" solely for
4 the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means
5 the average of the annual payrolls of any employer on which he paid
6 contributions to the State disability benefits fund for the last three or
7 five preceding calendar years, whichever average is higher; provided
8 further that only those wages be included on which employer
9 contributions have been paid on or before January 31 (or the next
10 succeeding day if such January 31 is a Saturday or Sunday)
11 immediately preceding the beginning of the 12-month period for
12 which the employer's contribution rate is computed.

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

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

19 With respect to a benefit year commencing on or after July 1,
20 1995, if an individual does not have sufficient qualifying weeks or
21 wages in his base year to qualify for benefits, the individual shall have
22 the option of designating that his base year shall be the "alternative
23 base year," which means the last four completed calendar quarters
24 immediately preceding the individual's benefit year; except that, with
25 respect to a benefit year commencing on or after October 1, 1995, if
26 the individual also does not have sufficient qualifying weeks or wages
27 in the last four completed calendar quarters immediately preceding his
28 benefit year to qualify for benefits, "alternative base year" means the
29 last three completed calendar quarters immediately preceding his
30 benefit year and, of the calendar quarter in which the benefit year
31 commences, the portion of the quarter which occurs before the
32 commencing of the benefit year.

33 The division shall inform the individual of his options under this
34 section as amended by P.L.1995, c.234. If information regarding
35 weeks and wages for the calendar quarter or quarters immediately
36 preceding the benefit year is not available to the division from the
37 regular quarterly reports of wage information and the division is not
38 able to obtain the information using other means pursuant to State or
39 federal law, the division may base the determination of eligibility for
40 benefits on the affidavit of an individual with respect to weeks and
41 wages for that calendar quarter. The individual shall furnish payroll
42 documentation, if available, in support of the affidavit. A
43 determination of benefits based on an alternative base year shall be
44 adjusted when the quarterly report of wage information from the
45 employer is received if that information causes a change in the
46 determination.

47 (2) With respect to a benefit year commencing on or after June 1,
48 1990 for an individual who immediately preceding the benefit year

1 was subject to a disability compensable under the provisions of the
2 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
3 seq.), "base year" shall mean the first four of the last five completed
4 calendar quarters immediately preceding the individual's period of
5 disability, if the employment held by the individual immediately
6 preceding the period of disability is no longer available at the
7 conclusion of that period and the individual files a valid claim for
8 unemployment benefits after the conclusion of that period. For the
9 purposes of this paragraph, "period of disability" means the period
10 defined as a period of disability by section 3 of the "Temporary
11 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An
12 individual who files a claim under the provisions of this paragraph (2)
13 shall not be regarded as having left work voluntarily for the purposes
14 of subsection (a) of R.S.43:21-5.

15 (3) With respect to a benefit year commencing on or after June 1,
16 1990 for an individual who immediately preceding the benefit year
17 was subject to a disability compensable under the provisions of the
18 workers' compensation law (chapter 15 of Title 34 of the Revised
19 Statutes), "base year" shall mean the first four of the last five
20 completed calendar quarters immediately preceding the individual's
21 period of disability, if the period of disability was not longer than two
22 years, if the employment held by the individual immediately preceding
23 the period of disability is no longer available at the conclusion of that
24 period and if the individual files a valid claim for unemployment
25 benefits after the conclusion of that period. For the purposes of this
26 paragraph, "period of disability" means the period from the time at
27 which the individual becomes unable to work because of the
28 compensable disability until the time that the individual becomes able
29 to resume work and continue work on a permanent basis. An
30 individual who files a claim under the provisions of this paragraph (3)
31 shall not be regarded as having left work voluntarily for the purposes
32 of subsection (a) of R.S.43:21-5.

33 (d) "Benefit year" with respect to any individual means the 364
34 consecutive calendar days beginning with the day on, or as of, which
35 he first files a valid claim for benefits, and thereafter beginning with
36 the day on, or as of, which the individual next files a valid claim for
37 benefits after the termination of his last preceding benefit year. Any
38 claim for benefits made in accordance with subsection (a) of
39 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
40 this subsection if (1) he is unemployed for the week in which, or as of
41 which, he files a claim for benefits; and (2) he has fulfilled the
42 conditions imposed by subsection (e) of R.S.43:21-4.

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

1 (2) "Controller" means the Office of the Assistant Commissioner
2 for Finance and Controller of the Department of Labor and Workforce
3 Development, established by the 1982 Reorganization Plan of the
4 Department of Labor.

5 (f) "Contributions" means the money payments to the State
6 Unemployment Compensation Fund, required by R.S.43:21-7.
7 "Payments in lieu of contributions" means the money payments to the
8 State Unemployment Compensation Fund by employers electing or
9 required to make payments in lieu of contributions, as provided in
10 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

11 (g) "Employing unit" means the State or any of its
12 instrumentalities or any political subdivision thereof or any of its
13 instrumentalities or any instrumentality of more than one of the
14 foregoing or any instrumentality of any of the foregoing and one or
15 more other states or political subdivisions or any individual or type of
16 organization, any partnership, association, trust, estate, joint-stock
17 company, insurance company or corporation, whether domestic or
18 foreign, or the receiver, trustee in bankruptcy, trustee or successor
19 thereof, or the legal representative of a deceased person, which has or
20 subsequent to January 1, 1936, had in its employ one or more
21 individuals performing services for it within this State. All individuals
22 performing services within this State for any employing unit which
23 maintains two or more separate establishments within this State shall
24 be deemed to be employed by a single employing unit for all the
25 purposes of this chapter (R.S.43:21-1 et seq.). Each individual
26 employed to perform or to assist in performing the work of any agent
27 or employee of an employing unit shall be deemed to be employed by
28 such employing unit for all the purposes of this chapter (R.S.43:21-1
29 et seq.), whether such individual was hired or paid directly by such
30 employing unit or by such agent or employee; provided the employing
31 unit had actual or constructive knowledge of the work.

32 (h) "Employer" means:

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

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

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

45 (4) Any employing unit which together with one or more other
46 employing units is owned or controlled (by legally enforceable means
47 or otherwise), directly or indirectly by the same interests, or which
48 owns or controls one or more other employing units (by legally

1 enforceable means or otherwise), and which, if treated as a single unit
2 with such other employing unit or interest, would be an employer
3 under paragraph (1) of this subsection;

4 (5) Any employing unit for which service in employment as
5 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31,
6 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
7 December 31, 1977;

8 (6) Any employing unit for which service in employment as
9 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
10 1971 and which in either the current or the preceding calendar year
11 paid remuneration for employment in the amount of \$1,000.00 or
12 more;

13 (7) Any employing unit not an employer by reason of any other
14 paragraph of this subsection (h) for which, within either the current or
15 preceding calendar year, service is or was performed with respect to
16 which such employing unit is liable for any federal tax against which
17 credit may be taken for contributions required to be paid into a state
18 unemployment fund; or which, as a condition for approval of the
19 "unemployment compensation law" for full tax credit against the tax
20 imposed by the Federal Unemployment Tax Act, is required pursuant
21 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

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

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

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

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

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

32 (13) (a) Any employing unit for which domestic service in
33 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
34 December 31, 1977 and before January 1, 2023; and

35 (b) Any employer for domestic services as defined in section 2 of
36 P.L. , c. (C.)(pending before the Legislature as this bill);

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

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

44 (A) Any service performed prior to January 1, 1972, which was
45 employment as defined in the "unemployment compensation law"
46 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
47 provisions of this subsection, service performed on or after January 1,
48 1972, including service in interstate commerce, performed for

1 remuneration or under any contract of hire, written or oral, express or
2 implied.

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

9 (ii) Service performed after December 31, 1977, in the employ of
10 this State or any of its instrumentalities or any political subdivision
11 thereof or any of its instrumentalities or any instrumentality of more
12 than one of the foregoing or any instrumentality of the foregoing and
13 one or more other states or political subdivisions, if such service is not
14 excluded from "employment" under paragraph (D) below.

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

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

23 (i) In the employ of (I) a church or convention or association of
24 churches, or (II) an organization, or school which is operated primarily
25 for religious purposes and which is operated, supervised, controlled or
26 principally supported by a church or convention or association of
27 churches;

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

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

36 (aa) as an elected official;

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

39 (cc) as a member of the State National Guard or Air
40 National Guard;

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

43 (ee) in a position which, under or pursuant to the laws of this
44 State, is designated as a major nontenured policy making or advisory
45 position, or a policy making or advisory position, the performance of
46 the duties of which ordinarily does not require more than eight hours
47 per week; or

1 (iv) By an individual receiving rehabilitation or remunerative
2 work in a facility conducted for the purpose of carrying out a program
3 of rehabilitation of individuals whose earning capacity is impaired by
4 age or physical or mental deficiency or injury or providing
5 remunerative work for individuals who because of their impaired
6 physical or mental capacity cannot be readily absorbed in the
7 competitive labor market;

8 (v) By an individual receiving work-relief or work-training as part
9 of an unemployment work-relief or work-training program assisted in
10 whole or in part by any federal agency or an agency of a state or
11 political subdivision thereof; or

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

16 (E) The term "employment" shall include the services of an
17 individual who is a citizen of the United States, performed outside the
18 United States after December 31, 1971 (except in Canada and in the
19 case of the Virgin Islands, after December 31, 1971) and prior to
20 January 1 of the year following the year in which the U.S. Secretary of
21 Labor approves the unemployment compensation law of the Virgin
22 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
23 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other
24 than the service which is deemed employment under the provisions of
25 R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's
26 unemployment compensation law), if

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

29 (ii) The American employer has no place of business in the United
30 States, but (I) the American employer is an individual who is a
31 resident of this State; or (II) the American employer is a corporation
32 which is organized under the laws of this State; or (III) the American
33 employer is a partnership or trust and the number of partners or
34 trustees who are residents of this State is greater than the number who
35 are residents of another state; or

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

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

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

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

15 (H) The term "United States" when used in a geographical sense in
16 subsection R.S.43:21-19 (i) includes the states, the District of
17 Columbia, the Commonwealth of Puerto Rico and, effective on the day
18 after the day on which the U.S. Secretary of Labor approves for the
19 first time under section 3304 (a) of the Internal Revenue Code of 1986
20 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted
21 to the Secretary by the Virgin Islands for such approval, the Virgin
22 Islands.

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

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

30 (bb) for some portion of a day in each of 20 different calendar
31 weeks, whether or not such weeks were consecutive, in either the
32 current or the preceding calendar year, employed in agricultural labor
33 10 or more individuals, regardless of whether they were employed at
34 the same moment in time.

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

39 (aa) if such crew leader holds a certification of registration under
40 the Migrant and Seasonal Agricultural Worker Protection Act,
41 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192 (C.34:8A-
42 7 et seq.); or substantially all the members of such crew operate or
43 maintain tractors, mechanized harvesting or cropdusting equipment, or
44 any other mechanized equipment, which is provided by such crew
45 leader; and

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

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

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

7 (bb) such other entity shall be treated as having paid cash
8 remuneration to such individual in an amount equal to the amount of
9 cash remuneration paid to such individual by the crew leader (either on
10 his own behalf or on behalf of such other entity) for the service in
11 agricultural labor performed for such other entity.

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

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

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

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

22 (J) (i) Domestic service after December 31, 1977 and before
23 January 1, 2023 performed in the private home of an employing unit
24 which paid cash remuneration of \$1,000.00 or more to one or more
25 individuals for such domestic service in any calendar quarter in the
26 current or preceding calendar year.

27 (ii) Domestic services as defined by section 2 of P.L. _____, c.
28 (C. _____) (pending before the Legislature as this bill) after December
29 31, 2022 in either the current or preceding calendar year paid
30 remuneration for employment in the amount of \$1,000 or more.

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

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

34 (B) The service is not localized in any state but some of the
35 service is performed in this State, and (i) the base of operations, or, if
36 there is no base of operations, then the place from which such service
37 is directed or controlled, is in this State; or (ii) the base of operations
38 or place from which such service is directed or controlled is not in any
39 state in which some part of the service is performed, but the
40 individual's residence is in this State.

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

47 (4) Services not covered under paragraph (2) of this subsection and
48 performed entirely without this State, with respect to no part of which

1 contributions are required and paid under an unemployment
2 compensation law of any other state or of the federal government, shall
3 be deemed to be employment subject to this chapter (R.S.43:21-1 et
4 seq.) if the individual performing such services is a resident of this
5 State and the employing unit for whom such services are performed
6 files with the division an election that the entire service of such
7 individual shall be deemed to be employment subject to this chapter
8 (R.S.43:21-1 et seq.).

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

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

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

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

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

21 (B) Such service is either outside the usual course of the business
22 for which such service is performed, or that such service is performed
23 outside of all the places of business of the enterprise for which such
24 service is performed; and

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

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

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

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

41 (ii) for some portion of a day in each of 20 different calendar
42 weeks, whether or not such weeks were consecutive, in either the
43 current or the preceding calendar year, employed in agricultural labor
44 10 or more individuals, regardless of whether they were employed at
45 the same moment in time;

46 (B) Domestic service in a private home performed prior to January
47 1, 1978; and after December 31, 1977, unless performed in the private
48 home of an employing unit which paid cash remuneration of \$1,000.00

- 1 or more to one or more individuals for such domestic service in any
2 calendar quarter in the current or preceding calendar year;
- 3 (C) Service performed by an individual in the employ of his son,
4 daughter or spouse, and service performed by a child under the age of
5 18 in the employ of his father or mother;
- 6 (D) Service performed prior to January 1, 1978, in the employ of
7 this State or of any political subdivision thereof or of any
8 instrumentality of this State or its political subdivisions, except as
9 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
10 of the South Jersey Port Corporation or its successors;
- 11 (E) Service performed in the employ of any other state or its
12 political subdivisions or of an instrumentality of any other state or
13 states or their political subdivisions to the extent that such
14 instrumentality is with respect to such service exempt under the
15 Constitution of the United States from the tax imposed under the
16 Federal Unemployment Tax Act, as amended, except as provided in
17 R.S.43:21-19 (i) (1) (B) above;
- 18 (F) Service performed in the employ of the United States
19 Government or of any instrumentality of the United States exempt
20 under the Constitution of the United States from the contributions
21 imposed by the "unemployment compensation law," except that to the
22 extent that the Congress of the United States shall permit states to
23 require any instrumentalities of the United States to make payments
24 into an unemployment fund under a state unemployment compensation
25 law, all of the provisions of this act shall be applicable to such
26 instrumentalities, and to service performed for such instrumentalities,
27 in the same manner, to the same extent and on the same terms as to all
28 other employers, employing units, individuals and services; provided
29 that if this State shall not be certified for any year by the Secretary of
30 Labor of the United States under section 3304 of the federal Internal
31 Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of
32 such instrumentalities with respect to such year shall be refunded by
33 the division from the fund in the same manner and within the same
34 period as is provided in R.S.43:21-14 (f) with respect to contributions
35 erroneously paid to or collected by the division;
- 36 (G) Services performed in the employ of fraternal beneficiary
37 societies, orders, or associations operating under the lodge system or
38 for the exclusive benefit of the members of a fraternity itself operating
39 under the lodge system and providing for the payment of life, sick,
40 accident, or other benefits to the members of such society, order, or
41 association, or their dependents;
- 42 (H) Services performed as a member of the board of directors, a
43 board of trustees, a board of managers, or a committee of any bank,
44 building and loan, or savings and loan association, incorporated or
45 organized under the laws of this State or of the United States, where
46 such services do not constitute the principal employment of the
47 individual;

- 1 (I) Service with respect to which unemployment insurance is
2 payable under an unemployment insurance program established by an
3 Act of Congress;
- 4 (J) Service performed by agents of mutual fund brokers or dealers
5 in the sale of mutual funds or other securities, by agents of insurance
6 companies, exclusive of industrial insurance agents or by agents of
7 investment companies, if the compensation to such agents for such
8 services is wholly on a commission basis;
- 9 (K) Services performed by real estate salesmen or brokers who are
10 compensated wholly on a commission basis;
- 11 (L) Services performed in the employ of any veterans'
12 organization chartered by Act of Congress or of any auxiliary thereof,
13 no part of the net earnings of which organization, or auxiliary thereof,
14 inures to the benefit of any private shareholder or individual;
- 15 (M) Service performed for or in behalf of the owner or operator of
16 any theater, ballroom, amusement hall or other place of entertainment,
17 not in excess of 10 weeks in any calendar year for the same owner or
18 operator, by any leader or musician of a band or orchestra, commonly
19 called a "name band," entertainer, vaudeville artist, actor, actress,
20 singer or other entertainer;
- 21 (N) Services performed after January 1, 1973 by an individual for
22 a labor union organization, known and recognized as a union local, as
23 a member of a committee or committees reimbursed by the union local
24 for time lost from regular employment, or as a part-time officer of a
25 union local and the remuneration for such services is less than
26 \$1,000.00 in a calendar year;
- 27 (O) Services performed in the sale or distribution of merchandise
28 by home-to-home salespersons or in-the-home demonstrators whose
29 remuneration consists wholly of commissions or commissions and
30 bonuses;
- 31 (P) Service performed in the employ of a foreign government,
32 including service as a consular, nondiplomatic representative, or other
33 officer or employee;
- 34 (Q) Service performed in the employ of an instrumentality wholly
35 owned by a foreign government if (i) the service is of a character
36 similar to that performed in foreign countries by employees of the
37 United States Government or of an instrumentality thereof, and (ii) the
38 division finds that the United States Secretary of State has certified to
39 the United States Secretary of the Treasury that the foreign
40 government, with respect to whose instrumentality exemption is
41 claimed, grants an equivalent exemption with respect to similar
42 services performed in the foreign country by employees of the United
43 States Government and of instrumentalities thereof;
- 44 (R) Service in the employ of an international organization entitled
45 to enjoy the privileges, exemptions and immunities under the
46 International Organizations Immunities Act (22 U.S.C. s.288 et seq.);
- 47 (S) Service covered by an election duly approved by an agency
48 charged with the administration of any other state or federal

1 unemployment compensation or employment security law, in
2 accordance with an arrangement pursuant to R.S.43:21-21 during the
3 effective period of such election;

4 (T) Service performed in the employ of a school, college, or
5 university if such service is performed (i) by a student enrolled at such
6 school, college, or university on a full-time basis in an educational
7 program or completing such educational program leading to a degree
8 at any of the severally recognized levels, or (ii) by the spouse of such a
9 student, if such spouse is advised at the time such spouse commences
10 to perform such service that (I) the employment of such spouse to
11 perform such service is provided under a program to provide financial
12 assistance to such student by such school, college, or university, and
13 (II) such employment will not be covered by any program of
14 unemployment insurance;

15 (U) Service performed by an individual who is enrolled at a
16 nonprofit or public educational institution which normally maintains a
17 regular faculty and curriculum and normally has a regularly organized
18 body of students in attendance at the place where its educational
19 activities are carried on, as a student in a full-time program, taken for
20 credit at such institution, which combines academic instruction with
21 work experience, if such service is an integral part of such program,
22 and such institution has so certified to the employer, except that this
23 subparagraph shall not apply to service performed in a program
24 established for or on behalf of an employer or group of employers;

25 (V) Service performed in the employ of a hospital, if such service
26 is performed by a patient of the hospital; service performed as a
27 student nurse in the employ of a hospital or a nurses' training school by
28 an individual who is enrolled and regularly attending classes in a
29 nurses' training school approved under the laws of this State;

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

33 (X) Services performed by operators of motor vehicles weighing
34 18,000 pounds or more, licensed for commercial use and used for the
35 highway movement of motor freight, who own their equipment or who
36 lease or finance the purchase of their equipment through an entity
37 which is not owned or controlled directly or indirectly by the entity for
38 which the services were performed and who were compensated by
39 receiving a percentage of the gross revenue generated by the
40 transportation move or by a schedule of payment based on the distance
41 and weight of the transportation move;

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

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

1 (AA) Services provided by a commercial fisherman whose
2 compensation is comprised solely of a percentage of fish caught or a
3 percentage of the proceeds from the sale of the catch.

4 (8) If one-half or more of the services in any pay period performed
5 by an individual for an employing unit constitutes employment, all the
6 services of such individual shall be deemed to be employment; but if
7 more than one-half of the service in any pay period performed by an
8 individual for an employing unit does not constitute employment, then
9 none of the service of such individual shall be deemed to be
10 employment. As used in this paragraph, the term "pay period" means
11 a period of not more than 31 consecutive days for which a payment for
12 service is ordinarily made by an employing unit to individuals in its
13 employ.

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

18 (A) The limousine franchisee is incorporated;

19 (B) The franchisee is subject to regulation by the Interstate
20 Commerce Commission;

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

24 (D) The franchisee registers with the Department of Labor and
25 Workforce Development and receives an employer registration
26 number.

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

37 For purposes of this paragraph (10): "legal transcription service"
38 and "legal transcribing" mean making use, by audio, video or voice
39 recording, of a verbatim record of court proceedings, depositions,
40 other judicial proceedings, meetings of boards, agencies, corporations,
41 or other bodies or groups, and causing that record to be printed in
42 readable form or produced on a computer screen in readable form; and
43 "legal transcriber" means a person who engages in "legal transcribing."

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

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

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

3 (m) "Unemployment."

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

6 (A) The individual is not engaged in full-time work and with
7 respect to which his remuneration is less than his weekly benefit rate,
8 including any week during which he is on vacation without pay;
9 provided such vacation is not the result of the individual's voluntary
10 action, except that for benefit years commencing on or after July 1,
11 1984, an officer of a corporation, or a person who has more than a 5%
12 equitable or debt interest in the corporation, whose claim for benefits
13 is based on wages with that corporation shall not be deemed to be
14 unemployed in any week during the individual's term of office or
15 ownership in the corporation; or

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

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

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

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

34 (o) "Wages" means remuneration paid by employers for
35 employment. If a worker receives gratuities regularly in the course of
36 his employment from other than his employer, his "wages" shall also
37 include the gratuities so received, if reported in writing to his employer
38 in accordance with regulations of the division, and if not so reported,
39 his "wages" shall be determined in accordance with the minimum
40 wage rates prescribed under any labor law or regulation of this State or
41 of the United States, or the amount of remuneration actually received
42 by the employee from his employer, whichever is the higher.

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

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

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

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

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

7 (2) "Base week," commencing on or after January 1, 1996 and
8 before January 1, 2001, means:

9 (A) Any calendar week during which the individual earned in
10 employment from an employer remuneration not less than an amount
11 which is 20% of the Statewide average weekly remuneration defined
12 in subsection (c) of R.S.43:21-3 which amount shall be adjusted to the
13 next higher multiple of \$1.00 if not already a multiple thereof, except
14 that if in any calendar week an individual subject to this subparagraph
15 (A) is in employment with more than one employer, the individual
16 may in that calendar week establish a base week with respect to each
17 of the employers from whom the individual earns remuneration equal
18 to not less than the amount defined in this subparagraph (A) during
19 that week; or

20 (B) If the individual does not establish in his base year 20 or more
21 base weeks as defined in subparagraph (A) of this paragraph (2), any
22 calendar week of an individual's base year during which the individual
23 earned in employment from an employer remuneration not less than an
24 amount 20 times the minimum wage in effect pursuant to section 5 of
25 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
26 preceding the calendar year in which the benefit year commences,
27 which amount shall be adjusted to the next higher multiple of \$1.00 if
28 not already a multiple thereof, except that if in any calendar week an
29 individual subject to this subparagraph (B) is in employment with
30 more than one employer, the individual may in that calendar week
31 establish a base week with respect to each of the employers from
32 whom the individual earns remuneration not less than the amount
33 defined in this subparagraph (B) during that week.

34 (3) "Base week," commencing on or after January 1, 2001, means
35 any calendar week during which the individual earned in employment
36 from an employer remuneration not less than an amount 20 times the
37 minimum wage in effect pursuant to section 5 of P.L.1966, c.113
38 (C.34:11-56a4) on October 1 of the calendar year preceding the
39 calendar year in which the benefit year commences, which amount
40 shall be adjusted to the next higher multiple of \$1.00 if not already a
41 multiple thereof, except that if in any calendar week an individual
42 subject to this paragraph (3) is in employment with more than one
43 employer, the individual may in that calendar week establish a base
44 week with respect to each of the employers from whom the individual
45 earns remuneration equal to not less than the amount defined in this
46 paragraph (3) during that week.

47 (u) "Average weekly wage" means the amount derived by dividing
48 an individual's total wages received during his base year base weeks

1 (as defined in subsection (t) of this section) from that most recent base
2 year employer with whom he has established at least 20 base weeks,
3 by the number of base weeks in which such wages were earned. In the
4 event that such claimant had no employer in his base year with whom
5 he had established at least 20 base weeks, then such individual's
6 average weekly wage shall be computed as if all of his base week
7 wages were received from one employer and as if all his base weeks of
8 employment had been performed in the employ of one employer.

9 For the purpose of computing the average weekly wage, the
10 monetary alternative in subparagraph (B) of paragraph (2) of
11 subsection (e) of R.S.43:21-4 shall only apply in those instances where
12 the individual did not have at least 20 base weeks in the base year. For
13 benefit years commencing on or after July 1, 1986, "average weekly
14 wage" means the amount derived by dividing an individual's total base
15 year wages by the number of base weeks worked by the individual
16 during the base year; provided that for the purpose of computing the
17 average weekly wage, the maximum number of base weeks used in the
18 divisor shall be 52.

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

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

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

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

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

36 (B) Which is approved, licensed or issued a permit to operate as a
37 school by the State Department of Education or other government
38 agency that is authorized within the State to approve, license or issue a
39 permit for the operation of a school; and

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

43 (2) "Institution of higher education" means an educational
44 institution which:

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

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

3 (C) Provides an educational program for which it awards a
4 bachelor's or higher degree, or provides a program which is acceptable
5 for full credit toward such a degree, a program of post-graduate or
6 post-doctoral studies, or a program of training to prepare students for
7 gainful employment in a recognized occupation; and

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

9 Notwithstanding any of the foregoing provisions of this subsection,
10 all colleges and universities in this State are institutions of higher
11 education for purposes of this section.

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

14 (cf: P.L.2021, c.346, s.1)¹

15
16 ¹~~15.~~ 14.¹ (New section) Except as otherwise provided, the
17 following minimum terms, and such other minimum terms as may be
18 established by the department by regulation, shall apply to a work
19 relationship between a domestic worker and ¹~~a hiring entity~~ an
20 employer¹:

21 a. Written agreements. No employer shall employ a domestic
22 worker, except for casual work or work of less than five hours per
23 month, unless the engagement is governed by a written contract
24 governing the following: a specific list of job duties; hourly wage and
25 overtime wage; weekly schedule including number of hours per week;
26 the manner and frequency of payment; breaks for rest and meals; paid
27 or unpaid leave including sick time; paid holidays; any other benefits
28 provided; modes of transportation required and whether provided;
29 value of housing if provided; sleeping period and personal time for
30 live-in workers; the term of the contract; and any other terms and
31 conditions as agreed upon by the domestic worker and employer or as
32 mandated pursuant to this act. The written agreement shall be signed
33 and dated by all parties after ample opportunity to review.

34 b. The written agreement required under this section shall not be
35 construed to waive the protections of domestic workers under federal,
36 State, and local laws and shall not contain any:

37 (1) Mandatory pre-dispute arbitration agreement for claims made
38 by a covered domestic worker against a domestic work ¹~~hiring~~
39 ~~entity~~ employer¹ regarding the local rights of the worker; and

40 (2) Non-disclosure agreement, restrictive covenant, or non-
41 disparagement agreement, limiting the ability of the covered domestic
42 worker to seek compensation for performing domestic services after
43 the worker ceases to receive compensation from the domestic work
44 ¹~~hiring entity~~ employer¹ for the performance of domestic services.

45 c. The agreement shall be in English and such other language as
46 may be preferred by the worker. The ¹~~hiring entity~~ employer¹ shall

1 make reasonable efforts to determine if the worker would prefer the
2 agreement to be in another language.

3 d. The department shall make available model contracts
4 complying with this act shall in multiple languages on its Internet
5 website.

6 e. A referral and employment agency shall provide domestic
7 workers and ¹["hiring entities"] employers¹ with information
8 concerning the contract requirements of this act at the time ¹["a hiring
9 entity"] an employer¹ is connected with a worker and shall make any
10 model contracts adopted by the department available to the ¹["hiring
11 entity"] employer¹.

12
13 ¹["16."] 15.¹ (New section) a. The ¹["hiring entity"] employer¹ shall
14 allow the domestic worker an uninterrupted paid rest-period of not less
15 than ten minutes for each four consecutive hours worked, unless the
16 nature of the work prevents the domestic worker from being relieved
17 of all duties for such period of time, such as some types of child care
18 and caretaker work for a sick, elderly or disabled person. The ¹["hiring
19 entity"] employer¹ shall pay the domestic worker for the time spent on
20 a rest break at the domestic worker's regular rate of pay.

21 b. The ¹["hiring entity"] employer¹ shall allow an uninterrupted
22 30-minute meal break after more than five consecutive hours worked.
23 Unless the domestic worker is relieved of all work duties during such
24 30-minute period, the meal period shall be considered an "on-duty"
25 meal period and shall be paid at the domestic worker's regular rate of
26 pay.

27 (1) An "on-duty" meal period shall be permitted only when the
28 nature of the work prevents a domestic worker from being relieved of
29 all duties and when, by written agreement between the parties, an "on-
30 duty" meal period is agreed to. The agreement may be revoked by the
31 domestic worker, in writing, at any time.

32 c. The ¹["hiring entity"] employer¹ shall not impede or discourage
33 a domestic worker from taking any meal or rest breaks.

34 d. Failure to allow a meal or rest period in accordance with this
35 paragraph (1) shall entitle the domestic worker to one additional hour
36 of pay at the domestic worker's regular rate of compensation for each
37 workday that the meal or rest period was not provided. Payment of this
38 extra pay shall not excuse non-compliance with this subsection.

39
40 ¹["17."] 16.¹ (New section) A "live-in" domestic worker shall
41 not be required to work more than six consecutive days for the same
42 ¹["hiring entity"] employer¹ without a 24-hour period of rest, which
43 may be unpaid.

44
45 ¹["18."] 17.¹ (New section) a. The ¹["hiring entity"] employer¹ shall
46 provide a minimum two-week notification period before termination of
47 employment, and for live-in domestic workers a minimum four-week

1 notification period before termination of employment. No notification
2 period is required in connection with the termination of casual work
3 performed for ¹ ~~["a hiring entity"]~~ an employer¹.

4 b. The ¹ ~~["hiring entity"]~~ employer¹ may terminate the employment
5 without complying with the full notification period based on a good-
6 faith belief that the domestic worker has engaged in significant
7 misconduct.

8 c. Failure to provide notification as required under this section
9 shall entitle the domestic worker to severance pay in the amount of the
10 worker's regular hourly rate multiplied by the regular number of hours
11 worked over the period of time during which the required notification
12 was not provided.

13
14 ¹ ~~["19."]~~ 18.¹ (New section) No ¹ ~~["hiring entity"]~~ employer¹ shall:

15 a. Keep or hold the original copies of any personal documents of
16 a domestic worker;

17 b. Monitor or record, through any means, the activities of a
18 domestic worker:

19 (1) using any bathroom or similar facility;

20 (2) in the living quarters of a domestic worker; or

21 (3) while the worker is engaged in any activities associated with
22 dressing or changing clothes; or

23 c. Monitor, record or interfere with the private communications
24 of a domestic worker.

25
26 ¹ ~~["20."]~~ 19.¹ (New section) a. ¹ ~~["A hiring entity"]~~ An employer¹
27 shall provide to a domestic worker notification of the rights of
28 domestic workers under P.L. , c. (C. et seq.) (pending before
29 the Legislature as this bill), and information on how to file a complaint
30 for violation of these rights, as shall be determined by the department
31 by regulation.

32 b. ¹ ~~["A hiring entity"]~~ An employer¹ shall create and maintain
33 records documenting hours worked, pay rate, meals and rest breaks,
34 leave time earned and used, if applicable, and the existence of a
35 written agreement, all pursuant to requirements established by
36 regulation by the department. If ¹ ~~["a hiring entity"]~~ an employer¹ does
37 not maintain the required records or does not allow the department
38 reasonable access to the records, an adverse inference may be drawn
39 with respect to facts alleged regarding the issues about which records
40 were not kept.

41 c. The department shall maintain the confidentiality of all records
42 it obtains in connection with enforcement activities to the full extent
43 permitted by law.

44
45 ¹ ~~["21."]~~ 20.¹ (New section) a. It shall be unlawful for ¹ ~~["a hiring
46 entity"]~~ an employer¹ or any other person to interfere with, restrain, or
47 deny the exercise of, or the attempt to exercise, any right set forth in

- 1 P.L. , c. (C. et seq.) (pending before the Legislature as this
2 bill).
- 3 b. The minimum requirements of sections ¹**[15 through 20]** 14
4 through 19¹ of P.L. , c. (C.) (pending before the Legislature
5 as this bill) shall be deemed incorporated into any contract, whether
6 actual or implied, between the employer and the domestic worker.
- 7 c. A material breach by ¹**[a hiring entity]** an employer¹ of a
8 contract with a domestic worker shall constitute a violation of P.L. ,
9 c. (C. et seq.) (pending before the Legislature as this bill),
10 without regard to whether the breach is of a provision required by this
11 act.
- 12 d. No ¹**[hiring entity]** employer¹ or any other person shall take or
13 threaten retaliatory action against any person because a domestic
14 worker has exercised rights or pursued a claim of violation
15 under P.L. , c. (C. et seq.) (pending before the Legislature as
16 this bill). These rights include the right to demand compliance with
17 protections established by written agreement; the right to file a
18 complaint or inform any person about an employer's alleged violation
19 of this act; the right to cooperate with the department in any
20 investigation pursuant to this act; and the right to inform any person of
21 the rights established under this act.
- 22 e. No ¹**[hiring entity]** employer¹ or any other person shall
23 communicate to a person exercising rights protected under P.L. c.
24 (C.) (pending before the Legislature as this bill) the willingness or
25 intent to contact, report to, or to make an implied or express assertion
26 to report to a government agency regarding the suspected citizenship
27 or immigration status of a domestic worker or family member of a
28 domestic worker because the worker has or has expressed an intent to
29 exercise rights protected under this act or because of a belief the
30 worker may do so.
- 31 f. The protections of this section shall apply to any person who
32 mistakenly but in good faith alleges a violation of P.L. , c.
33 (C. et seq.) (pending before the Legislature as this bill).
- 34 g. It shall be considered a rebuttable presumption of retaliation if
35 the ¹**[hiring entity]** employer¹ or any other person takes an adverse
36 action against a domestic worker within 90 calendar days of the
37 worker's exercise of rights protected in P.L. c. (C. et seq.)
38 (pending before the Legislature as this bill). However, in the case of
39 temporary or seasonal employment that ended before the close of the
40 90 calendar day period, the presumption also applies if the ¹**[hiring**
41 **entity]** employer¹ fails to rehire a former domestic worker at the next
42 opportunity for work in the same position. The ¹**[hiring entity]**
43 employer¹ may rebut the presumption with clear and convincing
44 evidence that the adverse action would have been taken in the absence
45 of such protected activity.
- 46 h. Proof of retaliation under P.L. , c. (C. et seq.) (pending
47 before the Legislature as this bill) shall be sufficient upon a showing

1 that the ¹**["hiring entity"]** employer¹ or any other person has taken an
2 adverse action against a person and the persons exercise or rights
3 protected in P.L. , c. (C. et seq.) (pending before the
4 Legislature as this bill) was a motivating factor in the absence of that
5 protected activity.

6 i. A complaint or other communication by any person triggers the
7 protection of P.L. , c. (C. et seq.) (pending before the
8 Legislature as this bill) regardless of whether the complaint or
9 communication is in writing or makes explicit reference to P.L. , c.
10 (C.) (pending before the Legislature as this bill).

11
12 ¹**["22.] 21.**¹ (New section) The department is authorized to
13 coordinate implementation, administration, and enforcement for
14 P.L. , c. (C.) (pending before the Legislature as this bill), and
15 shall promulgate appropriate guidelines and regulations to effectuate
16 the purposes of for P.L. , c. (C.) (pending before the
17 Legislature as this bill) through the Domestic Workers Standards and
18 Implementation Board, established in section ¹**["25]24**¹ of P.L. , c.
19 (C.) (pending before the Legislature as this bill).

20
21 ¹**["23.] 22.**¹ (New section) a. Individuals and ¹**["hiring entities"]**
22 employers¹ with an overlapping employment relationship with a
23 domestic worker are subject to joint and several liability, and
24 concurrent fines and penalties, in connection with P.L. , c.
25 (C.) (pending before the Legislature as this bill).

26 b. A domestic worker or other person representing a domestic
27 worker may report to the department any suspected violation of
28 P.L. , c. (C.) (pending before the Legislature as this bill).

29 c. The department shall collaborate with the Domestic Workers
30 Standards and Implementation Board, as established by section ¹**["25]**
31 **24**¹ of P.L. , c. (C.) (pending before the Legislature as this
32 bill) to take any steps as it deems appropriate to resolve complaints
33 and enforce P.L. , c. (C.) (pending before the Legislature as
34 this bill), including, but not limited to, establishing a system to receive
35 complaints regarding noncompliance with P.L. , c. (C.)
36 (pending before the Legislature as this bill), investigating alleged
37 violations in a timely manner and resolving complaints through a
38 separate "referral" process for claims of employees in domestic
39 services.

40 d. The department shall have the power to subpoena records and
41 testimony from any party to a complaint. The records shall be
42 provided to the department within 30 days after receipt of the
43 subpoena.

44 e. Any person alleging a violation of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall file a complaint with
46 the department within two years of the date that the person knew or
47 should have known of the alleged violation.

1 f. Upon establishment of a system of administrative adjudication,
2 the department shall have the power to impose the penalties and fines
3 for a violation of P.L. , c. (C.) (pending before the Legislature
4 as this bill), and to provide or obtain appropriate relief. Remedies may
5 include reinstatement and full restitution to the domestic worker for
6 lost wages and benefits, including presumed damages to be awarded to
7 a domestic worker for the ¹["hiring entity's"] employer's¹ violation of
8 P.L. , c. (C. (pending before the Legislature as this bill). The
9 department shall determine by regulation an amount of presumed
10 damages.

11 g. ¹["A hiring entity"] An employer¹ who knowingly retaliates
12 against an employee for any activity protected under P.L. ,
13 c. (C.) (pending before the Legislature as this bill), or any other
14 knowing violation of P.L. , c. (C.) (pending before the
15 Legislature as this bill), shall be a crime of the fourth degree.
16 Otherwise, it shall be a disorderly persons offense and the ¹["hiring
17 entity"] employer¹ shall, upon conviction for a violation, be punished
18 by a fine of not less than \$100 not more than \$2,000 for an initial
19 violation and not less than \$200 nor more than \$4,000 for each
20 subsequent violation. Each day during which any violation of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) continues
22 shall constitute a separate and distinct offense, and the employment of
23 any domestic worker in violation of P.L. , c. (C.) (pending
24 before the Legislature as this bill), shall, with respect to each domestic
25 worker employed, constitute a separate and violation.

26 h. Any domestic worker or person who is aggrieved by a violation
27 of P.L. , c. (C.) (pending before the Legislature as this bill), or
28 the department may bring civil action in a court of competent
29 jurisdiction against ¹["a hiring entity"] an employer¹ violating P.L. , c.
30 (C.) (pending before the Legislature as this bill). Nothing in
31 P.L. , c. (C.) (pending before the Legislature as this bill) or its
32 implementing regulations shall be construed to require a complaint to
33 be filed with the department before bringing an action in court. Upon
34 prevailing in an action brought pursuant to this section, an aggrieved
35 person shall be entitled to any legal or equitable relief as may be
36 appropriate to remedy the violation, that is not duplicative of any relief
37 provided to the person in administrative proceedings, including,
38 without limitation, reinstatement in employment, back pay, and
39 injunctive relief. The aggrieved person shall be entitled to an award of
40 reasonable attorney's fees and costs.

41
42 ¹["24."] 23.¹ (New section) a. The department shall, upon
43 appropriation of funds to the department for purposes of this section,
44 establish and maintain a Domestic Work Enforcement Program in
45 collaboration with qualified organizations. P.L. , c. (C.)
46 (pending before the Legislature as this bill) requires the department to
47 issue a competitive request to community-based organizations (CBOs)

1 to provide education and outreach services in this program and would
2 prescribe requirements for these organizations. The CBOs would be
3 responsible for developing and consulting with the department
4 regarding the core education and outreach materials, as specified. The
5 program shall increase the capacity and expertise of the department to
6 improve education and enforcement of labor standards in the domestic
7 work industry. The program shall include, but not be limited to, the
8 following:

9 (1) Education and training for domestic work employees and
10 ¹["hiring entities"] employers¹ addressing minimum wage, overtime,
11 sick leave, recordkeeping, wage adjudication, and retaliation, along
12 with new rights extended by P.L. , c. (C.) (pending before the
13 Legislature as this bill);

14 (2) Training for domestic worker leaders to provide peer-to-peer
15 support and wraparound service referrals to domestic work employees
16 who have elected to file wage claims or take other actions seeking
17 remedy from ¹["hiring entities"] employers¹;

18 (3) Development of core training curriculum to be used in the
19 education and training of domestic work employees and ¹["hiring
20 entities"] employers¹;

21 (4) Provision of technical and legal assistance to domestic work
22 employees through a Statewide telephone help line and the promotion
23 of the help line to domestic worker populations; and

24 (5) Development of an online resource hub to provide information
25 for ¹["hiring entities"] employers¹ on State labor laws and guidelines on
26 fair employment.

27 b. Qualified organizations that collaborate under subsection a. of
28 this section shall issue reports and meet quarterly with the department
29 to review the implementation and success of the program.

30 c. (1) A nonprofit organization that has a minimum of five years
31 of experience working with domestic work employees or ¹["hiring
32 entities"] employers¹; or

33 (2) An organization that works with nonprofit organizations that
34 has a minimum of five years of experience working with domestic
35 work employees or ¹["hiring entities"] employers¹.

36
37 ¹["25."] 24.¹ (New section) a. The department shall establish,
38 within 90 days of the date of enactment of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), a "Domestic
40 Workers Standards and Implementation Board" (Board), which shall
41 be established to provide a forum for ¹["hiring entities"] employers¹,
42 domestic workers, worker organizations, and the public to consider
43 analyze, and make recommendations to the State on the legal
44 protections, benefits, and working conditions for domestic worker
45 industry standards. The board shall be established to permanently
46 promote the health, safety, and well-being of domestic workers; and a
47 living wage for domestic workers along with development of the

1 mechanisms to support implementation of P.L. , c. (C.
2 (pending before the Legislature as this bill), including the development
3 of regulations promulgated under P.L. , c. (C.)(pending before
4 the Legislature as this bill). The board shall also make
5 recommendations to the department regarding enforcement and
6 implementation strategies, including the development of the Domestic
7 Work Enforcement Program.

8 b. (1) The board shall consist of 13 members composed of
9 members with expertise in labor standards, wage theft, law, and
10 policy; and domestic worker industry. The board shall meet at least
11 quarterly, and all meetings shall be open to the public. The board shall
12 create by-laws in order to conduct and structure future meetings
13 including, but not limited to, scheduling quarterly meetings,
14 determining recommended timetables for submission of
15 recommendations to the Legislature, the Department of Labor and
16 Workforce Development, the Governor's Office, determining term
17 lengths and appointments of individuals to the board. All State
18 departments, agencies, boards, commissions shall support and
19 cooperate with the board and provide the board with any data it may
20 need which may include logistical support in regard to translation,
21 interpretation, and outreach to ensure equal access and equity of
22 domestic worker representatives and ¹**["hiring entities"] employers¹
23 on the board. The board will be comprised of various stakeholders from
24 the private, non-profit sectors, domestic workers, ¹**["hiring entities"]**
25 employers¹, and will have representation from members of the
26 Department of Labor and Workforce Development, and Governor's
27 office; and**

28 (2) (a) The Governor shall appoint seven members as follows:

29 (i) one representative from the Department of Labor and
30 Workforce Development;

31 (ii) one representative from the National Domestic Workers
32 Alliance;

33 (iii) one representative from a labor or union organization;

34 (iv) two representatives from a State-based community
35 organization or worker center, which is focused on the rights of low-
36 wage and immigrant workers;

37 (v) one domestic worker; and

38 (vi) one ¹**["hiring entity"] employer¹; and**

39 (b) The Legislature shall appoint six members as follows: three
40 members to be appointed by the President of the Senate and three
41 members to be appointed by the Speaker of the General Assembly, as
42 follows:

43 (i) four domestic workers, two each selected respectively by the
44 President of the Senate and the Speaker of the General Assembly; and

45 (ii) two ¹**["hiring entities"] employers¹, one each selected
46 respectively by the President of the Senate and the Speaker of the
47 General Assembly.**

1 c. The board's responsibilities include, but are not limited to,
2 providing a forum for ¹**["hiring entities"] employers¹, domestic
3 workers, worker organizations, and other affected parties to share
4 information, insights, and experiences on the working conditions of
5 domestic workers, and recommendations on how the working
6 conditions can be changed to meet the needs of domestic workers and
7 ¹**["hiring entities"] employers¹. These recommendations shall include:****

- 8 (1) possible legislation or policy changes;
- 9 (2) wage standards for the industry;
- 10 (3) development and advancement of enforcement and
11 implementation efforts in collaboration with the department; and
- 12 (4) the promulgation of regulations to enforce P.L. , c.
13 (C.) (pending before the Legislature as this bill).

14 d. The board, in consultation with the department and other State
15 agencies, within six months after all members have been established,
16 shall submit to the Governor, and Legislature, pursuant to section 2 of
17 P.L.1991, c.164 (C.52:14-19.1), with oversight by the department, a
18 work plan identifying the topics the board will address in the first two
19 years. The board in consultation with the department and other
20 relevant State agencies, shall submit an updated work plan every two
21 years. The board's first recommendation shall be submitted to the
22 Governor and Legislature by the end of the first quarter of the year
23 following the year in which the work plan has been submitted.

24 Within 120 days from the date of receipt of any work plan
25 submitted by the board, the Legislature, through its committees that
26 consider labor subject matter, shall consider and respond to the board's
27 work plan. The response shall include proposed legislation and
28 policies, requests for additional information needed from the board,
29 requests for alternative plans from the board, reasons ¹**["fro"] for¹
30 rejection of any plan submitted by the board, or an explanation of why
31 additional time is needed to submit a response to the board's plan.
32 Additionally, the Legislature, sua sponte, may notify the board of any
33 policies or legislation it may introduce for enactment, request further
34 information from the board, request that the board develop
35 alternatives, or take any other action that it deems appropriate.**

36 e. The board shall make recommendations to the Legislature on
37 the following subjects:

- 38 (1) Wage standards, such as industry standards, overtime, and pay
39 differentials;
- 40 (2) Training for ¹**["hiring entities"] employers¹ and domestic
41 workers on federal, State, and local labor laws, benefits, and
42 protections, discrimination, and sexual harassment, workplace health;
43 and safety standards;**
- 44 (3) Jobs skills and professional development opportunities;
- 45 (4) Access to portable benefits, such as paid time off, retirement
46 pensions, health benefits, and paid family and disability leave;
- 47 (5) Workers' compensation and temporary disability benefits;

1 (6) Development and advancement of written agreement, including
2 notice of rights and recordkeeping templates;

3 (7) Outreach and enforcement strategies to ensure compliance with
4 P.L. , c. (C.) (pending before the Legislature as this bill), and
5 to provide effective information to both ¹**["hiring entities"]** employers¹
6 and domestic workers; and

7 (8) Any other emerging issues the board wishes to include in its
8 work plan.

9 f. Members of the board shall serve without compensation but
10 shall be reimbursed for the reasonable travel and other out-of-pocket
11 expenses incurred in the performance of their duties.

12

13 ¹**["26.]"** 25.¹ (New section) a. Nothing in P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall be construed to
15 diminish any rights or protections granted to domestic workers by
16 any other law.

17 b. If any provision of P.L. , c. (C.) (pending before the
18 Legislature as this bill) or its application to any person or
19 circumstance is held invalid, the invalidity does not affect other
20 provisions or applications of P.L. , c. (C.) (pending before
21 the Legislature as this bill) which can be given effect without the
22 invalid provision or application, and to this end the provisions of
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 are severable.

25

26 ¹**["27.]"** 26.¹ This act shall take effect on the first day of the sixth
27 month next following enactment, except that the commissioner may
28 take any anticipatory action as may be necessary to effectuate the
29 purposes of this act.