

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3830

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED MAY 19, 2022

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman SHAMA A. HAIDER

District 37 (Bergen)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Co-Sponsored by:

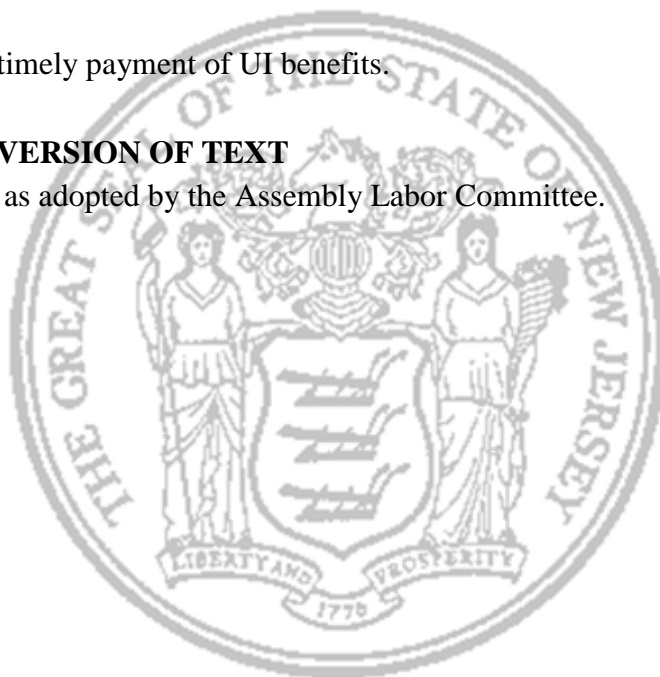
**Assemblywomen Piperno, Eulner, Assemblyman Wimberly,
Assemblywomen McKnight, Mosquera, Quijano, Assemblyman Benson,
Assemblywomen Park, Jimenez, Lampitt, Jasey, Assemblymen Dancer,
Freiman and Calabrese**

SYNOPSIS

Concerns timely payment of UI benefits.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Labor Committee.



(Sponsorship Updated As Of: 10/27/2022)

1 **AN ACT** concerning the timely payment of unemployment
2 compensation benefits and amending R.S.43:21-6 and R.S.43:21-
3 16.

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

7
8 1. R.S.43:21-6 is amended to read as follows:

9 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
10 accordance with such regulations as the Director of the Division of
11 Unemployment and Temporary Disability Insurance of the
12 Department of Labor and Workforce Development of the State of
13 New Jersey may approve. Each employer shall post and maintain
14 on his premises printed notices of his subject status, of such design,
15 in such numbers and at such places as the director of the division
16 may determine to be necessary to give notice thereof to persons in
17 the employer's service. Each employer shall give to each individual
18 at the time he becomes unemployed, for any reason, whether the
19 unemployment is permanent or temporary, a printed copy of benefit
20 instructions. The benefit instructions given to the individual shall
21 include, but not be limited to, the following information: (A) the
22 date upon which the individual becomes unemployed, and, in the
23 case that the unemployment is temporary, to the extent possible, the
24 date upon which the individual is expected to be recalled to work;
25 and (B) that the individual may lose some or all of the benefits to
26 which he is entitled if he fails to file a claim in a timely manner.
27 Both the aforesaid notices and instructions, including information
28 detailing the time sensitivity of filing a claim, and directions
29 provided in advance to all employers regarding what information
30 the division requires employers to provide to the division by
31 electronic means immediately upon a separation from employment
32 sufficient to enable the division to make a benefit determination,
33 including any information relevant to whether the individual may be
34 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
35 5, shall be supplied by the division to employers without cost to
36 them. The directions provided to all employers in advance shall
37 include that each employer provide the division with an email
38 address for communications to and from the division. When an
39 employer provides benefit instructions to the individual which
40 disclose the date on which unemployment will commence, the
41 employer shall immediately and simultaneously provide by
42 electronic means that disclosure to the division together with the
43 information required by the division pursuant to the directions
44 provided in advance by the division. An employer who fails to
45 make the immediate and simultaneous disclosure to the department

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.

1 as required by this paragraph shall be liable for the penalties
2 imposed by subsection (b) of R.S.43:21-16 on employers for willful
3 failure to furnish reports. The division shall notify the employer by
4 electronic means not more than seven calendar days after the
5 department receives the disclosure of any failure of the employer to
6 provide all of the information needed by the division to make a
7 benefit determination. Nothing in this section shall be construed so
8 as to require an employer to re-hire an individual formerly in the
9 employer's service. Nothing in this section shall be construed as
10 requiring the division to issue a benefit determination solely based
11 on the information supplied by the employer.

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

18 (3) The division may request that claimants obtain digital
19 identity credentials, but only if the division provides opportunities
20 for claimants to verify their identities even if they do not have the
21 knowledge or access to the equipment needed to obtain the digital
22 identity credentials. Any request by the division for a claimant to
23 obtain digital identity credentials shall include a statement that the
24 claimant may use alternative procedures to verify identification, and
25 fully describe the alternative procedures, which shall include
26 personal assistance in person or by phone which shall be made
27 available by representatives of the division as needed to prevent any
28 delay in processing claims. If the division requests that a claimant
29 obtain digital identity credentials, and the claimant chooses to
30 request a digital identity credential rather than utilize an alternative
31 procedure, but is denied the digital identity credential, the division
32 shall issue the claimant a written appealable determination.

33 (4) Any system that the division establishes for claimants or
34 recipients of benefits to verify identity, to apply for, or to make
35 appeals regarding, benefits either by phone or on-line, shall provide
36 a clearly and prominently expressed option for the claimant or
37 recipient, if not immediately provided personal assistance, to select
38 from available appointment times an appointment time to speak
39 with a representative to obtain assistance in verifying identity, filing
40 a claim or appeal, or obtaining information regarding the status of a
41 claim or appeal.

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

44 A representative or representatives designated by the director of
45 the division and hereafter referred to as a "deputy" shall promptly
46 examine **[the]** any disclosure of information to the division by an
47 employer required by paragraph (1) of subsection (a) of this section
48 upon a separation from work and any claim for benefits, and shall,

1 by electronic means, notify the most recent employing unit and,
2 successively as necessary, each employer in inverse chronological
3 order during the base year. **【Such】** The notification shall be made
4 not later than seven calendar days after the employer provides to the
5 department the disclosure required by paragraph (1) of subsection
6 (a) of this section, or seven calendar days after the filing of the
7 claim, whichever occurs first, and require said employing unit and
8 employer to furnish **【such】**, by electronic means, not more than
9 seven calendar days after the notification is made, any information
10 to the deputy which the employer failed to provide as required by
11 paragraph (1) of subsection (a) of this section as may be necessary
12 to determine the claimant's eligibility and his benefit rights with
13 respect to the employer in question. The claimant shall, at the time
14 the claim is filed, be provided any information the division has
15 received from the employer upon the separation from work and an
16 opportunity to respond to that information. If a claim is filed and
17 the employer has provided the information required upon separation
18 from work, the employer shall immediately be notified by electronic
19 means of the opportunity to provide, by electronic means and in not
20 more than seven calendar days, additional information in response
21 to the claim for benefits. If a claim is filed and the employer has
22 failed to provide the information required upon the separation from
23 work, the division shall immediately, by electronic means, request
24 the required information and the employer shall provide the
25 information, by electronic means and in not more than seven
26 calendar days. The division shall provide the claimant any
27 additional information it receives and an opportunity to respond.

28 **【In his discretion, the director may appoint special deputies to**
29 **make initial or subsequent determinations under subsection (f) of**
30 **R.S.43:21-4 and subsection (d) of R.S.43:21-5.】**

31 If any employer or employing unit fails to respond to the
32 notification or request within **【10】 seven calendar** days after **【the**
33 mailing, or communicating】 a communication by electronic
34 means**【,】** of **【such】 the notification or request**, the deputy shall rely
35 entirely on information from other sources, including an affidavit to
36 the best of the knowledge and belief of the claimant with respect to
37 his wages and time worked. Except in the event of **【fraud】 a**
38 knowing, fraudulent nondisclosure or misrepresentation by the
39 claimant or his agent, if it is determined that any information in
40 such affidavit is erroneous, no penalty shall be imposed on the
41 claimant.

42 The deputy shall make an initial determination contingent upon
43 the receipt of all necessary information and notify the claimant no
44 later than three weeks from the date on which the division received
45 the claim for benefits. **【If an initial determination cannot be made**
46 **due to the lack of documentation, notification will be sent to the**
47 **claimant providing a status of the claim. The division will then**

1 have an additional two weeks to obtain the missing information in
2 order to make the initial determination and advise the claimant
3 accordingly.】 The initial determination shall show the weekly
4 benefit amount payable, the maximum duration of benefits with
5 respect to the employer to whom the determination relates, and the
6 ratio of benefits chargeable to the employer's account for benefit
7 years commencing on or after July 1, 1986, and also shall show
8 whether the claimant is ineligible or disqualified for benefits under
9 the initial determination. The employer whose account may be
10 charged for benefits payable pursuant to said determination shall be
11 promptly notified thereof.

12 Whenever an initial determination is based upon information
13 other than that supplied by an employer because such employer
14 failed to provide information as required at the time of separation
15 from employment, and failed to respond to the deputy's request for
16 additional information, benefit payments based on the determination
17 shall commence immediately, and such initial determination and
18 any subsequent determination thereunder shall be incontestable by
19 the noncomplying employer, as to any charges to his employer's
20 account because of benefits paid prior to the close of the calendar
21 week following the receipt of his reply. Such initial determination
22 shall be altered if necessary upon receipt of information from the
23 employer, and any benefits paid or payable with respect to weeks
24 occurring subsequent to the close of the calendar week following
25 the receipt of the employer's reply and the determination of the
26 division to alter the initial determination after providing the
27 claimant the information and an opportunity to respond shall be
28 paid in accordance with such altered initial determination.

29 The deputy shall issue a separate initial benefit determination
30 with respect to each of the claimant's base year employers, starting
31 with the most recent employer and continuing as necessary in the
32 inverse chronological order of the claimant's last date of
33 employment with each such employer. If an appeal is taken from
34 an initial determination, as hereinafter provided, by any employer
35 other than the first chargeable base year employer or for benefit
36 years commencing on or after July 1, 1986, that employer from
37 whom the individual was most recently separated, then such appeal
38 shall be limited in scope to include only one or more of the
39 following matters:

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

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

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

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

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

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

8 Unless the **【claimant or any interested party】** employer, within
9 seven calendar days after **【delivery】** a confirmed receipt of
10 notification of an initial determination, including by electronic
11 means, or the claimant, within **【10】 21** calendar days after **【such】**
12 the notification was mailed to **【his or their】** the claimant's last-
13 known address and addresses, files an appeal **【from such】** of the
14 decision, **【such】** the decision shall be final and benefits shall
15 immediately be paid or denied in accordance therewith, except for
16 such determinations as may be altered in benefit amounts or
17 duration as provided in this paragraph. An appeal concerning an
18 initial determination shall not be filed after whichever is applicable
19 of the seven-day or 21-day period. Benefits payable for periods
20 pending an appeal **【and not in dispute】** shall be paid as such
21 benefits accrue and be paid according to the initial determination
22 but shall be, to the extent that the amount paid exceeds the amount
23 determined in the appeal, regarded as an overpayment subject to the
24 provisions of R.S.43:21-16 regarding overpayments, including the
25 requirement of that section that a claimant who makes knowing,
26 fraudulent nondisclosure or misrepresentation is liable to repay the
27 full amount of the overpayment; provided that **【insofar as any such】**
28 if the appeal is **【or may be】** an appeal **【from】** of a determination
29 **【to the effect】** that the claimant is disqualified under the provisions
30 of R.S.43:21-5 **【or any amendments thereof or supplements**
31 **thereto】**, benefits pending determination of the appeal shall be
32 withheld only for the period of disqualification as provided for in
33 **【said】** that section, and **【notwithstanding such】** while the appeal is
34 pending, the benefits otherwise provided by this act shall be paid
35 for the period subsequent to such period of disqualification;
36 provided further that if it is determined in the appeal that the
37 claimant was not disqualified, the claimant shall be paid the
38 benefits due for the period of the disqualification; and provided,
39 also, that if there are two determinations of entitlement, benefits for
40 the period covered by such determinations shall be paid regardless
41 of any appeal which may thereafter be taken, but no employer's
42 account shall be charged with benefits so paid, if the decision is
43 finally reversed. If an employer appeals the charging of benefits to
44 the employer's account after the seven-day period to appeal the
45 initial benefit determination, and, as a result of the appeal on the
46 charging to the employer's account, the division, after the claimant
47 is notified and given the opportunity to respond, reduces the amount

1 charged to the employer's account, any resulting reduction in the
2 amount of benefits shall take effect only after the resolution of the
3 appeal of the charging, and any amount of benefits paid before the
4 resolution of the appeal of the charging which exceeds the amount
5 determined in that appeal shall be regarded as an overpayment
6 caused by employer error and shall be charged to the employer's
7 account, and the claimant shall not be liable to repay any portion of
8 that overpayment.

9 (2) **Procedure for making initial determinations in certain cases**
10 of concurrent employment, with respect to benefit years
11 commencing on or after January 1, 1953 and prior to benefit years
12 commencing on or after July 1, 1986.

13 Notwithstanding any other provisions of this Title, if an
14 individual shows to the satisfaction of the deputy that there were at
15 least 13 weeks in his base period in each of which he earned wages
16 from two or more employers totaling \$30.00 or more but in each of
17 which there was no single employer from whom he earned as much
18 as \$100.00, then such individual's claim shall be determined in
19 accordance with the special provisions of this paragraph. In such
20 case, the deputy shall determine the individual's eligibility for
21 benefits, his average weekly wage, weekly benefit rate and
22 maximum total benefits as if all his base year employers were a
23 single employer. Such determination shall apportion the liability
24 for benefit charges thereunder to the individual's several base year
25 employers so that each employer's maximum liability for charges
26 thereunder bears approximately the same relation to the maximum
27 total benefits allowed as the wages earned by the individual from
28 each employer during the base year bears to his total wages earned
29 from all employers during the base year. Such initial determination
30 shall also specify the individual's last date of employment within
31 the base year with respect to each base year employer, and such
32 employers shall be charged for benefits paid under said initial
33 determination in the inverse chronological order of such last date of
34 employment. **】** (Deleted by amendment, P.L. , c.) (pending
35 before the Legislature as this bill)

36 (3) Procedure for making subsequent determinations with
37 respect to benefit years commencing on or after January 1, 1953.
38 The deputy shall make determinations with respect to claims for
39 benefits thereafter in the course of the benefit year, in accordance
40 with any initial determination allowing benefits, and under which
41 benefits have not been exhausted, and each notification of a benefit
42 payment shall be a notification of an affirmative subsequent
43 determination. **【The】** Any change in the allowance, amount, or
44 other characteristic of benefits by the deputy 【on】 in any such
45 determination, or the denial of benefits by the deputy 【on】 in any
46 such determination, shall be appealable in the same manner and
47 under the same limitations as is provided in the case of initial
48 determinations【. After】. After】. except that, after an initial determination,

1 the resolution of any appeal of the initial determination, and the
2 payment of one or more weeks of benefits pursuant to the initial
3 determination, if a subsequent determination will result in any
4 termination or reduction of those benefits from the amount or
5 duration of benefits specified in the initial determination, the
6 claimant shall be provided notification with a full written
7 explanation of why the reduction or termination of benefits will
8 occur, and provided, during the seven calendar days following the
9 notification, an opportunity to file an appeal before the reduction or
10 termination goes into effect. If the claimant files an appeal during
11 the seven-day period, benefits shall continue to be paid at the rate,
12 and for the duration, stipulated in the initial determination until the
13 appeal is resolved. If the claimant does not file an appeal, or the
14 claimant files an appeal and it is found in the resolution of the
15 appeal that the amount in benefits paid during the processing of the
16 appeal exceeded the amount determined in the appeal to be correct,
17 or the claimant is found in the appeal to be ineligible for benefits,
18 any resulting excess payment of benefits shall be regarded as an
19 overpayment subject to the provisions of R.S.43:21-16 regarding
20 overpayments, including the requirement of that section that a
21 claimant who makes knowing, fraudulent nondisclosure or
22 misrepresentation is liable to repay the full amount of the
23 overpayment.

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

35 (d) Appeal tribunals. To hear and decide disputed benefit
36 claims, including appeals from determinations with respect to
37 demands for refunds of benefits under subsection (d) of R.S.43:21-
38 16, the director with the approval of the Commissioner of Labor and
39 Workforce Development shall establish impartial appeal tribunals
40 consisting of a salaried body of examiners under the supervision of
41 a Chief Appeals Examiner, all of whom shall be appointed pursuant
42 to the provisions of Title 11A of the New Jersey Statutes, Civil
43 Service and other applicable statutes.

44 (e) Board of review. The board of review may on its own
45 motion affirm, modify, or set aside any decision of an appeal
46 tribunal on the basis of the evidence previously submitted in such
47 case, or direct the taking of additional evidence, or may permit any
48 of the parties to such decision to initiate further appeals before it.

1 The board of review shall permit such further appeal by any of the
2 parties interested in a decision of an appeal tribunal which is not
3 unanimous and from any determination which has been overruled or
4 modified by any appeal tribunal. The board of review may remove
5 to itself or transfer to another appeal tribunal the proceedings on
6 any claim pending before an appeal tribunal. Any proceedings so
7 removed to the board of review shall be heard by a quorum thereof
8 in accordance with the requirements of subsection (c) of this
9 section. The board of review shall promptly notify the interested
10 parties of its findings and decision.

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

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

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

44 (i) Failure to give notice. The failure of any public officer or
45 employee at any time heretofore or hereafter to give notice of
46 determination or decision required in subsections (b), (c) and (e) of
47 this section, as originally passed or amended, shall not relieve any
48 employer's account of any charge by reason of any benefits paid,

1 unless and until that employer can show to the satisfaction of the
2 director of the division that the said benefits, in whole or in part,
3 would not have been charged or chargeable to his account had such
4 notice been given. Any determination hereunder by the director
5 shall be subject to court review.

6 (j) With respect to benefit payments made on or after October
7 22, 2013, an employer's account shall not be relieved of charges
8 related to a benefit payment that was made erroneously from the
9 division if it is determined that:

10 (1) The erroneous benefit payment was made because the
11 employer, or an agent of the employer, failed to respond in a timely
12 or adequate manner to a request from the division for information
13 related to the claim for benefits, including failing to provide the
14 information required by subsection (a) of this section upon a
15 separation from employment; and

16 (2) The employer, or an agent of the employer, has established a
17 pattern of failing to respond in a timely or adequate manner to
18 requests from the division for information related to claims for
19 benefits, including failing to provide the information required by
20 subsection (a) of this section upon a separation from employment.

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

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

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

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

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

1 access needs to the primary unemployment claims receipt and
2 processing system for all department personnel and the adjustment,
3 addition, or deletion of access rights for department personnel based
4 on the quarterly review.

5 (cf: P.L.2017, c.163, s.1)

6
7 2. R.S.43:21-16 is amended to read as follows:

8 43:21-16. (a) (1) Whoever makes a false statement or
9 representation, knowing it to be false, or knowingly fails to disclose
10 a material fact, to obtain or increase or attempts to obtain or
11 increase any benefit or other payment under this chapter
12 (R.S.43:21-1 et seq.), or under an employment security law of any
13 other state or of the federal government, either for himself or for
14 any other person, shall be liable to a fine of 25% of the amount
15 fraudulently obtained, to be recovered in an action at law in the
16 name of the Division of Unemployment and Temporary Disability
17 Insurance of the Department of Labor and Workforce Development
18 of the State of New Jersey or as provided in subsection (e) of
19 R.S.43:21-14, said fine when recovered shall be immediately
20 deposited in the following manner: 10 percent of the amount
21 fraudulently obtained deposited into the unemployment
22 compensation auxiliary fund for the use of said fund, and 15 percent
23 of the amount fraudulently obtained deposited into the
24 unemployment compensation fund; and each such false statement or
25 representation or failure to disclose a material fact shall constitute a
26 separate offense. Any penalties imposed by this subsection shall be
27 in addition to those otherwise prescribed in this chapter (R.S.43:21-
28 1 et seq.).

29 (2) For purposes of any unemployment compensation program
30 of the United States, if the department determines that any benefit
31 amount is obtained by an individual due to fraud committed by the
32 individual, the department shall assess a fine on the individual and
33 deposit the recovered fine in the same manner as provided in
34 paragraph (1) of subsection (a) of this section. As used in this
35 paragraph, "unemployment compensation program of the United
36 States" means:

37 (A) Unemployment compensation for federal civilian employees
38 pursuant to 5 U.S.C. 8501 et seq.;

39 (B) Unemployment compensation for ex-service members
40 pursuant to 5 U.S.C. 8521 et seq.;

41 (C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-
42 2294;

43 (D) Disaster unemployment assistance pursuant to 42 U.S.C.
44 5177(a);

45 (E) Any federal temporary extension of unemployment
46 compensation;

47 (F) Any federal program that increases the weekly amount of
48 unemployment compensation payable to individuals; and

1 (G) Any other federal program providing for the payment of
2 unemployment compensation.

3 (b) (1) An employing unit or any officer or agent of an
4 employing unit or any other person who makes a false statement or
5 representation, knowing it to be false, or who knowingly fails to
6 disclose a material fact, to prevent or reduce the payment of
7 benefits to any individual entitled thereto or to avoid becoming or
8 remaining subject hereto or to avoid or reduce any contribution or
9 other payment required from an employing unit under this chapter
10 (R.S.43:21-1 et seq.), or under an employment security law of any
11 other state or of the federal government, or who willfully fails or
12 refuses to furnish any reports or information required hereunder
13 **[(except for such reports as may be required under subsection (b) of**
14 **R.S.43:21-6)], including failing to provide the information required**
15 **by subsection (a) of R.S.43:21-6 immediately upon a separation**
16 **from employment,** or to produce or permit the inspection or copying
17 of records, as required hereunder, shall be liable to a fine of
18 **[\$100.00] \$500,** or 25% of **[the] any** amount fraudulently
19 withheld, whichever is greater, to be recovered in an action at law
20 in the name of the Division of Unemployment and Temporary
21 Disability Insurance of the Department of Labor and Workforce
22 Development of the State of New Jersey or as provided in
23 subsection (e) of R.S.43:21-14, said fine when recovered to be paid
24 to the unemployment compensation auxiliary fund for the use of
25 said fund; and each such false statement or representation or failure
26 to disclose a material fact, and each day of such failure or refusal
27 shall constitute a separate offense. Any penalties imposed by this
28 paragraph shall be in addition to those otherwise prescribed in this
29 chapter (R.S.43:21-1 et seq.).

30 (2) **[Any** employing unit or any officer or agent of an
31 employing unit or any other person who fails to submit any report
32 required under subsection (b) of R.S.43:21-6 shall be subject to a
33 penalty of \$25.00 for the first report not submitted within 10 days
34 after the mailing of a request for such report, and an additional
35 \$25.00 penalty may be assessed for the next 10-day period, which
36 may elapse after the end of the initial 10-day period and before the
37 report is filed; provided that when such report or reports are not
38 filed within the prescribed time but it is shown to the satisfaction of
39 the director that the failure was due to a reasonable cause, no such
40 penalty shall be imposed. Any penalties imposed by this paragraph
41 shall be recovered as provided in subsection (e) of R.S.43:21-14,
42 and when recovered shall be paid to the unemployment
43 compensation auxiliary fund for the use of said fund.] (Deleted by
44 amendment, P.L. , c.) (pending before the Legislature as this
45 bill).

46 (3) Any employing unit, officer or agent of the employing unit,
47 or any other person, determined by the controller to have knowingly
48 violated, or attempted to violate, or advised another person to

1 violate the transfer of employment experience provisions found at
2 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
3 a lower rate of contributions by failing to disclose material
4 information, or by making a false statement, or by a
5 misrepresentation of fact, shall be subject to a fine of \$5,000 or
6 25% of the contributions under-reported or attempted to be under-
7 reported, whichever is greater, to be recovered as provided in
8 subsection (e) of R.S.43:21-14, and when recovered to be paid to
9 the unemployment compensation auxiliary fund for the use of said
10 fund. For the purposes of this subsection, "knowingly" means
11 having actual knowledge of, or acting with deliberate ignorance or
12 reckless disregard for the prohibition involved.

13 (c) Any person who shall willfully violate any provision of this
14 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
15 the violation of which is made unlawful or the observance of which
16 is required under the terms of this chapter (R.S.43:21-1 et seq.), and
17 for which a penalty is neither prescribed herein nor provided by any
18 other applicable statute, shall be liable to a fine of \$50.00, to be
19 recovered in an action at law in the name of the Division of
20 Unemployment and Temporary Disability Insurance of the
21 Department of Labor and Workforce Development of the State of
22 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
23 fine when recovered to be paid to the unemployment compensation
24 auxiliary fund for the use of said fund; and each day such violation
25 continues shall be deemed to be a separate offense.

26 (d) (1) When it is determined by a representative or
27 representatives designated by the Director of the Division of
28 Unemployment and Temporary Disability Insurance of the
29 Department of Labor and Workforce Development of the State of
30 New Jersey that any person, **【whether (i)】** by reason of the
31 knowing, fraudulent nondisclosure or misrepresentation by him, or
32 by **【another】** anyone acting as his agent, of a material fact
33 **【(whether or not such nondisclosure or misrepresentation was**
34 **known or fraudulent), or (ii) for any other reason】**, has received any
35 sum as benefits under this chapter (R.S.43:21-1 et seq.) while any
36 conditions for the receipt of benefits imposed by this chapter
37 (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was
38 disqualified from receiving benefits, or while otherwise not entitled
39 to receive such sum as benefits, such person, unless the director
40 (with the concurrence of the controller) directs otherwise by
41 regulation, shall be liable to repay those benefits in full. The person
42 shall not be liable to repay all or any portion of the overpayment if
43 the representative finds that the person received the overpayment of
44 benefits because of errors or failures to provide information by the
45 employer or errors by the division, and not because of an error, or
46 knowing, fraudulent nondisclosure or misrepresentation, by the
47 person. If the representative finds that errors made by the person
48 were a cause of the overpayment together with errors of the

1 division, or errors or failures to provide information by the
2 employer, but the person did not make a knowing, fraudulent
3 nondisclosure or misrepresentation, the representative shall
4 determine a portion of the overpayment for which the person is
5 liable taking into consideration possible financial hardship to the
6 person, whether recovery would be against equity and good
7 conscience, and how much the person's errors, compared to errors
8 of the division or employer, contributed to the overpayment
9 occurring, but the amount to which the person shall be liable shall
10 not exceed 50 percent of the overpayment. The employer's account
11 shall not be charged for the amount of an overpayment of benefits if
12 the overpayment was caused by an error of the division and not by
13 any error of the employer, but shall be charged if the overpayment
14 was caused by an error or failure to provide information of the
15 employer. The sum for which the person is found liable to repay
16 shall be deducted from any future benefits payable to the individual
17 under this chapter (R.S.43:21-1 et seq.) or shall be paid by the
18 individual to the division for the unemployment compensation fund,
19 and such sum shall be collectible in the manner provided for by law,
20 including, but not limited to, the filing of a certificate of debt with
21 the Clerk of the Superior Court of New Jersey; provided, however,
22 that, except in the event of fraud, no person shall be liable for any
23 such refunds or deductions against future benefits unless so notified
24 before four years have elapsed from the time the benefits in
25 question were paid. Such person shall be promptly notified of the
26 determination and the reasons therefor. The person shall be
27 provided a written notification of any determination [shall be final
28 unless the person files] regarding the repayment of an overpayment
29 and the opportunity to file an appeal of the determination within
30 [seven calendar days after the delivery of the determination, or
31 within 10 calendar days after such notification was mailed to his
32 last-known address, for any determination made on or before
33 December 1, 2010, and any initial determination made pursuant to
34 paragraph (1) of subsection (b) of R.S.43:21-6 after December 1,
35 2010, or within 20 calendar days after the delivery of such
36 determination, or within 20 calendar days after such notification
37 was mailed to his last-known address, for any determination other
38 than an initial determination made after December 1, 2010] 20
39 calendar days after a confirmed receipt of a notice of the
40 determination or 30 calendar days after the notice was mailed to the
41 last known address of the person, and a recovery of an overpayment
42 shall not commence until the end of whichever is applicable of the
43 20 or 30 day periods and the resolution of any appeal made during
44 those periods.

45 (2) Interstate and cross-offset of state and federal unemployment
46 benefits. To the extent permissible under the laws and Constitution
47 of the United States, the commissioner is authorized to enter into or
48 cooperate in arrangements or reciprocal agreements with

1 appropriate and duly authorized agencies of other states or the
2 United States Secretary of Labor, or both, whereby:

3 (A) Overpayments of unemployment benefits as determined
4 under subsection (d) of R.S.43:21-16 shall be recovered by offset
5 from unemployment benefits otherwise payable under the
6 unemployment compensation law of another state, and
7 overpayments of unemployment benefits as determined under the
8 unemployment compensation law of another state shall be
9 recovered by offset from unemployment benefits otherwise payable
10 under R.S.43:21-1 et seq.; and

11 (B) Overpayments of unemployment benefits as determined
12 under applicable federal law, with respect to benefits or allowances
13 for unemployment provided under a federal program administered
14 by this State under an agreement with the United States Secretary of
15 Labor, shall be recovered by offset from unemployment benefits
16 otherwise payable under R.S.43:21-1 et seq., or any federal program
17 administered by this State, or under the unemployment
18 compensation law of another state or any federal unemployment
19 benefit or allowance program administered by another state under
20 an agreement with the United States Secretary of Labor, if the other
21 state has in effect a reciprocal agreement with the United States
22 Secretary of Labor as authorized by subsection (g) of 42
23 U.S.C.s.503, and if the United States agrees, as provided in the
24 reciprocal agreement with this State entered into under subsection
25 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
26 as determined under subsection (d) of R.S.43:21-16 and
27 overpayments as determined under the unemployment
28 compensation law of another state which has in effect a reciprocal
29 agreement with the United States Secretary of Labor as authorized
30 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
31 from benefits or allowances otherwise payable under a federal
32 program administered by this State or another state under an
33 agreement with the United States Secretary of Labor.

34 (3) The provisions of this subsection (d) shall not be construed as
35 requiring or permitting a waiver of the full recovery of any
36 overpayments of unemployment benefits if the waiver is prohibited
37 by any federal law, regulation or administrative directive. A
38 recovery shall not be waived unless the division determines that the
39 claimant is without fault and the repayment would be contrary to
40 equity and good conscience in the case of the recovery of an
41 overpayment of benefit under any of the following programs
42 authorized by the federal "Coronavirus Aid, Relief, and Economic
43 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
44 Unemployment Compensation (FPUC), Pandemic Emergency
45 Unemployment Compensation (PEUC), Mixed Earners
46 Unemployment Compensation (MEUC), or Pandemic
47 Unemployment Assistance (PUA).

1 (e) (1) Any employing unit, or any officer or agent of an
2 employing unit, which officer or agent is directly or indirectly
3 responsible for collecting, truthfully accounting for, remitting when
4 payable any contribution, or filing or causing to be filed any report
5 or statement required by this chapter, or employer, or person failing
6 to remit, when payable, any employer contributions, or worker
7 contributions (if withheld or deducted), or the amount of such
8 worker contributions (if not withheld or deducted), or filing or
9 causing to be filed with the controller or the Division of
10 Unemployment and Temporary Disability Insurance of the
11 Department of Labor and Workforce Development of the State of
12 New Jersey, any false or fraudulent report or statement, and any
13 person who aids or abets an employing unit, employer, or any
14 person in the preparation or filing of any false or fraudulent report
15 or statement with intent to defraud the State of New Jersey or an
16 employment security agency of any other state or of the federal
17 government, or with intent to evade the payment of any
18 contributions, interest or penalties, or any part thereof, which shall
19 be due under the provisions of this chapter (R.S.43:21-1 et seq.),
20 shall be liable for each offense upon conviction before any Superior
21 Court or municipal court, to a fine not to exceed \$1,000.00 or by
22 imprisonment for a term not to exceed 90 days, or both, at the
23 discretion of the court. The fine upon conviction shall be payable to
24 the unemployment compensation auxiliary fund. Any penalties
25 imposed by this subsection shall be in addition to those otherwise
26 prescribed in this chapter (R.S.43:21-1 et seq.).

27 (2) Any employing unit, officer or agent of the employing unit,
28 or any other person, who knowingly violates, or attempts to violate,
29 or advise another person to violate the transfer of employment
30 experience provisions found at R.S.43:21-7 (c)(7) shall be, upon
31 conviction before any Superior Court or municipal court, guilty of a
32 crime of the fourth degree. For the purposes of this subsection,
33 "knowingly" means having actual knowledge of, or acting with
34 deliberate ignorance or reckless disregard for the prohibition
35 involved.

36 (f) Any employing unit or any officer or agent of an employing
37 unit or any other person who aids and abets any person to obtain
38 any sum of benefits under this chapter to which he is not entitled, or
39 a larger amount as benefits than that to which he is justly entitled,
40 shall be liable for each offense upon conviction before any Superior
41 Court or municipal court, to a fine not to exceed \$1,000.00 or by
42 imprisonment for a term not to exceed 90 days, or both, at the
43 discretion of the court. The fine upon conviction shall be payable to
44 the unemployment compensation auxiliary fund. Any penalties
45 imposed by this subsection shall be in addition to those otherwise
46 prescribed in this chapter (R.S.43:21-1 et seq.).

47 (g) There shall be created in the Division of Unemployment and
48 Temporary Disability Insurance of the Department of Labor and

1 Workforce Development of the State of New Jersey an investigative
2 staff for the purpose of investigating violations referred to in this
3 section and enforcing the provisions thereof.

4 (h) An employing unit or any officer or agent of an employing
5 unit who makes a false statement or representation, knowing it to be
6 false, or who knowingly fails to disclose a material fact, to reduce
7 benefit charges to the employing unit pursuant to paragraph (1) of
8 subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to
9 be recovered in an action at law in the name of the Division of
10 Unemployment and Temporary Disability Insurance of the
11 Department of Labor and Workforce Development of the State of
12 New Jersey or as provided in subsection (e) of R.S.43:21-14. The
13 fine when recovered shall be paid to the unemployment
14 compensation auxiliary fund for the use of the fund. Each false
15 statement or representation or failure to disclose a material fact, and
16 each day of that failure or refusal shall constitute a separate offense.
17 Any penalties imposed by this subsection shall be in addition to
18 those otherwise prescribed in R.S.43:21-1 et seq.

19 (i) The Department of Labor and Workforce Development shall
20 arrange for the electronic receipt of death record notifications from
21 the New Jersey Electronic Death Registration System, pursuant to
22 section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a
23 verification system to confirm that benefits paid pursuant to the
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
25 et al.), and the "unemployment compensation law," R.S.43:21-1 et
26 seq., are not being paid to deceased individuals.

27 (j) The Department of Labor and Workforce Development shall
28 arrange for the electronic receipt of identifying information from
29 the Department of Corrections, pursuant to section 6 of P.L.1976,
30 c.98 (C.30:1B-6), and from the Administrative Office of the Courts
31 and any county which does not provide county inmate incarceration
32 information to the Administrative Office of the Courts, and
33 establish a verification system to confirm that benefits paid
34 pursuant to the "unemployment compensation law," R.S.43:21-1 et
35 seq., are not being paid to individuals who are incarcerated.

36 (cf: P.L.2013, c.274, s.5)

37

38 3. This act shall take effect on the 120th day following
39 enactment, except that the division shall, prior to the 120th day after
40 enactment, take all administrative measures necessary to implement
41 this act, including making all needed changes in forms and
42 materials to be provided to employers, and notifying them of what
43 is required to be in compliance with this act, including the
44 requirements to provide the division with an email address for
45 communication to and from the division and to use electronic means
46 to communicate with the department.