

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:**

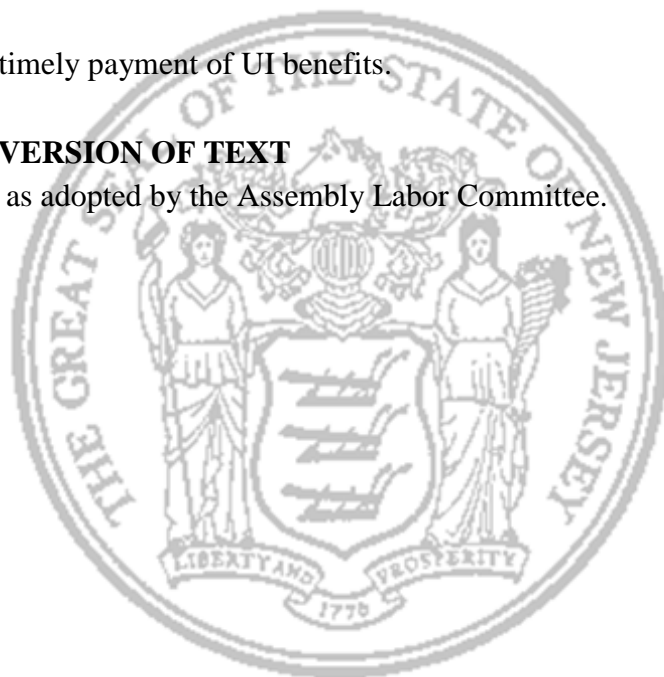
**Assemblywomen Piperno, Eulner, Assemblyman Wimberly,  
Assemblywomen McKnight, Mosquera, Quijano, Assemblyman Benson,  
Assemblywomen Park, Jimenez, Lampitt, Jasey, Assemblymen Dancer and  
Freiman**

**SYNOPSIS**

Concerns timely payment of UI benefits.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Labor Committee.



**(Sponsorship Updated As Of: 6/29/2022)**

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】**, 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.