

SENATE, No. 723

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

Senators Gill, Cryan, Ruiz, Pou, Cruz-Perez and Turner

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/16/2022)

S723 CODEY

2

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

3

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

6

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

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

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

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

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

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

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

35

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

38 "Casual work" means work that is:

39 (1) irregular, uncertain, or incidental in nature and duration; and
40 (2) different in nature from the type of paid work in which the
41 worker is customarily engaged.

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

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

Matter underlined thus is new matter.

S723 CODEY

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

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

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

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

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

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

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

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

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

39 "Department" means the Department of Labor and Workforce
40 Development.

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

44 (1) employees, independent contractors, or domestic workers for
45 employers or companies seeking the services of employees,
46 independent contractors, or domestic workers; and

47 (2) after the procurement is complete, continues involvement in
48 the terms of exchange of domestic services with the employees,

S723 CODEY

1 independent contractors, or domestic workers through activities,
2 including, but not limited to:

3 (a) processing or distributing or withholding workers' payment
4 that the workers are owed from hiring entities or clients;

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

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

11 (d) adjusting wages or payment based on ratings from
12 employers or clients; or

13 (e) other forms of continued involvement after procurement that
14 evidence ongoing control.

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

24 "Live-in domestic worker" includes any individuals, who, as part
25 of their employment, reside in the personal residence of the hiring
26 entity

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

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

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

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

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

1 "Wage" means compensation due to the work of a domestic
2 worker, payable in legal tender of the United States or checks on
3 banks convertible into cash on demand at full face value, subject to
4 any deductions, charges, or allowances as may be permitted by rules
5 of the department.

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

11
12 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
13 as follows:

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

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

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

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

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

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

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

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

S723 CODEY

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

S723 CODEY

1 whether or not secured by a mortgage, the repayment of which is
2 guaranteed or insured by the federal government or any agency
3 thereof.

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

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

47 p. "Real estate salesperson" includes any person who, for
48 compensation, valuable consideration or commission, or other thing

1 of value, or by reason of a promise or reasonable expectation
2 thereof, is employed by and operates under the supervision of a
3 licensed real estate broker to sell or offer to sell, buy or offer to buy
4 or negotiate the purchase, sale, or exchange of real estate, or offers
5 or attempts to negotiate a loan secured or to be secured by a
6 mortgage or other encumbrance upon or transfer of real estate, or to
7 lease or rent, or offer to lease or rent any real estate for others, or to
8 collect rents for the use of real estate, or to solicit for prospective
9 purchasers or lessees of real estate, or who is employed by a
10 licensed real estate broker to sell or offer to sell lots or other parcels
11 of real estate, at a stated salary, or upon a commission, or upon a
12 salary and commission, or otherwise to sell real estate, or any parts
13 thereof, in lots or other parcels.

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

29 r. "Blind person" or "person who is blind" means any
30 individual whose central visual acuity does not exceed 20/200 in the
31 better eye with correcting lens or whose visual acuity is better than
32 20/200 if accompanied by a limit to the field of vision in the better
33 eye to such a degree that its widest diameter subtends an angle of
34 no greater than 20 degrees.

35 s. "Guide dog" means a dog used to assist persons who are
36 deaf, or which is fitted with a special harness so as to be suitable as
37 an aid to the mobility of a person who is blind, and is used by a
38 person who is blind and has satisfactorily completed a specific
39 course of training in the use of such a dog, and has been trained by
40 an organization generally recognized by agencies involved in the
41 rehabilitation of persons with disabilities, including, but not limited
42 to, those persons who are blind or deaf, as reputable and competent
43 to provide dogs with training of this type.

44 t. "Guide or service dog trainer" means any person who is
45 employed by an organization generally recognized by agencies
46 involved in the rehabilitation of persons with disabilities, including,
47 but not limited to, those persons who are blind, have visual
48 impairments, or are deaf or have hearing impairments, as reputable

S723 CODEY

- 1 and competent to provide dogs with training, as defined in this
2 section, and who is actually involved in the training process.
- 3 u. "Housing accommodation" means any publicly assisted
4 housing accommodation or any real property, or portion thereof,
5 which is used or occupied, or is intended, arranged, or designed to
6 be used or occupied, as the home, residence, or sleeping place of
7 one or more persons, but shall not include any single family
8 residence the occupants of which rent, lease, or furnish for
9 compensation not more than one room therein.
- 10 v. "Public facility" means any place of public accommodation
11 and any street, highway, sidewalk, walkway, public building, and
12 any other place or structure to which the general public is regularly,
13 normally, or customarily permitted or invited.
- 14 w. "Deaf person" or "person who is deaf" means any person
15 whose hearing is so severely impaired that the person is unable to
16 hear and understand conversational speech through the unaided ear
17 alone, and who must depend primarily on an assistive listening
18 device or visual communication such as writing, lip reading, sign
19 language, and gestures.
- 20 x. "Atypical hereditary cellular or blood trait" means sickle cell
21 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
22 fibrosis trait.
- 23 y. "Sickle cell trait" means the condition wherein the major
24 natural hemoglobin components present in the blood of the
25 individual are hemoglobin A (normal) and hemoglobin S (sickle
26 hemoglobin) as defined by standard chemical and physical analytic
27 techniques, including electrophoresis; and the proportion of
28 hemoglobin A is greater than the proportion of hemoglobin S or one
29 natural parent of the individual is shown to have only normal
30 hemoglobin components (hemoglobin A, hemoglobin A2,
31 hemoglobin F) in the normal proportions by standard chemical and
32 physical analytic tests.
- 33 z. "Hemoglobin C trait" means the condition wherein the major
34 natural hemoglobin components present in the blood of the
35 individual are hemoglobin A (normal) and hemoglobin C as defined
36 by standard chemical and physical analytic techniques, including
37 electrophoresis; and the proportion of hemoglobin A is greater than
38 the proportion of hemoglobin C or one natural parent of the
39 individual is shown to have only normal hemoglobin components
40 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
41 proportions by standard chemical and physical analytic tests.
- 42 aa. "Thalassemia trait" means the presence of the thalassemia
43 gene which in combination with another similar gene results in the
44 chronic hereditary disease Cooley's anemia.
- 45 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
46 which in combination with another similar gene results in the
47 chronic hereditary disease Tay-Sachs.

- 1 cc. "Cystic fibrosis trait" means the presence of the cystic
2 fibrosis gene which in combination with another similar gene
3 results in the chronic hereditary disease cystic fibrosis.
- 4 dd. "Service dog" means any dog individually trained to the
5 requirements of a person with a disability including, but not limited
6 to minimal protection work, rescue work, pulling a wheelchair or
7 retrieving dropped items. This term shall include a "seizure dog"
8 trained to alert or otherwise assist persons with epilepsy or other
9 seizure disorders.
- 10 ee. "Qualified Medicaid applicant" means an individual who is a
11 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 12 ff. "AIDS" means acquired immune deficiency syndrome as
13 defined by the Centers for Disease Control and Prevention of the
14 United States Public Health Service.
- 15 gg. "HIV infection" means infection with the human
16 immunodeficiency virus or any other related virus identified as a
17 probable causative agent of AIDS.
- 18 hh. "Affectional or sexual orientation" means male or female
19 heterosexuality, homosexuality, or bisexuality by inclination,
20 practice, identity, or expression, having a history thereof or being
21 perceived, presumed, or identified by others as having such an
22 orientation.
- 23 ii. "Heterosexuality" means affectional, emotional, or physical
24 attraction or behavior which is primarily directed towards persons
25 of the other gender.
- 26 jj. "Homosexuality" means affectional, emotional, or physical
27 attraction or behavior which is primarily directed towards persons
28 of the same gender.
- 29 kk. "Bisexuality" means affectional, emotional, or physical
30 attraction or behavior which is directed towards persons of either
31 gender.
- 32 ll. "Familial status" means being the natural parent of a child,
33 the adoptive parent of a child, the resource family parent of a child,
34 having a "parent and child relationship" with a child as defined by
35 State law, or having sole or joint legal or physical custody, care,
36 guardianship, or visitation with a child, or any person who is
37 pregnant or is in the process of securing legal custody of any
38 individual who has not attained the age of 18 years.
- 39 mm. "Housing for older persons" means housing:
- 40 (1) provided under any State program that the Attorney General
41 determines is specifically designed and operated to assist persons
42 who are elderly (as defined in the State program); or provided under
43 any federal program that the United States Department of Housing
44 and Urban Development determines is specifically designed and
45 operated to assist persons who are elderly (as defined in the federal
46 program); or
- 47 (2) intended for, and solely occupied by, persons 62 years of age
48 or older; or

S723 CODEY

1 (3) intended and operated for occupancy by at least one person
2 55 years of age or older per unit. In determining whether housing
3 qualifies as housing for older persons under this paragraph, the
4 Attorney General shall adopt regulations which require at least the
5 following factors:

6 (a) the existence of significant facilities and services
7 specifically designed to meet the physical or social needs of older
8 persons, or if the provision of such facilities and services is not
9 practicable, that such housing is necessary to provide important
10 housing opportunities for older persons; and

11 (b) that at least 80 percent of the units are occupied by at least
12 one person 55 years of age or older per unit; and

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

16 Housing shall not fail to meet the requirements for housing for
17 older persons by reason of: persons residing in such housing as of
18 September 13, 1988 not meeting the age requirements of this
19 subsection, provided that new occupants of such housing meet the
20 age requirements of this subsection; or unoccupied units, provided
21 that such units are reserved for occupancy by persons who meet the
22 age requirements of this subsection.

23 nn. "Genetic characteristic" means any inherited gene or
24 chromosome, or alteration thereof, that is scientifically or medically
25 believed to predispose an individual to a disease, disorder, or
26 syndrome, or to be associated with a statistically significant
27 increased risk of development of a disease, disorder, or syndrome.

28 oo. "Genetic information" means the information about genes,
29 gene products, or inherited characteristics that may derive from an
30 individual or family member.

31 pp. "Genetic test" means a test for determining the presence or
32 absence of an inherited genetic characteristic in an individual,
33 including tests of nucleic acids such as DNA, RNA, and
34 mitochondrial DNA, chromosomes, or proteins in order to identify a
35 predisposing genetic characteristic.

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

38 rr. "Gender identity or expression" means having or being
39 perceived as having a gender related identity or expression whether
40 or not stereotypically associated with a person's assigned sex at
41 birth.

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

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

47 uu. "Premium benefit" means an employment benefit, such as
48 seniority, group life insurance, health insurance, disability

1 insurance, sick leave, annual leave, or an educational or pension
2 benefit that is greater than the employment benefit due the
3 employee for an equivalent period of work performed during the
4 regular work schedule of the employee.

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

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

10 xx. "Family member" means a child, parent, parent-in-law,
11 sibling, grandparent, grandchild, spouse, partner in a civil union
12 couple, domestic partner, or any other individual related by blood to
13 the person, and any other individual that the person shows to have a
14 close association with the person which is the equivalent of a family
15 relationship.

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

17

18 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read
19 as follows:

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

22 (a) "Act" means this act and rules and regulations promulgated
23 hereunder.

24 (b) "Board" means the Industrial Safety Board established under
25 this act.

26 (c) "Bureau" means the Bureau of Engineering and Safety in the
27 Division of Labor, Department of Labor and Industry established
28 under this act.

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

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

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

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

36 (h) "Employer" means any person or corporation, partnership,
37 individual proprietorship, joint venture, firm, company or other
38 similar legal entity who engages the services of an employee and
39 who pays his wages, salary, or other compensation; and any person
40 exercising supervision of employees on an employer's behalf; and
41 includes all "hiring entities" as defined by section 2 of P.L. _____,
42 c. (C. _____) (pending before the Legislature as this bill).

43 (i) "Owner" means the person possessing legal or equitable
44 title. For the purposes of this act "Person possessing equitable title"
45 shall mean that person or corporation, partnership, individual
46 proprietorship, joint venture, firm, company or other legal entity
47 that has actual control over the premises used in whole or in part as
48 a place of employment.

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

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

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

8

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

11 6. a. The commissioner shall enforce the provisions of this act,
12 make complaints against persons violating its provisions and
13 prosecute violations of the same.

14 b. The commissioner shall have the power and authority,
15 without notice or delay during regular working hours or other
16 reasonable hours within reasonable limits and in a reasonable
17 manner, to enter and inspect any place of employment and all
18 pertinent conditions, structures, machinery, apparatus, devices,
19 equipment and materials and to question privately the owner and
20 any employer or employee.

21 c. In the case where the place of employment is a residential
22 dwelling and the employee is a domestic worker, the commissioner
23 or the commissioner's authorized representative shall initiate
24 telephone contact with the hiring entity as soon as possible, but not
25 later than 14 calendar days after receipt of a complaint charging a
26 violation.

27 When telephone contact is successfully made, the commissioner
28 or the authorized representative shall:

29 (1) Notify the hiring entity of the existence of any alleged
30 unsafe or unhealthful condition;

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

33 (3) Inform the hiring entity that the entity is required to
34 investigate and abate any hazard discovered during the investigation
35 regarding violations of section 3 of P.L.1965, c.154 (C.34:6A-3);

36 (4) Inform the hiring entity by letter sent by facsimile or email,
37 or by certified mail if the employer cannot receive facsimile or
38 email, of each alleged hazard and each specific allegation of a
39 violation of a standard;

40 (5) Inform the hiring entity that if the department determines
41 that the hiring entity's response is unsatisfactory for any reason, the
42 department shall seek permission from the hiring entity to enter the
43 residential dwelling to investigate the matter, and if permission is
44 denied, may secure an inspection warrant to conduct an onsite
45 inspection of the residential dwelling; and

46 (6) Provide the complainant with copies of the law and
47 regulations alleged to have been violated, the department's letter to

1 the employer, and all subsequent correspondence concerning the
2 investigation of any alleged hazards;

3 d. A hiring entity subject to investigation shall:

4 (1) Provide the department, within 14 days of the hiring entity's
5 receipt of the department's letter, a response describing the results
6 of the employer's investigation of the alleged hazard and a
7 description of all actions taken, in the process of being taken, or
8 planned to be taken, by the hiring entity to abate the alleged hazard;

9 (2) Provide a copy of the commissioner or the commissioner's
10 authorized representative's letter to the domestic worker, and all
11 subsequent correspondence from and to the hiring entity to the
12 affected domestic worker, or prominently post the letter and
13 correspondence in the method prescribed by letter sent pursuant to
14 subsection c. of this section regarding each alleged hazard and each
15 specific standard to have been violated;

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

23 f. Notwithstanding any other provision of this chapter to the
24 contrary, investigations of complaints in domestic services as
25 defined by section 2 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), shall be conducted in a manner to avoid any
27 unwarranted invasion of personal privacy and shall not contain any
28 personal, financial, or medical information of the individuals
29 residing in the residential dwelling that is not pertinent to the
30 investigation of the complaint.

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

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

35
36 6. Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to read
37 as follows:

38 9. The commissioner shall make and promulgate rules and
39 regulations reasonably necessary to implement the purposes of this
40 act. Such rules and regulations shall have the force and effect of
41 law and shall be enforced in the manner provided in this act.

42 The commissioner shall make and promulgate rules to ensure the
43 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to
44 the hiring entities of domestic workers. These rules shall include
45 the establishment of a mechanism to receive complaints within the
46 department that prompts inspections by the commissioner in
47 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6).

S723 CODEY

1 Buildings or other structures in use on the effective date of this
2 act as a place of employment other than a place where the
3 manufacturing of goods of any kind is carried on shall not be made
4 to comply with the requirements of rules and regulations
5 promulgated hereunder substantially affecting such building or
6 other structures unless such compliance is essential to correct an
7 unsafe or unhealthful condition which constitutes a serious and
8 substantial threat to the health or safety of employees.

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

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

41

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

44 19. Any person violating any of the provisions of this act shall
45 be liable to a penalty of not less than **[\$25.00]** \$975 nor more than
46 **[\$500.00]** \$13,653 to be collected in a civil action by a summary
47 proceeding under the Penalty Enforcement Law **[(N.J.S. 2A:58-1)]**
48 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding

1 the penalties prescribed in this section, the penalty amounts shall be
2 subject to adjustment by the commissioner to remain consistent
3 with the federal Occupational Safety and Health Act of 1970 (29
4 U.S.C. s. 651 et seq.). 50 percent of the sum collected as a penalty
5 pursuant to this subsection shall be provided to the employee
6 harmed by violation. Any violation of the act by an officer, agent or
7 employee shall also be a violation of the act by his employer if such
8 employer had knowledge of and actual control over the cause of
9 such violation. Where the violation is of a continuing nature each
10 day during which it continues, after the date given by which the
11 violation must be eliminated in the order by the commissioner, shall
12 constitute an additional, separate and distinct offense, except during
13 the time an appeal from said order may be taken or is pending.

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

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

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

22

23 8. Section 22 of P.L.1965, c.154 (C34:6A-22) is amended to
24 read as follows:

25 22. This act is not intended to apply and shall not apply to the
26 following:

27 (a) Places of employment under the exclusive jurisdiction of the
28 Federal Government with respect to the health and safety of
29 employees;

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

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

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

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

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

43 (g) Schools, colleges and universities;

44 (h) Places of employment with fewer than 4 employees, except
45 places of employment of domestic services; employment in which
46 the manufacturing of goods of any kind is carried on; and except as
47 hereinafter provided in paragraph (o) of this section;

48 (i) Agricultural employment;

S723 CODEY

17

1 (j) Banks and other financial institutions;

2 (k) Places of employment in which the employees are primarily
3 engaged in office operations and buildings under the actual control
4 of one employer and in which the employees are primarily engaged
5 in office operations or laboratories primarily engaged in research,
6 development, or testing conducted on premises, in separate
7 buildings, or in building sections devoted exclusively to these
8 operations;

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

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

22 (n) Natural gas pipeline utilities subject to the provisions of the
23 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
24 48:10-9); and

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

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

29

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

32 2. As used in this act:

33 (a) "Commissioner" means the Commissioner of Labor and
34 Workforce Development.

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

37 (c) "Wage board" means a board created as provided in section
38 10 of this act.

39 (d) "Wages" means any moneys due an employee from an
40 employer for services rendered or made available by the employee
41 to the employer as a result of their employment relationship
42 including commissions, bonus and piecework compensation and
43 including the fair value of any food or lodgings supplied by an
44 employer to an employee, and, until December 31, 2018, "wages"
45 includes any gratuities received by an employee for services
46 rendered for an employer or a customer of an employer. The
47 commissioner may, by regulation, establish the average value of
48 gratuities received by an employee in any occupation and the fair

1 value of food and lodging provided to employees in any occupation,
2 which average values shall be acceptable for the purposes of
3 determining compliance with this act in the absence of evidence of
4 the actual value of such items.

5 (e) "Regular hourly wage" means the amount that an employee
6 is regularly paid for each hour of work as determined by dividing
7 the total hours of work during the week into the employee's total
8 earnings for the week, exclusive of overtime premium pay.

9 (f) "Employ" includes to suffer or to permit to work.

10 (g) "Employer" includes any individual, partnership,
11 association, corporation, and the State and any county,
12 municipality, or school district in the State, or any agency,
13 authority, department, bureau, or instrumentality thereof, or any
14 person or group of persons acting directly or indirectly in the
15 interest of an employer in relation to an employee, and includes
16 "hiring entities" as defined in section 2 of P.L. , c. (C.)
17 (pending before the Legislature as this bill).

18 (h) "Employee" includes any individual employed by an
19 employer.

20 (i) "Occupation" means any occupation, service, trade,
21 business, industry or branch or group of industries or employment
22 or class of employment in which employees are gainfully employed.

23 (j) "Minimum fair wage order" means a wage order
24 promulgated pursuant to this act.

25 (k) "Fair wage" means a wage fairly and reasonably
26 commensurate with the value of the service or class of service
27 rendered and sufficient to meet the minimum cost of living
28 necessary for health.

29 (l) "Oppressive and unreasonable wage" means a wage which is
30 both less than the fair and reasonable value of the service rendered
31 and less than sufficient to meet the minimum cost of living
32 necessary for health.

33 (m) "Limousine" means a motor vehicle used in the business of
34 carrying passengers for hire to provide prearranged passenger
35 transportation at a premium fare on a dedicated, nonscheduled,
36 charter basis that is not conducted on a regular route and with a
37 seating capacity in no event of more than 14 passengers, not
38 including the driver, provided, that such a motor vehicle shall not
39 have a seating capacity in excess of four passengers, not including
40 the driver, beyond the maximum passenger seating capacity of the
41 vehicle, not including the driver, at the time of manufacture.
42 "Limousine" shall not include taxicabs, hotel or airport shuttles and
43 buses, buses employed solely in transporting school children or
44 teachers to and from school, vehicles owned and operated directly
45 or indirectly by businesses engaged in the practice of mortuary
46 science when those vehicles are used exclusively for providing
47 transportation related to the provision of funeral services or vehicles

S723 CODEY

1 owned and operated without charge or remuneration by a business
2 entity for its own purposes.

3 (n) "Seasonal employment" means employment during a year by
4 an employer that is a seasonal employer, or employment by a non-
5 profit or government entity of an individual who is not employed by
6 that employer outside of the period of that year commencing on
7 May 1 and ending September 30, or employment by a governmental
8 entity in a recreational program or service during the period
9 commencing on May 1 and ending September 30, except that
10 "seasonal employment" does not include employment of employees
11 engaged to labor on a farm on either a piece-rate or regular hourly
12 rate basis.

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

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

36 (q) "Long-term care facility direct care staff member" means
37 any health care professional licensed or certified pursuant to Title
38 26 or Title 45 of the Revised Statutes who is employed by a long-
39 term care facility and who provides personal care, assistance, or
40 treatment services directly to residents of the facility in the course
41 of the professional's regular duties.

42 (cf: P.L.2020, c.89, s.1)

43

44 10. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
45 read as follows:

46 5. a. Except as provided in subsections c., d., e. g., and i. of
47 this section, each employer shall pay to each of his employees
48 wages at a rate of not less than \$8.85 per hour as of January 1, 2019

S723 CODEY

1 and, on January 1 of 2020 and January 1 of each subsequent year,
2 the minimum wage shall be increased by any increase in the
3 consumer price index for all urban wage earners and clerical
4 workers (CPI-W) as calculated by the federal government for the 12
5 months prior to the September 30 preceding that January 1, except
6 that any of the following rates shall apply if it exceeds the rate
7 determined in accordance with the applicable increase in the CPI-W
8 for the indicated year: on July 1, 2019, the minimum wage shall be
9 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
10 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,
11 inclusive, the minimum wage shall be increased from the rate of the
12 preceding year by \$1.00 per hour. If the federal minimum hourly
13 wage rate set by section 6 of the federal "Fair Labor Standards Act
14 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
15 level higher than the State minimum wage rate set by this
16 subsection, then the State minimum wage rate shall be increased to
17 the level of the federal minimum wage rate and subsequent
18 increases based on increases in the CPI-W pursuant to this section
19 shall be applied to the higher minimum wage rate. If an applicable
20 wage order has been issued by the commissioner under section 17
21 (C.34:11-56a16) of this act, the employer shall also pay not less
22 than the wages prescribed in said order. The wage rates fixed in
23 this section shall not be applicable to [part-time employees
24 primarily engaged in the care and tending of children in the home of
25 the employer, to] persons under the age of 18 not possessing a
26 special vocational school graduate permit issued pursuant to section
27 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
28 salesmen of motor vehicles, or to persons employed as outside
29 salesmen as such terms shall be defined and delimited in regulations
30 adopted by the commissioner, or to persons employed in a volunteer
31 capacity and receiving only incidental benefits at a county or other
32 agricultural fair by a nonprofit or religious corporation or a
33 nonprofit or religious association which conducts or participates in
34 that fair.

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

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

S723 CODEY

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

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

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

S723 CODEY

1 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
2 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
3 hour; and on January 1 of each year from 2023 to 2024, inclusive,
4 the minimum wage shall be increased from the rate of the preceding
5 year by eighty cents per hour; and
6 (2) subject to the provisions of paragraph (3) of this subsection
7 d., minimum wage rates shall be increased as follows: on January 1
8 of 2025, the minimum wage shall be increased to \$13.40, and on
9 January 1 of each year from 2026 to 2027, inclusive, the minimum
10 wage shall be increased from the rate of the preceding year by
11 eighty cents per hour, and, in each year from 2028 to 2030
12 inclusive, the minimum wage for employees subject to this
13 subsection d. shall be increased during that year by the same
14 amount as the increase in that year for employees subject to
15 subsection a. of this section based on CPI-W increases, plus one
16 third of the difference between \$15.00 per hour and the minimum
17 wage in effect in 2027 for employees pursuant to subsection a. of
18 this section, so that, by 2030, the minimum wage for employees
19 subject to this subsection shall be the same as the minimum wage in
20 effect for employees subject to subsection a. of this section.
21 (3) Not later than March 31, 2024, the commissioner and the
22 Secretary of Agriculture shall review the report issued by the
23 commissioner pursuant to subsection b. of section 4 of P.L.2019,
24 c.32 (C.34:11-56a4.10) and shall consider any information provided
25 by the secretary regarding the impact on farm employers and the
26 viability of the State's agricultural industry of the increases of the
27 minimum wage made pursuant to paragraph (1) of this subsection,
28 and the potential impact of the increases which would be set by
29 paragraph (2) of this subsection, including comparisons with the
30 wage rates in the agricultural industries in other states, and shall
31 recommend: approval of the increases set forth in paragraph (2) of
32 this subsection; disapproval of the increases set forth in paragraph
33 (2) of this subsection; or an alternative manner of changing the
34 minimum wage after 2024 for employees engaged on a piece-rate or
35 regular hourly rate basis to labor on a farm. In contemplation of the
36 possibility that the commissioner and the secretary are unable to
37 agree on the recommendation required by this paragraph, by
38 December 31, 2021, the Governor shall appoint a public member
39 subject to advice and consent by the Senate, who will serve as a tie-
40 breaking member if needed. The increases set forth in paragraph
41 (2) of this subsection shall take effect unless there is a
42 recommendation pursuant to this paragraph to disapprove the
43 increases or for an alternative manner of changing the minimum
44 wage after 2024 for employees engaged on a piece-rate or regular
45 hourly rate basis to labor on a farm and the Legislature, not later
46 than June 30, 2024, enacts a concurrent resolution approving the
47 implementation of that recommendation. Beginning in 2024, the
48 commissioner, secretary, and public member shall meet biennially

1 to make either a one or two year recommendation to the Legislature
2 for implementation by way of concurrent resolution.

3 (4) If the federal minimum hourly wage rate set by section 6 of
4 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
5 a successor federal law, is raised to a level higher than the State
6 minimum wage rate set by this subsection, then the State minimum
7 wage rate shall be increased to the level of the federal minimum
8 wage rate and subsequent increases based on increases in the CPI-
9 W pursuant to this subsection shall be applied to the higher
10 minimum wage rate.

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

21 f. Notwithstanding the provisions of this section to the
22 contrary, every trucking industry employer shall pay to all drivers,
23 helpers, loaders and mechanics for whom the Secretary of
24 Transportation may prescribe maximum hours of work for the safe
25 operation of vehicles, pursuant to section 31502(b) of the federal
26 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
27 than 1 1/2 times the minimum wage required pursuant to this
28 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
29 industry shall be paid no less than the minimum wage rate as
30 provided in this section and N.J.A.C. 12:56-3.1. As used in this
31 section, "trucking industry employer" means any business or
32 establishment primarily operating for the purpose of conveying
33 property from one place to another by road or highway, including
34 the storage and warehousing of goods and property. Such an
35 employer shall also be subject to the jurisdiction of the Secretary of
36 Transportation pursuant to the federal Motor Carrier Act, 49
37 U.S.C.s.31501 et seq., whose employees are exempt under section
38 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
39 U.S.C. s.213(b)(1), which provides an exemption to employees
40 regulated by section 207 of the federal "Fair Labor Standards Act of
41 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
42 U.S.C. s.501 et al.

43 g. Commencing on January 1, 2020, a training wage of not less
44 than 90 percent of the minimum wage rate otherwise set pursuant to
45 subsection a. of this section may be paid to an employee who is
46 enrolled in an established employer on-the-job or other training
47 program which meets standards set by regulations adopted by the
48 commissioner. The period during which an employer may pay the

S723 CODEY

1 training wage to the employee shall be the first 120 hours of work
2 after hiring the employee in employment in an occupation in which
3 the employee has no previous similar or related experience. An
4 employer shall not utilize any employee paid the training wage in a
5 manner which causes, induces, encourages or assists any
6 displacement or partial displacement of any currently employed
7 worker, including any previous recipient of the training wage, by
8 reducing hours of a currently employed worker, replacing a current
9 or laid off employee with a trainee, or by relocating operations
10 resulting in a loss of employment at a previous workplace, or in a
11 manner which replaces, supplants, competes with or duplicates any
12 approved apprenticeship program. An employer who pays an
13 employee a training wage shall make a good faith effort to continue
14 to employ the employee after the period of the training wage
15 expires and shall not hire the employee at the training wage unless
16 there is a reasonable expectation that there will be regular
17 employment, paying at or above the effective minimum wage, for
18 the trainee upon the successful completion of the period of the
19 training wage. If the commissioner determines that an employer
20 has made repeated, knowing violations of the provisions of this
21 subsection regarding the payment of a training wage, the
22 commissioner shall suspend the employer's right to pay a training
23 wage for a period set pursuant to regulations adopted by the
24 commissioner, but not less than three years.

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

43 i. Effective on the first day of the second month next following
44 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
45 minimum wage for long-term care facility direct care staff members
46 shall be in an amount that is \$3 higher than the prevailing minimum
47 wage established pursuant to subsection a. of this section.
48 (cf: P.L.2020, c.89, s.2)

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

3 1. As used in this act:

4 a. "Employee" includes any person, either male or female,
5 employed by an employer, but shall not include persons performing
6 volunteer service for nonprofit organizations or corporations nor
7 persons employed on a farm~~],~~ or in domestic service in a private
8 home,~~]~~ or in a hotel.

9 b. "Employer" includes any person acting directly or indirectly
10 in the interest, or as agent, of an employer in relation to an
11 employee and further includes one or more individuals,
12 partnerships, corporations, associations, legal representatives,
13 trustees, trustees in bankruptcy, or receivers, and "hiring entities" as
14 defined by section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), such term shall not include nonprofit
16 hospital associations or corporations.

17 c. "Employ" includes to suffer or permit to work.

18 d. "Occupation" includes any industry, trade, business or
19 branch thereof, or any employment or class of employment.

20 e. "Commissioner" means the Commissioner of Labor and
21 **Industry Workforce Development** of the State of New Jersey.

22

23 12. R.S.34:15-36 is amended to read as follows:

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

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

47 (a) irregular, uncertain, or incidental in nature or duration; and

1 (b) different in nature from the type of paid work in which the
2 worker is customarily engaged, provided, however, that forest fire
3 wardens and forest firefighters employed by the State of New Jersey
4 shall, in no event, be deemed casual employees.

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

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

12 (b) the service is either outside the usual course of the business
13 for which the service is performed, or that such service is performed
14 outside of all the places of business of the enterprise for which such
15 service is performed; and

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

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

1 not a self-employed person, limited liability partner, limited
2 liability company member or partner actively performing services
3 on behalf of the business, limited liability partnership, limited
4 liability company or partnership.

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

39 Employment shall be deemed to commence when an employee
40 arrives at the employer's place of employment to report for work
41 and shall terminate when the employee leaves the employer's place
42 of employment, excluding areas not under the control of the
43 employer; provided, however, when the employee is required by the
44 employer to be away from the employer's place of employment, the
45 employee shall be deemed to be in the course of employment when
46 the employee is engaged in the direct performance of duties
47 assigned or directed by the employer; but the employment of
48 employee paid travel time by an employer for time spent traveling

1 to and from a job site or of any employee who utilizes an employer
2 authorized vehicle shall commence and terminate with the time
3 spent traveling to and from a job site or the authorized operation of
4 a vehicle on business authorized by the employer. Travel by a
5 policeman, fireman, or a member of a first aid or rescue squad, in
6 responding to and returning from an emergency, shall be deemed to
7 be in the course of employment.

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

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

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

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

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

45 "Medical services, medical treatment, physicians' services and
46 physicians' treatment" shall include, but not be limited to, the
47 services which a chiropractor is authorized by law to perform and

1 which are authorized by an employer pursuant to the provisions of
2 R.S.34:15-1 et seq.
3 (cf: P.L.1999, c.383. s.1)
4

5 13. R.S.34:15-92 is amended to read as follows:

6 34:15-92. ~~【Each employer】~~ Employers and hiring entities of
7 domestic ~~【servants or household employees】~~ workers and every
8 stock company or mutual association affording insurance for the
9 liability of such employers by reason of that employment shall be
10 exempted from the provisions of ~~【 R.S. 34:15-79, and】~~ R.S. 34:15-
11 80~~【. The provisions of 】~~ and R.S. 34:15-81 ~~【shall not be~~
12 ~~applicable where the insurance coverage is afforded pursuant to~~
13 ~~P.L....., c..... (now pending before the Legislature as Assembly~~
14 ~~Bill No. 949 of 1978)】~~, but are required to provide written notice of
15 insurance coverage and cancellation of a policy.

16 (cf: P.L.1979, c.380, s.3)
17

18 14. R.S.43:21-19 is amended to read as follows:

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

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

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

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

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

8 With respect to a benefit year commencing on or after July 1,
9 1995, if an individual does not have sufficient qualifying weeks or
10 wages in his base year to qualify for benefits, the individual shall
11 have the option of designating that his base year shall be the
12 "alternative base year," which means the last four completed
13 calendar quarters immediately preceding the individual's benefit
14 year; except that, with respect to a benefit year commencing on or
15 after October 1, 1995, if the individual also does not have sufficient
16 qualifying weeks or wages in the last four completed calendar
17 quarters immediately preceding his benefit year to qualify for
18 benefits, "alternative base year" means the last three completed
19 calendar quarters immediately preceding his benefit year and, of the
20 calendar quarter in which the benefit year commences, the portion
21 of the quarter which occurs before the commencing of the benefit
22 year.

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

37 (2) With respect to a benefit year commencing on or after June
38 1, 1990 for an individual who immediately preceding the benefit
39 year was subject to a disability compensable under the provisions of
40 the "Temporary Disability Benefits Law," P.L.1948, c.110
41 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
42 five completed calendar quarters immediately preceding the
43 individual's period of disability, if the employment held by the
44 individual immediately preceding the period of disability is no
45 longer available at the conclusion of that period and the individual
46 files a valid claim for unemployment benefits after the conclusion
47 of that period. For the purposes of this paragraph, "period of
48 disability" means the period defined as a period of disability by

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

5 (3) With respect to a benefit year commencing on or after June
6 1, 1990 for an individual who immediately preceding the benefit
7 year was subject to a disability compensable under the provisions of
8 the workers' compensation law (chapter 15 of Title 34 of the
9 Revised Statutes), "base year" shall mean the first four of the last
10 five completed calendar quarters immediately preceding the
11 individual's period of disability, if the period of disability was not
12 longer than two years, if the employment held by the individual
13 immediately preceding the period of disability is no longer
14 available at the conclusion of that period and if the individual files a
15 valid claim for unemployment benefits after the conclusion of that
16 period. For the purposes of this paragraph, "period of disability"
17 means the period from the time at which the individual becomes
18 unable to work because of the compensable disability until the time
19 that the individual becomes able to resume work and continue work
20 on a permanent basis. An individual who files a claim under the
21 provisions of this paragraph (3) shall not be regarded as having left
22 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

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

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

1 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
2 7.3).

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

25 (h) "Employer" means:

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

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

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

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

46 (5) Any employing unit for which service in employment as
47 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December

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

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

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

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

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

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

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

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

35 (aa) as an elected official;

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

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

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

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

47 (iv) By an individual receiving rehabilitation or remunerative
48 work in a facility conducted for the purpose of carrying out a

1 program of rehabilitation of individuals whose earning capacity is
2 impaired by age or physical or mental deficiency or injury or
3 providing remunerative work for individuals who because of their
4 impaired physical or mental capacity cannot be readily absorbed in
5 the competitive labor market;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (J) (i) Domestic service after December 31, 1977 and before
25 January 1, 2022 performed in the private home of an employing unit
26 which paid cash remuneration of \$1,000.00 or more to one or more
27 individuals for such domestic service in any calendar quarter in the
28 current or preceding calendar year.

29 (ii) Domestic services as defined by section 2 of P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill) after
31 December 31, 2021 in either the current or preceding calendar year
32 paid remuneration for employment in the amount of \$1,000 or
33 more.

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

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

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

44 (3) Services performed within this State but not covered under
45 paragraph (2) of this subsection shall be deemed to be employment
46 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
47 required and paid with respect to such services under an

1 unemployment compensation law of any other state or of the federal
2 government.

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

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

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

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

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

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

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

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

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

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

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

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

S723 CODEY

1 labor 10 or more individuals, regardless of whether they were
2 employed at the same moment in time;

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

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

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

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

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

43 (G) Services performed in the employ of fraternal beneficiary
44 societies, orders, or associations operating under the lodge system
45 or for the exclusive benefit of the members of a fraternity itself
46 operating under the lodge system and providing for the payment of
47 life, sick, accident, or other benefits to the members of such society,
48 order, or association, or their dependents;

S723 CODEY

40

1 (H) Services performed as a member of the board of directors, a
2 board of trustees, a board of managers, or a committee of any bank,
3 building and loan, or savings and loan association, incorporated or
4 organized under the laws of this State or of the United States, where
5 such services do not constitute the principal employment of the
6 individual;

7 (I) Service with respect to which unemployment insurance is
8 payable under an unemployment insurance program established by
9 an Act of Congress;

10 (J) Service performed by agents of mutual fund brokers or
11 dealers in the sale of mutual funds or other securities, by agents of
12 insurance companies, exclusive of industrial insurance agents or by
13 agents of investment companies, if the compensation to such agents
14 for such services is wholly on a commission basis;

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

17 (L) Services performed in the employ of any veterans'
18 organization chartered by Act of Congress or of any auxiliary
19 thereof, no part of the net earnings of which organization, or
20 auxiliary thereof, inures to the benefit of any private shareholder or
21 individual;

22 (M) Service performed for or in behalf of the owner or operator
23 of any theater, ballroom, amusement hall or other place of
24 entertainment, not in excess of 10 weeks in any calendar year for
25 the same owner or operator, by any leader or musician of a band or
26 orchestra, commonly called a "name band," entertainer, vaudeville
27 artist, actor, actress, singer or other entertainer;

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

34 (O) Services performed in the sale or distribution of merchandise
35 by home-to-home salespersons or in-the-home demonstrators whose
36 remuneration consists wholly of commissions or commissions and
37 bonuses;

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

41 (Q) Service performed in the employ of an instrumentality
42 wholly owned by a foreign government if (i) the service is of a
43 character similar to that performed in foreign countries by
44 employees of the United States Government or of an instrumentality
45 thereof, and (ii) the division finds that the United States Secretary
46 of State has certified to the United States Secretary of the Treasury
47 that the foreign government, with respect to whose instrumentality
48 exemption is claimed, grants an equivalent exemption with respect

S723 CODEY

- 1 to similar services performed in the foreign country by employees
2 of the United States Government and of instrumentalities thereof;
- 3 (R) Service in the employ of an international organization
4 entitled to enjoy the privileges, exemptions and immunities under
5 the International Organizations Immunities Act (22 U.S.C. s.288 et
6 seq.);
- 7 (S) Service covered by an election duly approved by an agency
8 charged with the administration of any other state or federal
9 unemployment compensation or employment security law, in
10 accordance with an arrangement pursuant to R.S.43:21-21 during
11 the effective period of such election;
- 12 (T) Service performed in the employ of a school, college, or
13 university if such service is performed (i) by a student enrolled at
14 such school, college, or university on a full-time basis in an
15 educational program or completing such educational program
16 leading to a degree at any of the severally recognized levels, or (ii)
17 by the spouse of such a student, if such spouse is advised at the time
18 such spouse commences to perform such service that (I) the
19 employment of such spouse to perform such service is provided
20 under a program to provide financial assistance to such student by
21 such school, college, or university, and (II) such employment will
22 not be covered by any program of unemployment insurance;
- 23 (U) Service performed by an individual who is enrolled at a
24 nonprofit or public educational institution which normally
25 maintains a regular faculty and curriculum and normally has a
26 regularly organized body of students in attendance at the place
27 where its educational activities are carried on, as a student in a full-
28 time program, taken for credit at such institution, which combines
29 academic instruction with work experience, if such service is an
30 integral part of such program, and such institution has so certified
31 to the employer, except that this subparagraph shall not apply to
32 service performed in a program established for or on behalf of an
33 employer or group of employers;
- 34 (V) Service performed in the employ of a hospital, if such
35 service is performed by a patient of the hospital; service performed
36 as a student nurse in the employ of a hospital or a nurses' training
37 school by an individual who is enrolled and regularly attending
38 classes in a nurses' training school approved under the laws of this
39 State;
- 40 (W) Services performed after the effective date of this
41 amendatory act by agents of mutual benefit associations if the
42 compensation to such agents for such services is wholly on a
43 commission basis;
- 44 (X) Services performed by operators of motor vehicles weighing
45 18,000 pounds or more, licensed for commercial use and used for
46 the highway movement of motor freight, who own their equipment
47 or who lease or finance the purchase of their equipment through an
48 entity which is not owned or controlled directly or indirectly by the

1 entity for which the services were performed and who were
2 compensated by receiving a percentage of the gross revenue
3 generated by the transportation move or by a schedule of payment
4 based on the distance and weight of the transportation move;

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

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

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

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

26 (A) The limousine franchisee is incorporated;

27 (B) The franchisee is subject to regulation by the Interstate
28 Commerce Commission;

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

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

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

46 For purposes of this paragraph (10): "legal transcription service"
47 and "legal transcribing" mean making use, by audio, video or voice
48 recording, of a verbatim record of court proceedings, depositions,

1 other judicial proceedings, meetings of boards, agencies,
2 corporations, or other bodies or groups, and causing that record to
3 be printed in readable form or produced on a computer screen in
4 readable form; and "legal transcriber" means a person who engages
5 in "legal transcribing."

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

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

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

13 (m) "Unemployment."

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

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

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

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

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

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

44 (o) "Wages" means remuneration paid by employers for
45 employment. If a worker receives gratuities regularly in the course
46 of his employment from other than his employer, his "wages" shall
47 also include the gratuities so received, if reported in writing to his
48 employer in accordance with regulations of the division, and if not

1 so reported, his "wages" shall be determined in accordance with the
2 minimum wage rates prescribed under any labor law or regulation
3 of this State or of the United States, or the amount of remuneration
4 actually received by the employee from his employer, whichever is
5 the higher.

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

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

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

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

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

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

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

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

46 (3) "Base week," commencing on or after January 1, 2001,
47 means any calendar week during which the individual earned in
48 employment from an employer remuneration not less than an

S723 CODEY

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

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

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

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

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

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

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

46 (A) In which participants, trainees, or students are offered an
47 organized course of study or training designed to transfer to them

1 knowledge, skills, information, doctrines, attitudes or abilities from,
2 by or under the guidance of an instructor or teacher;

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

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

10 (2) "Institution of higher education" means an educational
11 institution which:

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

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

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

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

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

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

29 (cf: P.L.2017, c.230, s.1)

30

31 15. (New section) Except as otherwise provided, the following
32 minimum terms, and such other minimum terms as may be
33 established by the department by regulation, shall apply to a work
34 relationship between a domestic worker and a hiring entity:

35 a. Written agreements. No employer shall employ a domestic
36 worker, except for casual work or work of less than five hours per
37 month, unless the engagement is governed by a written contract
38 governing the following: a specific list of job duties; hourly wage
39 and overtime wage; weekly schedule including number of hours per
40 week; the manner and frequency of payment; breaks for rest and
41 meals; paid or unpaid leave including sick time; paid holidays; any
42 other benefits provided; modes of transportation required and
43 whether provided; value of housing if provided; sleeping period and
44 personal time for live-in workers; the term of the contract; and any
45 other terms and conditions as agreed upon by the domestic worker
46 and employer or as mandated pursuant to this act. The written
47 agreement shall be signed and dated by all parties after ample
48 opportunity to review.

- 1 b. The written agreement required under this section shall not
2 be construed to waive the protections of domestic workers under
3 federal, State, and local laws and shall not contain any:
- 4 (1) Mandatory pre-dispute arbitration agreement for claims
5 made by a covered domestic worker against a domestic work hiring
6 entity regarding the local rights of the worker; and
- 7 (2) Non-disclosure agreement, restrictive covenant, or non-
8 disparagement agreement, limiting the ability of the covered
9 domestic worker to seek compensation for performing domestic
10 services after the worker ceases to receive compensation from the
11 domestic work hiring entity for the performance of domestic
12 services.
- 13 c. The agreement shall be in English and such other language
14 as may be preferred by the worker. The hiring entity shall make
15 reasonable efforts to determine if the worker would prefer the
16 agreement to be in another language.
- 17 d. The department shall make available model contracts
18 complying with this act shall in multiple languages on its Internet
19 website.
- 20 e. A referral and employment agency shall provide domestic
21 workers and hiring entities with information concerning the contract
22 requirements of this act at the time a hiring entity is connected with
23 a worker and shall make any model contracts adopted by the
24 department available to the hiring entity.
- 25
- 26 16. (New section) a. The hiring entity shall allow the domestic
27 worker an uninterrupted paid rest-period of not less than ten
28 minutes for each four consecutive hours worked, unless the nature
29 of the work prevents the domestic worker from being relieved of all
30 duties for such period of time, such as some types of child care and
31 caretaker work for a sick, elderly or disabled person. The hiring
32 entity shall pay the domestic worker for the time spent on a rest
33 break at the domestic worker's regular rate of pay.
- 34 b. The hiring entity shall allow an uninterrupted 30-minute
35 meal break after more than five consecutive hours worked. Unless
36 the domestic worker is relieved of all work duties during such 30-
37 minute period, the meal period shall be considered an "on-duty"
38 meal period and shall be paid at the domestic worker's regular rate
39 of pay.
- 40 (1) An "on-duty" meal period shall be permitted only when the
41 nature of the work prevents a domestic worker from being relieved
42 of all duties and when, by written agreement between the parties, an
43 "on-duty" meal period is agreed to. The agreement may be revoked
44 by the domestic worker, in writing, at any time.
- 45 c. The hiring entity shall not impede or discourage a domestic
46 worker from taking any meal or rest breaks.
- 47 d. Failure to allow a meal or rest period in accordance with this
48 paragraph (1) shall entitle the domestic worker to one additional

1 hour of pay at the domestic worker's regular rate of compensation
2 for each workday that the meal or rest period was not provided.
3 Payment of this extra pay shall not excuse non-compliance with this
4 subsection.

5

6 17. (New section) A "live-in" domestic worker shall not be
7 required to work more than six consecutive days for the same hiring
8 entity without a 24-hour period of rest, which may be unpaid.

9

10 18. (New section) a. The hiring entity shall provide a minimum
11 two-week notification period before termination of employment,
12 and for live-in domestic workers a minimum four-week notification
13 period before termination of employment. No notification period is
14 required in connection with the termination of casual work
15 performed for a hiring entity.

16 b. The hiring entity may terminate the employment without
17 complying with the full notification period based on a good-faith
18 belief that the domestic worker has engaged in significant
19 misconduct.

20 c. Failure to provide notification as required under this section
21 shall entitle the domestic worker to severance pay in the amount of
22 the worker's regular hourly rate multiplied by the regular number of
23 hours worked over the period of time during which the required
24 notification was not provided.

25

26 19. (New section) No hiring entity shall:

27 a. Keep or hold the original copies of any personal documents
28 of a domestic worker;

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

31 (1) using any bathroom or similar facility;

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

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

35 c. Monitor, record or interfere with the private communications
36 of a domestic worker.

37

38 20. (New section) a. A hiring entity shall provide to a domestic
39 worker notification of the rights of domestic workers under P.L. ,

40 c. (C. et seq.) (pending before the Legislature as this bill),
41 and information on how to file a complaint for violation of these
42 rights, as shall be determined by the department by regulation.

43 b. A hiring entity shall create and maintain records
44 documenting hours worked, pay rate, meals and rest breaks, leave
45 time earned and used, if applicable, and the existence of a written
46 agreement, all pursuant to requirements established by regulation by
47 the department. If a hiring entity does not maintain the required
48 records or does not allow the department reasonable access to the

1 records, an adverse inference may be drawn with respect to facts
2 alleged regarding the issues about which records were not kept.

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

6
7 21. (New section) a. It shall be unlawful for a hiring entity or
8 any other person to interfere with, restrain, or deny the exercise of,
9 or the attempt to exercise, any right set forth in P.L. ,
10 c. (C. et seq.) (pending before the Legislature as this bill).

11 b. The minimum requirements of sections 15 through 20 of
12 P.L. , c. (C.) (pending before the Legislature as this bill)
13 shall be deemed incorporated into any contract, whether actual or
14 implied, between the employer and the domestic worker.

15 c. A material breach by a hiring entity of a contract with a
16 domestic worker shall constitute a violation of P.L. ,
17 c. (C. et seq.) (pending before the Legislature as this bill),
18 without regard to whether the breach is of a provision required by
19 this act.

20 d. No hiring entity or any other person shall take or threaten
21 retaliatory action against any person because a domestic worker has
22 exercised rights or pursued a claim of violation under P.L. ,
23 c. (C. et seq.) (pending before the Legislature as this bill).
24 These rights include the right to demand compliance with
25 protections established by written agreement; the right to file a
26 complaint or inform any person about an employer's alleged
27 violation of this act; the right to cooperate with the department in
28 any investigation pursuant to this act; and the right to inform any
29 person of the rights established under this act.

30 e. No hiring entity or any other person shall communicate to a
31 person exercising rights protected under P.L. c. (C.)
32 (pending before the Legislature as this bill) the willingness or intent
33 to contact, report to, or to make an implied or express assertion to
34 report to a government agency regarding the suspected citizenship
35 or immigration status of a domestic worker or family member of a
36 domestic worker because the worker has or has expressed an intent
37 to exercise rights protected under this act or because of a belief the
38 worker may do so.

39 f. The protections of this section shall apply to any person who
40 mistakenly but in good faith alleges a violation of P.L. ,
41 c. (C. et seq.) (pending before the Legislature as this bill).

42 g. It shall be considered a rebuttable presumption of retaliation
43 if the hiring entity or any other person takes an adverse action
44 against a domestic worker within 90 calendar days of the worker's
45 exercise of rights protected in P.L. c. (C. et seq.) (pending
46 before the Legislature as this bill). However, in the case of
47 temporary or seasonal employment that ended before the close of
48 the 90 calendar day period, the presumption also applies if the

1 hiring entity fails to rehire a former domestic worker at the next
2 opportunity for work in the same position. The hiring entity may
3 rebut the presumption with clear and convincing evidence that the
4 adverse action would have been taken in the absence of such
5 protected activity.

6 h. Proof of retaliation under P.L. , c. (C. et seq.)
7 (pending before the Legislature as this bill) shall be sufficient upon
8 a showing that the hiring entity or any other person has taken an
9 adverse action against a person and the persons exercise or rights
10 protected in P.L. , c. (C. et seq.) (pending before the
11 Legislature as this bill) was a motivating factor in the absence of
12 that protected activity.

13 i. A complaint or other communication by any person triggers
14 the protection of P.L. , c. (C. et seq.) (pending before the
15 Legislature as this bill) regardless of whether the complaint or
16 communication is in writing or makes explicit reference to P.L. ,
17 c. (C.) (pending before the Legislature as this bill).

18
19 22. (New section) The department is authorized to coordinate
20 implementation, administration, and enforcement for P.L. ,
21 c. (C.) (pending before the Legislature as this bill), and shall
22 promulgate appropriate guidelines and regulations to effectuate the
23 purposes of for P.L. , c. (C.) (pending before the
24 Legislature as this bill) through the Domestic Workers Standards
25 and Implementation Board, established in section 25 of P.L. ,
26 c. (C.)(pending before the Legislature as this bill).

27
28 23. (New section) a. Individuals and hiring entities with an
29 overlapping employment relationship with a domestic worker are
30 subject to joint and several liability, and concurrent finds and
31 penalties, in connection with P.L. , c. (C.) (pending before
32 the Legislature as this bill).

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

36 c. The department shall collaborate with the Domestic Workers
37 Standards and Implementation Board, as established by section 25
38 of P.L. , c. (C.) (pending before the Legislature as this bill)
39 to take any steps as it deems appropriate to resolve complaints and
40 enforce P.L. , c. (C.) (pending before the Legislature as
41 this bill), including, but not limited to, establishing a system to
42 receive complaints regarding noncompliance with P.L. ,
43 c. (C.) (pending before the Legislature as this bill),
44 investigating alleged violations in a timely manner and resolving
45 complaints through a separate “referral” process for claims of
46 employees in domestic services.

47 d. The department shall have the power to subpoena records
48 and testimony from any party to a complaint. The records shall be

1 provided to the department within 30 days after receipt of the
2 subpoena.

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

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

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

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

1 24. (New section) a. The department shall, upon appropriation
2 of funds to the department for purposes of this section, establish and
3 maintain a Domestic Work Enforcement Program in collaboration
4 with qualified organizations. P.L. , c. (C.) (pending before
5 the Legislature as this bill) requires the department to issue a
6 competitive request to community-based organizations (CBOs) to
7 provide education and outreach services in this program and would
8 prescribe requirements for these organizations. The CBOs would
9 be responsible for developing and consulting with the department
10 regarding the core education and outreach materials, as specified.
11 The program shall increase the capacity and expertise of the
12 department to improve education and enforcement of labor
13 standards in the domestic work industry. The program shall
14 include, but not be limited to, the following:

15 (1) Education and training for domestic work employees and
16 hiring entities addressing minimum wage, overtime, sick leave,
17 recordkeeping, wage adjudication, and retaliation, along with new
18 rights extended by P.L. , c. (C.) (pending before the
19 Legislature as this bill);

20 (2) Training for domestic worker leaders to provide peer-to-peer
21 support and wraparound service referrals to domestic work
22 employees who have elected to file wage claims or take other
23 actions seeking remedy from hiring entities;

24 (3) Development of core training curriculum to be used in the
25 education and training of domestic work employees and hiring
26 entities;

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

30 (5) Development of an online resource hub to provide
31 information for hiring entities on State labor laws and guidelines on
32 fair employment.

33 b. Qualified organizations that collaborate under subsection a.
34 of this section shall issue reports and meet quarterly with the
35 department to review the implementation and success of the
36 program.

37 c. (1) A nonprofit organization that has a minimum of five
38 years of experience working with domestic work employees or
39 hiring entities; or

40 (2) An organization that works with nonprofit organizations that
41 has a minimum of five years of experience working with domestic
42 work employees or hiring entities.

43
44 25. (New section) a. The department shall establish, within 90
45 days of the date of enactment of P.L. , c. (C.) (pending
46 before the Legislature as this bill), a “Domestic Workers Standards
47 and Implementation Board” (Board), which shall be established to
48 provide a forum for hiring entities, domestic workers, worker

1 organizations, and the public to consider analyze, and make
2 recommendations to the State on the legal protections, benefits, and
3 working conditions for domestic worker industry standards. The
4 board shall be established to permanently promote the health,
5 safety, and well-being of domestic workers; and a living wage for
6 domestic workers along with development of the mechanisms to
7 support implementation of P.L. , c. (C. (pending before the
8 Legislature as this bill), including the development of regulations
9 promulgated under P.L. , c. (C.)(pending before the
10 Legislature as this bill). The board shall also make
11 recommendations to the department regarding enforcement and
12 implementation strategies, including the development of the
13 Domestic Work Enforcement Program.

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

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

34 (i) one representative from the Department of Labor and
35 Workforce Development;

36 (ii) one representative from the National Domestic Workers
37 Alliance;

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

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

42 (v) one domestic worker; and

43 (vi) one hiring entity; and

44 (b) The Legislature shall appoint six members as follows: three
45 members to be appointed by the President of the Senate and three
46 members to be appointed by the Speaker of the General Assembly,
47 as follows:

- 1 (i) four domestic workers, two each selected respectively by the
2 President of the Senate and the Speaker of the General Assembly;
3 and
4 (ii) two hiring entities, one each selected respectively by the
5 President of the Senate and the Speaker of the General Assembly.
- 6 c. The board's responsibilities include, but are not limited to,
7 providing a forum for hiring entities, domestic workers, worker
8 organizations, and other affected parties to share information,
9 insights, and experiences on the working conditions of domestic
10 workers, and recommendations on how the working conditions can
11 be changed to meet the needs of domestic workers and hiring
12 entities. These recommendations shall include:
13 (1) possible legislation or policy changes;
14 (2) wage standards for the industry;
15 (3) development and advancement of enforcement and
16 implementation efforts in collaboration with the department; and
17 (4) the promulgation of regulations to enforce P.L. ,
18 c. (C.) (pending before the Legislature as this bill).
- 19 d. The board, in consultation with the department and other
20 State agencies, within six months after all members have been
21 established, shall submit to the Governor, and Legislature, pursuant
22 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by
23 the department, a work plan identifying the topics the board will
24 address in the first two years. The board in consultation with the
25 department and other relevant State agencies, shall submit an
26 updated work plan every two years. The board's first
27 recommendation shall be submitted to the Governor and Legislature
28 by the end of the first quarter of the year following the year in
29 which the work plan has been submitted.
- 30 Within 120 days from the date of receipt of any work plan
31 submitted by the board, the Legislature, through its committees that
32 consider labor subject matter, shall consider and respond to the
33 board's work plan. The response shall include proposed legislation
34 and policies, requests for additional information needed from the
35 board, requests for alternative plans from the board, reasons for
36 rejection of any plan submitted by the board, or an explanation of
37 why additional time is needed to submit a response to the board's
38 plan. Additionally, the Legislature, sua sponte, may notify the
39 board of any policies or legislation it may introduce for enactment,
40 request further information from the board, request that the board
41 develop alternatives, or take any other action that it deems
42 appropriate.
- 43 e. The board shall make recommendations to the Legislature on
44 the following subjects:
45 (1) Wage standards, such as industry standards, overtime, and
46 pay differentials;
47 (2) Training for hiring entities and domestic workers on federal,
48 State, and local labor laws, benefits, and protections,

- 1 discrimination, and sexual harassment, workplace health; and safety
2 standards;
- 3 (3) Jobs skills and professional development opportunities;
- 4 (4) Access to portable benefits, such as paid time off, retirement
5 pensions, health benefits, and paid family and disability leave;
- 6 (5) Workers' compensation and temporary disability benefits;
- 7 (6) Development and advancement of written agreement,
8 including notice of rights and recordkeeping templates;
- 9 (7) Outreach and enforcement strategies to ensure compliance
10 with P.L. , c. (C.) (pending before the Legislature as this
11 bill), and to provide effective information to both hiring entities and
12 domestic workers; and
- 13 (8) Any other emerging issues the board wishes to include in its
14 work plan.
- 15 f. Members of the board shall serve without compensation but
16 shall be reimbursed for the reasonable travel and other out-of-
17 pocket expenses incurred in the performance of their duties.

18
19 26. (New section) a. Nothing in P.L. , c. (C.) (pending
20 before the Legislature as this bill) shall be construed to diminish
21 any rights or protections granted to domestic workers by any other
22 law.

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

31
32 27. This act shall take effect on the first day of the sixth month
33 next following enactment, except that the commissioner may take
34 any anticipatory action as may be necessary to effectuate the
35 purposes of this act.

36
37
38 STATEMENT

39
40 This bill creates various rights and employment protections for
41 domestic workers who, under the bill, are defined as hourly and
42 salaried employees, independent contractors, full-time and part-time
43 individuals and temporary individuals, and any worker who:

- 44 (1) works for one or more employer; and
- 45 (2) is an individual who works in the residence of the employer
46 for the purposes of caring for a child, serving as a companion or
47 caretaker for a sick, convalescing, or elderly person, or a person
48 with a disability; housekeeping or house cleaning; cooking;

1 providing food or butler service; parking cars; cleaning laundry;
2 gardening; personal organizing; or for any other domestic service
3 purpose.

4 The bill excludes from the definition of domestic worker any
5 individual taking care of or providing services to that individual's
6 family member; an individual primarily engaged in house sitting,
7 pet sitting, or dog walking; an individual working at a business
8 operating out of a residence, such as a home daycare business; an
9 individual whose primary work involves house repair or
10 maintenance, such a roofer, plumber, or other similar contractor; a
11 home health care aide while the aide is paid through public funds;
12 an individual established as a kinship legal guardian of a child who
13 lives in the residence, or an individual who participates in the
14 Kinship Navigator Program, as authorized by the Department of
15 Children and Families, as a caregiver of a child who lives in the
16 residence and receives services provided by a kinship navigator
17 service provider; and an individual less than 18 years of age.

18 The bill removes the exclusion of the domestic worker from the
19 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.)
20 and the "New Jersey State Wage and Hour Law," P.L.1966, c.113
21 (C.34:11-56a et seq.).

22 The bill also provides privacy rights to domestic workers, and it
23 requires the employer or hiring entity to enter into a written contract
24 with the domestic worker.

25 The bill establishes penalties for violations of its provisions,
26 including penalties against retaliation by the employer or hiring
27 entity.

28 The bill creates the Domestic Workers Standards and
29 Implementation Board to monitor and review the implementation of
30 the bill and make policy recommendations to the State regarding
31 additional measures to be taken.