

SENATE, No. 4054

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 30, 2023

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Concerns temporary disability insurance and family leave insurance benefits.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning temporary disability insurance and family leave
2 insurance benefits and amending various parts of the statutory
3 law.

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

7
8 1. Section 3 of P.L.2013, c.8 (C.34:11C-3) is amended to read
9 as follows:

10 3. a. Any employee of an employer in the State who was a
11 victim of an incident of domestic violence as defined in section 3 of
12 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as
13 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose
14 parent-in-law, sibling, grandparent, grandchild, child, parent,
15 spouse, domestic partner, or civil union partner individual, or any
16 other individual related by blood to the employee, and any other
17 individual that the employee shows to have a close association with
18 the employee which is the equivalent of a family relationship, was a
19 victim shall be entitled to unpaid leave of no more than 20 days in
20 one 12-month period, to be used in the 12-month period next
21 following any incident of domestic violence or any sexually violent
22 offense as provided in this section. For purposes of this section,
23 each incident of domestic violence or any sexually violent offense
24 shall constitute a separate offense for which an employee is entitled
25 to unpaid leave, provided that the employee has not exhausted the
26 allotted 20 days for the 12-month period. The unpaid leave may be
27 taken intermittently in intervals of no less than one day, as needed
28 for the purpose of engaging in any of the following activities as
29 they relate to the incident of domestic violence or sexually violent
30 offense:

31 (1) seeking medical attention for, or recovering from, physical
32 or psychological injuries caused by domestic or sexual violence to
33 the employee or the employee's parent-in-law, sibling, grandparent,
34 grandchild, child, parent, spouse, domestic partner, or civil union
35 partner individual, or any other individual related by blood to the
36 employee, and any other individual that the employee shows to
37 have a close association with the employee which is the equivalent
38 of a family relationship;

39 (2) obtaining services from a victim services organization for
40 the employee or the employee's parent-in-law, sibling, grandparent,
41 grandchild, child, parent, spouse, domestic partner, or civil union
42 partner individual, or any other individual related by blood to the
43 employee, and any other individual that the employee shows to
44 have a close association with the employee which is the equivalent;

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

Matter underlined thus is new matter.

1 (3) obtaining psychological or other counseling for the
2 employee or the employee's parent-in-law, sibling, grandparent,
3 grandchild, child, parent, spouse, domestic partner, or civil union
4 partner individual, or any other individual related by blood to the
5 employee, and any other individual that the employee shows to
6 have a close association with the employee which is the equivalent
7 of a family relationship;

8 (4) participating in safety planning, temporarily or permanently
9 relocating, or taking other actions to increase the safety of the
10 employee or the employee's parent-in-law, sibling, grandparent,
11 grandchild, child, parent, spouse, domestic partner, or civil union
12 partner individual, or any other individual related by blood to the
13 employee, and any other individual that the employee shows to
14 have a close association with the employee which is the equivalent
15 of a family relationship, from future domestic or sexual violence or
16 to ensure economic security;

17 (5) seeking legal assistance or remedies to ensure the health and
18 safety of the employee or the employee's parent-in-law, sibling,
19 grandparent, grandchild, child, parent, spouse, domestic partner, or
20 civil union partner, individual, or any other individual related by
21 blood to the employee, and any other individual that the employee
22 shows to have a close association with the employee which is the
23 equivalent of a family relationship, including preparing for, or
24 participating in, any civil or criminal legal proceeding related to or
25 derived from domestic or sexual violence; or

26 (6) attending, participating in, or preparing for a criminal or
27 civil court proceeding relating to an incident of domestic or sexual
28 violence of which the employee or the employee's parent-in-law,
29 sibling, grandparent, grandchild, child, parent, spouse, domestic
30 partner, or civil union partner, or any other individual related by
31 blood to the employee, and any other individual that the employee
32 shows to have a close association with the employee which is the
33 equivalent of a family relationship, was a victim.

34 An eligible employee may elect to use any of the accrued paid
35 vacation leave, personal leave, or medical or sick leave of the
36 employee, or any family temporary disability leave benefits
37 provided pursuant to section 3 of P.L.1948, c.110 (C.43:21-27),
38 during any part of the 20-day period of unpaid leave provided under
39 this subsection. In such case, any paid leave provided by the
40 employer, and accrued pursuant to established policies of the
41 employer, or family temporary disability leave benefits, shall run
42 concurrently with the unpaid leave provided under this subsection
43 and, accordingly, the employee shall receive pay pursuant to the
44 employer's applicable paid leave policy, or family temporary
45 disability leave benefits, during the period of otherwise unpaid
46 leave. If an employee requests leave for a reason covered by both
47 this subsection and the "Family Leave Act," P.L.1989, c.261
48 (C.34:11B-1 et seq.) or the federal "Family and Medical Leave Act

1 of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.), the leave shall
2 count simultaneously against the employee's entitlement under each
3 respective law.

4 Leave granted under this section shall not conflict with any
5 rights pursuant to the "Family Leave Act," P.L.1989, c.261
6 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"
7 P.L.1948, c.110 (C.43:21-25 et al.), or the federal "Family and
8 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
9 seq.).

10 b. Prior to taking the leave provided for in this section, an
11 employee shall, if the necessity for the leave is foreseeable, provide
12 the employer with written notice of the need for the leave, unless an
13 emergency or other unforeseen circumstances precludes prior
14 notice. The notice shall be provided to the employer as far in
15 advance as is reasonable and practical under the circumstances.

16 c. Nothing contained in this act shall be construed to prohibit
17 an employer from requiring that a period of leave provided pursuant
18 to this section be supported by the employee with documentation of
19 the domestic violence or sexually violent offense which is the basis
20 for the leave. If the employer requires the documentation, the
21 employee shall be regarded as having provided sufficient
22 documentation if the employee provides one or more of the
23 following:

24 (1) a domestic violence restraining order or other documentation
25 of equitable relief issued by a court of competent jurisdiction;

26 (2) a letter or other written documentation from the county or
27 municipal prosecutor documenting the domestic violence or
28 sexually violent offense;

29 (3) documentation of the conviction of a person for the domestic
30 violence or sexually violent offense;

31 (4) medical documentation of the domestic violence or sexually
32 violent offense;

33 (5) certification from a certified Domestic Violence Specialist or
34 the director of a designated domestic violence agency or Rape
35 Crisis Center, that the employee or employee's parent-in-law,
36 sibling, grandparent, grandchild, child, parent, spouse, domestic
37 partner, or civil union partner, or any other individual related by
38 blood to the employee, and any other individual that the employee
39 shows to have a close association with the employee which is the
40 equivalent of a family relationship, is a victim of domestic violence
41 or a sexually violent offense; **[or]**

42 (6) other documentation or certification of the domestic violence
43 or sexually violent offense provided by a social worker, member of
44 the clergy, shelter worker, or other professional who has assisted
45 the employee or employee's parent-in-law, sibling, grandparent,
46 grandchild, child, parent, spouse, domestic partner, or civil union
47 partner, or any other individual related by blood to the employee,
48 and any other individual that the employee shows to have a close

1 association with the employee which is the equivalent of a family
2 relationship, in dealing with the domestic violence or sexually
3 violent offenses~~[.]; or~~

4 (7) the employee's statement, which need not be notarized or in
5 any particular form, affirming that the employee or the employee's
6 family member is a victim of domestic violence, sexual assault, or
7 stalking and that the leave was taken for one of the purposes
8 provided for in this section.

9 For the purposes of this subsection:

10 "Certified Domestic Violence Specialist" means a person who
11 has fulfilled the requirements of certification as a Domestic
12 Violence Specialist established by the New Jersey Association of
13 Domestic Violence Professionals; and "designated domestic
14 violence agency" means a county-wide organization with a primary
15 purpose to provide services to victims of domestic violence, and
16 which provides services that conform to the core domestic violence
17 services profile as defined by the Division of Child Protection and
18 Permanency in the Department of Children and Families and is
19 under contract with the division for the express purpose of
20 providing the services.

21 "Rape Crisis Center" means an office, institution, or center
22 offering assistance to victims of sexual offenses through crisis
23 intervention, medical and legal information, and follow-up
24 counseling.

25 d. An employer shall display conspicuous notice of its
26 employees' rights and obligations pursuant to the provisions of this
27 act, in such form and in such manner as the Commissioner of Labor
28 and Workforce Development shall prescribe, and use other
29 appropriate means to keep its employees so informed.

30 e. No provision of this act shall be construed as requiring or
31 permitting an employer to reduce employment benefits provided by
32 the employer or required by a collective bargaining agreement
33 which are in excess of those required by this act. Nor shall any
34 provision of this act be construed to prohibit the negotiation and
35 provision through collective bargaining agreements of leave
36 policies or benefit programs which provide benefits in excess of
37 those required by this act. This provision shall apply irrespective of
38 the date that a collective bargaining agreement takes effect.

39 Nothing contained in this act shall be construed as permitting an
40 employer to:

41 (1) rescind or reduce any employment benefit accrued prior to
42 the date on which the leave taken pursuant to this act commenced;
43 or

44 (2) rescind or reduce any employment benefit, unless the
45 rescission or reduction of the benefit is based on changes that would
46 have occurred if an employee continued to work without taking the
47 leave provided pursuant to this section.

1 f. All information provided to an employer pursuant to
2 subsection c. of this section, and any information regarding a leave
3 taken pursuant to this section and any failure of an employee to
4 return to work, shall be retained in the strictest confidentiality,
5 unless the disclosure is voluntarily authorized in writing by the
6 employee or is required by a federal or State law, rule, or
7 regulation.

8 (cf: P.L.2019, c.37, s.4)

9
10 2. Section 3 of P.L.2018, c.10 (C.34:11D-3) is amended to read
11 as follows:

12 3. a. An employer shall permit an employee to use the earned
13 sick leave accrued pursuant to this act for any of the following:

14 (1) time needed for diagnosis, care, or treatment of, or recovery
15 from, an employee's mental or physical illness, injury or other
16 adverse health condition, or for preventive medical care for the
17 employee;

18 (2) time needed for the employee to aid or care for a family
19 member of the employee during diagnosis, care, or treatment of, or
20 recovery from, the family member's mental or physical illness,
21 injury or other adverse health condition, or during preventive
22 medical care for the family member;

23 (3) absence necessary due to circumstances resulting from the
24 employee, or a family member of the employee, being a victim of
25 domestic or sexual violence, if the leave is to allow the employee to
26 obtain for the employee or the family member: medical attention
27 needed to recover from physical or psychological injury or
28 disability caused by domestic or sexual violence; services from a
29 designated domestic violence agency or other victim services
30 organization; psychological or other counseling; relocation; or legal
31 services, including obtaining a restraining order or preparing for, or
32 participating in, any civil or criminal legal proceeding related to the
33 domestic or sexual violence;

34 (4) time during which the employee is not able to work because
35 of:

36 (a) a closure of the employee's workplace, or the school or place
37 of care of a child of the employee by order of a public official or
38 because of a state of emergency declared by the President of the
39 United States or the Governor, due to an epidemic or other public
40 health emergency;

41 (b) the declaration of a state of emergency by the President of
42 the United States or the Governor, or the issuance by a health care
43 provider or the Commissioner of Health or other public health
44 authority of a determination that the presence in the community of
45 the employee, or a member of the employee's family in need of care
46 by the employee, would jeopardize the health of others;

47 (c) during a state of emergency declared by the Governor, or
48 upon the recommendation, direction, or order of a healthcare

1 provider or the Commissioner of Health or other authorized public
2 official, the employee undergoes isolation or quarantine, or cares
3 for a family member in quarantine, as a result of suspected exposure
4 to a communicable disease and a finding by the provider or
5 authority that the presence in the community of the employee or
6 family member would jeopardize the health of others; or

7 (5) time needed by the employee in connection with a child of
8 the employee to attend a school-related conference, meeting,
9 function or other event requested or required by a school
10 administrator, teacher, or other professional staff member
11 responsible for the child's education, or to attend a meeting
12 regarding care provided to the child in connection with the child's
13 health conditions or disability.

14 b. If an employee's need to use earned sick leave is foreseeable,
15 an employer may require advance notice, not to exceed seven
16 calendar days prior to the date the leave is to begin, of the intention
17 to use the leave and its expected duration, and shall make a
18 reasonable effort to schedule the use of earned sick leave in a
19 manner that does not unduly disrupt the operations of the employer.
20 If the reason for the leave is not foreseeable, an employer may
21 require an employee to give notice of the intention as soon as
22 practicable, if the employer has notified the employee of this
23 requirement. Employers may prohibit employees from using
24 foreseeable earned sick leave on certain dates, and require
25 reasonable documentation if sick leave that is not foreseeable is
26 used during those dates. For earned sick leave of three or more
27 consecutive days, an employer may require reasonable
28 documentation that the leave is being taken for the purpose
29 permitted under subsection a. of this section. If the leave is
30 permitted under paragraph (1) or (2) of subsection a. of this section,
31 documentation signed by a health care professional who is treating
32 the employee or the family member of the employee indicating the
33 need for the leave and, if possible, number of days of leave, shall be
34 considered reasonable documentation. If the leave is permitted
35 under paragraph (3) of subsection a. of this section because of
36 domestic or sexual violence, any of the following shall be
37 considered reasonable documentation of the domestic or sexual
38 violence: medical documentation; a law enforcement agency record
39 or report; a court order; documentation that the perpetrator of the
40 domestic or sexual violence has been convicted of a domestic or
41 sexual violence offense; certification from a certified Domestic
42 Violence Specialist or a representative of a designated domestic
43 violence agency or other victim services organization; or other
44 documentation or certification provided by a social worker,
45 counselor, member of the clergy, shelter worker, health care
46 professional, attorney, or other professional who has assisted the
47 employee or family member in dealing with the domestic or sexual
48 violence. If the leave is permitted under paragraph (4) of

1 subsection a. of this section, a copy of the order of the public
2 official or the determination by the health authority shall be
3 considered reasonable documentation.

4 c. Nothing in this act shall be deemed to require an employer to
5 provide earned sick leave for an employee's leave for purposes
6 other than those identified in this section, or prohibit the employer
7 from taking disciplinary action against an employee who uses
8 earned sick leave for purposes other than those identified in this
9 section. An employer may provide an offer to an employee for a
10 payment of unused earned sick leave in the final month of the
11 employer's benefit year. The employee shall choose, no later than
12 10 calendar days from the date of the employer's offer, whether to
13 accept a payment or decline a payment. If the employee agrees to
14 receive a payment, the employee shall choose a payment for the full
15 amount of unused earned sick leave or for 50 percent of the amount
16 of unused earned sick leave. The payment amount shall be based on
17 the same rate of pay that the employee earns at the time of the
18 payment. If the employee declines a payment for unused earned
19 sick leave, or agrees to a payment for 50 percent of the amount of
20 unused sick leave, the employee shall be entitled to carry forward
21 any unused or unpaid earned sick leave to the proceeding benefit
22 year as provided pursuant to subsection a. of section 2 of this act. If
23 the employee agrees to a payment for the full amount of unused
24 earned sick leave, the employee shall not be entitled to carry
25 forward any earned sick leave to the proceeding benefit year
26 pursuant to subsection a. of section 2 of this act.

27 d. If an employer foregoes the accrual process for earned sick
28 leave hours pursuant to subsection a. of section 2 of this act and
29 provides an employee with the full complement of earned sick leave
30 for a benefit year on the first day of each benefit year, then the
31 employer shall either provide to the employee a payment for the full
32 amount of unused earned sick leave in the final month of the
33 employer's benefit year or carry forward any unused sick leave to
34 the next benefit year. The employer may pay the employee the full
35 amount of unused earned sick leave in the final month of a benefit
36 year pursuant to this subsection only if the employer forgoes, with
37 respect to that employee, the accrual process for earned sick leave
38 during the next benefit year. Unless an employer policy or
39 collective bargaining agreement provides for the payment of
40 accrued earned sick leave upon termination, resignation, retirement
41 or other separation from employment, an employee shall not be
42 entitled under this section to payment of unused earned sick leave
43 upon the separation from employment.

44 e. Any information an employer possesses regarding the health
45 of an employee or any family member of the employee or domestic
46 or sexual violence affecting an employee or employee's family
47 member shall be treated as confidential and not disclosed except to

1 the affected employee or with the written permission of the affected
2 employee.

3 f. An employee who is eligible for both earned sick leave
4 pursuant to P.L.2018, c.10 (C.34:11D-1 et seq.) and either
5 temporary disability benefits pursuant to P.L.1948, c. 110 (C.43:21-
6 25 et al.), or family temporary disability leave benefits pursuant to
7 P.L.2008, c. 17 (C.43:21-39.1 et al.) shall have the option of using
8 either the earned sick leave or whichever is applicable of temporary
9 disability benefits or family temporary disability leave benefits, and
10 may select the order in which the different kinds of leave are taken,
11 but shall not receive more than one kind of paid leave
12 simultaneously during any period of time.

13 (cf: P.L.2020, c.17, s.1)

14

15 3. R.S.43:21-4 is amended to read as follows:

16 43:21-4. An unemployed individual shall be eligible to receive
17 benefits with respect to any week eligible only if:

18 (a) The individual has filed a claim at an unemployment
19 insurance claims office and thereafter continues to report at an
20 employment service office or unemployment insurance claims
21 office, as directed by the division in accordance with such
22 regulations as the division may prescribe, except that the division
23 may, by regulation, waive or alter either or both of the requirements
24 of this subsection as to individuals attached to regular jobs, and as
25 to such other types of cases or situations with respect to which the
26 division finds that compliance with such requirements would be
27 oppressive, or would be inconsistent with the purpose of this act;
28 provided that no such regulation shall conflict with subsection (a) of
29 R.S.43:21-3.

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

32 (c) (1) The individual is able to work, and is available for work,
33 and has demonstrated to be actively seeking work, except as
34 hereinafter provided in this subsection or in subsection (f) of this
35 section.

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

39 (3) No individual, who is otherwise eligible, shall be deemed
40 ineligible, or unavailable for work, because the individual is on
41 vacation, without pay, during said week, if said vacation is not the
42 result of the individual's own action as distinguished from any
43 collective action of a collective bargaining agent or other action
44 beyond the individual's control.

45 (4) (A) Subject to such limitations and conditions as the division
46 may prescribe, an individual, who is otherwise eligible, shall not be
47 deemed unavailable for work or ineligible because the individual is
48 attending a training program approved for the individual by the

1 division to enhance the individual's employment opportunities or
2 because the individual failed or refused to accept work while
3 attending such program.

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

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

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

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

20 (iv) The training does not include on the job training or other
21 training under which the individual is paid by an employer for work
22 performed by the individual during the time that the individual
23 receives benefits; and

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

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

32 (i) The training includes remedial basic skills education
33 necessary for the individual to successfully complete the vocational
34 component of the training;

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

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

39 (iv) The lack of a prior guarantee of employment upon
40 completion of the training.

41 (D) For the purpose of this paragraph (4), "labor demand
42 occupation" means an occupation for which there is or is likely to
43 be an excess of demand over supply for adequately trained workers,
44 including, but not limited to, an occupation designated as a labor
45 demand occupation by the Center for Occupational Employment
46 Information pursuant to the provisions of subsection d. of section
47 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

10 For purposes of this paragraph, "immediate family member"
11 includes any of the following individuals: father, mother, mother-
12 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
13 child, child placed by the Division of Youth and Family Services in
14 the Department of Children and Families, sister or brother of the
15 unemployed individual and any relatives of the unemployed
16 individual residing in the unemployed individual's household.

17 (7) No individual, who is otherwise eligible, shall be deemed
18 ineligible or unavailable for work with respect to any week because,
19 during that week, the individual fails or refuses to accept work
20 while the individual is participating on a full-time basis in self-
21 employment assistance activities authorized by the division,
22 whether or not the individual is receiving a self-employment
23 allowance during that week.

24 (8) Any individual who is determined to be likely to exhaust
25 regular benefits and need reemployment services based on
26 information obtained by the worker profiling system shall not be
27 eligible to receive benefits if the individual fails to participate in
28 available reemployment services to which the individual is referred
29 by the division or in similar services, unless the division determines
30 that:

- 31 (A) The individual has completed the reemployment services; or
32 (B) There is justifiable cause for the failure to participate, which
33 shall include participation in employment and training, self-
34 employment assistance activities or other activities authorized by
35 the division to assist reemployment or enhance the marketable skills
36 and earning power of the individual and which shall include any
37 other circumstance indicated pursuant to this section in which an
38 individual is not required to be available for and actively seeking
39 work to receive benefits.

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

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

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

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

8 (d) With respect to any benefit year commencing before January
9 1, 2002, the individual has been totally or partially unemployed for
10 a waiting period of one week in the benefit year which includes that
11 week. When benefits become payable with respect to the third
12 consecutive week next following the waiting period, the individual
13 shall be eligible to receive benefits as appropriate with respect to
14 the waiting period. No week shall be counted as a week of
15 unemployment for the purposes of this subsection:

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

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

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

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

27 The waiting period provided by this subsection shall not apply to
28 benefit years commencing on or after January 1, 2002. An
29 individual whose total benefit amount was reduced by the
30 application of the waiting period to a claim which occurred on or
31 after January 1, 2002 and before the effective date of P.L.2002,
32 c.13, shall be permitted to file a claim for the additional benefits
33 attributable to the waiting period in the form and manner prescribed
34 by the division, but not later than the 180th day following the
35 effective date of P.L.2002, c.13 unless the division determines that
36 there is good cause for a later filing.

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

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

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

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

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

46 (B) If the individual has not met the requirements of
47 subparagraph (A) of this paragraph (4), earned remuneration not
48 less than an amount 1,000 times the minimum wage in effect

1 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
2 1 of the calendar year preceding the calendar year in which the
3 benefit year commences, which amount shall be adjusted to the next
4 higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

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

28 (f) (1) The individual has suffered any accident or sickness not
29 compensable under the workers' compensation law, R.S.34:15-1 et
30 seq. and resulting in the individual's total disability to perform any
31 work for remuneration, and would be eligible to receive benefits
32 under this chapter (R.S.43:21-1 et seq.) (without regard to the
33 maximum amount of benefits payable during any benefit year)
34 except for the inability to work and has furnished notice and proof
35 of claim to the division, in accordance with its rules and
36 regulations, and payment is not precluded by the provisions of
37 R.S.43:21-3(d); provided, however, that for periods prior to the
38 effective date of P.L. , c. (C.) (pending before the Legislature
39 as this bill), benefits paid under this subsection (f) shall be
40 computed on the basis of only those base year wages earned by the
41 claimant as a "covered individual," as defined in subsection (b) of
42 section 3 of P.L.1948, c.110 (C.43:21-27) and for periods on or
43 after the effective date of P.L. , c. (C.)(pending before the
44 Legislature as this bill), weekly and daily benefit rates under this
45 subsection (f) shall be computed in accordance with subsections (b)
46 and (c) of section 16 of P.L.1948, c.110 (C.43:21-40); provided
47 further that no benefits shall be payable under this subsection to any
48 individual:

1 (A) For any period during which such individual is not under the
2 care of a legally licensed physician, dentist, optometrist, podiatrist,
3 practicing psychologist, advanced practice nurse, or chiropractor,
4 who, when requested by the division, shall certify within the scope
5 of the practitioner's practice, the disability of the individual, the
6 probable duration thereof, and, where applicable, the medical facts
7 within the practitioner's knowledge;

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

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

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

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

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

27 (2) The individual is taking family temporary disability leave
28 **【**to provide care for a family member with a serious health
29 condition or to be with a child during the first 12 months after the
30 child's birth or placement of the child for adoption or as a foster
31 child with the individual,**】** and the individual would be eligible to
32 receive benefits under R.S.43:21-1 et seq. (without regard to the
33 maximum amount of benefits payable during any benefit year)
34 except for the individual's unavailability for work while taking the
35 family temporary disability leave, and the individual has furnished
36 notice and proof of claim to the division, in accordance with its
37 rules and regulations, and payment is not precluded by the
38 provisions of R.S.43:21-3(d) provided, however, that for periods
39 prior to the effective date of P.L. , c. (C.)(pending before the
40 Legislature as this bill), benefits paid under this subsection (f) shall
41 be computed on the basis of only those base year wages earned by
42 the claimant as a "covered individual," as defined in subsection (b)
43 of section 3 of P.L.1948, c.110 (C.43:21-27) and for periods on or
44 after the effective date of P.L. , c. (C.)(pending before the
45 Legislature as this bill), weekly and daily benefits under this
46 subsection (f) shall be computed in accordance with subsections (b)
47 and (c) of section 16 of P.L.1948, c.110 (C.43:21-40); provided

1 further that no benefits shall be payable under this subsection to any
2 individual:

3 (A) For any week with respect to which or a part of which the
4 individual has received or is seeking benefits under any
5 unemployment compensation or disability benefits law of any other
6 state or of the United States; provided that if the appropriate agency
7 of such other state or the United States finally determines that the
8 individual is not entitled to such benefits, this disqualification shall
9 not apply;

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

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

18 (D) For any period of family temporary disability leave for a
19 serious health condition of a family member of the claimant during
20 which the family member is not receiving inpatient care in a
21 hospital, hospice, or residential medical care facility and is not
22 subject to continuing medical treatment or continuing supervision
23 by a health care provider, who, when requested by the division,
24 shall certify within the scope of the provider's practice, the serious
25 health condition of the family member, the probable duration
26 thereof, and, where applicable, the medical facts within the
27 provider's knowledge.

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

34 (g) Benefits based on service in employment defined in
35 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
36 in the same amount and on the terms and subject to the same
37 conditions as benefits payable on the basis of other service subject
38 to the "unemployment compensation law"; except that,
39 notwithstanding any other provisions of the "unemployment
40 compensation law":

41 (1) With respect to service performed after December 31, 1977,
42 in an instructional, research, or principal administrative capacity for
43 an educational institution, benefits shall not be paid based on such
44 services for any week of unemployment commencing during the
45 period between two successive academic years, or during a similar
46 period between two regular terms, whether or not successive, or
47 during a period of paid sabbatical leave provided for in the
48 individual's contract, to any individual if such individual performs

1 such services in the first of such academic years (or terms) and if
2 there is a contract or a reasonable assurance that such individual
3 will perform services in any such capacity for any educational
4 institution in the second of such academic years or terms;

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

20 (3) With respect to those services described in paragraphs (1)
21 and (2) above, benefits shall not be paid on the basis of such
22 services to any individual for any week which commences during
23 an established and customary vacation period or holiday recess if
24 such individual performs such services in the period immediately
25 before such vacation period or holiday recess, and there is a
26 reasonable assurance that such individual will perform such
27 services in the period immediately following such period or holiday
28 recess;

29 (4) With respect to any services described in paragraphs (1) and
30 (2) above, benefits shall not be paid as specified in paragraphs (1),
31 (2), and (3) above to any individual who performed those services
32 in an educational institution while in the employ of an educational
33 service agency, and for this purpose the term "educational service
34 agency" means a governmental agency or governmental entity
35 which is established and operated exclusively for the purpose of
36 providing those services to one or more educational institutions;

37 (5) As used in this subsection (g) in order for there to be a
38 "reasonable assurance" all of the following requirements shall be
39 met:

40 (A) The educational institution has made an offer of employment
41 in the following academic year or term that is either written, oral, or
42 implied;

43 (B) The offer of employment in the following academic year or
44 term was made by an individual with actual authority to offer
45 employment;

46 (C) The employment offered in the following academic year or
47 term shall be in the same capacity;

1 (D) The economic conditions of the employment offered may not
2 be considerably less in the following academic year or term than in
3 the then current academic year or term. For the purpose of this
4 paragraph, "considerably less" means that the claimant will earn
5 less than 90 percent of the amount the claimant earned in the then
6 current academic year or term;

7 (E) The offer of employment in the following academic year or
8 term is not contingent upon a factor or factors that are within the
9 educational institution's control, including but not limited to, course
10 programming, decisions on how to allocate available funding, final
11 course offerings, program changes, and facility availability; and

12 (F) Based on a totality of the circumstances, it is highly
13 probable that there is a job available for the claimant in the
14 following academic year or term. If a job offer contains a
15 contingency, primary weight should be given to the contingent
16 nature of the offer of employment. Contingencies that are not
17 necessarily within the educational institution's control, such as
18 funding, enrollment and seniority, may be taken into consideration
19 but the existence of any one contingency should not determine
20 whether it is highly probable that there is a job available for the
21 claimant in the following academic year or term.

22 (6) Determinations by the department whether claimants have a
23 "reasonable assurance" shall be done on a case-by-case basis.

24 (7) Each educational institution shall provide the following to
25 the department, in a form, including electronic form, prescribed by
26 the commissioner, no less than 10 business days prior to the end of
27 the academic year or term:

28 (A) A list of all employees who the educational institution has
29 concluded do not have a reasonable assurance of employment in the
30 following academic year or term, along with information prescribed
31 by the commissioner regarding each such employee, which
32 information shall include, but not be limited to, name and social
33 security number; and

34 (B) For each employee that the educational institution maintains
35 does have a reasonable assurance of employment in the following
36 academic year or term, a statement explaining the manner in which
37 the employee was given a reasonable assurance of employment, that
38 is, whether it was in writing, oral, or implied, and what information
39 about the offer, including contingencies, was communicated to the
40 individual.

41 (8) The statement required under subparagraph (B) of paragraph
42 (7) of this subsection (g) may be used by the department in its
43 analysis under paragraphs (5) and (6) of this subsection (g), but it
44 does not conclusively demonstrate that the claimant has a
45 reasonable assurance of employment in the following academic year
46 or term.

47 (9) Failure of an educational institution to provide the statement
48 required under subparagraph (B) of paragraph (7) of this subsection

1 (g) not less than 10 business days prior to the end of the academic
2 year or term shall result in a rebuttable presumption that the
3 claimant does not have a reasonable assurance of employment in the
4 following academic year or term. This rebuttable presumption shall
5 give rise to an inference that the claimant does not have a
6 reasonable assurance of employment in the following academic year
7 or term, but shall not conclusively demonstrate that the claimant
8 does not have a reasonable assurance of employment in the
9 following academic year or term.

10 (10) If any part of P.L.2020, c.122 is found to be in conflict with
11 federal requirements that are a prescribed condition to the allocation
12 of federal funds to the State or the eligibility of employers in this
13 State for federal unemployment tax credits, the conflicting part of
14 that act is inoperative solely to the extent of the conflict, and the
15 finding or determination does not affect the operation of the
16 remainder of this act. Rules adopted under this act shall meet
17 federal requirements that are a necessary condition to the receipt of
18 federal funds by the State or the granting of federal unemployment
19 tax credits to employers in this State.

20 (11) With respect to service performed on or after the effective
21 date of P.L. , c. (C.)(pending before the Legislature as this
22 bill) this subsection (g) shall not apply to individuals who are
23 eligible for benefits under paragraphs (1) and (2) of subsection (f)
24 of R.S.43:21-4.

25 (h) Benefits shall not be paid to any individual on the basis of
26 any services, substantially all of which consist of participating in
27 sports or athletic events or training or preparing to so participate,
28 for any week which commences during the period between two
29 successive sports seasons (or similar periods) if such individual
30 performed such services in the first of such seasons (or similar
31 periods) and there is a reasonable assurance that such individual
32 will perform such services in the later of such seasons (or similar
33 periods).

34 (i) (1) Benefits shall not be paid on the basis of services
35 performed by an alien unless such alien is an individual who was
36 lawfully admitted for permanent residence at the time the services
37 were performed and was lawfully present for the purpose of
38 performing the services or otherwise was permanently residing in
39 the United States under color of law at the time the services were
40 performed (including an alien who is lawfully present in the United
41 States as a result of the application of the provisions of section
42 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
43 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
44 modifications of the provisions of section 3304(a)(14) of the
45 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
46 provided by Pub.L.94-566, which specify other conditions or other
47 effective dates than stated herein for the denial of benefits based on
48 services performed by aliens and which modifications are required

1 to be implemented under State law as a condition for full tax credit
2 against the tax imposed by the Federal Unemployment Tax Act,
3 shall be deemed applicable under the provisions of this section.

4 (2) Any data or information required of individuals applying for
5 benefits to determine whether benefits are not payable to them
6 because of their alien status shall be uniformly required from all
7 applicants for benefits.

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

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

19 (cf: P.L.2020, c.122, s.1)

20

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

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

26 The public policy of this State, already established, is to protect
27 employees against the suffering and hardship generally caused by
28 involuntary unemployment. But the "unemployment compensation
29 law" provides benefit payments to replace wage loss caused by
30 involuntary unemployment only so long as an individual is "able to
31 work, and is available for work," and fails to provide any protection
32 against wage loss suffered because of inability to perform the duties
33 of a job interrupted by non-occupational illness, injury, or other
34 disability of the individual or of members of the individual's family.
35 Nor is there any other comprehensive and systematic provision for
36 the protection of working people against loss of earnings due to a
37 non-occupational sickness, accident, or other disability.

38 The prevalence and incidence of non-occupational sickness,
39 accident, and other disability among employed people is greatest
40 among the lower income groups, who either cannot or will not
41 voluntarily provide out of their own resources against the hazard of
42 an earnings loss caused by non-occupational sickness, accident, or
43 other disability. Disabling sickness or accident occurs throughout
44 the working population at one time or another, and approximately
45 fifteen per centum (15%) of the number of people at work may be
46 expected to suffer disabling illness of more than one week each
47 year.

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

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

30 The foregoing facts and considerations require that there be a
31 uniform minimum program providing in a systematic manner for
32 the payment of reasonable benefits to replace partially such
33 earnings loss and to meet the continuing need for benefits where an
34 individual becomes disabled during unemployment or needs to care
35 for family members incapable of self-care. In order to maintain
36 consumer purchasing power, relieve the serious menace to health,
37 morals and welfare of the people caused by insecurity and the loss
38 of earnings, to reduce the necessity for public relief of needy
39 persons, to increase workplace productivity and alleviate the
40 enormous and growing stress on working families of balancing the
41 demands of work and family needs, and in the interest of the health,
42 welfare and security of the people of this State, such a system,
43 enacted under the police power, is hereby established, requiring the
44 payment of reasonable cash benefits to eligible individuals who are
45 subject to accident or illness which is not compensable under the
46 worker's compensation law or who need to care for family members
47 incapable of self-care.

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

26 Since the enactment of the "Temporary Disability Benefits Law,"
27 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated
28 State temporary disability benefits plan, or "State plan," has proven
29 to be highly efficient and cost effective in providing temporary
30 disability benefits to New Jersey workers. The State plan
31 guarantees the availability of coverage for all employers, regardless
32 of experience, with low overhead costs and a rapid processing of
33 claims and appeals by knowledgeable, impartial public employees.
34 Consequently, the percentage of all employers using the State plan
35 increased from 64% in 1952 to 98% in 2006, while the percentage
36 of employees covered by the State plan increased from 28% to 83%.
37 A publicly-operated, nonprofit State plan is therefore indispensable
38 to achieving the goals of the "Temporary Disability Benefits Law,"
39 P.L.1948, c.110 (C.43:21-25 et al.)
40 (cf: P.L.2019, c.37, s.7)

41

42 5. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
43 read as follows:

44 3. As used in this act, unless the context clearly requires
45 otherwise:

46 (a) (1) "Covered employer" means, with respect to whether an
47 employer is required to provide benefits during an employee's own
48 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any

1 individual or type of organization, including any partnership,
2 association, trust, estate, joint-stock company, insurance company
3 or corporation, whether domestic or foreign, or the receiver, trustee
4 in bankruptcy, trustee or successor thereof, or the legal
5 representative of a deceased person, who is an employer subject to
6 the "unemployment compensation law" (R.S.43:21-1 et seq.),
7 except the State, its political subdivisions, and any instrumentality
8 of the State unless such governmental entity elects to become a
9 covered employer pursuant to paragraph (2) of this subsection (a);
10 provided, however, that commencing with the effective date of this
11 act, the State of New Jersey, including Rutgers, The State
12 University and the New Jersey Institute of Technology, shall be
13 deemed a covered employer, as defined herein.

14 "Covered employer" means, after June 30, 2009, with respect to
15 whether the employer is an employer whose employees are eligible
16 for benefits during periods of family temporary disability leave
17 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December
18 31, 2008, whether employees of the employer are required to make
19 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual
20 or type of organization, including any partnership, association,
21 trust, estate, joint-stock company, insurance company or domestic
22 or foreign corporation, or the receiver, trustee in bankruptcy, trustee
23 or successor thereof, or the legal representative of a deceased
24 person, who is an employer subject to the "unemployment
25 compensation law" (R.S.43:21-1 et seq.), including any
26 governmental entity or instrumentality which is an employer under
27 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or
28 instrumentality has not elected to be a covered employer pursuant to
29 paragraph (2) of this subsection (a).

30 (2) Any governmental entity or instrumentality which is an
31 employer under R.S.43:21-19(h)(5) may, with respect to the
32 provision of benefits during an employee's own disability pursuant
33 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered
34 employer" under this subsection beginning with the date on which
35 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of
36 any year thereafter by filing written notice of such election with the
37 division within at least 30 days of the effective date. Such election
38 shall remain in effect for at least two full calendar years and may be
39 terminated as of January 1 of any year thereafter by filing with the
40 division a written notice of termination at least 30 days prior to the
41 termination date.

42 (b) (1) "Covered individual" means, with respect to whether an
43 individual is eligible for benefits during an individual's own
44 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
45 person who, prior to the effective date of
46 P.L. , c. (C.)(pending before the Legislature as this bill), is in
47 employment, as defined in the "unemployment compensation law"
48 (R.S.43:21-1 et seq.), for which the individual is entitled to

1 remuneration from a covered employer, or who has been out of such
2 employment for less than two weeks; and who, after the effective
3 date of P.L. _____, c. (C. _____)(pending before the Legislature as this
4 bill): (i) is in employment, as defined in the "unemployment
5 compensation law" (R.S.43:21-1 et seq.), for which the individual is
6 entitled to remuneration from a covered employer, or who has been
7 out of that employment for less than two weeks, provided however
8 that for purposes of temporary disability benefits employment shall
9 also include services excluded from employment under R.S.43:21-
10 19(i)(1)(D)(i); or (ii) is self-employed and elects to obtain coverage
11 pursuant to subsection (b) of section 4 of P.L.1948, c.110 (C.43:21-
12 28); except that a "covered individual" who is employed by the
13 State of New Jersey, including Rutgers, The State University or the
14 New Jersey Institute of Technology, or by any governmental entity
15 or instrumentality which elects to become a "covered employer"
16 pursuant to P.L.1948. c.110 (C.43:21-25 et al.) prior to July 1, 2019
17 shall not be eligible to receive any benefits under the "Temporary
18 Disability Benefits Law" until such individual has exhausted all
19 sick leave accumulated as an employee in the classified service of
20 the State or accumulated under terms and conditions similar to
21 classified employees or accumulated under the terms and conditions
22 pursuant to the laws of this State or as the result of a negotiated
23 contract with any governmental entity or instrumentality which
24 elects to become a "covered employer"; and, after June 30, 2019
25 may be required, prior to receiving any benefits under the
26 "Temporary Disability Benefits Law," to use up to two weeks of
27 sick leave accumulated as an employee in the classified service of
28 the State or accumulated under terms and conditions similar to
29 classified employees or accumulated under the terms and conditions
30 pursuant to the laws of this State or as the result of a negotiated
31 contract with any governmental entity or instrumentality which
32 elects to become a "covered employer," except that the individual
33 shall not be required to use the individual's last weeks' worth of
34 accumulated sick time before receiving the benefits.

35 "Covered individual" shall not mean, with respect to whether an
36 individual is eligible for benefits during an individual's own
37 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
38 member of the Division of State Police in the Department of Law
39 and Public Safety.

40 (2) "Covered individual" means, with respect to whether an
41 individual is eligible for benefits during the individual's period of
42 family temporary disability leave pursuant to P.L.1948, c.110
43 (C.43:21-25 et al.), any individual who, prior to the effective date of
44 P.L. _____, c. (C. _____)(pending before the Legislature as this bill) is in
45 employment, as defined in the "unemployment compensation law"
46 (R.S.43:21-1 et seq.), for which the individual is entitled to
47 remuneration from a covered employer, or who has been out of that
48 employment for less than two weeks; and who, after the effective

1 date of P.L. _____, c. (C. _____)(pending before the Legislature as this
2 bill): (i) is in employment, as defined in the “unemployment
3 compensation law” (R.S.43:21-1 et seq.), for which the individual is
4 entitled to remuneration from a covered employer, or who has been
5 out of that employment for less than two weeks, provided however
6 that for purposes of family temporary disability leave benefits
7 employment shall also include services excluded from employment
8 under R.S.43:21-19(i)(1)(D)(i); or (ii) is self-employed and elects to
9 obtain coverage pursuant to subsection (b) of section 4 of P.L.1948,
10 c.110 (C.43:21-28).

11 (c) "Division" or "commission" means the Division of
12 Unemployment and Temporary Disability Insurance of the
13 Department of Labor and Workforce Development, and any
14 transaction or exercise of authority by the director of the division
15 shall be deemed to be performed by the division.

16 (d) "Day" shall mean a full calendar day beginning and ending
17 at midnight.

18 (e) "Disability" shall mean such disability as is compensable
19 under section 5 of P.L.1948, c.110 (C.43:21-29).

20 (1) "Disability" shall, in the event of a state of emergency
21 declared by the President of the United States or the Governor, or
22 when indicated to be needed by the Commissioner of Health or
23 other public health authority, also include an illness caused by an
24 epidemic of a communicable disease, a known or suspected
25 exposure to the communicable disease, or efforts to prevent spread
26 of the communicable disease, which requires in-home care or
27 treatment of the employee due to:

28 (i) the issuance by a healthcare provider or the commissioner or
29 other public health authority of a determination that the presence in
30 the community of the employee may jeopardize the health of others;
31 and

32 (ii) the recommendation, direction, or order of the provider or
33 authority that the employee be isolated or quarantined as a result of
34 suspected exposure to a communicable disease.

35 (f) "Disability benefits" shall mean any cash payments which
36 are payable to a covered individual for all or part of a period of
37 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

38 (g) "Period of disability" with respect to any covered individual
39 shall mean:

40 (1) The entire period of time during which the covered
41 individual is continuously and totally unable to perform the duties
42 of the covered individual's employment because of the covered
43 individual's own disability, except that two periods of disability due
44 to the same or related cause or condition and separated by a period
45 of not more than 14 days shall be considered as one continuous
46 period of disability; provided the individual has earned wages
47 during such 14-day period with the employer who was the

1 individual's last employer immediately preceding the first period of
2 disability; and

3 (2) On or after July 1, 2009, the entire period of family
4 temporary disability leave taken from employment by the covered
5 individual.

6 (h) "Wages" shall mean all compensation payable by covered
7 employers to covered individuals for personal services, including
8 commissions and bonuses and the cash value of all compensation
9 payable in any medium other than cash.

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

11 (2) (Deleted by amendment, P.L.2001, c.17).

12 (3) (Deleted by amendment, P.L.2013, c.221).

13 (4) "Base week" with respect to periods of disability
14 commencing on or after January 1, 2001, means any calendar week
15 of a covered individual's base year during which the covered
16 individual earned in employment from a covered employer
17 remuneration not less than an amount 20 times the minimum wage
18 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
19 October 1 of the calendar year preceding the calendar year in which
20 the benefit year commences, which amount shall be adjusted to the
21 next higher multiple of \$1.00 if not already a multiple thereof,
22 except that if in any calendar week an individual subject to this
23 paragraph is in employment with more than one employer, the
24 covered individual may in that calendar week establish a base week
25 with respect to each of the employers from whom the covered
26 individual earns remuneration equal to not less than the amount
27 defined in this paragraph during that week.

28 (5) In the case of an individual who is laid off or furloughed by
29 an employer curtailing operations because of a state of emergency
30 declared after October 22, 2012, any week in which the individual
31 is separated from employment due to that layoff or furlough, up to a
32 maximum of 13 weeks, shall be regarded as a week which is a "base
33 week" for the purpose of determining whether the individual
34 becomes eligible for benefits pursuant to subsection (d) or (e) of
35 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be
36 regarded as a base week when calculating the "average weekly
37 wage" pursuant to subsection (j) of this section.

38 (j) (1) "Average weekly wage" means, with respect to the
39 payment of benefits commencing before the effective date of
40 P.L.2019, c.37 (C.43:21-45.2 et al.), the amount derived by dividing
41 a covered individual's total wages earned from the individual's most
42 recent covered employer during the base weeks in the eight calendar
43 weeks immediately preceding the calendar week in which a period
44 of disability commenced, by the number of such base weeks, and,
45 with respect to the payment of benefits commencing on or after the
46 effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), the amount
47 derived by dividing a covered individual's total wages earned from
48 the individual's most recent covered employer during the base

1 weeks in the base year immediately preceding the calendar week in
2 which a period of disability commenced, or in which the individual
3 submits a claim for the benefits pursuant to subsection h. of section
4 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection
5 (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the number of
6 base weeks.

7 (2) With respect to the payment of benefits commencing before
8 the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the
9 computation in paragraph (1) of this subsection (j) yields a result
10 which is less than the individual's average weekly earnings in
11 employment with all covered employers during the base weeks in
12 such eight calendar weeks, then the average weekly wage shall be
13 computed on the basis of earnings from all covered employers
14 during the base weeks in the eight calendar weeks immediately
15 preceding the week in which the period of disability commenced,
16 and, with respect to the payment of benefits commencing on or after
17 the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the
18 computation in paragraph (1) of this subsection (j) yields a result
19 which is less than the individual's average weekly earnings in
20 employment with all covered employers during the base weeks in
21 the base year, then the average weekly wage shall be computed on
22 the basis of earnings from all covered employers during the base
23 weeks in the base year immediately preceding the week in which
24 the period of disability commences, or in which the individual
25 submits a claim for the benefits pursuant to subsection h. of section
26 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection
27 (a) of section 25 of P.L.1948, c.110 (C.43:21-49).

28 (3) For periods of disability commencing on or after July 1,
29 2009 and before the effective date of P.L.2019, c.37 (C.43:21-45.2
30 et al.), if the computations in paragraphs (1) and (2) of this
31 subsection (j) both yield a result which is less than the individual's
32 average weekly earnings in employment with all covered employers
33 during the base weeks in the 26 calendar weeks immediately
34 preceding the week in which the period of disability commenced,
35 then the average weekly wage shall, upon a written request to the
36 department by the individual on a form provided by the department,
37 be computed by the department on the basis of earnings from all
38 covered employers of the individual during the base weeks in those
39 26 calendar weeks, and, in the case of a claim for benefits from a
40 private plan, that computation of the average weekly wage shall be
41 provided by the department to the individual and the individual's
42 employer.

43 When determining the "average weekly wage" with respect to a
44 period of family temporary disability leave for an individual who
45 has a period of family temporary disability immediately after the
46 individual has a period of disability for the individual's own
47 disability, the period of disability is deemed to have commenced at

1 the beginning of the period of disability for the individual's own
2 disability, not the period of family temporary disability.

3 (k) "Child" means a biological, adopted, or foster child,
4 stepchild or legal ward of a covered individual, child of a domestic
5 partner of the covered individual, or child of a civil union partner of
6 the covered individual, including a child who becomes the child of
7 a parent pursuant to a valid written agreement between the parent
8 and a gestational carrier.

9 (l) "Domestic partner" means a domestic partner as defined in
10 section 3 of P.L.2003, c.246 (C.26:8A-3).

11 (m) "Civil union" means a civil union as defined in section 2 of
12 P.L.2006, c.103 (C.37:1-29).

13 (n) "Family member" means a sibling, grandparent, grandchild,
14 child, spouse, domestic partner, civil union partner, parent-in-law,
15 or parent of a covered individual, or any other individual related by
16 blood to the employee, and any other individual that the employee
17 shows to have a close association with the employee which is the
18 equivalent of a family relationship.

19 (o) "Family temporary disability leave" means leave taken by a
20 covered individual from work with an employer to:

21 (1) participate in the providing of care, as defined in the "Family
22 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations
23 adopted pursuant to that act, for a family member of the individual
24 made necessary by a serious health condition of the family member;

25 (2) be with a child during the first 12 months after the child's
26 birth, if the individual, or the domestic partner or civil union partner
27 of the individual, is a biological parent of the child, or is a parent of
28 the child pursuant to a valid gestational carrier agreement, or the
29 first 12 months after the placement of the child for adoption or as a
30 foster child with the individual;

31 (3) engage in activities for which unpaid leave may be taken
32 pursuant to section 3 of the "New Jersey Security and Financial
33 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the
34 individual's own behalf, if the individual is a victim of an incident
35 of domestic violence, a sexually violent offense, or to assist a
36 family member of the individual who has been a victim of an
37 incident of domestic violence, or a sexually violent offense,
38 provided that any time taken by an individual who has been a victim
39 of an incident of domestic violence, or a sexually violent offense for
40 which the individual receives benefits for a disability caused by the
41 violence or offense shall be regarded as a period of disability of the
42 individual and not as a period of family temporary disability leave;
43 or

44 (4) in the event of a state of emergency declared by the
45 President of the United States or the Governor, or when indicated to
46 be needed by the Commissioner of Health or other public health
47 authority, an epidemic of a communicable disease, a known or
48 suspected exposure to the communicable disease, or efforts to

1 prevent spread of the communicable disease, provide in-home care
2 or treatment of the family member of the employee required due to:

3 (i) the issuance by a healthcare provider or the commissioner or
4 other public health authority of a determination that the presence in
5 the community of the family member may jeopardize the health of
6 others; **[and]**

7 (ii) the recommendation, direction, or order of the provider or
8 authority that the family member be isolated or quarantined as a
9 result of suspected exposure to a communicable disease; or

10 (iii) the unavailability of the care provider of a child or other
11 family member due to a public health emergency or state of
12 emergency, or the closure of a child's or family member's school or
13 place of care by a local, State or federal public official or at the
14 discretion of the school or place of care due to a public health
15 emergency or state of emergency, including if a school or place of
16 care: is physically closed but providing virtual learning instruction;
17 requires or makes optional virtual learning instruction; or requires
18 or makes available a hybrid of in-person and virtual learning
19 instruction models, except that family temporary disability benefits
20 shall not be provided pursuant to this subparagraph (iii) unless
21 federal funds provided in connection with the emergency or
22 otherwise provided are made available to reimburse the Family
23 Temporary Disability Leave Account established pursuant to
24 R.S.43:21-7 for the cost of those benefits; and

25 (5) any qualifying exigency arising out of the fact that a family
26 member is on active duty or has been notified of an impending call
27 or order to active duty in the Armed Forces.

28 "Family temporary disability leave" does not include any period
29 of time in which a covered individual is paid benefits pursuant to
30 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable
31 to perform the duties of the individual's employment due to the
32 individual's own disability.

33 (p) "Health care provider" means a health care provider as
34 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et
35 seq.), and any regulations adopted pursuant to that act.

36 (q) "Parent of a covered individual" means a biological parent,
37 foster parent, adoptive parent, or stepparent of the covered
38 individual or a person who was a legal guardian of the covered
39 individual when the covered individual was a child, or who became
40 the parent of the covered individual pursuant to a valid written
41 agreement between the parent and a gestational carrier.

42 (r) "Placement for adoption" means the time when a covered
43 individual adopts a child or becomes responsible for a child pending
44 adoption by the covered individual.

45 (s) "Serious health condition" means an illness, injury,
46 impairment or physical or mental condition which requires:
47 inpatient care in a hospital, hospice, or residential medical care

1 facility; or continuing medical treatment or continuing supervision
2 by a health care provider.

3 (t) "12-month period" means, with respect to an individual who
4 establishes a valid claim for disability benefits during a period of
5 family temporary disability leave, the 365 consecutive days that
6 begin with the first day that the individual first establishes the
7 claim.

8 (u) "State of emergency" means a natural or man-made disaster
9 or emergency for which a state of emergency has been declared by
10 the President of the United States or the Governor, or for which a
11 state of emergency has been declared by a municipal emergency
12 management coordinator.

13 (v) "Base year" with respect to benefit years commencing on or
14 after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.),
15 means the first four of the last five completed calendar quarters
16 immediately preceding the period of disability, except that, if the
17 individual does not have sufficient qualifying weeks or wages in the
18 individual's base year to qualify for benefits, the individual shall
19 have the option of designating that the individual's base year shall
20 be the "alternative base year," which means the last four completed
21 calendar quarters immediately preceding the period of disability;
22 and except that if the individual also does not have sufficient
23 qualifying weeks or wages in the last four completed calendar
24 quarters immediately preceding the period of disability, "alternative
25 base year" means the last three completed calendar quarters
26 immediately preceding the individual's benefit year and, of the
27 calendar quarter in which the period of disability commences, the
28 portion of the quarter which occurs before the commencing of the
29 period of disability. The division shall inform the individual of the
30 individual's options under this subsection. If information regarding
31 weeks and wages for the calendar quarter or quarters immediately
32 preceding the period of disability is not available to the division
33 from the regular quarterly reports of wage information and the
34 division is not able to obtain the information using other means
35 pursuant to State or federal law, the division may base the
36 determination of eligibility for benefits on the affidavit of an
37 individual with respect to weeks and wages for that calendar
38 quarter. The individual shall furnish payroll documentation, if
39 available, in support of the affidavit. A determination of benefits
40 based on an alternative base year shall be adjusted when the
41 quarterly report of wage information from the employer is received
42 if that information causes a change in the determination.

43 w. "Qualifying exigency" means a need arising out of a covered
44 individual's family member's active duty service or notice of an
45 impending call or order to active duty in the Armed Forces,
46 including, but not limited to, providing for the care or other needs
47 of the military member's child or other family member, making
48 financial or legal arrangements for the military member, attending

1 counseling, attending military events or ceremonies, spending time
2 with the military member during a rest and recuperation leave or
3 following return from deployment or making arrangements
4 following the death of the military member.

5 (cf: P.L.2020, c.23, s.3)

6
7 6. Section 4 of P.L.1948, c.110 (C.43:21-28) is amended to
8 read as follows:

9 4. a. All covered individuals shall be entitled on and after
10 January first, one thousand nine hundred and forty-nine, to the
11 benefits provided under either a private plan or the State plan of
12 disability benefits, as hereinafter provided.

13 b. (1) A self-employed person, including a sole proprietor,
14 partner or joint venturer, may elect coverage under P.L.1948, c.110
15 (C.43:21-25 et seq. and P.L.2008, c.17 (C.43:21-39.1 et al.) for an
16 initial period of not less than three years. The self-employed person
17 shall file a notice of election in writing with the director, as
18 required by the division. The election becomes effective on the
19 date of filing the notice. As a condition of election, the self-
20 employed person shall agree to supply any information concerning
21 income that the division deems necessary. A self-employed person
22 who has elected coverage may withdraw from coverage within 30
23 days after the end of the three-year period of coverage, or at such
24 other times as the director may prescribe by rule, by filing written
25 notice with the director, such withdrawal to take effect not sooner
26 than 30 days after filing the notice.

27 (2) Those electing coverage under this subsection (b) shall elect
28 coverage for both family temporary disability leave and temporary
29 disability leave.

30 (3) A self-employed person who has elected coverage under this
31 section shall pay contributions to the State disability benefits fund
32 with respect to income earned from self-employment at the same
33 rate as contributions assessed on an employee pursuant to
34 R.S.43:21-7(d)(1)(G) plus the average rate of contributions assessed
35 on an employer pursuant to R.S.43:21-7(e).

36 (4) The self-employed person shall file a notice of election in
37 writing with the division, in a manner as required by the division in
38 regulations.

39 (5) The division may cancel elective coverage if the self-
40 employed person fails to make required payments or file reports.
41 The division may collect due and unpaid premiums and may levy an
42 additional premium for the remainder of the period of coverage.
43 The cancellation shall be effective no later than 30 days from the
44 date of the notice in writing advising the self-employed person of
45 the cancellation.

46 (6) Those electing coverage are considered employers or
47 employees where the context so dictates.

1 (7) The division shall adopt regulations for the income of
2 individuals who elect coverage under this section and rules for
3 enforcement of this section.

4 (cf: P.L.1948, c.110, s.4)

5

6 7. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
7 read as follows:

8 5. Compensable disability.

9 (a) In the case of the disability of a covered individual,
10 disability shall be compensable subject to the limitations of
11 P.L.1948, c.110 (C.43:21-25 et al.) if: the disability is the result of
12 the covered individual suffering an accident or sickness not arising
13 out of and in the course of the individual's employment or if so
14 arising not compensable under the workers' compensation law,
15 R.S.34:15-1 et seq., including if the disability is the result of the
16 donation of any organ or bone marrow by the covered individual,
17 and the disability results in the individual's total inability to perform
18 the duties of employment, except that an individual who is
19 otherwise eligible for benefits but only able to return to work on a
20 reduced basis while recovering from the disability may receive
21 benefits pursuant to the provisions of subsection (b) of section 16 of
22 P.L.1948, c.110 (C.43:21-40).

23 (b) In the case of an individual taking family temporary
24 disability leave, the leave shall be compensable subject to the
25 limitations of P.L.2008, c.17 (C.43:21-39.1 et al.).

26 (c) During a state of emergency declared by the President of the
27 United States or the Governor, or when indicated to be needed by
28 the Commissioner of Health or other public health authority, family
29 temporary disability leave also includes leave taken for an illness
30 caused by an epidemic of a communicable disease, a known or
31 suspected exposure to a communicable disease, or efforts to prevent
32 spread of a communicable disease, which requires in-home care or
33 treatment of the family member of the employee due to:

34 (1) the issuance by a healthcare provider or the commissioner or
35 other public health authority of a determination that the presence in
36 the community of the family member may jeopardize the health of
37 others; **[and]**

38 (2) the recommendation, direction, or order of the provider or
39 authority that the family member be isolated or quarantined as a
40 result of suspected exposure to a communicable disease **[.]**; and

41 (3) the unavailability of the care provider of a child or other
42 family member due to the public health emergency, state of
43 emergency, or the closure of a child's or family member's school or
44 place of care by a local, State or federal public official or at the
45 discretion of the school or place of care due to a public health
46 emergency or state of emergency, including if a school or place of
47 care: (i) is physically closed but providing virtual learning
48 instruction; (ii) requires or makes optional virtual learning

1 instruction; or (iii) requires or makes available a hybrid of in-person
2 and virtual learning instruction models, except that family
3 temporary disability benefits shall not be provided pursuant to this
4 paragraph (3) unless federal funds provided in connection with the
5 emergency or otherwise provided are made available to reimburse
6 the Family Temporary Disability Leave Account established
7 pursuant to R.S.43:21-7 for the cost of those benefits.

8 (d) During a state of emergency declared by the President of the
9 United States or the Governor, or when indicated to be needed by
10 the Commissioner of Health or other public health authority,
11 disability also includes illness caused by an epidemic of a
12 communicable disease, a known or suspected exposure to a
13 communicable disease, or efforts to prevent spread of a
14 communicable disease, which requires in-home care or treatment of
15 the employee due to:

16 (1) the issuance by a healthcare provider or the commissioner or
17 other public health authority of a determination that the presence in
18 the community of the employee may jeopardize the health of others;
19 and

20 (2) the recommendation, direction, or order of the provider or
21 authority that the employee be isolated or quarantined as a result of
22 suspected exposure to a communicable disease.

23 (cf: P.L.2020, c.23, s.4)

24
25 8. Section 8 of P.L.1948, c.110 (C.43:21-32) is amended to
26 read as follows:

27 8. Establishment of private plans. Any covered employer may
28 establish a private plan for the payment of disability benefits in lieu
29 of the benefits of the State plan hereinafter established. Benefits
30 under such a private plan may be provided by a contract of
31 insurance issued by an insurer duly authorized and admitted to do
32 business in this State, or by an agreement between the employer and
33 a union or association representing his employees, or by a specific
34 undertaking by the employer as a self-insurer. Subject to the
35 insurance laws of this State, such a contract of insurance may be
36 between the insurer and the employer; or may be between the
37 insurer and two or more employers, acting for the purpose through a
38 nominee, designee or trustee; or may be between the insurer and the
39 union or association with which the employer has an agreement
40 with respect thereto. Each such private plan shall be submitted in
41 detail to the Division of Employment Security and shall be
42 approved by the division, to take effect as of the first day of the
43 calendar quarter next following, or as of an earlier date if requested
44 by the employer and approved by the Division of Employment
45 Security, if it finds that:

46 (a) all of the employees of the employer are to be covered under
47 the provisions of such plan with respect to any disability

1 commencing after the effective date of such plan, except as
2 otherwise provided in this section; and

3 (b) eligibility requirements for benefits are no more restrictive
4 than as provided in this act for benefits payable by the State plan;
5 and

6 (c) the weekly benefits payable under such plan for any week of
7 disability are at least equal to the weekly benefit amount payable by
8 the State plan, taking into consideration any coverage with respect
9 to concurrent employment by another employer, and the total
10 number of weeks of disability for which benefits are payable under
11 such plan is at least equal to the total number of weeks for which
12 benefits would have been payable by the State plan; and

13 (d) no greater amount is required to be paid by employees
14 toward the cost of benefits than that prescribed by law as the
15 amount of worker contribution to the State disability benefits fund
16 for covered individuals under the State plan; and

17 (e) coverage is continued under the plan while an employee
18 remains a covered individual as defined in section three of this act,
19 but not after the employee may become employed by another
20 employer following termination of employment to which the plan
21 relates;

22 (f) if the employees are subject to the provisions of a collective
23 bargaining agreement, a majority of the employees to be covered by
24 the plan have or shall have agreed to the plan prior to the effective
25 date thereof, if employees are required to contribute to the cost of
26 the private plan and the collective bargaining agreement does not
27 expressly waive the employees' right to a majority election as a
28 condition for the private plan, as provided in section 9 of P.L.1948,
29 c.110 (C.43:21-33).

30 Subject to the approval of the Division of Employment Security,
31 any such private plan may exclude a class or classes of employees,
32 except a class or classes determined by the age, sex or race of the
33 employees, or by the wages paid such employees, the exclusion of
34 which, in the opinion of the division, will result in a substantial
35 selection of risk adverse to the State plan. Covered individuals so
36 excluded shall be covered by the State plan and subject to the
37 employee contribution required by law to be paid into the State
38 disability benefits fund.

39 Notice, in a form approved by the director, of the benefits
40 provided by the private plan shall be furnished to the covered
41 employees by the employer by a conspicuous and continuing
42 posting at the place of employment, and by personal notice to each
43 employee at the time of the establishment of the private plan, at any
44 subsequent time of hire, annually after initial provision of the
45 notice, and within three business days of when the employer knows
46 or should know that the employee may have a need for disability
47 benefits or family temporary disability benefits. This notice shall
48 reflect current rates, eligibility requirements, benefit entitlements,

1 and rights of the employees under a private plan pursuant to the
2 provisions of P.L.1948, c.110 (C.43:21-25 et seq.), including appeal
3 rights to the division, and shall include contact information for the
4 private plan and instructions as to how to file for benefits with the
5 private plan. The employer shall ensure that employees have a
6 means of accessing the notice both in their physical workplace and
7 online.

8 The division shall permit any application for approval by the
9 division of a private plan to be submitted to the division by means
10 of electronic communication, and permit the use of an electronic
11 signature for any signature required in the application, as the term
12 electronic signature is defined in section 2 of P.L.2001, c.116
13 (C.12A:12-2).
14 (cf: P.L.2019, c.37, s.9)
15

16 9. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
17 read as follows:

18 14. a. With respect to any period of disability for an
19 individual's own disability commencing on or after the effective
20 date of P.L. , c. (C.)(pending before the Legislature as this
21 bill), disability benefits, not in excess of an individual's maximum
22 benefits, shall be payable with respect to disability which
23 commences while a person is a covered individual under the
24 Temporary Disability Benefits Law, and shall be payable with
25 respect to the first day of the disability and each day thereafter that
26 the period of disability continues. With respect to any period of
27 disability for an individual's own disability commencing on or after
28 January 1, 1953, disability benefits, not in excess of an individual's
29 maximum benefits, shall be payable with respect to disability which
30 commences while a person is a covered individual under the
31 Temporary Disability Benefits Law, and shall be payable with
32 respect to the eighth consecutive day of such disability and each
33 day thereafter that such period of disability continues; and if
34 benefits shall be payable for three consecutive weeks with respect
35 to any period of disability commencing on or after January 1, 1968,
36 then benefits shall also be payable with respect to the first seven
37 days thereof. With respect to any period of disability for an
38 individual's own disability commencing on or after the effective
39 date of P.L.2020, c. 172 the disability benefits shall be payable with
40 respect to the first day of the disability, if the disability is as
41 described in subsection (d) of section 5 of P.L.1948, c. 110
42 (C.43:21-29), or is for leave as described in subsection (c) of
43 section 5 of P.L.1948, c. 110 (C.43:21-29).

44 b. With respect to any period of family temporary disability
45 leave commencing on or after July 1, 2009 and while an individual
46 is a covered individual, family temporary disability benefits, not in
47 excess of the individual's maximum benefits, shall be payable with
48 respect to the first day of leave taken after the first one-week period

1 following the commencement of the period of family temporary
2 disability leave and each subsequent day of leave during that period
3 of family temporary disability leave; and if benefits become payable
4 on any day after the first three weeks in which leave is taken, then
5 benefits shall also be payable with respect to any leave taken during
6 the first one-week period in which leave is taken. With respect to
7 any period of family temporary disability leave commencing on or
8 after July 1, 2019 and while an individual is a covered individual,
9 family temporary disability benefits, not in excess of the
10 individual's maximum benefits, shall be payable with respect to the
11 first day of leave taken upon the commencement of the period of
12 family temporary disability leave and each subsequent day of leave
13 during that period of family temporary disability leave. The
14 maximum total benefits payable to any eligible individual for any
15 period of disability of the individual commencing on or after
16 January 1, 1968, shall be either 26 times his weekly benefit amount
17 or 1/3 of his total wages in his base year, whichever is the lesser;
18 provided that such maximum amount shall be computed in the next
19 lower multiple of \$1.00 if not already a multiple thereof. The
20 maximum total benefits payable to any eligible individual for any
21 period of family temporary disability leave commencing on or after
22 July 1, 2009 and before July 1, 2020, shall be six times the
23 individual's weekly benefit amount or 1/3 of his total wages in his
24 base year, whichever is the lesser; provided that the maximum
25 amount shall be computed in the next lower multiple of \$1.00, if not
26 already a multiple thereof. The maximum total benefits payable to
27 any eligible individual for any period of family temporary disability
28 leave commencing on or after July 1, 2020, shall be twelve times
29 the individual's weekly benefit amount; provided that the maximum
30 amount shall be computed in the next lower multiple of \$1.00, if not
31 already a multiple thereof.

32 (cf: P.L.2020, c.23, s.5)

33

34 10. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
35 read as follows:

36 15. Limitation of benefits. Notwithstanding any other provision
37 of the "Temporary Disability Benefits Law," P.L.1948, c.110
38 (C.43:21-25 et al.), no benefits shall be payable under the State plan
39 to any individual:

40 (a) for periods of disability commencing on or before the
41 effective date of P.L. , c. (C.)(pending before the Legislature
42 as this bill), for the first seven consecutive days of each period of
43 disability; except that:

44 (1) if benefits shall be payable for three consecutive weeks with
45 respect to any period of disability, then benefits shall also be
46 payable with respect to the first seven days thereof; and

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

- 1 (3) in the case of an individual taking family temporary
2 disability leave, there shall be no waiting period; and
- 3 (4) if the benefits shall be payable for a period of disability
4 which is the result of the donation of any organ or bone marrow by
5 the covered individual, then benefits shall be payable with respect
6 to the first seven days thereof; and
- 7 (5) the seven-day waiting period shall not apply to benefits for a
8 period of disability if the disability is as described in subsection (d)
9 of section 5 of P.L.1948, c.110 (C.43:21-29), or is for leave as
10 described in subsection (c) of section 5 of P.L.1948, c.110
11 (C.43:21-29).
- 12 After the effective date of P.L. , c. (C.)(pending before the
13 Legislature as this bill), there shall be no waiting period before
14 benefits are paid;
- 15 (b) (1) for more than 26 weeks with respect to any one period of
16 disability of the individual;
- 17 (2) for more than six weeks with respect to any one period of
18 family temporary disability leave commencing before July 1, 2020
19 and more than 12 weeks if the period of leave commences on or
20 after July 1, 2020, or for more than 42 days with respect to any one
21 period of family temporary disability leave commencing before July
22 1, 2020 and more than 56 days if the period of leave commences on
23 or after July 1, 2020, and is taken on an intermittent basis; and
- 24 (3) for more than six weeks of family temporary disability leave
25 during any 12-month period commencing before July 1, 2020 and
26 more than 12 weeks for any 12-month period commencing on or
27 after July 1, 2020, or for more than 42 days of family temporary
28 disability leave taken during any 12-month period commencing
29 before July 1, 2020 and more than 56 days if the period of leave
30 commences on or after July 1, 2020, on an intermittent basis,
31 including family temporary disability leave taken pursuant to
32 R.S.43:21-4(f)(2) while unemployed;
- 33 (c) for any period of disability which did not commence while
34 the claimant was a covered individual;
- 35 (d) for any period of disability of a claimant during which the
36 claimant is not under the care of a legally licensed physician,
37 dentist, optometrist, podiatrist, practicing psychologist, advanced
38 practice nurse, certified nurse midwife, certified midwife, certified
39 professional midwife, or chiropractor, who, when requested by the
40 division, shall certify within the scope of the practitioner's practice,
41 the disability of the claimant, the probable duration thereof, and,
42 where applicable, the medical facts within the practitioner's
43 knowledge or for any period of family temporary disability leave
44 for a serious health condition of a family member of the claimant,
45 during which the family member is not receiving inpatient care in a
46 hospital, hospice, or residential medical care facility or is not
47 subject to continuing medical treatment or continuing supervision
48 by a health care provider, who, when requested by the division,

1 shall certify within the scope of the provider's practice, the serious
2 health condition of the family member, the probable duration
3 thereof, and, where applicable, the medical facts within the
4 provider's knowledge;

5 (e) (Deleted by amendment, P.L.1980, c.90.)

6 (f) for any period of disability due to willfully and intentionally
7 self-inflicted injury, or to injury sustained in the perpetration by the
8 claimant of a crime of the first, second, third, or fourth degree, or
9 for any period during which a covered individual would be
10 disqualified for unemployment compensation benefits for gross
11 misconduct under subsection (b) of R.S.43:21-5;

12 (g) for any period during which the claimant performs any work
13 for remuneration or profit, except that, in a case of a claim for
14 benefits for a period of family temporary disability on or after July
15 1, 2020 in which the covered individual has more than one
16 employer, the individual shall have the option of claiming benefits
17 for leave taken from one employer, based on wages paid by that
18 employer, on the condition that the individual does not, during the
19 period for which the benefits are paid, increase the amount of
20 employment time with any one employer;

21 (h) in a weekly amount which together with any remuneration
22 the claimant continues to receive from the employer would exceed
23 regular weekly wages immediately prior to disability;

24 (i) for any period during which a covered individual would be
25 disqualified for unemployment compensation benefits under
26 subsection (d) of R.S.43:21-5, unless the disability commenced
27 prior to such disqualification;

28 (j) for any period during which the claimant receives any paid
29 sick leave, vacation time or other leave at full pay from the
30 employer of the individual;

31 and there shall be no other cause of disqualification or ineligibility
32 to receive disability benefits hereunder except as may be
33 specifically provided in P.L.1948, c.110 (C.43:21-25 et al.).

34 (cf: P.L.2020, c.23, s.6)

35

36 11. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to
37 read as follows:

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

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

47 c. The employer of an individual **【may】** shall, upon the request
48 of the employee, notwithstanding any other provision of law,

1 including the provisions of N.J.S.18A:30-1 et seq., permit the
2 individual, during a period of family temporary disability leave, to
3 use any paid sick leave, vacation time or other leave at full pay
4 made available by the employer before the individual uses disability
5 benefits for family temporary disability leave pursuant to P.L.2008,
6 c.17 (C.43:21-39.1 et al.). Nothing in P.L.2008, c.17 (C.43:21-39.1
7 et al.) shall be construed as nullifying any provision of an existing
8 collective bargaining agreement or employer policy, or preventing
9 any new provision of a collective bargaining agreement or employer
10 policy, which provides employees more generous leave or gives
11 employees greater rights to select which kind of leave is used or
12 select the order in which the different kinds of leave are used.
13 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed
14 as preventing an employer from providing more generous benefits
15 than are provided under P.L.2008, c.17 (C.43:21-39.1 et al.) or
16 providing benefits which supplement the benefits provided under
17 P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all of the
18 employer's employees.

19 d. An individual who is entitled to leave under the provisions
20 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
21 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
22 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
23 family temporary disability leave pursuant to P.L.2008, c.17
24 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the
25 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
26 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
27 U.S.C. s.2601 et seq.). **【**Nothing in P.L.2008, c.17 (C.43:21-39.1 et
28 al.) shall be construed to grant an employee any entitlement to be
29 restored by the employer to employment held by the employee prior
30 to taking family temporary disability leave or any right to take
31 action against an employer who refuses to restore the employee to
32 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-
33 39.1 et al.) shall be construed to increase, reduce or otherwise
34 modify any entitlement of an employee to return to employment or
35 right of the employee to take action under the provisions of the
36 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.). If an
37 employee receives benefits for family temporary disability leave
38 pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) with respect to
39 employment with an employer who is not an employer as defined in
40 the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and
41 that employer fails or refuses to restore the employee to
42 employment after the period of family temporary disability leave,
43 that failure or refusal shall not be a wrongful discharge in violation
44 of a clear mandate of public policy, and the employee shall not have
45 a cause of action against that employer, in tort, or for breach of an
46 implied provision of the employment agreement, or under common
47 law, for that failure or refusal. **】**

1 e. An employee taking family temporary disability leave or an
2 employer from whom the employee is taking the leave shall have
3 the same right to appeal a determination of a benefit for the family
4 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1
5 et al.) as an employee or employer has to appeal a determination of
6 a benefit for the disability of the employee under the "Temporary
7 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and
8 any regulations adopted pursuant to the "Temporary Disability
9 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

10 f. In the event of a period of family temporary disability leave
11 of any individual covered under the State plan, the employer shall,
12 not later than the ninth day of the period of family temporary
13 disability leave, or not later than the ninth day after the employee
14 notifies the employer of an anticipated period of family temporary
15 disability leave pursuant to subsection h. of this section, whichever
16 comes first, including any time in which the employer provides sick
17 leave, vacation or other fully paid leave, issue to the individual and
18 to the division printed notices on division forms containing the
19 name **【.】** and address **【and Social Security number】** of the
20 individual, such wage information as the division may require to
21 determine the individual's eligibility for benefits, including any sick
22 pay, vacation or other fully paid time off provided by the employer
23 during the period of family temporary disability leave, and the
24 name, address, and division identity number of the employer. Not
25 later than 30 days after the commencement of the period of family
26 temporary disability leave for which the notice is furnished by the
27 employer, the individual shall furnish to the division a notice and
28 claim for family temporary disability leave benefits. Upon the
29 submission of the notices by the employer and the individual, and
30 the commencement of the compensable portion of the family
31 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1
32 et al.), the division may issue benefit payments. In the case of
33 family temporary disability leave taken to care for a family member
34 with a serious health condition, the benefits may be paid for periods
35 not exceeding three weeks pending the receipt of the certification
36 required pursuant to subsection b. of section 11 of P.L.2008, c.17
37 (C.43:21-39.2). Failure to furnish notice and certification in the
38 manner above provided shall not invalidate or reduce any claim if it
39 shall be shown to the satisfaction of the division not to have been
40 reasonably possible to furnish the notice and certification and that
41 the notice and certification was furnished as soon as reasonably
42 possible.

43 g. Each covered employer shall conspicuously post
44 notification, in a place or places accessible to all employees in each
45 of the employer's workplaces, **【in a form issued by regulation**
46 **promulgated by the commissioner,】** of each covered employee's
47 rights regarding benefits payable pursuant to this section. The
48 division shall promulgate a form that satisfies employers' posting

1 obligations and make it available to employers on the division's
2 website. The employer shall also provide each employee of the
3 employer with a written copy of the notification: (1) not later than
4 30 days after the form of the notification is issued by regulation; (2)
5 at the time of the employee's hiring, if the employee is hired after
6 the issuance; (3) **【**whenever the employee notifies the employer that
7 the employee is taking time off for circumstances under which**】**
8 annually after initial provision of the notice; (4) within three
9 business days of when the employer knows or should know that the
10 employee **【is】** may be eligible for benefits pursuant to this section;
11 and **【(4)】 (5)** at any time, upon the first request of the employee.
12 The employer shall ensure that employees have a means of
13 accessing the notice both in their physical workplace and online.

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

47 (cf: P.L.2019, c.37, s.13)

1 12. Section 11 of P.L.2008, c.17 (C.43:21-39.2) is amended to
2 read as follows:

3 11. a. In the case of a family member who has a serious health
4 condition, the benefits for family temporary disability leave may be
5 taken intermittently when medically necessary, if: the total time
6 within which the leave is taken does not exceed 12 months; the
7 covered individual provides the employer with a copy of the
8 certification required pursuant to subsection b. of this section; the
9 covered individual provides the employer with prior notice of the
10 leave not less than 15 days before the first day on which benefits
11 are paid for the intermittent leave, unless an emergency or other
12 unforeseen circumstance precludes prior notice; and the covered
13 individual makes a reasonable effort to schedule the leave so as not
14 to unduly disrupt the operations of the employer and, if possible,
15 provide the employer, prior to the commencement of intermittent
16 leave, with a regular schedule of the days or days of the week on
17 which the intermittent leave will be taken. In the case of family
18 temporary disability leave benefits to care for a family member with
19 a serious health condition which are taken on a continuous, non-
20 intermittent basis, the covered individual shall: provide the
21 employer with prior notice of the leave in a reasonable and
22 practicable manner, unless an emergency or other unforeseen
23 circumstance precludes prior notice; provide a copy of the
24 certification required pursuant to subsection b. of this section; make
25 a reasonable effort to schedule the leave so as not to unduly disrupt
26 the operations of the employer.

27 b. Any period of family temporary disability leave for the
28 serious health condition of a family member of the covered
29 individual shall be supported by certification provided by a health
30 care provider. The certification shall be sufficient if it states:

31 (1) The date, if known, on which the serious health condition
32 commenced;

33 (2) The probable duration of the condition;

34 (3) The medical facts within the knowledge of the provider of
35 the certification regarding the condition;

36 (4) A statement that the serious health condition warrants the
37 participation of the covered individual in providing health care, as
38 provided in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
39 et seq.) and regulations adopted pursuant to that act;

40 (5) An estimate of the amount of time that the covered
41 individual is needed for participation in the care of the family
42 member;

43 (6) If the leave is intermittent, a statement of the medical
44 necessity for the intermittent leave and the expected duration of the
45 intermittent leave; and

46 (7) If the leave is intermittent and for planned medical
47 treatment, the dates of the treatment.

1 c. A covered individual claiming benefits to provide care for a
2 family member with a serious health condition under the State plan
3 or during unemployment shall, if requested by the division, have the
4 family member submit to an examination by a health care provider
5 designated by the division. The examinations shall not be more
6 frequent than once a week, shall be made without cost to the
7 claimant and shall be held at a reasonable time and place. Refusal
8 of the family member to submit to an examination requested
9 pursuant to this subsection shall disqualify the claimant from all
10 benefits for the period in question, except from benefits already
11 paid.

12 d. Any period of family temporary disability leave to engage in
13 activities for which unpaid leave may be taken pursuant to section 3
14 of the "New Jersey Security and Financial Empowerment Act,"
15 P.L.2013, c.82 (C.34:11C-3), on the individual's own behalf, if the
16 individual is a victim of an incident of domestic violence or a
17 sexually violent offense, or to assist a family member of the
18 individual who has been a victim of an incident of domestic
19 violence or a sexually violent offense, shall, if requested by the
20 division, be supported with certification provided to the division
21 which meets the standards regarding sufficient documentation
22 specified by subsection c. of section 3 of P.L.2013, c.82 (C.34:11C-
23 3), whether or not the employer of the individual requires that
24 documentation. Prior to taking the leave provided for in this
25 subsection, an employee shall, if the necessity for the leave is
26 foreseeable, and unless an emergency or other unforeseen
27 circumstances precludes prior notice, provide the employer with
28 written notice of the need for the leave, which shall be provided to
29 the employer as far in advance as is reasonable and practical under
30 the circumstances.

31 e. In the case of a qualifying exigency arising out of the fact
32 that a family member is on active duty or has been notified of an
33 impending call or order to active duty in the Armed Forces, the
34 benefits for family temporary disability leave may be taken
35 intermittently.

36 f. Any period of family temporary disability leave due to a
37 qualifying exigency arising out of the fact that a family member is
38 on active duty or has been notified of an impending call or order to
39 active duty in the Armed Forces shall, if requested by the division,
40 be supported by a certification issued at a time and in a manner as
41 the division may by regulation prescribe. If the division issues a
42 regulation requiring the certification, the employee shall provide, in
43 a timely manner, a copy of the certification to the employer.

44 (cf: P.L.2019, c.37, s.14)

45

46 13. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to
47 read as follows:

1 13. a. (1) The Commissioner of Labor and Workforce
2 Development shall issue and make available to the public, not later
3 than December 31, 2010, and each subsequent year, annual reports
4 providing data on temporary disability benefits, and, for each
5 annual report issued not later than December 31 of 2019 and each
6 subsequent year, all of the data required by this paragraph (1) as
7 amended by P.L.2018, c.123, including separate data for claims
8 involving pregnancy and childbirth, and family temporary disability
9 benefits, including separate data for each of the following
10 categories of claims: care of newborn children; care of newly
11 adopted children; care of sick children; care of sick spouses, and
12 care of other sick family members. The reports shall include, for
13 each category of claims, the occupations of the workers receiving
14 the benefits, the regular weekly wages earned by the workers
15 receiving the benefits, the number of workers receiving the benefits,
16 the number of workers receiving the benefits that work full-time,
17 the number of workers receiving the benefits that work part-time,
18 the number of workers receiving the benefits that belong to a labor
19 union or employee organization, the number of employers
20 employing each worker in the worker's base year, the amount of
21 benefits paid, the average and median duration of benefits, the
22 average and median weekly benefit, the county in which the
23 employer is located, whether the employer is private or a
24 governmental entity, the employer size based on whether the
25 employer employs less than 30 workers or employs 30 or more
26 workers, and, in the case of family temporary disability benefits,
27 any reported amount of sick leave, vacation or other fully paid time
28 which resulted in reduced benefit duration, and the number of
29 workers claiming intermittent benefits. The report shall provide
30 data by: gender; race, ethnicity or national origin; level of
31 educational attainment; and by any other demographic factors
32 determined to be relevant by the commissioner. The reports shall
33 also provide, for all temporary disability benefits and for all family
34 temporary disability benefits, the number of workers claiming both
35 temporary disability benefits and family temporary disability
36 benefits in the same calendar year, the total costs of benefits and the
37 total cost of administration, the portion of benefits for claims during
38 unemployment, and the total revenues from: employer assessments,
39 where applicable; employee assessments; and other sources. The
40 report shall include claim determinations, redeterminations, and
41 reconsiderations, shown as a percentage of applicants for different
42 types of leave, and shall include information regarding errors or
43 claim issues triggered by each type of claims determination and the
44 number of rejected applications that are not later paid by reason
45 they were initially rejected. In addition to annual reports, de-
46 identified person-level data with all of the above information shall
47 be available to members of the public upon request.

1 (2) For each of the reports issued not later than December 31 of
2 2019 and each subsequent year, the report shall also provide the
3 amount and rate of contributions, with the amount of the tax base,
4 made by employers, including, separately, the amounts paid by
5 employers with private plans, for benefits for periods of disability
6 and periods of family disability leave, and the amount and rate of
7 contributions, with the amount of the tax base, made by workers,
8 and benefits paid to workers, including, separately, benefits paid to,
9 and contributions paid by, workers in private plans, for each of the
10 following: benefits for periods of disability, and benefits for periods
11 of family temporary disability leave. The portion of the report
12 regarding private plans shall include: the number of claims
13 received, the number of claims accepted, the amount of benefits
14 paid, the number of workers covered, the administrative costs, and,
15 in the case of private plans in which insurance companies assume
16 the liability for benefits, in addition to the foregoing, premiums
17 earned, dividends to policy holders, benefit losses, and expenses
18 incurred, and in the case of private plans in which insurance
19 companies do not assume the liability for benefits, the amount
20 contributed by workers.

21 b. The commissioner may, in his discretion, conduct surveys
22 and other research regarding, and include in the annual reports
23 descriptions and evaluations of, the impact and potential future
24 impact of the provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) on
25 the State disability benefits fund, and other effects of those
26 provisions, including the costs and benefits resulting from the
27 provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) for:

28 (1) Employees and their families, including surveys and
29 evaluations of: what portion of the total number of employees
30 taking leave would not have taken leave, or would have taken less
31 leave, without the availability of benefits; what portion of
32 employees return to work after receiving benefits and what portion
33 are not permitted to return to work; and what portion of employees
34 who are eligible for benefits do not claim or receive them and why
35 they do not;

36 (2) Employers, including benefits such as reduced training and
37 other costs related to reduced turnover of personnel, and increased
38 affordability of family temporary disability leave insurance through
39 the State plan, with special attention given to small businesses; and

40 (3) The public, including savings caused by any reduction in the
41 number of people receiving public assistance.

42 c. The total amount of any expenses which the commissioner
43 determines are necessary to carry out his duties pursuant to this
44 section shall be charged to the Family Temporary Disability Leave
45 Account of the State disability benefits fund, except that the amount
46 shall in no case exceed \$150,000 during any fiscal year.

47 (cf: P.L.2019, c.37, s.16)

1 14. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to
2 read as follows:

3 17. (a) (Deleted by amendment, P.L.1975, c.355).

4 (b) (Deleted by amendment, P.L.2001, c.17).

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

6 (d) (1) (Deleted by amendment, P.L.2008, c.17).

7 (2) With respect to periods of disability commencing on or after
8 January 1, 2001 and before the effective date of P.L.2019, c.37
9 (C.43:21-45.2 et al.), no individual shall be entitled to benefits
10 under this act unless the individual has, within the 52 calendar
11 weeks preceding the week in which the individual's period of
12 disability commenced, established at least 20 base weeks or earned
13 not less than 1,000 times the minimum wage in effect pursuant to
14 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
15 calendar year preceding the calendar year in which the disability
16 commences, which amount shall be adjusted to the next higher
17 multiple of \$100.00, if not already a multiple thereof.

18 (3) With respect to periods of disability commencing on or after
19 the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.) and before
20 the effective date of P.L. , c. (C.)(pending before the
21 Legislature as this bill), no individual shall be entitled to benefits
22 under this act unless the individual has, within the base year
23 preceding the week in which the individual's period of disability
24 commenced, or within the base year preceding the week in which
25 the individual submits a claim for benefits pursuant to subsection h.
26 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of
27 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49),
28 established at least 20 base weeks or earned not less than 1,000
29 times the minimum wage in effect pursuant to section 5 of
30 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
31 preceding the calendar year in which the disability commences,
32 which amount shall be adjusted to the next higher multiple of
33 \$100.00, if not already a multiple thereof. With respect to periods
34 of disability commencing on or after the effective date of P.L. , c.
35 (C.)(pending before the Legislature as this bill), no individual
36 shall be entitled to benefits under P.L.1948, c.110 (C.43:21-25 et
37 al.) unless the individual has, within the base year preceding the
38 week in which the individual's period of disability commenced, or
39 within the base year preceding the week in which the individual
40 submits a claim for benefits pursuant to subsection h. of section 10
41 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a)
42 of section 25 of P.L.1948, c.110 (C.43:21-49), earned \$1,000 in
43 remuneration from covered employers or covered self-employment.

44 If an individual who submits a claim for benefits pursuant to
45 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or
46 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110
47 (C.43:21-49) did not **【**establish enough base weeks or**】** have enough
48 total earnings during the base year preceding the week the

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

8 (e) With respect to a period of family temporary disability leave
9 for an individual who has a period of family temporary disability
10 immediately after the individual has a period of disability for the
11 individual's own disability, the period of disability is deemed, for
12 the purposes of specifying the time of the 52-week period or base
13 year in which **base weeks or** earnings are required to be
14 established for benefit eligibility pursuant to this subsection (e), to
15 have commenced at the beginning of the period of disability for the
16 individual's own disability, not the period of family temporary
17 disability.

18 (cf: P.L.2019, c.37, s.18)

19

20 15. Section 21 of P.L.2019, c.37 (C.43:21-45.2) is amended to
21 read as follows:

22 21. a. The division shall **implement disability insurance goals**
23 **for** ensure the timely determination and prompt payment of
24 temporary disability benefits and family temporary disability
25 benefits under the State plan, as follows:

26 (1) for temporary disability benefits, in each calendar year:

27 (a) not less than 40 percent of the original benefit
28 determinations shall be completed within seven days after the
29 commencement of the disability, or the receipt of the benefit claims
30 by the division, whichever is later;

31 (b) not less than 75 percent of the original benefit
32 determinations shall be completed within 14 days after the
33 commencement of the disability, or the receipt of the benefit claims
34 by the division, whichever is later;

35 (c) not less than 85 percent of the original benefit
36 determinations shall be completed within 21 days after the
37 commencement of the disability, or the receipt of the benefit claims
38 by the division, whichever is later; and

39 (d) not less than 90 percent of the original benefit
40 determinations shall be completed within 28 days after the
41 commencement of the disability, or the receipt of the benefit claims
42 by the division, whichever is later; and

43 (2) for family temporary disability benefits, in each calendar
44 year:

45 (a) not less than 80 percent of the original benefit
46 determinations shall be completed within seven days after the
47 commencement of the period of family temporary disability leave,

1 or the receipt of the benefit claims by the division, whichever is
2 later;

3 (b) not less than 85 percent of the original benefit
4 determinations shall be completed within 14 days after the
5 commencement of the period of family temporary disability leave,
6 or the receipt of the benefit claims by the division, whichever is
7 later;

8 (c) not less than 90 percent of the original benefit
9 determinations shall be completed within 21 days after the
10 commencement of the period of family temporary disability leave,
11 or the receipt of the benefit claims by the division, whichever is
12 later; and

13 (d) not less than 95 percent of the original benefit
14 determinations shall be completed within 28 days after the
15 commencement of the period of family temporary disability leave,
16 or the receipt of the benefit claims by the division, whichever is
17 later.

18 b. The commissioner shall, not later than September 30 of 2019
19 and each subsequent year, issue, provide to the Legislature, and
20 make available to the public on the department's webpage, a report
21 regarding division efforts in the preceding calendar year to [attain
22 the disability insurance goals set pursuant to] comply with this
23 section for temporary disability benefits, and a report regarding
24 those efforts for family temporary disability benefits. Each report
25 shall include:

26 (1) the total number of claims and the number and percentage of
27 original determinations completed within each number of days
28 specified in the goals set pursuant to this section, and the number
29 and percentage of original determinations completed within the
30 following number of days after the receipt of the benefit claims or
31 the commencement of disability or family temporary disability,
32 whichever is later: 35 days, 42 days, 49 days and 56 days, and the
33 number and percentage of original determinations completed more
34 than 56 days after the receipt of the claims or the commencement of
35 disability or family temporary disability and the average number of
36 days to make the determinations for the claims that took more than
37 56 days;

38 (2) the number and percentage of claims received with
39 insufficient information, what portion of those claims were because
40 of failure of claimants to provide sufficient information, what
41 portion of those claims were because of failures of medical
42 providers of claimants to provide sufficient information, and what
43 portion of those claims were because of failures of employers to
44 provide sufficient information;

45 (3) the number and percentage of claims for which
46 determinations were delayed because of employer failure to make
47 the notifications or disclosures to employees and the division within
48 the amount of time required by subsection (a) of section 25 of

1 P.L.1948, c.110 (C.43:21-49) or subsection f. or g. of section 10 of
2 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received
3 related to employer noncompliance with those requirements, and
4 the number of employers which have been, because of the failures,
5 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to
6 pay fines or penalties to the division or added amounts to claimants,
7 the total amount of payments to the division, and the total amount
8 of payments to claimants;

9 (4) the number of personnel in the division and the budgeted
10 cost of salaries and benefits for those personnel; the number of
11 personnel who are processing family temporary disability benefit
12 claims, the number processing other temporary disability claims,
13 and the budgeted cost of salaries and benefits for those personnel;
14 what percentage of total division administrative costs is comprised
15 of those categories of personnel costs; and a comparison of total
16 division administrative costs to the maximum amount permitted to
17 be expended for those division administrative costs pursuant to
18 section 22 of P.L.1948, c.110 (C.43:21-46); and

19 (5) if any of the disability insurance **【goals】** timely
20 determination and prompt payment requirements set pursuant to this
21 section were not attained during the year, or it is determined that
22 there are other significant problems in the administration of the
23 disability insurance system, the report shall provide an evaluation of
24 the causes of the deficiencies and a plan to correct them and that
25 plan shall include:

26 (a) any increase in personnel needed to process claims and make
27 benefit payments expeditiously and accurately;

28 (b) any measures needed to enforce notification and reporting
29 requirements;

30 (c) any measures needed to inform employers and employees of
31 their responsibilities to facilitate the timely provision of benefits;

32 (d) any improvements needed in data processing, telephone and
33 other communications technology, staff training, and other
34 administrative services and equipment;

35 (e) any measures needed to improve service to claimants and
36 beneficiaries, including implementing easy-to-use, user-friendly
37 application processes, facilitating rapid response times to inquiries
38 and applications, and providing easy access to assistance; and

39 (f) any other measures appropriate for a full modernization of
40 the administration of all aspects of the disability insurance system.

41 The plan shall specify any added costs entailed in implementing
42 the plan, which shall be regarded as costs of administration of
43 family temporary disability benefits, and shall specify the amount
44 of any resulting increase in the estimate made pursuant to
45 R.S.43:21-7(d)(1)(G)(i), and (ii), of the amount needed to provide
46 100 percent of the cost of administration of family temporary
47 disability benefits.

1 The commissioner shall use that increased estimate in setting the
2 rate of contributions pursuant to those subsections, except that the
3 increase may not result in the total amount credited to those
4 administrative costs exceeding the maximum amount permitted
5 pursuant to subsection (a) of section 22 of P.L.1948, c.110
6 (C.43:21-46).

7 c. (1) The division shall, during each fiscal year commencing
8 on or after July 1, 2019, allocate not less than \$1,200,000 to
9 disseminate information about the rights and responsibilities of
10 employers and employees regarding temporary disability benefits
11 and family temporary disability benefits by means of programs of
12 educational outreach in communities and workplaces. Of that
13 annual allocation, not less than \$600,000 shall be used by the
14 division to enter into contracts with community-based organizations
15 to disseminate information to workers regarding temporary
16 disability benefits and family temporary disability benefits. That
17 allocation shall be regarded as a cost of administration of temporary
18 disability and family temporary disability benefits and be charged
19 to the administration account of the State disability benefit fund.
20 Of the costs charged to the administration account of the State
21 disability benefit fund pursuant to this subsection, the percentage
22 which is charged to the Family Temporary Disability Leave
23 Account shall be equal to the percentage that family temporary
24 disability benefits represents of all temporary disability benefits
25 paid from the State disability benefits fund during the preceding
26 calendar year. The allocation made pursuant to this subsection,
27 including any adjustments in the allocation specified in the plan
28 provided pursuant to paragraph (2) of this subsection, shall not
29 result in the total amount credited to administrative costs exceeding
30 the maximum amount permitted pursuant to subsection (a) of
31 section 22 of P.L.1948, c.110 (C.43:21-46).

32 (2) The commissioner shall, not later than September 30 of 2022
33 and September 30 of each subsequent year, issue, provide to the
34 Legislature, and make available to the public on the department's
35 webpage, a report regarding efforts made during the preceding
36 calendar year by the division and by community-based
37 organizations to disseminate information about the rights and
38 responsibilities of employers and employees regarding temporary
39 disability and family temporary disability benefits. Each report
40 shall include, for that preceding calendar year:

41 (a) an accounting of all funds allocated pursuant to this
42 subsection and all expenditures made from those funds by the
43 division and each community-based organization entering into
44 contracts with the division pursuant to this subsection, and
45 estimates of the number of employers and the number of workers to
46 which the information was disseminated;

47 (b) an estimate of the number of workers who were eligible for
48 temporary disability and family temporary disability benefits and

1 what percentage of those workers received those benefits, including
2 an assessment of whatever progress was made to increase that
3 percentage; and

4 (c) a plan to increase the percentage of workers who are aware
5 of the benefits which specifies the amounts to be allocated to the
6 division and community-based organizations for the purposes of
7 this subsection during the subsequent calendar year, provided that
8 the amounts specified shall not be less than or more than the
9 minimum and maximum amounts indicated in paragraph (1) of this
10 subsection.

11 (3) (a) The commissioner shall appoint an advisory committee
12 to review issues and topics of interest related to the implementation
13 and administration of temporary disability benefits and family
14 temporary disability benefits, which shall include the topic of
15 dissemination of information about the rights and responsibilities of
16 employers and employees regarding temporary disability benefits
17 and family temporary disability benefits.

18 (b) The committee is composed of nine members:

19 (i) four members representing employees' interests in paid
20 family and medical leave, who shall include at least one
21 representative of organized labor; at least one representative of an
22 organization that works with immigrant workers; at least one
23 organization that works with women, new parents, or caregivers in
24 the workforce; and at least one representative of the NJ Paid Leave
25 Outreach Collaborative;

26 (ii) four members representing employers, who shall include at
27 least one representative of an organization representing small
28 businesses; and

29 (iii) one ex officio member, without a vote, who shall represent
30 the division.

31 (c) The committee shall meet at least twice a year to provide
32 comment on division and community efforts to ensure workers'
33 access to, and understanding of paid family and medical leave
34 benefits and related rights, including dissemination of information,
35 education efforts, and community outreach related to temporary
36 disability and family temporary disability benefits and the rights
37 and responsibilities of employers and employees regarding
38 temporary disability benefits and family temporary disability
39 benefits, and study issues the committee determines to require its
40 consideration.

41 (d) The members shall serve without compensation, but are
42 entitled to reimbursement for necessary travel expenses. The
43 committee may utilize such personnel and facilities of the division
44 as it needs, without charge. The division shall provide staff support
45 to the advisory committee. All expenses and reimbursement of
46 necessary travel fees of the advisory committee shall be shall be
47 regarded as a cost of administration of temporary disability and

1 family temporary disability benefits and be charged to the
2 administration account of the State disability benefit fund.

3 (cf: P.L.2019, c.37, s.21)

4

5 16. Section 22 of P.L.1948, c.110 (C.43:21-46) is amended to
6 read as follows:

7 22. State disability benefits fund. (a) The State disability
8 benefits fund, hereinafter referred to as the fund, is hereby
9 established. The fund shall remain in the custody of the State
10 Treasurer, and to the extent of its cash requirements shall be
11 deposited in authorized public depositories in the State of New
12 Jersey. There shall be deposited in and credited to the fund the
13 amount of worker and employer contributions provided under
14 subparagraph (G) of paragraph (1) of subsection (d) of R.S.43:21-7
15 and subsection (e) of R.S.43:21-7, less refunds authorized by the
16 chapter (R.S.43:21-1 et seq.) to which this act is a supplement, and
17 the entire amount of interest and earnings from investments of the
18 fund, and all assessments, fines and penalties collected under this
19 act. The fund shall be held in trust for the payment of disability
20 benefits pursuant to this act, for the payment of benefits pursuant to
21 subsection (f) of R.S.43:21-4, and for the payment of any
22 authorized refunds of contributions. All warrants for the payment
23 of benefits shall be issued by and bear only the signature of the
24 Director of the Division of Unemployment and Temporary
25 Disability Insurance or his duly authorized agent for that purpose.
26 All other moneys withdrawn from the fund shall be upon warrant
27 signed by the State Treasurer and countersigned by the Director of
28 the Division of Unemployment and Temporary Disability Insurance
29 of the Department of Labor of the State of New Jersey. The
30 Treasurer shall maintain books, records and accounts for the fund,
31 appoint personnel and fix their compensation within the limits of
32 available appropriations. The expenses of the Treasurer in
33 administering the fund and its accounts shall be charged against the
34 administration account, as hereinafter established. A separate
35 account, to be known as the administration account, shall be
36 maintained in the fund, and there shall be credited to such account
37 an amount determined to be sufficient for proper administration, not
38 to exceed, however, 1/10 of 1% of the wages with respect to which
39 current contributions are payable into the fund pursuant to, prior to
40 the effective date of P.L. , c. (C.) (pending before the
41 Legislature as this bill), paragraph (3), but not paragraph (4) of
42 subsection (a) of R.S.43:21-7, and, after the effective date of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 paragraph (4) of subsection (a) of R.S.43:21-7, and the entire
45 amount of any assessments against covered employers, as
46 hereinafter provided, for costs of administration prorated among
47 approved private plans. The costs of administration of this act,

1 including R.S.43:21-4(f), shall be charged to the administration
2 account.

3 (b) A further separate account, to be known as the
4 unemployment disability account, shall be maintained in the fund.
5 Such account shall be charged with all benefit payments under
6 R.S.43:21-4(f).

7 Prior to July 1 of each calendar year, the Division of
8 Unemployment and Temporary Disability Insurance of the
9 Department of Labor of the State of New Jersey shall determine the
10 average rate of interest and other earnings on all investments of the
11 State disability benefits fund for the preceding calendar year. An
12 amount equal to the sum of the amounts withdrawn from the
13 unemployment trust fund pursuant to section 23 hereof multiplied
14 by such average rate shall be determined by the division and
15 credited to the unemployment disability account as of the end of the
16 preceding calendar year.

17 If the unemployment disability account shall show an
18 accumulated deficit in excess of \$200,000.00 at the end of any
19 calendar year after interest and other earnings have been credited as
20 provided hereinabove, the division shall determine the ratio of such
21 deficit to the total of all taxable wages paid during the preceding
22 calendar year, and shall make an assessment against all employers
23 in an amount equal to the taxable wages paid by them during such
24 preceding calendar year to employees, multiplied by such ratio, but
25 in no event shall any such assessment exceed 1/10 or 1% of such
26 wages; provided, however, that the assessment made against the
27 State (including Rutgers, The State University and the New Jersey
28 Institute of Technology) shall not exceed the sum of all benefits
29 paid under the provisions of R.S.43:21-4(f) as the result of
30 employment with the State. Such amounts shall be collectible by the
31 division in the same manner as provided for the collection of
32 employee contributions under this chapter (R.S.43:21-1 et seq.). In
33 making this assessment, the division shall furnish to each affected
34 employer a brief summary of the determination thereof. The amount
35 of such assessments collected by the division shall be credited to
36 the unemployment disability account.

37 As used in this section, "taxable wages" shall mean wages with
38 respect to which employer contributions have been paid or are
39 payable pursuant to subsections (a), (b) and (c) of R.S.43:21-7.

40 (c) A board of trustees, consisting of the State Treasurer, the
41 Secretary of State, the Commissioner of Labor and Industry, the
42 director of the division, and the State Comptroller, is hereby
43 created. The board shall invest and reinvest all moneys in the fund
44 in excess of its cash requirements, and such investments shall be
45 made in obligations legal for savings banks; provided, however, that
46 the provisions of this subsection shall in all respects be subject to
47 the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.).

1 (d) There is hereby appropriated, to be paid out of the fund, such
2 amounts as may from time to time be required for the payment of
3 disability benefits, and such amounts as may be required each year,
4 as contained in the annual appropriation act, for the administration
5 of this act, including R.S.43:21-4(f).

6 (cf: P.L.2019, c.37, s.19)
7

8 17. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to
9 read as follows:

10 25. (a) (1) Every employer shall post, in prominent locations,
11 notices to employees in the form provided by the division of
12 whether the employer is permitted or required to participate in a
13 temporary disability benefits program pursuant to the "Temporary
14 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and
15 whether the employer does or does not participate. For employers
16 who participate in a temporary disability benefits program, the
17 notice shall also describe the temporary disability benefits available
18 to the employees and prominently disclose that pregnancy is
19 regarded by this law as a disability and that pregnant employees are
20 regarded as disabled and entitled to temporary disability benefits to
21 the same extent as other disabled employees. Upon the request of
22 an employer, the division shall, without charge, provide the
23 employer with a copy of each applicable notice, suitable for
24 reproduction by the employer. Each employer participating in the
25 State plan or a private plan shall give a printed copy of benefit
26 instructions to any disabled employee **【as soon as】** within three
27 business days from when the employer **【becomes aware】** knows or
28 should know of the disability or to any employee with a need for
29 family temporary disability leave within three business days from
30 when the employer knows or should know of the need for leave.
31 The employer shall also provide each employee employed by the
32 employer with a written copy of the notice: not later than 30 days
33 after the form of the notice is issued; at the time of the employee's
34 hiring, if the employee is hired after the issuance; annually after
35 initial provision of the notice; and at any time, when first requested
36 by the employee. The employer shall ensure that employees have a
37 means of accessing the notice both in their physical workplace and
38 online.

39 (2) In addition, in the event of the disability of any individual
40 covered under the State plan, the employer shall, not later than the
41 ninth day of disability, or not later than the ninth day after the
42 individual notifies the employer of an anticipated period of
43 disability pursuant to paragraph (3) of this section, whichever
44 comes first, issue to the individual and to the division printed
45 notices on division forms containing the name, address **【and Social**
46 **Security number of the individual】**, such wage information as the
47 division may require to determine the individual's eligibility for
48 benefits, and the name, address, and division identity number of the

1 employer. Not later than 30 days after the commencement of the
2 period of disability for which such notice is furnished, the
3 individual shall furnish to the division a notice and claim for
4 disability benefits under the State plan or for disability during
5 unemployment. Upon the submission of such notices by the
6 employer and the individual, and the commencement of the
7 compensable portion of the disability leave pursuant to the
8 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
9 et seq.), the division may issue benefit payments for periods not
10 exceeding three weeks pending the receipt of medical proof. When
11 requested by the division, such notice and proof shall include
12 certification of total disability by the attending physician, or a
13 record of hospital confinement. Failure to furnish notice and proof
14 within the time or in the manner above provided shall not invalidate
15 or reduce any claim if it shall be shown to the satisfaction of the
16 division not to have been reasonably possible to furnish such notice
17 and proof and that such notice and proof was furnished as soon as
18 reasonably possible.

19 (3) With respect to any period of disability commencing on or
20 after October 4, 2019, if an individual knows in advance when the
21 period will commence, the individual may notify the employer of
22 the anticipated period of disability and submit to the division a
23 claim for benefits for that period, which shall include a statement of
24 when the period will commence and any certification requested by
25 the division pursuant to this section, prior to, but not more than 60
26 days prior to, the date on which the period will commence. The
27 division shall process that claim immediately and, upon a finding
28 that the claim is valid, shall pay the benefit upon the
29 commencement of the period, except that if the division receives the
30 claim less than 30 days before the commencement of the period, the
31 division shall make the payment not more than 30 days after the
32 receipt of the claim. The periods of disability leave to which the
33 provisions of this paragraph apply shall include, but not be limited
34 to, any of the following if the commencement date of the leave is
35 known in advance: disability related to pregnancy or childbirth;
36 disability related to scheduled medical procedures, treatments, or
37 appointments for the individual; and disability related to scheduled
38 ongoing care of the individual. If an individual did not establish
39 enough base weeks or have enough total earnings during the base
40 year preceding the week the individual submits the claim for
41 benefits, the division shall notify the individual that the individual
42 may file the claim again upon or after the commencement of the
43 period of disability and the division shall then reconsider the
44 individual's eligibility for benefits based on the base year preceding
45 the week in which the period of disability commences.

46 (b) A person claiming benefits under the State plan or for
47 disability during unemployment shall, when requested by the
48 division, submit at intervals, but not more often than once a week,

1 to an examination by a legally licensed physician, dentist,
2 podiatrist, chiropractor, certified nurse midwife, certified midwife,
3 certified professional midwife, advanced practice nurse or public
4 health nurse designated by the division. In all cases of physical
5 examination of a claimant, the examination shall be made by a
6 designee of the division, who shall be the same sex as the claimant
7 if so requested by the claimant. All such examinations by
8 physicians, dentists, podiatrists, chiropractors, certified nurse
9 midwives, certified midwives, certified professional midwives, or
10 nurses designated by the division shall be without cost to the
11 claimant and shall be held at a reasonable time and place. Refusal
12 to submit to such a requested examination shall disqualify the
13 claimant from all benefits for the period of disability in question,
14 except as to benefits already paid.

15 (c) All medical records of the division, except to the extent
16 necessary for the proper administration of this act, shall be
17 confidential and shall not be published or be open to public
18 inspection (other than to public employees in the performance of
19 their public duties) in any manner revealing the identity of the
20 claimant, or the nature or cause of disability nor admissible in
21 evidence in any action or special proceeding other than one arising
22 under this act.

23 (cf: P.L.2019, c.37, s.20)

24

25 18. Section 24 of P.L.2019, c.37 (C.43:21-55.2) is amended to
26 read as follows:

27 24. a. Any covered individual who took any temporary disability
28 benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family
29 temporary disability leave benefits pursuant to P.L.2008, c.17
30 (C.43:21-39.1 et al.), shall, upon the expiration of the leave, be
31 entitled to be restored by the employer to the position held by the
32 employee when the leave commenced or to an equivalent position
33 of like seniority, status, employment benefits, pay, and other terms
34 and conditions of employment. If, during that period of leave, the
35 employer has a reduction in force or layoffs and the employee
36 would have lost the employee's position had the employee not been
37 on the leave as a result of the reduction in force or layoff, or
38 pursuant to the good faith operation of a bona fide layoff and recall
39 system including a system under an applicable collective bargaining
40 agreement, the employee shall not be entitled to reinstatement to the
41 former or an equivalent position, if the employer notifies the
42 employee of the employee's right pursuant to paragraph (2) of
43 subsection (c) of R.S.43:21-19 to file a claim for unemployment
44 benefits after the leave period ends. The employee shall retain all
45 rights under any applicable layoff and recall system, including a
46 system under a collective bargaining agreement, as if the employee
47 had not taken the leave.

1 b. An employer shall not discharge, harass, threaten, or
2 otherwise discriminate or retaliate against an employee with respect
3 to the compensation, terms, conditions, or privileges of employment
4 on the basis that the employee requested or took any temporary
5 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.),
6 or family temporary disability leave benefits pursuant to P.L.2008,
7 c.17 (C.43:21-39.1 et al.), including retaliation by refusing to
8 **【restore】** reinstate to equivalent employment the employee
9 following a period of leave **【**, except that, pursuant to section 2 of
10 P.L.1948, c.110 (C.43:21-26), nothing in this section or any other
11 section of P.L.1948, c.110 (C.43:21-25 et al.) or P.L.2008, c.17
12 (C.43:21-39.1 et al.) shall be construed as increasing, reducing or
13 otherwise modifying any entitlement provided to a worker by the
14 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
15 et seq.) to be restored to employment by the employer after a period
16 of family temporary disability leave **】** as required by subsection a. of
17 this section .

18 c. During any period that temporary disability benefits are
19 provided pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family
20 temporary disability leave benefits provided pursuant to P.L.2008,
21 c.17 (C.43:21-39.1 et al.), the employer shall:

22 (1) maintain coverage under any group health insurance policy,
23 group subscriber contract or health care plan at the same level and
24 with the same or equivalent terms, including the employee's cost of
25 coverage, such as premium contributions, co-pays, and deductibles,
26 as would have been provided if the employee's employment had
27 been continuous throughout that period; and

28 (2) provide, in addition to the benefits required by this section,
29 any other employment benefits that would be provided pursuant to
30 the employer's policy for employees on temporary leave from
31 employment.

32 **【b.】** d. Upon a violation of subsection a., b. or c. of this section,
33 including a failure of the employer to restore an employee to the
34 position the employee held prior to leave under subsection b. of this
35 section, an employee or former employee affected by the violation
36 may take one of the following actions:

37 (1) file a written complaint with the Commissioner of Labor and
38 Workforce Development to seek reinstatement to employment. If
39 the employer is found by a preponderance of the evidence to be in
40 violation, the commissioner shall order the reinstatement the
41 employee to the position previously held with no reduction in
42 seniority, status, employment benefits, pay, and other terms and
43 conditions of employment, compensation for any lost wages,
44 benefits and other remuneration, and fine the employer \$2,500 for
45 each violation of subsection a., b. or c. of this section; or

46 (2) institute a civil action in the Superior Court for relief. All
47 remedies available in common law tort actions shall be available to

1 a prevailing plaintiff. The court may also order any or all of the
2 following relief:

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

7 **[(2)] (b)** an injunction to restrain the continued violation of
8 any of the provisions of this section;

9 **[(3)] (c)** reinstatement of the employee to the same position or
10 to a position equivalent to that which the employee held prior to
11 unlawful discharge or retaliatory action, or other failure to reinstate
12 the employee in violation of this section;

13 **[(4)] (d)** reinstatement of full fringe benefits and seniority
14 rights;

15 **[(5)] (e)** compensation for any lost wages, benefits and other
16 remuneration; and

17 **[(6)] (f)** payment of reasonable costs and attorney's fees.

18 e. An employee who is eligible for both earned sick leave
19 pursuant to P.L.2018, c.10 (C.34:11D-1 et seq.) and either
20 temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-
21 25 et al.), or family temporary disability leave benefits pursuant to
22 P.L.2008, c.17 (C.43:21-39.1 et al.) shall have the option of using
23 either the earned sick leave or whichever is applicable of temporary
24 disability benefits or family temporary disability leave benefits, and
25 may select the order in which the different kinds of leave are taken,
26 but shall not receive more than one kind of paid leave
27 simultaneously during any period of time.

28 (cf: P.L.2019, c.37, s.24)

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30 19. This act shall take effect on the 90th day after enactment.

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STATEMENT

34

35 This bill:

36 1. Extends TDI and FLI benefits to employees providing care
37 for family members needed because of a public health emergency or
38 state of emergency, including, if federal funds are available, the
39 closure of a school or place of care.

40 2. Extends FLI benefits to care needed because of certain
41 exigencies arising out of active military service.

42 3. Sets requirements regarding employer notification to
43 employees of their rights, including their right to unemployment
44 benefits after leave if an employee is not restored to employment
45 after leave because of a reduction in force occurring during the
46 leave.

- 1 4. Provides that an employee who is eligible for both earned
2 sick leave and either TDI or FLI benefits, may use either the earned
3 sick leave or whichever is applicable of the TDI or FLI benefits,
4 and may select the order in which they are taken, but may not
5 receive more than one kind of paid leave benefits during any period
6 of time.
- 7 5. Extends TDI or FLI benefits to an employee regardless of
8 the amount of time an employee has worked or the amount of the
9 employees earnings, so long as the employee earns at least \$1,000
10 during the employee's base year.
- 11 6. Provides that the weekly benefit rates for TDI or FLI
12 benefits taken during a period of unemployment are set at the rates
13 for TDI or FLI benefits, instead of the rates for unemployment
14 compensation.
- 15 7. Provides the option to self-employed individuals of
16 obtaining coverage for TDI and FLI benefits if they make
17 contributions to the TDI fund which are the equivalent to the
18 contributions made by employers and employees.
- 19 8. Eliminates the seven-day waiting period for TDI benefits.
- 20 9. Provides the right to reinstatement to equivalent employment
21 after a period of leave applies to all periods in which TDI or FLI
22 benefits are provided, including extending that right to FLI leave
23 takers employed by employers with less than 30 employees, as is
24 presently the case for TDI leave takers.
- 25 10. Requires, when employees take leave with TDI or FLI
26 benefits, that employers maintain health insurance coverage during
27 the leave period on the same terms as when the employees are
28 working.
- 29 11. Provides that an employee's statement that the employee or
30 member of the employee's family is a victim of domestic or sexual
31 violence is sufficient documentation in a claim for benefits.