

[First Reprint]

**ASSEMBLY, No. 3025**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Assemblyman WILLIAM B. SAMPSON, IV**

**District 31 (Hudson)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

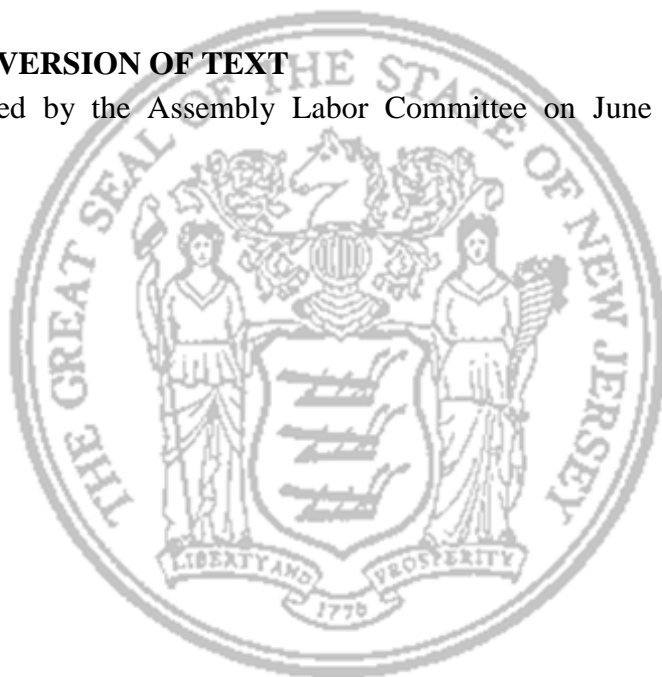
**Assemblywoman Dunn, Assemblyman Barlas, Assemblywoman Hall and  
Assemblyman Atkins**

**SYNOPSIS**

Exempts poll worker wages from affecting unemployment compensation.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Labor Committee on June 6, 2024, with amendments.



**(Sponsorship Updated As Of: 6/6/2024)**

1 AN ACT concerning unemployment benefits and amending  
2 R.S.43:21-19.

3

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

6

7 <sup>1</sup>[1.R.S.43:21-19 is amended to read as follows:

8 43:21-19. Definitions. As used in this chapter (R.S.43:21-  
9 1 et seq.), unless the context clearly requires otherwise:

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

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

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

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

43 With respect to a benefit year commencing on or after July 1,  
44 1995, if an individual does not have sufficient qualifying weeks or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALA committee amendments adopted June 6, 2024.

1 wages in his base year to qualify for benefits, the individual shall  
2 have the option of designating that his base year shall be the  
3 "alternative base year," which means the last four completed  
4 calendar quarters immediately preceding the individual's benefit  
5 year; except that, with respect to a benefit year commencing on or  
6 after October 1, 1995, if the individual also does not have sufficient  
7 qualifying weeks or wages in the last four completed calendar  
8 quarters immediately preceding his benefit year to qualify for  
9 benefits, "alternative base year" means the last three completed  
10 calendar quarters immediately preceding his benefit year and, of the  
11 calendar quarter in which the benefit year commences, the portion  
12 of the quarter which occurs before the commencing of the benefit  
13 year.

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

28 (2) With respect to a benefit year commencing on or after June  
29 1, 1990 for an individual who immediately preceding the benefit  
30 year was subject to a disability compensable under the provisions of  
31 the "Temporary Disability Benefits Law," P.L.1948, c.110  
32 (C.43:21-25 et seq.), "base year" shall mean the first four of the last  
33 five completed calendar quarters immediately preceding the  
34 individual's period of disability, if the employment held by the  
35 individual immediately preceding the period of disability is no  
36 longer available at the conclusion of that period and the individual  
37 files a valid claim for unemployment benefits after the conclusion  
38 of that period. For the purposes of this paragraph, "period of  
39 disability" means the period defined as a period of disability by  
40 section 3 of the "Temporary Disability Benefits Law," P.L.1948,  
41 c.110 (C.43:21-27). An individual who files a claim under the  
42 provisions of this paragraph (2) shall not be regarded as having left  
43 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

44 (3) With respect to a benefit year commencing on or after June  
45 1, 1990 for an individual who immediately preceding the benefit  
46 year was subject to a disability compensable under the provisions of  
47 the workers' compensation law (chapter 15 of Title 34 of the  
48 Revised Statutes), "base year" shall mean the first four of the last

1 five completed calendar quarters immediately preceding the  
2 individual's period of disability, if the period of disability was not  
3 longer than two years, if the employment held by the individual  
4 immediately preceding the period of disability is no longer  
5 available at the conclusion of that period and if the individual files a  
6 valid claim for unemployment benefits after the conclusion of that  
7 period. For the purposes of this paragraph, "period of disability"  
8 means the period from the time at which the individual becomes  
9 unable to work because of the compensable disability until the time  
10 that the individual becomes able to resume work and continue work  
11 on a permanent basis. An individual who files a claim under the  
12 provisions of this paragraph (3) shall not be regarded as having left  
13 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

31 (2) "Controller" means the Office of the Assistant  
32 Commissioner for Finance and Controller of the Department of  
33 Labor and Workforce Development, established by the 1982  
34 Reorganization Plan of the Department of Labor.

35 (f) "Contributions" means the money payments to the State  
36 Unemployment Compensation Fund, required by R.S.43:21-7.  
37 "Payments in lieu of contributions" means the money payments to  
38 the State Unemployment Compensation Fund by employers electing  
39 or required to make payments in lieu of contributions, as provided  
40 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-  
41 7.3).

42 (g) "Employing unit" means the State or any of its  
43 instrumentalities or any political subdivision thereof or any of its  
44 instrumentalities or any instrumentality of more than one of the  
45 foregoing or any instrumentality of any of the foregoing and one or  
46 more other states or political subdivisions or any individual or type  
47 of organization, any partnership, association, trust, estate, joint-  
48 stock company, insurance company or corporation, whether

1 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or  
2 successor thereof, or the legal representative of a deceased person,  
3 which has or subsequent to January 1, 1936, had in its employ one  
4 or more individuals performing services for it within this State. All  
5 individuals performing services within this State for any employing  
6 unit which maintains two or more separate establishments within  
7 this State shall be deemed to be employed by a single employing  
8 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each  
9 individual employed to perform or to assist in performing the work  
10 of any agent or employee of an employing unit shall be deemed to  
11 be employed by such employing unit for all the purposes of this  
12 chapter (R.S.43:21-1 et seq.), whether such individual was hired or  
13 paid directly by such employing unit or by such agent or employee;  
14 provided the employing unit had actual or constructive knowledge  
15 of the work.

16 (h) "Employer" means:

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

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

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

30 (4) Any employing unit which together with one or more other  
31 employing units is owned or controlled (by legally enforceable  
32 means or otherwise), directly or indirectly by the same interests, or  
33 which owns or controls one or more other employing units (by  
34 legally enforceable means or otherwise), and which, if treated as a  
35 single unit with such other employing unit or interest, would be an  
36 employer under paragraph (1) of this subsection;

37 (5) Any employing unit for which service in employment as  
38 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December  
39 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is  
40 performed after December 31, 1977;

41 (6) Any employing unit for which service in employment as  
42 defined in R.S.43:21-19 (i) (1) **[(c)]** (C) is performed after  
43 December 31, 1971 and which in either the current or the preceding  
44 calendar year paid remuneration for employment in the amount of  
45 \$1,000.00 or more;

46 (7) Any employing unit not an employer by reason of any other  
47 paragraph of this subsection (h) for which, within either the current  
48 or preceding calendar year, service is or was performed with respect

1 to which such employing unit is liable for any federal tax against  
2 which credit may be taken for contributions required to be paid into  
3 a state unemployment fund; or which, as a condition for approval of  
4 the "unemployment compensation law" for full tax credit against  
5 the tax imposed by the Federal Unemployment Tax Act, is required  
6 pursuant to such act to be an employer under this chapter  
7 (R.S.43:21-1 et seq.);

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

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

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

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

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

18 (13) Any employing unit for which domestic service in  
19 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after  
20 December 31, 1977;

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

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

28 (A) Any service performed prior to January 1, 1972, which was  
29 employment as defined in the "unemployment compensation law"  
30 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
31 provisions of this subsection, service performed on or after January  
32 1, 1972, including service in interstate commerce, performed for  
33 remuneration or under any contract of hire, written or oral, express  
34 or implied.

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

41 (ii) Service performed after December 31, 1977, in the employ  
42 of this State or any of its instrumentalities or any political  
43 subdivision thereof or any of its instrumentalities or any  
44 instrumentality of more than one of the foregoing or any  
45 instrumentality of the foregoing and one or more other states or  
46 political subdivisions, if such service is not excluded from  
47 "employment" under paragraph (D) below.

1 (C) Service performed after December 31, 1971 by an individual  
2 in the employ of a religious, charitable, educational, or other  
3 organization, which is excluded from "employment" as defined in  
4 the Federal Unemployment Tax Act, solely by reason of section  
5 3306 (c)(8) of that act, if such service is not excluded from  
6 "employment" under paragraph (D) below.

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

9 (i) In the employ of (I) a church or convention or association of  
10 churches, or (II) an organization, or school which is operated  
11 primarily for religious purposes and which is operated, supervised,  
12 controlled or principally supported by a church or convention or  
13 association of churches;

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

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

22 (aa) as an elected official;

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

25 (cc) as a member of the State National Guard or Air National  
26 Guard;

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

29 (ee) in a position which, under or pursuant to the laws of this  
30 State, is designated as a major nontenured policy making or  
31 advisory position, or a policy making or advisory position, the  
32 performance of the duties of which ordinarily does not require more  
33 than eight hours per week; **[or]**

34 (ff) as a member of a district board of elections who receives  
35 compensation for the discharge of election duties as provided in  
36 R.S.19:45-6; or

37 (iv) By an individual receiving rehabilitation or remunerative  
38 work in a facility conducted for the purpose of carrying out a  
39 program of rehabilitation of individuals whose earning capacity is  
40 impaired by age or physical or mental deficiency or injury or  
41 providing remunerative work for individuals who because of their  
42 impaired physical or mental capacity cannot be readily absorbed in  
43 the competitive labor market;

44 (v) By an individual receiving work-relief or work-training as  
45 part of an unemployment work-relief or work-training program  
46 assisted in whole or in part by any federal agency or an agency of a  
47 state or political subdivision thereof; or

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

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

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

19 (ii) The American employer has no place of business in the  
20 United States, but (I) the American employer is an individual who  
21 is a resident of this State; or (II) the American employer is a  
22 corporation which is organized under the laws of this State; or (III)  
23 the American employer is a partnership or trust and the number of  
24 partners or trustees who are residents of this State is greater than the  
25 number who are residents of another state; or

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

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

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

46 (G) Notwithstanding any other provision of this subsection,  
47 service in this State with respect to which the taxes required to be  
48 paid under any federal law imposing a tax against which credit may



1 be taken for contributions required to be paid into a state  
2 unemployment fund or which as a condition for full tax credit  
3 against the tax imposed by the Federal Unemployment Tax Act is  
4 required to be covered under the "unemployment compensation  
5 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

46 (bb) such other entity shall be treated as having paid cash  
47 remuneration to such individual in an amount equal to the amount  
48 of cash remuneration paid to such individual by the crew leader

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

1 individual's service within the state; for example, is temporary or  
2 transitory in nature or consists of isolated transactions.

3 (6) Services performed by an individual for remuneration shall  
4 be deemed to be employment subject to this chapter (R.S.43:21-  
5 1 et seq.) unless and until it is shown to the satisfaction of the  
6 division that:

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

10 (B) Such service is either outside the usual course of the  
11 business for which such service is performed, or that such service is  
12 performed outside of all the places of business of the enterprise for  
13 which such service is performed; and

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

16 (7) Provided that such services are also exempt under the  
17 Federal Unemployment Tax Act, as amended, or that contributions  
18 with respect to such services are not required to be paid into a state  
19 unemployment fund as a condition for a tax offset credit against the  
20 tax imposed by the Federal Unemployment Tax Act, as amended,  
21 the term "employment" shall not include:

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

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

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

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

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

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

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

8 (F) Service performed in the employ of the United States  
9 Government or of any instrumentality of the United States exempt  
10 under the Constitution of the United States from the contributions  
11 imposed by the "unemployment compensation law," except that to  
12 the extent that the Congress of the United States shall permit states  
13 to require any instrumentalities of the United States to make  
14 payments into an unemployment fund under a state unemployment  
15 compensation law, all of the provisions of this act shall be  
16 applicable to such instrumentalities, and to service performed for  
17 such instrumentalities, in the same manner, to the same extent and  
18 on the same terms as to all other employers, employing units,  
19 individuals and services; provided that if this State shall not be  
20 certified for any year by the Secretary of Labor of the United States  
21 under section 3304 of the federal Internal Revenue Code of 1986  
22 (26 U.S.C. s.3304), the payments required of such instrumentalities  
23 with respect to such year shall be refunded by the division from the  
24 fund in the same manner and within the same period as is provided  
25 in R.S.43:21-14 (f) with respect to contributions erroneously paid to  
26 or collected by the division;

27 (G) Services performed in the employ of fraternal beneficiary  
28 societies, orders, or associations operating under the lodge system  
29 or for the exclusive benefit of the members of a fraternity itself  
30 operating under the lodge system and providing for the payment of  
31 life, sick, accident, or other benefits to the members of such society,  
32 order, or association, or their dependents;

33 (H) Services performed as a member of the board of directors, a  
34 board of trustees, a board of managers, or a committee of any bank,  
35 building and loan, or savings and loan association, incorporated or  
36 organized under the laws of this State or of the United States, where  
37 such services do not constitute the principal employment of the  
38 individual;

39 (I) Service with respect to which unemployment insurance is  
40 payable under an unemployment insurance program established by  
41 an Act of Congress;

42 (J) Service performed by agents of mutual fund brokers or  
43 dealers in the sale of mutual funds or other securities, by agents of  
44 insurance companies, exclusive of industrial insurance agents or by  
45 agents of investment companies, if the compensation to such agents  
46 for such services is wholly on a commission basis;

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

1 (L) Services performed in the employ of any veterans'  
2 organization chartered by Act of Congress or of any auxiliary  
3 thereof, no part of the net earnings of which organization, or  
4 auxiliary thereof, inures to the benefit of any private shareholder or  
5 individual;

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

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

18 (O) Services performed in the sale or distribution of merchandise  
19 by home-to-home salespersons or in-the-home demonstrators whose  
20 remuneration consists wholly of commissions or commissions and  
21 bonuses;

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

25 (Q) Service performed in the employ of an instrumentality  
26 wholly owned by a foreign government if (i) the service is of a  
27 character similar to that performed in foreign countries by  
28 employees of the United States Government or of an instrumentality  
29 thereof, and (ii) the division finds that the United States Secretary  
30 of State has certified to the United States Secretary of the Treasury  
31 that the foreign government, with respect to whose instrumentality  
32 exemption is claimed, grants an equivalent exemption with respect  
33 to similar services performed in the foreign country by employees  
34 of the United States Government and of instrumentalities thereof;

35 (R) Service in the employ of an international organization  
36 entitled to enjoy the privileges, exemptions and immunities under  
37 the International Organizations Immunities Act  
38 (22 U.S.C. s.288 et seq.);

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

44 (T) Service performed in the employ of a school, college, or  
45 university if such service is performed (i) by a student enrolled at  
46 such school, college, or university on a full-time basis in an  
47 educational program or completing such educational program  
48 leading to a degree at any of the severally recognized levels, or (ii)

1 by the spouse of such a student, if such spouse is advised at the time  
2 such spouse commences to perform such service that (I) the  
3 employment of such spouse to perform such service is provided  
4 under a program to provide financial assistance to such student by  
5 such school, college, or university, and (II) such employment will  
6 not be covered by any program of unemployment insurance;

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

18 (V) Service performed in the employ of a hospital, if such  
19 service is performed by a patient of the hospital; service performed  
20 as a student nurse in the employ of a hospital or a nurses' training  
21 school by an individual who is enrolled and regularly attending  
22 classes in a nurses' training school approved under the laws of this  
23 State;

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

28 (X) Services performed by operators of motor vehicles weighing  
29 18,000 pounds or more, licensed for commercial use and used for  
30 the highway movement of motor freight, who own their equipment  
31 or who lease or finance the purchase of their equipment through an  
32 entity which is not owned or controlled directly or indirectly by the  
33 entity for which the services were performed and who were  
34 compensated by receiving a percentage of the gross revenue  
35 generated by the transportation move or by a schedule of payment  
36 based on the distance and weight of the transportation move;

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

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

44 (8) If one-half or more of the services in any pay period  
45 performed by an individual for an employing unit constitutes  
46 employment, all the services of such individual shall be deemed to  
47 be employment; but if more than one-half of the service in any pay  
48 period performed by an individual for an employing unit does not

1 constitute employment, then none of the service of such individual  
2 shall be deemed to be employment. As used in this paragraph, the  
3 term "pay period" means a period of not more than 31 consecutive  
4 days for which a payment for service is ordinarily made by an  
5 employing unit to individuals in its employ.

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

10 (A) The limousine franchisee is incorporated;

11 (B) The franchisee is subject to regulation by the Interstate  
12 Commerce Commission;

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

16 (D) The franchisee registers with the Department of Labor and  
17 Workforce Development and receives an employer registration  
18 number.

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

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

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

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

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

45 (m) "Unemployment."

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

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

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

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

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

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

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

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

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

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



- 1 (s) "Investment company" means any company as defined in  
2 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).
- 3 (t) (1) (Deleted by amendment, P.L.2001, c.17).
- 4 (2) "Base week," commencing on or after January 1, 1996 and  
5 before January 1, 2001, means:
- 6 (A) Any calendar week during which the individual earned in  
7 employment from an employer remuneration not less than an  
8 amount which is 20% of the Statewide average weekly  
9 remuneration defined in subsection (c) of R.S.43:21-3 which  
10 amount shall be adjusted to the next higher multiple of \$1.00 if not  
11 already a multiple thereof, except that if in any calendar week an  
12 individual subject to this subparagraph (A) is in employment with  
13 more than one employer, the individual may in that calendar week  
14 establish a base week with respect to each of the employers from  
15 whom the individual earns remuneration equal to not less than the  
16 amount defined in this subparagraph (A) during that week; or
- 17 (B) If the individual does not establish in his base year 20 or  
18 more base weeks as defined in subparagraph (A) of this paragraph  
19 (2), any calendar week of an individual's base year during which the  
20 individual earned in employment from an employer remuneration  
21 not less than an amount 20 times the minimum wage in effect  
22 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
23 1 of the calendar year preceding the calendar year in which the  
24 benefit year commences, which amount shall be adjusted to the next  
25 higher multiple of \$1.00 if not already a multiple thereof, except  
26 that if in any calendar week an individual subject to this  
27 subparagraph (B) is in employment with more than one employer,  
28 the individual may in that calendar week establish a base week with  
29 respect to each of the employers from whom the individual earns  
30 remuneration not less than the amount defined in this subparagraph  
31 (B) during that week.
- 32 (3) "Base week," commencing on or after January 1, 2001,  
33 means any calendar week during which the individual earned in  
34 employment from an employer remuneration not less than an  
35 amount 20 times the minimum wage in effect pursuant to section 5  
36 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar  
37 year preceding the calendar year in which the benefit year  
38 commences, which amount shall be adjusted to the next higher  
39 multiple of \$1.00 if not already a multiple thereof, except that if in  
40 any calendar week an individual subject to this paragraph (3) is in  
41 employment with more than one employer, the individual may in  
42 that calendar week establish a base week with respect to each of the  
43 employers from whom the individual earns remuneration equal to  
44 not less than the amount defined in this paragraph (3) during that  
45 week.
- 46 (u) "Average weekly wage" means the amount derived by  
47 dividing an individual's total wages received during his base year  
48 base weeks (as defined in subsection (t) of this section) from that

1 most recent base year employer with whom he has established at  
2 least 20 base weeks, by the number of base weeks in which such  
3 wages were earned. In the event that such claimant had no employer  
4 in his base year with whom he had established at least 20 base  
5 weeks, then such individual's average weekly wage shall be  
6 computed as if all of his base week wages were received from one  
7 employer and as if all his base weeks of employment had been  
8 performed in the employ of one employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (z) "Hospital" means an institution which has been licensed,  
14 certified or approved under the law of this State as a hospital  
15 (cf: P.L.2017, c.230, s.1) **1**

16

17 <sup>1</sup>1. R.S.43:21-19 is amended to read as follows:

18 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
19 seq.), unless the context clearly requires otherwise:

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

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

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

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

4 With respect to a benefit year commencing on or after July 1,  
5 1995, if an individual does not have sufficient qualifying weeks or  
6 wages in his base year to qualify for benefits, the individual shall have  
7 the option of designating that his base year shall be the "alternative  
8 base year," which means the last four completed calendar quarters  
9 immediately preceding the individual's benefit year; except that, with  
10 respect to a benefit year commencing on or after October 1, 1995, if  
11 the individual also does not have sufficient qualifying weeks or wages  
12 in the last four completed calendar quarters immediately preceding his  
13 benefit year to qualify for benefits, "alternative base year" means the  
14 last three completed calendar quarters immediately preceding his  
15 benefit year and, of the calendar quarter in which the benefit year  
16 commences, the portion of the quarter which occurs before the  
17 commencing of the benefit year.

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

32 (2) With respect to a benefit year commencing on or after June 1,  
33 1990 for an individual who immediately preceding the benefit year  
34 was subject to a disability compensable under the provisions of the  
35 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et  
36 seq.), "base year" shall mean the first four of the last five completed  
37 calendar quarters immediately preceding the individual's period of  
38 disability, if the employment held by the individual immediately  
39 preceding the period of disability is no longer available at the  
40 conclusion of that period and the individual files a valid claim for  
41 unemployment benefits after the conclusion of that period. For the  
42 purposes of this paragraph, "period of disability" means the period  
43 defined as a period of disability by section 3 of the "Temporary  
44 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An  
45 individual who files a claim under the provisions of this paragraph (2)  
46 shall not be regarded as having left work voluntarily for the purposes  
47 of subsection (a) of R.S.43:21-5.

1 (3) With respect to a benefit year commencing on or after June 1,  
2 1990 for an individual who immediately preceding the benefit year  
3 was subject to a disability compensable under the provisions of the  
4 workers' compensation law (chapter 15 of Title 34 of the Revised  
5 Statutes), "base year" shall mean the first four of the last five  
6 completed calendar quarters immediately preceding the individual's  
7 period of disability, if the period of disability was not longer than two  
8 years, if the employment held by the individual immediately preceding  
9 the period of disability is no longer available at the conclusion of that  
10 period and if the individual files a valid claim for unemployment  
11 benefits after the conclusion of that period. For the purposes of this  
12 paragraph, "period of disability" means the period from the time at  
13 which the individual becomes unable to work because of the  
14 compensable disability until the time that the individual becomes able  
15 to resume work and continue work on a permanent basis. An  
16 individual who files a claim under the provisions of this paragraph (3)  
17 shall not be regarded as having left work voluntarily for the purposes  
18 of subsection (a) of R.S.43:21-5.

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

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

34 (2) "Controller" means the Office of the Assistant Commissioner  
35 for Finance and Controller of the Department of Labor and Workforce  
36 Development, established by the 1982 Reorganization Plan of the  
37 Department of Labor.

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

44 (g) "Employing unit" means the State or any of its instrumentalities  
45 or any political subdivision thereof or any of its instrumentalities or  
46 any instrumentality of more than one of the foregoing or any  
47 instrumentality of any of the foregoing and one or more other states or  
48 political subdivisions or any individual or type of organization, any

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

17 (h) "Employer" means:

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

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

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

30 (4) Any employing unit which together with one or more other  
31 employing units is owned or controlled (by legally enforceable means  
32 or otherwise), directly or indirectly by the same interests, or which  
33 owns or controls one or more other employing units (by legally  
34 enforceable means or otherwise), and which, if treated as a single unit  
35 with such other employing unit or interest, would be an employer  
36 under paragraph (1) of this subsection;

37 (5) Any employing unit for which service in employment as  
38 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31,  
39 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after  
40 December 31, 1977;

41 (6) Any employing unit for which service in employment as  
42 defined in R.S.43:21-19 (i) (1) **[(c)]** (C) is performed after December  
43 31, 1971 and which in either the current or the preceding calendar year  
44 paid remuneration for employment in the amount of \$1,000.00 or  
45 more;

46 (7) Any employing unit not an employer by reason of any other  
47 paragraph of this subsection (h) for which, within either the current or  
48 preceding calendar year, service is or was performed with respect to

1 which such employing unit is liable for any federal tax against which  
2 credit may be taken for contributions required to be paid into a state  
3 unemployment fund; or which, as a condition for approval of the  
4 "unemployment compensation law" for full tax credit against the tax  
5 imposed by the Federal Unemployment Tax Act, is required pursuant  
6 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

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

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

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

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

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

17 (13) Any employing unit for which domestic service in  
18 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after  
19 December 31, 1977;

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

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

27 (A) Any service performed prior to January 1, 1972, which was  
28 employment as defined in the "unemployment compensation law"  
29 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
30 provisions of this subsection, service performed on or after January 1,  
31 1972, including service in interstate commerce, performed for  
32 remuneration or under any contract of hire, written or oral, express or  
33 implied.

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

40 (ii) Service performed after December 31, 1977, in the employ of  
41 this State or any of its instrumentalities or any political subdivision  
42 thereof or any of its instrumentalities or any instrumentality of more  
43 than one of the foregoing or any instrumentality of the foregoing and  
44 one or more other states or political subdivisions, if such service is not  
45 excluded from "employment" under paragraph (D) below.

46 (C) Service performed after December 31, 1971 by an individual in  
47 the employ of a religious, charitable, educational, or other  
48 organization, which is excluded from "employment" as defined in the

1 Federal Unemployment Tax Act, solely by reason of section 3306  
2 (c)(8) of that act, if such service is not excluded from "employment"  
3 under paragraph (D) below.

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

6 (i) In the employ of (I) a church or convention or association of  
7 churches, or (II) an organization, or school which is operated primarily  
8 for religious purposes and which is operated, supervised, controlled or  
9 principally supported by a church or convention or association of  
10 churches;

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

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

19 (aa) as an elected official;

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

22 (cc) as a member of the State National Guard or Air National  
23 Guard;

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

26 (ee) in a position which, under or pursuant to the laws of this State,  
27 is designated as a major nontenured policy making or advisory  
28 position, or a policy making or advisory position, the performance of  
29 the duties of which ordinarily does not require more than eight hours  
30 per week; **[or]**

31 (ff) as a temporary board worker hired by a district board of  
32 elections to discharge election duties, which may include processing  
33 mail-in ballots, and who receives compensation for the discharge of  
34 election duties on an election day as provided in R.S.19:45-6 and  
35 subsection d of section 8 of P.L.2021, c.40 (C.19:15A-1 ) or for the  
36 period allowed for processing mail-in ballots pursuant to P.L.2009,  
37 c.79 (C.19:63-22); or

38 (iv) By an individual receiving rehabilitation or remunerative work  
39 in a facility conducted for the purpose of carrying out a program of  
40 rehabilitation of individuals whose earning capacity is impaired by age  
41 or physical or mental deficiency or injury or providing remunerative  
42 work for individuals who because of their impaired physical or mental  
43 capacity cannot be readily absorbed in the competitive labor market;

44 (v) By an individual receiving work-relief or work-training as part  
45 of an unemployment work-relief or work-training program assisted in  
46 whole or in part by any federal agency or an agency of a state or  
47 political subdivision thereof; or



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

5 (E) The term "employment" shall include the services of an  
6 individual who is a citizen of the United States, performed outside the  
7 United States after December 31, 1971 (except in Canada and in the  
8 case of the Virgin Islands, after December 31, 1971) and prior to  
9 January 1 of the year following the year in which the U.S. Secretary of  
10 Labor approves the unemployment compensation law of the Virgin  
11 Islands, under section 3304 (a) of the Internal Revenue Code of 1986  
12 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other  
13 than the service which is deemed employment under the provisions of  
14 R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's  
15 unemployment compensation law), if

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

18 (ii) The American employer has no place of business in the United  
19 States, but (I) the American employer is an individual who is a  
20 resident of this State; or (II) the American employer is a corporation  
21 which is organized under the laws of this State; or (III) the American  
22 employer is a partnership or trust and the number of partners or  
23 trustees who are residents of this State is greater than the number who  
24 are residents of another state; or

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

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

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

45 (G) Notwithstanding any other provision of this subsection, service  
46 in this State with respect to which the taxes required to be paid under  
47 any federal law imposing a tax against which credit may be taken for  
48 contributions required to be paid into a state unemployment fund or

1 which as a condition for full tax credit against the tax imposed by the  
2 Federal Unemployment Tax Act is required to be covered under the  
3 "unemployment compensation law" (R.S.43:21-1 et seq.).

4 (H) The term "United States" when used in a geographical sense in  
5 subsection R.S.43:21-19 (i) includes the states, the District of  
6 Columbia, the Commonwealth of Puerto Rico and, effective on the day  
7 after the day on which the U.S. Secretary of Labor approves for the  
8 first time under section 3304 (a) of the Internal Revenue Code of 1986  
9 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted  
10 to the Secretary by the Virgin Islands for such approval, the Virgin  
11 Islands.

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

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

19 (bb) for some portion of a day in each of 20 different calendar  
20 weeks, whether or not such weeks were consecutive, in either the  
21 current or the preceding calendar year, employed in agricultural labor  
22 10 or more individuals, regardless of whether they were employed at  
23 the same moment in time.

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

28 (aa) if such crew leader holds a certification of registration under  
29 the Migrant and Seasonal Agricultural Worker Protection Act,  
30 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192 (C.34:8A-  
31 7 et seq.); or substantially all the members of such crew operate or  
32 maintain tractors, mechanized harvesting or cropdusting equipment, or  
33 any other mechanized equipment, which is provided by such crew  
34 leader; and

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

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

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

43 (bb) such other entity shall be treated as having paid cash  
44 remuneration to such individual in an amount equal to the amount of  
45 cash remuneration paid to such individual by the crew leader (either on  
46 his own behalf or on behalf of such other entity) for the service in  
47 agricultural labor performed for such other entity.

- 1 (iv) For the purpose of subparagraph (I)(ii), the term "crew leader"  
2 means an individual who
- 3 (aa) furnishes individuals to perform service in agricultural labor  
4 for any other entity;
- 5 (bb) pays (either on his own behalf or on behalf of such other  
6 entity) the individuals so furnished by him for the service in  
7 agricultural labor performed by them; and
- 8 (cc) has not entered into a written agreement with such other entity  
9 under which such individual is designated as an employee of such  
10 other entity.
- 11 (J) (i) Domestic service after December 31, 1977 and before the  
12 effective date of P.L.2023, c.262 (C.34:11-69 et al.) performed in the  
13 private home of an employing unit which paid cash remuneration of  
14 \$1,000.00 or more to one or more individuals for such domestic  
15 service in any calendar quarter in the current or preceding calendar  
16 year.
- 17 (ii) Domestic services after the effective date of P.L.2023, c.262  
18 (C.34:11-69 et al.), performed in the private home of an employing  
19 unit which in either the current or preceding calendar year paid  
20 remuneration for employment in the amount of \$1,000 or more.
- 21 (2) The term "employment" shall include an individual's entire  
22 service performed within or both within and without this State if:
- 23 (A) The service is localized in this State; or
- 24 (B) The service is not localized in any state but some of the service  
25 is performed in this State, and (i) the base of operations, or, if there is  
26 no base of operations, then the place from which such service is  
27 directed or controlled, is in this State; or (ii) the base of operations or  
28 place from which such service is directed or controlled is not in any  
29 state in which some part of the service is performed, but the  
30 individual's residence is in this State.
- 31 (3) Services performed within this State but not covered under  
32 paragraph (2) of this subsection shall be deemed to be employment  
33 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not  
34 required and paid with respect to such services under an  
35 unemployment compensation law of any other state or of the federal  
36 government.
- 37 (4) Services not covered under paragraph (2) of this subsection and  
38 performed entirely without this State, with respect to no part of which  
39 contributions are required and paid under an unemployment  
40 compensation law of any other state or of the federal government, shall  
41 be deemed to be employment subject to this chapter (R.S.43:21-1 et  
42 seq.) if the individual performing such services is a resident of this  
43 State and the employing unit for whom such services are performed  
44 files with the division an election that the entire service of such  
45 individual shall be deemed to be employment subject to this chapter  
46 (R.S.43:21-1 et seq.).
- 47 (5) Service shall be deemed to be localized within a state if:
- 48 (A) The service is performed entirely within such state; or

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

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

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

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

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

17 (7) Provided that such services are also exempt under the Federal  
18 Unemployment Tax Act, as amended, or that contributions with  
19 respect to such services are not required to be paid into a state  
20 unemployment fund as a condition for a tax offset credit against the  
21 tax imposed by the Federal Unemployment Tax Act, as amended, the  
22 term "employment" shall not include:

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

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

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

36 (B) Domestic service in a private home performed prior to January  
37 1, 1978; and after December 31, 1977, unless performed in the private  
38 home of an employing unit which paid cash remuneration of \$1,000.00  
39 or more to one or more individuals for such domestic service in any  
40 calendar quarter in the current or preceding calendar year;

41 (C) Service performed by an individual in the employ of his son,  
42 daughter or spouse, and service performed by a child under the age of  
43 18 in the employ of his father or mother;

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

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

8 (F) Service performed in the employ of the United States  
9 Government or of any instrumentality of the United States exempt  
10 under the Constitution of the United States from the contributions  
11 imposed by the "unemployment compensation law," except that to the  
12 extent that the Congress of the United States shall permit states to  
13 require any instrumentalities of the United States to make payments  
14 into an unemployment fund under a state unemployment compensation  
15 law, all of the provisions of this act shall be applicable to such  
16 instrumentalities, and to service performed for such instrumentalities,  
17 in the same manner, to the same extent and on the same terms as to all  
18 other employers, employing units, individuals and services; provided  
19 that if this State shall not be certified for any year by the Secretary of  
20 Labor of the United States under section 3304 of the federal Internal  
21 Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of  
22 such instrumentalities with respect to such year shall be refunded by  
23 the division from the fund in the same manner and within the same  
24 period as is provided in R.S.43:21-14 (f) with respect to contributions  
25 erroneously paid to or collected by the division;

26 (G) Services performed in the employ of fraternal beneficiary  
27 societies, orders, or associations operating under the lodge system or  
28 for the exclusive benefit of the members of a fraternity itself operating  
29 under the lodge system and providing for the payment of life, sick,  
30 accident, or other benefits to the members of such society, order, or  
31 association, or their dependents;

32 (H) Services performed as a member of the board of directors, a  
33 board of trustees, a board of managers, or a committee of any bank,  
34 building and loan, or savings and loan association, incorporated or  
35 organized under the laws of this State or of the United States, where  
36 such services do not constitute the principal employment of the  
37 individual;

38 (I) Service with respect to which unemployment insurance is  
39 payable under an unemployment insurance program established by an  
40 Act of Congress;

41 (J) Service performed by agents of mutual fund brokers or dealers  
42 in the sale of mutual funds or other securities, by agents of insurance  
43 companies, exclusive of industrial insurance agents or by agents of  
44 investment companies, if the compensation to such agents for such  
45 services is wholly on a commission basis;

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

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

1 perform such service is provided under a program to provide financial  
2 assistance to such student by such school, college, or university, and  
3 (II) such employment will not be covered by any program of  
4 unemployment insurance;

5 (U) Service performed by an individual who is enrolled at a  
6 nonprofit or public educational institution which normally maintains a  
7 regular faculty and curriculum and normally has a regularly organized  
8 body of students in attendance at the place where its educational  
9 activities are carried on, as a student in a full-time program, taken for  
10 credit at such institution, which combines academic instruction with  
11 work experience, if such service is an integral part of such program,  
12 and such institution has so certified to the employer, except that this  
13 subparagraph shall not apply to service performed in a program  
14 established for or on behalf of an employer or group of employers;

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

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

23 (X) Services performed by operators of motor vehicles weighing  
24 18,000 pounds or more, licensed for commercial use and used for the  
25 highway movement of motor freight, who own their equipment or who  
26 lease or finance the purchase of their equipment through an entity  
27 which is not owned or controlled directly or indirectly by the entity for  
28 which the services were performed and who were compensated by  
29 receiving a percentage of the gross revenue generated by the  
30 transportation move or by a schedule of payment based on the distance  
31 and weight of the transportation move;

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

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

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

41 (8) If one-half or more of the services in any pay period performed  
42 by an individual for an employing unit constitutes employment, all the  
43 services of such individual shall be deemed to be employment; but if  
44 more than one-half of the service in any pay period performed by an  
45 individual for an employing unit does not constitute employment, then  
46 none of the service of such individual shall be deemed to be  
47 employment. As used in this paragraph, the term "pay period" means  
48 a period of not more than 31 consecutive days for which a payment for

1 service is ordinarily made by an employing unit to individuals in its  
2 employ.

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

7 (A) The limousine franchisee is incorporated;

8 (B) The franchisee is subject to regulation by the Interstate  
9 Commerce Commission;

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

13 (D) The franchisee registers with the Department of Labor and  
14 Workforce Development and receives an employer registration  
15 number.

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

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

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

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

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

39 (m) "Unemployment."

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

42 (A) The individual is not engaged in full-time work and with  
43 respect to which his remuneration is less than his weekly benefit rate,  
44 including any week during which he is on vacation without pay;  
45 provided such vacation is not the result of the individual's voluntary  
46 action, except that for benefit years commencing on or after July 1,  
47 1984, an officer of a corporation, or a person who has more than a 5%  
48 equitable or debt interest in the corporation, whose claim for benefits



1 is based on wages with that corporation shall not be deemed to be  
2 unemployed in any week during the individual's term of office or  
3 ownership in the corporation; or

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

7 (2) The term "remuneration" with respect to any individual for  
8 benefit years commencing on or after July 1, 1961, and as used in this  
9 subsection, shall include only that part of the same which in any week  
10 exceeds 20% of his weekly benefit rate (fractional parts of a dollar  
11 omitted) or \$5.00, whichever is the larger, and shall not include any  
12 moneys paid to an individual by a county board of elections for work  
13 as a temporary board worker on an election day as provided in  
14 R.S.19:45-6, or for work pursuant to subsection d. of section 1 of  
15 P.L.2021, c.40 (C.19:15A-1) during the early voting period , or the  
16 period allowed for processing mail-in ballots pursuant to P.L.2009,  
17 c.79 (C.19:63-22).

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

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

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

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

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

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

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

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

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

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

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

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

39 (u) "Average weekly wage" means the amount derived by dividing  
40 an individual's total wages received during his base year base weeks  
41 (as defined in subsection (t) of this section) from that most recent base  
42 year employer with whom he has established at least 20 base weeks,  
43 by the number of base weeks in which such wages were earned. In the  
44 event that such claimant had no employer in his base year with whom  
45 he had established at least 20 base weeks, then such individual's  
46 average weekly wage shall be computed as if all of his base week  
47 wages were received from one employer and as if all his base weeks of  
48 employment had been performed in the employ of one employer.

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

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

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

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

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

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

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

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

35       (2) "Institution of higher education" means an educational  
36 institution which:

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

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

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

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

1 Notwithstanding any of the foregoing provisions of this subsection,  
2 all colleges and universities in this State are institutions of higher  
3 education for purposes of this section.

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

6 (cf: P.L.2023, c.262, s.12)<sup>1</sup>

7

8 2. This act shall take effect immediately.