

ASSEMBLY, No. 4047

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 7, 2024

Sponsored by:

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman CODY D. MILLER

District 4 (Atlantic, Camden and Gloucester)

Co-Sponsored by:

Assemblyman Marenco, Assemblywoman McCann Stamato,

Assemblyman Rodriguez and Assemblywoman Reynolds-Jackson

SYNOPSIS

Revises unemployment compensation law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning unemployment compensation and amending
2 various parts of the statutory law.

3

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

6

7 1. R.S.43:21-3 is amended to read as follows:

8 43:21-3. Benefits.

9 (a) Payment of benefits.

10 All benefits shall be promptly paid from the fund in accordance
11 with such regulations as may be prescribed hereunder.

12 (b) Weekly benefits for unemployment.

13 With respect to an individual's benefit year commencing on or
14 after July 1, 1961, such individual, if eligible and unemployed (as
15 defined in subsection (m) of R.S.43:21-19), shall be paid an amount
16 (except as to final payment) equal to his weekly benefit rate less
17 any remuneration, other than remuneration from self-employment
18 paid to an individual who is receiving a self-employment assistance
19 allowance, paid or payable to him for such week in excess of 20%
20 of his weekly benefit rate (fractional part of a dollar omitted) or
21 \$5.00, whichever is the greater; provided that such amount shall be
22 computed to the next lower multiple of \$1.00 if not already a
23 multiple thereof.

24 (c) Weekly benefit rate.

25 (1) With respect to an individual whose benefit year commences
26 after September 30, 1984, his weekly benefit rate under each
27 determination shall be 60% of his average weekly wage, subject to a
28 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly
29 remuneration paid to workers by employers subject to this chapter
30 (R.S.43:21-1 et seq.), as determined and promulgated by the
31 Commissioner of Labor and Workforce Development; provided,
32 however, that such individual's weekly benefit rate shall be
33 computed to the next lower multiple of \$1.00 if not already a
34 multiple thereof.

35 (2) Dependency benefits.

36 (A) With respect to an individual whose benefit year commences
37 after September 30, 1984, the individual's weekly benefit rate as
38 determined in paragraph (1) of this subsection (c) will be increased
39 by 7% for the first dependent and 4% each for the next two
40 dependents (up to a maximum of three dependents), computed to
41 the next lower multiple of \$1.00 if not already a multiple thereof,
42 except that the maximum weekly benefit rate payable for an
43 individual claiming dependency benefits shall not exceed the
44 maximum amount determined under paragraph (1) of this
45 subsection (c).

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

Matter underlined thus is new matter.

1 (B) For the purposes of this paragraph (2), a dependent is
2 defined as an individual's unemployed spouse or an unemployed
3 unmarried child (including a stepchild or a legally adopted child)
4 under the age of 19 **[or]**, an unemployed unmarried child, who is
5 attending an educational institution as defined in subsection (y) of
6 R.S.43:21-19 on a full-time basis and is under the age of 22, or an
7 unemployed unmarried disabled adult child who has blindness or a
8 disability which began before the age of 22. The burden of proof
9 shall be on the claimant to establish that an individual is a
10 dependent, as that term is defined in this subparagraph (B). For the
11 purpose of this subparagraph (B), blindness or disability shall be
12 determined using the standard set forth within 20 C.F.R. Part 404,
13 Subpart P, which is used by the Social Security Administration to
14 determine disability and blindness when evaluating eligibility for
15 Disabled Adult Child benefits under the Social Security Act. For the
16 purpose of determining under this subparagraph (B) whether an
17 individual is a dependent, because the individual is an adult child
18 who has blindness or a disability which began before the age of 22,
19 written proof of a determination by the Social Security
20 Administration that the individual is currently eligible for Disabled
21 Adult Child benefits under the Social Security Act shall be
22 considered conclusive proof of dependent status. If an individual's
23 spouse is employed during the week the individual files an initial
24 claim for benefits, this paragraph (2) shall not apply. If both
25 spouses establish a claim for benefits in accordance with the
26 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
27 entitled to dependency benefits as provided in this paragraph (2).

28 (C) Any determination establishing dependency benefits under
29 this paragraph (2) shall remain fixed for the duration of the
30 individual's benefit year and shall not be increased or decreased
31 unless it is determined by the division that the individual
32 wrongfully claimed dependency benefits as a result of false or
33 fraudulent representation.

34 (D) Notwithstanding the provisions of any other law, the
35 division shall use every available administrative means to insure
36 that dependency benefits are paid only to individuals who meet the
37 requirements of this paragraph (2). These administrative actions
38 may include, but shall not be limited to, the following:

39 (i) All married individuals claiming dependents under this
40 paragraph (2) shall be required to provide the social security
41 number of the individual's spouse. If the individual indicates that
42 the spouse is unemployed, the division shall match the social
43 security number of the spouse against available wage records to
44 determine whether earnings were reported on the last quarterly
45 earnings report filed by employers under R.S.43:21-14. If earnings
46 were reported, the division shall contact in writing the last employer
47 to determine whether the spouse is currently employed.

1 (ii) Where a child is claimed as a dependent by an individual
2 under this paragraph (2), the individual shall be required to provide
3 to the division the most recent federal income tax return filed by the
4 individual to assist the division in verifying the claim.

5 (3) For the purposes of this subsection (c), the "Statewide
6 average weekly remuneration paid to workers by employers" shall
7 be computed and determined by the Commissioner of Labor and
8 Workforce Development on or before September 1 of each year on
9 the basis of one-fifty-second of the total remuneration reported for
10 the preceding calendar year by employers subject to this chapter,
11 divided by the average of the number of workers reported by such
12 employers, and shall be effective as to benefit determinations in the
13 calendar year following such computation and determination.

14 (d) Maximum total benefits.

15 (1) (A) (Deleted by amendment, P.L.2003, c.107).

16 (B) (i) With respect to an individual for whom benefits shall be
17 payable for benefit years commencing on or after July 1, 1986, and
18 before July 1, 2003 as provided in this section, the individual shall
19 be entitled to receive a total amount of benefits equal to three-
20 quarters of the individual's base weeks with all employers in the
21 base year multiplied by the individual's weekly benefit rate; but the
22 amount of benefits thus resulting under that determination shall be
23 adjusted to the next lower multiple of \$1.00 if not already a
24 multiple thereof. With respect to an individual for whom benefits
25 shall be payable for benefit years commencing on or after July 1,
26 2003 as provided in this section, the individual shall be entitled to
27 receive a total amount of benefits equal to the number of the
28 individual's base weeks with all employers in the base year
29 multiplied by the individual's weekly benefit rate; but the amount of
30 benefits thus resulting under that determination shall be adjusted to
31 the next lower multiple of \$1.00 if not already a multiple thereof.

32 (ii) Except as provided pursuant to paragraph (1) of subsection
33 (c) of R.S.43:21-7, benefits paid to an individual for benefit years
34 commencing on or after July 1, 1986 shall be charged against the
35 accounts of the individual's base year employers in the following
36 manner:

37 Each week of benefits paid to an eligible individual shall be
38 charged against each base year employer's account in the same
39 proportion that the wages paid by each employer to the individual
40 during the base year bear to the wages paid by all employers to that
41 individual during the base year.

42 (iii) (Deleted by amendment, P.L.1997, c.255.)

43 (2) No such individual shall be entitled to receive benefits under
44 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
45 benefit rate in any benefit year under either of subsections (c) and
46 (f) of R.S. 43:21-4. In the event that any individual qualifies for
47 benefits under both of said subsections during any benefit year, the
48 maximum total amount of benefits payable under said subsections

1 combined to such individual during the benefit year shall be one
2 and one-half times the maximum amount of benefits payable under
3 one of said subsections.

4 (3) (Deleted by amendment, P.L.1984, c.24.)
5 (cf: P.L.2004, c.45, s.1)

6
7 2. R.S.43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week eligible only if:

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

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

25 (c) (1) The individual is able to work, and is available for work,
26 and has demonstrated to be actively seeking work, except as
27 hereinafter provided in this subsection or in subsection (f) of this
28 section.

29 (2) The director may modify the requirement of actively seeking
30 work if such modification of this requirement is warranted by
31 economic conditions.

32 (3) No individual, who is otherwise eligible, shall be deemed
33 ineligible, or unavailable for work, because the individual is on
34 vacation, without pay, during said week, if said vacation is not the
35 result of the individual's own action as distinguished from any
36 collective action of a collective bargaining agent or other action
37 beyond the individual's control.

38 (4) (A) Subject to such limitations and conditions as the division
39 may prescribe, an individual, who is otherwise eligible, shall not be
40 deemed unavailable for work or ineligible because the individual is
41 attending a training program approved for the individual by the
42 division to enhance the individual's employment opportunities or
43 because the individual failed or refused to accept work while
44 attending such program.

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

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

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

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

14 (iv) The training does not include on the job training or other
15 training under which the individual is paid by an employer for work
16 performed by the individual during the time that the individual
17 receives benefits; and

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

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

26 (i) The training includes remedial basic skills education
27 necessary for the individual to successfully complete the vocational
28 component of the training;

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

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

33 (iv) The lack of a prior guarantee of employment upon
34 completion of the training.

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

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

46 (6) An unemployed individual, who is otherwise eligible, shall
47 not be deemed unavailable for work or ineligible solely by reason of
48 the individual's attendance at the funeral of an immediate family

1 member, provided that the duration of the attendance does not
2 extend beyond a two-day period.

3 For purposes of this paragraph, "immediate family member"
4 includes any of the following individuals: father, mother, mother-
5 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
6 child, child placed by the Division of Youth and Family Services in
7 the Department of Children and Families, sister or brother of the
8 unemployed individual and any relatives of the unemployed
9 individual residing in the unemployed individual's household.

10 (7) No individual, who is otherwise eligible, shall be deemed
11 ineligible or unavailable for work with respect to any week because,
12 during that week, the individual fails or refuses to accept work
13 while the individual is participating on a full-time basis in self-
14 employment assistance activities authorized by the division,
15 whether or not the individual is receiving a self-employment
16 allowance during that week.

17 (8) Any individual who is determined to be likely to exhaust
18 regular benefits and need reemployment services based on
19 information obtained by the worker profiling system shall not be
20 eligible to receive benefits if the individual fails to participate in
21 available reemployment services to which the individual is referred
22 by the division or in similar services, unless the division determines
23 that:

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

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

37 (10) An individual who is employed by a shared work employer
38 and is otherwise eligible for benefits shall not be deemed ineligible
39 for short-time benefits because the individual is unavailable for
40 work with employers other than the shared work employer, so long
41 as:

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

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

1 (11) An unemployed individual, who is otherwise eligible, shall
2 not be deemed unavailable for work or ineligible solely because the
3 individual is a student in full-time attendance at, or on vacation
4 from, an educational institution, as defined in subsection (y) of
5 R.S. 43:21-19; provided that the unemployed individual's full-time
6 attendance at the educational institution does not, in fact, result in
7 the unemployed individual being unable to work or being
8 unavailable for work, and provided that notwithstanding the
9 unemployed individual's full-time attendance at the educational
10 institution, the unemployed individual is able to demonstrate that
11 the individual is actively seeking work.

12 (12) An unemployed individual, who is otherwise eligible, shall
13 not be deemed unavailable for work or ineligible solely because the
14 individual is attending a training program approved by the division
15 to enhance the individual's employment opportunities, in
16 accordance with the provisions of paragraph (4) of subsection (c) of
17 R.S. 43:21-4.

18 (d) With respect to any benefit year commencing before January
19 1, 2002, the individual has been totally or partially unemployed for
20 a waiting period of one week in the benefit year which includes that
21 week. When benefits become payable with respect to the third
22 consecutive week next following the waiting period, the individual
23 shall be eligible to receive benefits as appropriate with respect to
24 the waiting period. No week shall be counted as a week of
25 unemployment for the purposes of this subsection:

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

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

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

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

37 The waiting period provided by this subsection shall not apply to
38 benefit years commencing on or after January 1, 2002. An
39 individual whose total benefit amount was reduced by the
40 application of the waiting period to a claim which occurred on or
41 after January 1, 2002 and before the effective date of P.L.2002,
42 c.13, shall be permitted to file a claim for the additional benefits
43 attributable to the waiting period in the form and manner prescribed
44 by the division, but not later than the 180th day following the
45 effective date of P.L.2002, c.13 unless the division determines that
46 there is good cause for a later filing.

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

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

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

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

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

8 (B) If the individual has not met the requirements of
9 subparagraph (A) of this paragraph (4), earned remuneration not
10 less than an amount 1,000 times the minimum wage in effect
11 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
12 1 of the calendar year preceding the calendar year in which the
13 benefit year commences, which amount shall be adjusted to the next
14 higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

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

38 (f) (1) The individual has suffered any accident or sickness not
39 compensable under the workers' compensation law, R.S.34:15-1 et
40 seq. and resulting in the individual's total disability to perform any
41 work for remuneration, and would be eligible to receive benefits
42 under this chapter (R.S.43:21-1 et seq.) (without regard to the
43 maximum amount of benefits payable during any benefit year)
44 except for the inability to work and has furnished notice and proof
45 of claim to the division, in accordance with its rules and
46 regulations, and payment is not precluded by the provisions of
47 R.S.43:21-3(d); provided, however, that benefits paid under this
48 subsection (f) shall be computed on the basis of only those base

1 year wages earned by the claimant as a "covered individual," as
2 defined in subsection (b) of section 3 of P.L.1948, c.110
3 (C.43:21-27); provided further that no benefits shall be payable
4 under this subsection to any individual:

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

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

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

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

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

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

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption or as a foster child with the
35 individual, and the individual would be eligible to receive benefits
36 under R.S.43:21-1 et seq. (without regard to the maximum amount
37 of benefits payable during any benefit year) except for the
38 individual's unavailability for work while taking the family
39 temporary disability leave, and the individual has furnished notice
40 and proof of claim to the division, in accordance with its rules and
41 regulations, and payment is not precluded by the provisions of
42 R.S.43:21-3(d) provided, however, that benefits paid under this
43 subsection (f) shall be computed on the basis of only those base
44 year wages earned by the claimant as a "covered individual," as
45 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
46 27); provided further that no benefits shall be payable under this
47 subsection to any individual:

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

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

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

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

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

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

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

1 will perform services in any such capacity for any educational
2 institution in the second of such academic years or terms;

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

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

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

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

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

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

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

46 (D) The economic conditions of the employment offered may not
47 be considerably less in the following academic year or term than in
48 the then current academic year or term. For the purpose of this

1 paragraph, "considerably less" means that the claimant will earn
2 less than 90 percent of the amount the claimant earned in the then
3 current academic year or term;

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

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

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

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

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

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

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

44 (9) Failure of an educational institution to provide the statement
45 required under subparagraph (B) of paragraph (7) of this subsection
46 (g) not less than 10 business days prior to the end of the academic
47 year or term shall result in a rebuttable presumption that the
48 claimant does not have a reasonable assurance of employment in the

1 following academic year or term. This rebuttable presumption shall
2 give rise to an inference that the claimant does not have a
3 reasonable assurance of employment in the following academic year
4 or term, but shall not conclusively demonstrate that the claimant
5 does not have a reasonable assurance of employment in the
6 following academic year or term.

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

17 (h) Benefits shall not be paid to any individual on the basis of
18 any services, substantially all of which consist of participating in
19 sports or athletic events or training or preparing to so participate,
20 for any week which commences during the period between two
21 successive sports seasons (or similar periods) if such individual
22 performed such services in the first of such seasons (or similar
23 periods) and there is a reasonable assurance that such individual
24 will perform such services in the later of such seasons (or similar
25 periods).

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

44 (2) Any data or information required of individuals applying for
45 benefits to determine whether benefits are not payable to them
46 because of their alien status shall be uniformly required from all
47 applicants for benefits.

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

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

12 (cf: P.L.2020, c.122)

13
14 3. R.S.43:21-5 is amended to read as follows:

15 43:21-5. An individual shall be disqualified for benefits:

16 (a) For the week in which the individual has left work voluntarily
17 without good cause attributable to such work, and for each week
18 thereafter until the individual becomes reemployed and works eight
19 weeks in employment, which may include employment for the
20 federal government, and has earned in employment at least ten
21 times the individual's weekly benefit rate, as determined in each
22 case. This subsection shall apply to any individual seeking
23 unemployment benefits on the basis of employment in the
24 production and harvesting of agricultural crops, including any
25 individual who was employed in the production and harvesting of
26 agricultural crops on a contract basis and who has refused an offer
27 of continuing work with that employer following the completion of
28 the minimum period of work required to fulfill the contract. This
29 subsection shall not apply to an individual who voluntarily leaves
30 work with one employer to accept from another employer
31 employment which commences not more than seven days after the
32 individual leaves employment with the first employer, if the
33 employment with the second employer has weekly hours or pay not
34 less than the hours or pay of the employment of the first employer,
35 except that if the individual gives notice to the first employer that
36 the individual will leave employment on a specified date and the
37 first employer terminates the individual before that date, the seven-
38 day period will commence from the specified date.

39 (b) For the week in which the individual has been suspended or
40 discharged for misconduct connected with the work, and for the five
41 weeks which immediately follow that week, as determined in each
42 case.

43 "Misconduct" means conduct which is improper, intentional,
44 connected with the individual's work, within the individual's
45 control, not a good faith error of judgment or discretion, and is
46 either a deliberate refusal, without good cause, to comply with the
47 employer's lawful and reasonable rules made known to the
48 employee or a deliberate disregard of standards of behavior the

1 employer has a reasonable right to expect, including reasonable
2 safety standards and reasonable standards for a workplace free of
3 drug and substance use.

4 In the event the discharge should be rescinded by the employer
5 voluntarily or as a result of mediation or arbitration, this subsection
6 (b) shall not apply, provided, however, an individual who is
7 restored to employment with back pay shall return any benefits
8 received under this chapter for any week of unemployment for
9 which the individual is subsequently compensated by the employer.

10 If the discharge was for gross misconduct connected with the
11 work because of the commission of an act punishable as a crime of
12 the first, second, third or fourth degree under the "New Jersey Code
13 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
14 disqualified in accordance with the disqualification prescribed in
15 subsection (a) of this section and no benefit rights shall accrue to
16 any individual based upon wages from that employer for services
17 rendered prior to the day upon which the individual was discharged.

18 The director shall ensure that any appeal of a determination
19 holding the individual disqualified for gross misconduct in
20 connection with the work shall be expeditiously processed by the
21 appeal tribunal.

22 To sustain disqualification from benefits because of misconduct
23 under this subsection (b), the burden of proof is upon the employer,
24 who shall, prior to a determination by the department of
25 misconduct, provide written documentation demonstrating that the
26 employee's actions constitute misconduct or gross misconduct.

27 Nothing within this subsection (b) shall be construed to interfere
28 with the exercise of rights protected under the "National Labor
29 Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey
30 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1
31 et seq.).

32 (c) If it is found that the individual has failed, without good
33 cause, either to apply for available, suitable work when so directed
34 by the employment office or the director or to accept suitable work
35 when it is offered, or to return to the individual's customary self-
36 employment (if any) when so directed by the director. The
37 disqualification shall continue for the week in which the failure
38 occurred and for the three weeks which immediately follow that
39 week, as determined:

40 (1) In determining whether or not any work is suitable for an
41 individual, consideration shall be given to the degree of risk
42 involved to health, safety, and morals, the individual's physical
43 fitness and prior training, experience and prior earnings, the
44 individual's length of unemployment and prospects for securing
45 local work in the individual's customary occupation, and the
46 distance of the available work from the individual's residence. In
47 the case of work in the production and harvesting of agricultural
48 crops, the work shall be deemed to be suitable without regard to the

1 distance of the available work from the individual's residence if all
2 costs of transportation are provided to the individual and the terms
3 and conditions of hire are as favorable or more favorable to the
4 individual as the terms and conditions of the individual's base year
5 employment.

6 (2) Notwithstanding any other provisions of this chapter, no
7 work shall be deemed suitable and benefits shall not be denied
8 under this chapter to any otherwise eligible individual for refusing
9 to accept new work under any of the following conditions: the
10 position offered is vacant due directly to a strike, lockout, or other
11 labor dispute; the remuneration, hours, or other conditions of the
12 work offered are substantially less favorable to the individual than
13 those prevailing for similar work in the locality; or, the individual,
14 as a condition of being employed, would be required to join a
15 company union or to resign from or refrain from joining any bona
16 fide labor organization.

17 (d) If it is found that this unemployment is due to a stoppage of
18 work which exists because of a labor dispute at the factory,
19 establishment or other premises at which the individual is or was
20 last employed, except as otherwise provided by this subsection (d).

21 (1) No disqualification under this subsection (d) shall apply if it
22 is shown that:

23 (i) The individual is not participating in or financing or directly
24 interested in the labor dispute which caused the stoppage of work;
25 and

26 (ii) The individual does not belong to a grade or class of workers
27 of which, immediately before the commencement of the stoppage,
28 there were members employed at the premises at which the
29 stoppage occurs, any of whom are participating in or financing or
30 directly interested in the dispute; provided that if in any case in
31 which subparagraphs (i) or (ii) of this paragraph (1) applies,
32 separate branches of work which are commonly conducted as
33 separate businesses in separate premises are conducted in separate
34 departments of the same premises, each department shall, for the
35 purpose of this subsection, be deemed to be a separate factory,
36 establishment, or other premises.

37 (2) For any claim for a period of unemployment commencing on
38 or after December 1, 2004 due to a stoppage of work which exists
39 because of a labor dispute at the factory, establishment or other
40 premises at which the individual is or was last employed, no
41 disqualification under this subsection (d) shall apply if it is shown
42 that the individual has been prevented from working by the
43 employer, even though the individual's recognized or certified
44 majority representative has directed the employees in the
45 individual's collective bargaining unit to work under the preexisting
46 terms and conditions of employment, and, if the period of
47 unemployment commenced before January 1, 2022, the employees
48 had not engaged in a strike immediately before being prevented

1 from working, or if the a period of unemployment commenced on
2 or after January 1, 2022, whether or not the employees had engaged
3 in a strike immediately before being prevented from working.

4 (3) For any claim for a period of unemployment commencing on
5 or after July 1, 2018 due to a stoppage of work which exists because
6 of a labor dispute at the factory, establishment or other premises at
7 which the individual is or was last employed, no disqualification
8 under this subsection (d) shall apply if an issue in the labor dispute
9 is a failure or refusal of the employer to comply with an agreement
10 or contract between the employer and the claimant, including a
11 collective bargaining agreement with a union representing the
12 claimant, or a failure or refusal to comply with a State or federal
13 law pertaining to hours, wages, or other conditions of work.

14 (4) For any claim for a period of unemployment commencing on
15 or after July 1, 2018 and before January 1, 2022, if the
16 unemployment is caused by a labor dispute, including a strike or
17 other concerted activities of employees at the claimant's workplace,
18 whether or not authorized or sanctioned by a union representing the
19 claimant, but not including a dispute subject to the provisions of
20 paragraph (2) or (3) of this subsection (d), the claimant shall not be
21 provided benefits for a period of the first 30 days following the
22 commencement of the unemployment caused by the labor dispute,
23 except that the period without benefits shall not apply if the
24 employer hires a permanent replacement worker for the claimant's
25 position. A replacement worker shall be presumed to be permanent
26 unless the employer certifies in writing that the claimant will be
27 permitted to return to his or her prior position upon conclusion of
28 the dispute. If the employer does not permit the return, the claimant
29 shall be entitled to recover any benefits lost as a result of the 30-day
30 waiting period before receiving benefits, and the department may
31 impose a penalty upon the employer of up to \$750 per employee per
32 week of benefits lost. The penalty collected shall be paid into the
33 unemployment compensation auxiliary fund established pursuant to
34 subsection (g) of R.S.43:21-14. For any claim for a period of
35 unemployment commencing on or after January 1, 2022 due to a
36 stoppage of work which exists because of a labor dispute at the
37 factory, establishment or other premises at which the individual is
38 or was last employed, including a strike or other concerted activities
39 of employees at the claimant's workplace, whether or not authorized
40 or sanctioned by a union representing the claimant, but not
41 including a dispute subject to the provisions of paragraph (2) or (3)
42 of this subsection (d), the claimant shall not be provided benefits
43 for a period of the first 14 days following the commencement of the
44 unemployment caused by the labor dispute, except that the claimant
45 shall be provided benefits during any part of that the 14-day period
46 in which the employer engages the services of a replacement worker
47 for the claimant's position, whether that replacement worker is
48 engaged on a permanent or temporary basis, or is an existing worker

1 reassigned permanently or temporarily from other duties to perform
2 the duties of the claimant's position. For any claim for a period of
3 unemployment commencing on or after January 1, 2022 which
4 exists because of a labor dispute at the factory, establishment or
5 other premises at which the individual is or was last employed, if
6 the labor dispute has not resulted in a stoppage of work, no
7 disqualification under this subsection (d) shall apply, and the 14-
8 day waiting period in this paragraph (4) shall not apply.

9 (e) For any week with respect to which the individual is
10 receiving or has received remuneration in lieu of notice.

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

18 (g) (1) For a period of one year from the date of the discovery by
19 the division of the illegal receipt or attempted receipt of benefits
20 contrary to the provisions of this chapter, as the result of any false
21 or fraudulent representation; provided that any disqualification may
22 be appealed in the same manner as any other disqualification
23 imposed hereunder; and provided further that a conviction in the
24 courts of this State arising out of the illegal receipt or attempted
25 receipt of these benefits in any proceeding instituted against the
26 individual under the provisions of this chapter or any other law of
27 this State shall be conclusive upon the appeals tribunal and the
28 board of review.

29 (2) A disqualification under this subsection shall not preclude the
30 prosecution of any civil, criminal or administrative action or
31 proceeding to enforce other provisions of this chapter for the
32 assessment and collection of penalties or the refund of any amounts
33 collected as benefits under the provisions of R.S.43:21-16, or to
34 enforce any other law, where an individual obtains or attempts to
35 obtain by theft or robbery or false statements or representations any
36 money from any fund created or established under this chapter or
37 any negotiable or nonnegotiable instrument for the payment of
38 money from these funds, or to recover money erroneously or
39 illegally obtained by an individual from any fund created or
40 established under this chapter.

41 (h) (1) Notwithstanding any other provisions of this chapter
42 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
43 denied benefits for any week because the individual is in training
44 approved under section 236(a)(1) of the "Trade Act of 1974,"
45 Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be
46 denied benefits by reason of leaving work to enter this training,
47 provided the work left is not suitable employment, or because of the
48 application to any week in training of provisions in this chapter

1 (R.S.43:21-1 et seq.), or any applicable federal unemployment
2 compensation law, relating to availability for work, active search
3 for work, or refusal to accept work.

4 (2) For purposes of this subsection (h), the term "suitable"
5 employment means, with respect to an individual, work of a
6 substantially equal or higher skill level than the individual's past
7 adversely affected employment, as defined for purposes of the
8 "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and
9 wages for this work at not less than 80 percent of the individual's
10 average weekly wage, as determined for the purposes of the "Trade
11 Act of 1974."

12 (i) ~~For benefit years commencing after June 30, 1984, for any~~
13 week in which the individual is a student in full attendance at, or on
14 vacation from, an educational institution, as defined in subsection
15 (y) of R.S.43:21-19; except that this subsection shall not apply to
16 any individual attending a training program approved by the
17 division to enhance the individual's employment opportunities, as
18 defined under subsection (c) of R.S.43:21-4; nor shall this
19 subsection apply to any individual who, during the individual's base
20 year, earned sufficient wages, as defined under subsection (e) of
21 R.S.43:21-4, while attending an educational institution during
22 periods other than established and customary vacation periods or
23 holiday recesses at the educational institution, to establish a claim
24 for benefits. For purposes of this subsection, an individual shall be
25 treated as a full-time student for any period:

26 (1) During which the individual is enrolled as a full-time student
27 at an educational institution, or

28 (2) Which is between academic years or terms, if the individual
29 was enrolled as a full-time student at an educational institution for
30 the immediately preceding academic year or term. ~~】 (Deleted by~~
31 ~~amendment, P.L. _____, C. _____) (pending before the Legislature as~~
32 ~~this bill)~~

33 (j) Notwithstanding any other provisions of this chapter
34 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
35 denied benefits because the individual left work or was discharged
36 due to circumstances resulting from the individual being a victim of
37 domestic violence as defined in section 3 of P.L.1991, c.261
38 (C.2C:25-19). No employer's account shall be charged for the
39 payment of benefits to an individual who left work due to
40 circumstances resulting from the individual being a victim of
41 domestic violence.

42 For the purposes of this subsection (j), the individual shall be
43 treated as being a victim of domestic violence if the individual
44 provides one or more of the following:

45 (1) A restraining order or other documentation of equitable relief
46 issued by a court of competent jurisdiction;

47 (2) A police record documenting the domestic violence;

1 (3) Documentation that the perpetrator of the domestic violence
2 has been convicted of one or more of the offenses enumerated in
3 section 3 of P.L.1991, c.261 (C.2C:25-19);

4 (4) Medical documentation of the domestic violence;

5 (5) Certification from a certified Domestic Violence Specialist or
6 the director of a designated domestic violence agency that the
7 individual is a victim of domestic violence; or

8 (6) Other documentation or certification of the domestic violence
9 provided by a social worker, member of the clergy, shelter worker
10 or other professional who has assisted the individual in dealing with
11 the domestic violence.

12 For the purposes of this subsection (j):

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

24 (k) Notwithstanding any other provisions of this chapter
25 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
26 denied benefits for any week in which the individual left work
27 voluntarily and without good cause attributable to the work, if the
28 individual left work to accompany his or her spouse who is an
29 active member of the United States Armed Forces, as defined in
30 N.J.S.38A:1-1(g), to a new place of residence outside the State, due
31 to the armed forces member's transfer to a new assignment in a
32 different geographical location outside the State, and the individual
33 moves to the new place of residence not more than nine months
34 after the spouse is transferred, and upon arrival at the new place of
35 residence the individual was in all respects available for suitable
36 work. No employer's account shall be charged for the payment of
37 benefits to an individual who left work under the circumstances
38 contained in this subsection (k), except that this shall not be
39 construed as relieving the State of New Jersey and any other
40 governmental entity or instrumentality or nonprofit organization
41 electing or required to make payments in lieu of contributions from
42 its responsibility to make all benefit payments otherwise required
43 by law and from being charged for those benefits as otherwise
44 required by law.

45 (cf: P.L.2023, c.177, s.126)

1 4. R.S.43:21-6 is amended to read as follows:
2 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
3 accordance with such regulations as the Director of the Division of
4 Unemployment and Temporary Disability Insurance of the
5 Department of Labor and Workforce Development of the State of
6 New Jersey may approve. Each employer shall post and maintain
7 on his premises printed notices of his subject status, of such design,
8 in such numbers and at such places as the director of the division
9 may determine to be necessary to give notice thereof to persons in
10 the employer's service. Each employer shall give to each individual
11 at the time he becomes unemployed, for any reason, whether the
12 unemployment is permanent or temporary, a printed copy of benefit
13 instructions. The benefit instructions given to the individual shall
14 include, but not be limited to, the following information: (A) the
15 date upon which the individual becomes unemployed, and, in the
16 case that the unemployment is temporary, to the extent possible, the
17 date upon which the individual is expected to be recalled to work;
18 and (B) that the individual may lose some or all of the benefits to
19 which he is entitled if he fails to file a claim in a timely manner.
20 Both the aforesaid notices and instructions, including information
21 detailing the time sensitivity of filing a claim, and directions
22 provided in advance to all employers regarding what information
23 the division requires employers to provide to the division by
24 electronic means immediately upon a separation from employment
25 sufficient to enable the division to make a benefit determination,
26 including any information relevant to whether the individual may be
27 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
28 5, shall be supplied by the division to employers without cost to
29 them. The directions provided to all employers in advance shall
30 include that each employer provide the division with an email
31 address for communications to and from the division. When an
32 employer provides benefit instructions to the individual which
33 disclose the date on which unemployment will commence, the
34 employer shall immediately and simultaneously provide by
35 electronic means that disclosure to the division together with the
36 information required by the division pursuant to the directions
37 provided in advance by the division. An employer who fails to
38 make the immediate and simultaneous disclosure to the department
39 as required by this paragraph shall be liable for the penalties
40 imposed by subsection (b) of R.S.43:21-16 on employers for willful
41 failure to furnish reports. The division shall notify the employer by
42 electronic means not more than seven calendar days after the
43 department receives the disclosure of any failure of the employer to
44 provide all of the information needed by the division to make a
45 benefit determination. Nothing in this section shall be construed so
46 as to require an employer to re-hire an individual formerly in the
47 employer's service. Nothing in this section shall be construed as
48 requiring the division to issue a benefit determination solely based

1 on the information supplied by the employer. Notwithstanding the
2 provisions of this section which require employers to provide
3 information to the division by electronic means, and the division to
4 provide notifications to an employer by electronic means, the
5 commissioner shall have the discretion to establish by rule an
6 alternate method or methods for employers to provide the required
7 information to the division and for the division to provide the
8 required notifications to an employer in circumstances where it is
9 established, to the satisfaction of the commissioner, that the
10 employer is unable to provide the information to the division or is
11 unable to receive notifications from the division by electronic
12 means.

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

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

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

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

45 A representative or representatives designated by the director of
46 the division and hereafter referred to as a "deputy" shall promptly
47 examine any disclosure of information to the division by an
48 employer required by paragraph (1) of subsection (a) of this section

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

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

39 The deputy shall make an initial determination contingent upon
40 the receipt of all necessary information and notify the claimant no
41 later than three weeks from the date on which the division received
42 the claim for benefits. The initial determination shall show the
43 weekly benefit amount payable, the maximum duration of benefits
44 with respect to the employer to whom the determination relates, and
45 the ratio of benefits chargeable to the employer's account for benefit
46 years commencing on or after July 1, 1986, and also shall show
47 whether the claimant is ineligible or disqualified for benefits under
48 the initial determination. The employer whose account may be

1 charged for benefits payable pursuant to said determination shall be
2 promptly notified thereof.

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

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

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

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

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

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

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

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

46 Unless the employer, within seven calendar days after a
47 confirmed receipt of notification of an initial determination,
48 including by electronic means, or the claimant, within 21 calendar

1 days after the notification was mailed to the claimant's last-known
2 address and addresses, or after the notification was delivered to the
3 claimant by electronic means, provided the departmental
4 functionality exists to deliver the notifications by electronic means
5 and provided, further, that the claimant has communicated to the
6 division the choice to receive the notifications by electronic means,
7 files an appeal of the decision, the decision shall be final and
8 benefits shall immediately be paid or denied in accordance
9 therewith, except for such determinations as may be altered in
10 benefit amounts or duration as provided in this paragraph. An
11 appeal concerning an initial determination shall not be filed after
12 whichever is applicable of the seven-day or 21-day period. Benefits
13 payable for periods pending an appeal of the initial determination to
14 the appeal tribunal shall be paid [as such benefits accrue and be
15 paid] according to the initial determination, and benefits payable
16 for periods pending appeal of the determination of the appeal
17 tribunal to the board of review shall be paid according to the appeal
18 tribunal determination, but shall be, to the extent that the amount
19 paid exceeds the amount determined in the appeal, regarded as an
20 overpayment subject to the provisions of R.S.43:21-16 regarding
21 overpayments, including the requirement of that section that a
22 claimant who makes knowing, fraudulent nondisclosure or
23 misrepresentation is liable to repay the full amount of the
24 overpayment; provided that if the appeal is an appeal of a
25 determination that the claimant is disqualified under the provisions
26 of R.S.43:21-5, benefits pending determination of the appeal shall
27 be withheld only for the period of disqualification as provided for in
28 that section, and while the appeal is pending, the benefits otherwise
29 provided by this act shall be paid for the period subsequent to such
30 period of disqualification; provided further that if it is determined in
31 the appeal that the claimant was not disqualified, the claimant shall
32 be paid the benefits due for the period of the disqualification,
33 except that no such benefits shall be paid to the claimant for any
34 week during which the claimant has failed to provide to the division
35 a weekly certification evidencing the claimant's eligibility for
36 benefits; and provided, also, that if there are two determinations of
37 entitlement, benefits for the period covered by such determinations
38 shall be paid regardless of any appeal which may thereafter be
39 taken, but no employer's account shall be charged with benefits so
40 paid, if the decision is finally reversed. If an employer appeals the
41 charging of benefits to the employer's account after the seven-day
42 period to appeal the initial benefit determination, and, as a result of
43 the appeal on the charging to the employer's account, the division,
44 after the claimant is notified and given the opportunity to respond,
45 reduces the amount charged to the employer's account, any resulting
46 reduction in the amount of benefits shall take effect only after the
47 resolution of the appeal of the charging, and any amount of benefits
48 paid before the resolution of the appeal of the charging which

1 exceeds the amount determined in that appeal shall be regarded as
2 an overpayment caused by employer error [and shall be charged to
3 the employer's account, and the claimant shall not be liable to repay
4 any portion of that overpayment where the overpayment is of
5 regular Unemployment Compensation. In the case of the recovery
6 of an overpayment of benefit under any of the following programs
7 authorized by the federal "Coronavirus Aid, Relief, and Economic
8 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
9 Unemployment Compensation (FPUC), Pandemic Emergency
10 Unemployment Compensation (PEUC), Mixed Earners
11 Unemployment Compensation (MEUC), Pandemic Unemployment
12 Assistance (PUA), or the first week of regular Unemployment
13 Compensation that is reimbursed in accordance with Section 2105
14 of the CARES Act, a recovery shall not be waived unless the
15 division determines that the claimant is without fault and the
16 repayment would be contrary to equity and good conscience], the
17 repayment of which shall be governed by subparagraph (C) of
18 paragraph (4) of subsection (d) of R.S. 43:21-16.

19 (2) (Deleted by amendment, P.L.2022, c.120)

20 (3) Procedure for making subsequent determinations with respect
21 to benefit years commencing on or after January 1, 1953. The
22 deputy shall make determinations with respect to claims for benefits
23 thereafter in the course of the benefit year, in accordance with any
24 initial determination allowing benefits, and under which benefits
25 have not been exhausted, and each notification of a benefit payment
26 shall be a notification of an affirmative subsequent determination.
27 Any change in the allowance, amount, or other characteristic of
28 benefits by the deputy in any such determination, or the denial of
29 benefits by the deputy in any such determination, shall be
30 appealable in the same manner and under the same limitations as is
31 provided in the case of initial determinations, except that, after an
32 initial determination, the resolution of any appeal of the initial
33 determination, and the payment of one or more weeks of benefits
34 pursuant to the initial determination, if a subsequent determination
35 will result in any termination or reduction of those benefits from the
36 amount or duration of benefits specified in the initial determination,
37 the claimant shall be provided notification with a full written
38 explanation of why the reduction or termination of benefits will
39 occur, and provided, during the seven calendar days following the
40 notification, an opportunity to file an appeal [before the reduction
41 or termination goes into effect]. If the claimant files an appeal
42 during the seven-day period, benefits shall continue to be paid at the
43 rate, and for the duration, stipulated in the initial determination until
44 the appeal is resolved. If the claimant does not file an appeal, or the
45 claimant files an appeal and it is found in the resolution of the
46 appeal that the amount in benefits paid during the processing of the
47 appeal exceeded the amount determined in the appeal to be correct,
48 or the claimant is found in the appeal to be ineligible for benefits,

1 any resulting excess payment of benefits shall be regarded as an
2 overpayment subject to the provisions of R.S.43:21-16 regarding
3 overpayments, including the requirement of that section that a
4 claimant who makes knowing, fraudulent nondisclosure or
5 misrepresentation is liable to repay the full amount of the
6 overpayment.

7 (c) Appeals. Unless such appeal is withdrawn, an appeal
8 tribunal, after affording the parties reasonable opportunity for fair
9 hearing, shall affirm or modify the findings of fact and the
10 determination. The parties shall be duly notified of such tribunal's
11 decision, together with its reasons therefor, which shall be deemed
12 to be the final decision of the board of review, unless further appeal
13 is initiated pursuant to subsection (e) of this section within 20 days
14 after the date of notification or mailing of such decision for any
15 decision made after December 1, 2010.

16 (d) Appeal tribunals. To hear and decide disputed benefit
17 claims, including appeals from determinations with respect to
18 demands for refunds of benefits under subsection (d) of R.S.43:21-
19 16, the director with the approval of the Commissioner of Labor and
20 Workforce Development shall establish impartial appeal tribunals
21 consisting of a salaried body of examiners under the supervision of
22 a Chief Appeals Examiner, all of whom shall be appointed pursuant
23 to the provisions of Title 11A of the New Jersey Statutes, Civil
24 Service and other applicable statutes.

25 (e) Board of review. The board of review may on its own motion
26 affirm, modify, or set aside any decision of an appeal tribunal on
27 the basis of the evidence previously submitted in such case, or
28 direct the taking of additional evidence, or may permit any of the
29 parties to such decision to initiate further appeals before it. The
30 board of review shall permit such further appeal by any of the
31 parties interested in a decision of an appeal tribunal which is not
32 unanimous and from any determination which has been overruled or
33 modified by any appeal tribunal. The board of review may remove
34 to itself or transfer to another appeal tribunal the proceedings on
35 any claim pending before an appeal tribunal. Any proceedings so
36 removed to the board of review shall be heard by a quorum thereof
37 in accordance with the requirements of subsection (c) of this
38 section. The board of review shall promptly notify the interested
39 parties of its findings and decision.

40 (f) Procedure. The manner in which disputed benefit claims, and
41 appeals from determinations with respect to (1) claims for benefits
42 and (2) demands for refunds of benefits under subsection (d) of
43 R.S.43:21-16 shall be presented, the reports thereon required from
44 the claimant and from employers, and the conduct of hearings and
45 appeals shall be in accordance with rules prescribed by the board of
46 review for determining the rights of the parties, whether or not such
47 rules conform to common law or statutory rules of evidence and
48 other technical rules of procedure. A full and complete record shall

1 be kept of all proceedings in connection with a disputed claim. All
2 testimony at any hearing upon a disputed claim shall be recorded,
3 but need not be transcribed unless the disputed claim is further
4 appealed.

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

10 (h) Court review. Any decision of the board of review shall
11 become final as to any party upon the mailing of a copy thereof to
12 such party and to the party's attorney, or upon the mailing of a copy
13 thereof to such party at his last-known address and to the party's
14 attorney. The Division of Unemployment and Temporary Disability
15 Insurance and any party to a proceeding before the board of review
16 may secure judicial review of the final decision of the board of
17 review. Any party not joining in the appeal shall be made a
18 defendant; the board of review shall be deemed to be a party to any
19 judicial action involving the review of, or appeal from, any of its
20 decisions, and may be represented in any such judicial action by
21 any qualified attorney, who may be a regular salaried employee of
22 the board of review or has been designated by it for that purpose,
23 or, at the board of review's request, by the Attorney General.

24 (i) Failure to give notice. The failure of any public officer or
25 employee at any time heretofore or hereafter to give notice of
26 determination or decision required in subsections (b), (c) and (e) of
27 this section, as originally passed or amended, shall not relieve any
28 employer's account of any charge by reason of any benefits paid,
29 unless and until that employer can show to the satisfaction of the
30 director of the division that the said benefits, in whole or in part,
31 would not have been charged or chargeable to his account had such
32 notice been given. Any determination hereunder by the director
33 shall be subject to court review.

34 (j) With respect to benefit payments made on or after October 22,
35 2013, an employer's account shall not be relieved of charges related
36 to a benefit payment that was made erroneously from the division if
37 it is determined that:

38 (1) The erroneous benefit payment was made because the
39 employer, or an agent of the employer, failed to respond in a timely
40 or adequate manner to a request from the division for information
41 related to the claim for benefits, including failing to provide the
42 information required by subsection (a) of this section upon a
43 separation from employment; and

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

1 Determinations of the division prohibiting the relief of charges
2 pursuant to this subsection shall be subject to appeal in the same
3 manner as other determinations of the division related to the
4 charging of employer accounts.

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

6 "Erroneous benefit payment" means a benefit payment that,
7 except for the failure by the employer, or an agent of the employer,
8 to respond in a timely or adequate manner to a request from the
9 division for information with respect to the claim for benefits,
10 would not have been made; and

11 "Pattern of failing" means repeated documented failure on the
12 part of the employer, or an agent of the employer, to respond to
13 requests from the division to the employer or employer's agent for
14 information related to a claim for benefits, including failing to
15 provide the information required by subsection (a) of this section
16 upon a separation from employment, except that an employer, or an
17 agent of an employer, shall not be determined to have engaged in a
18 "pattern of failing" if the number of failures to provide the required
19 information or respond to requests from the division for information
20 related to claims for benefits during the previous 365 calendar days
21 is less than three, or if the number of failures is less than two
22 percent of the number of requests from the division, whichever is
23 greater.

24 (k) The Department of Labor and Workforce Development shall
25 establish and maintain a procedure by which personnel access rights
26 to the department's primary system for unemployment claims
27 receipt and processing are comprehensively reviewed every
28 calendar quarter. The procedure shall include an evaluation of
29 access needs to the primary unemployment claims receipt and
30 processing system for all department personnel and the adjustment,
31 addition, or deletion of access rights for department personnel based
32 on the quarterly review.

33 (l) The Department of Labor and Workforce Development shall
34 develop within the department's primary system for unemployment
35 claims receipt and processing a mechanism for claimants to
36 electronically access their own benefit payment status and history.

37 (cf: P.L.2022, c.120, s.1)

38
39 5. R.S.43:21-7 is amended to read as follows:

40 43:21-7. Employers other than governmental entities, whose
41 benefit financing provisions are set forth in section 4 of P.L.1971,
42 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
43 payment in lieu of contributions on the basis set forth in section 3 of
44 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
45 unemployment compensation fund, contributions as set forth in
46 subsections (a), (b) and (c) hereof, and the provisions of subsections
47 (d) and (e) shall be applicable to all employers, consistent with the
48 provisions of the "unemployment compensation law" and the

1 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
2 et al.).

3 (a) Payment.

4 (1) Contributions shall accrue and become payable by each
5 employer for each calendar year in which he is subject to this
6 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
7 his employ during that calendar year, at the rates and on the basis
8 hereinafter set forth. Such contributions shall become due and be
9 paid by each employer to the controller for the fund, in accordance
10 with such regulations as may be prescribed, and shall not be
11 deducted, in whole or in part, from the remuneration of individuals
12 in his employ.

13 (2) In the payment of any contributions, a fractional part of a
14 cent shall be disregarded unless it amounts to \$0.005 or more, in
15 which case it shall be increased to \$0.01.

16 (b) Rate of contributions. Each employer shall pay the following
17 contributions:

18 (1) For the calendar year 1947, and each calendar year
19 thereafter, 2 7/10% of wages paid by him during each such calendar
20 year, except as otherwise prescribed by subsection (c) of this
21 section.

22 (2) The "wages" of any individual, with respect to any one
23 employer, as the term is used in this subsection (b) and in
24 subsections (c), (d) and (e) of this section 7, shall include the first
25 \$4,800.00 paid during calendar year 1975, for services performed
26 either within or without this State; provided that no contribution
27 shall be required by this State with respect to services performed in
28 another state if such other state imposes contribution liability with
29 respect thereto. If an employer (hereinafter referred to as a
30 successor employer) during any calendar year acquires substantially
31 all the property used in a trade or business of another employer
32 (hereinafter referred to as a predecessor), or used in a separate unit
33 of a trade or business of a predecessor, and immediately after the
34 acquisition employs in his trade or business an individual who
35 immediately prior to the acquisition was employed in the trade or
36 business of such predecessors, then, for the purpose of determining
37 whether the successor employer has paid wages with respect to
38 employment equal to the first \$4,800.00 paid during calendar year
39 1975, any wages paid to such individual by such predecessor during
40 such calendar year and prior to such acquisition shall be considered
41 as having been paid by such successor employer.

42 (3) For calendar years beginning on and after January 1, 1976,
43 the "wages" of any individual, as defined in the preceding
44 paragraph (2) of this subsection (b), shall be established and
45 promulgated by the Commissioner of Labor and Workforce
46 Development on or before September 1 of the preceding year and,
47 except as provided in paragraph (4) of this subsection (b), shall be,
48 28 times the Statewide average weekly remuneration paid to

1 workers by employers, as determined under R.S.43:21-3(c), raised
2 to the next higher multiple of \$100.00 if not already a multiple
3 thereof, provided that if the amount of wages so determined for a
4 calendar year is less than the amount similarly determined for the
5 preceding year, the greater amount will be used; provided, further,
6 that if the amount of such wages so determined does not equal or
7 exceed the amount of wages as defined in subsection (b) of section
8 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
9 the wages as determined in this paragraph in any calendar year shall
10 be raised to equal the amount established under the "Federal
11 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
12 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

13 (4) For calendar years beginning on and after January 1, 2020,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b) for purposes of contributions of
16 workers to the State disability benefits fund, including the "Family
17 Temporary Disability Leave Account" pursuant to subsection (d) of
18 this section, shall be established and promulgated by the
19 Commissioner of Labor and Workforce Development on or before
20 September 1 of the preceding year and shall be 107 times the
21 Statewide average weekly remuneration paid to workers by
22 employers, as determined under R.S.43:21-3(c), raised to the next
23 higher multiple of \$100.00 if not already a multiple thereof,
24 provided that if the amount of wages so determined for a calendar
25 year is less than the amount similarly determined for the preceding
26 year, the greater amount will be used.

27 (c) Future rates based on benefit experience.

28 (1) A separate account for each employer shall be maintained
29 and this shall be credited with all the contributions which he has
30 paid on his own behalf on or before January 31 of any calendar year
31 with respect to employment occurring in the preceding calendar
32 year; provided, however, that if January 31 of any calendar year
33 falls on a Saturday or Sunday, an employer's account shall be
34 credited as of January 31 of such calendar year with all the
35 contributions which he has paid on or before the next succeeding
36 day which is not a Saturday or Sunday. But nothing in this chapter
37 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
38 individuals in his service prior claims or rights to the amounts paid
39 by him into the fund either on his own behalf or on behalf of such
40 individuals. Benefits paid with respect to benefit years commencing
41 on and after January 1, 1953, to any individual on or before
42 December 31 of any calendar year with respect to unemployment in
43 such calendar year and in preceding calendar years shall be charged
44 against the account or accounts of the employer or employers in
45 whose employment such individual established base weeks
46 constituting the basis of such benefits, except that, with respect to
47 benefit years commencing after January 4, 1998, an employer's
48 account shall not be charged for benefits paid to a claimant if: (1)

1 the claimant's employment by that employer was ended in any way
2 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
3 R.S.43:21-5, would have disqualified the claimant for benefits if the
4 claimant had applied for benefits at the time when that employment
5 ended, or (2) the claimant's employment by that employer
6 continued and the claimant continued to both perform work for and
7 receive remuneration from that employer, during the claimant's
8 period of unemployment. Benefits paid under a given benefit
9 determination shall be charged against the account of the employer
10 to whom such determination relates. When each benefit payment is
11 made, notification shall be promptly provided to each employer
12 included in the unemployment insurance monetary calculation of
13 benefits. Such notification shall identify the employer against
14 whose account the amount of such payment is being charged, shall
15 show at least the name and social security account number of the
16 claimant and shall specify the period of unemployment to which
17 said benefit payment applies.

18 An annual summary statement of unemployment benefits
19 charged to the employer's account shall be provided.

20 (2) Regulations may be prescribed for the establishment,
21 maintenance, and dissolution of joint accounts by two or more
22 employers, and shall, in accordance with such regulations and upon
23 application by two or more employers to establish such an account,
24 or to merge their several individual accounts in a joint account,
25 maintain such joint account as if it constituted a single employer's
26 account.

27 (3) No employer's rate shall be lower than 5.4% unless
28 assignment of such lower rate is consistent with the conditions
29 applicable to additional credit allowance for such year under section
30 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
31 s.3303(a)(1)), any other provision of this section to the contrary
32 notwithstanding.

33 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
34 $2 \frac{8}{10}\%$, except as otherwise provided in the following provisions.
35 No employer's rate for the 12 months commencing July 1 of any
36 calendar year shall be other than $2 \frac{8}{10}\%$, unless as of the
37 preceding January 31 such employer shall have paid contributions
38 with respect to wages paid in each of the three calendar years
39 immediately preceding such year, in which case such employer's
40 rate for the 12 months commencing July 1 of any calendar year
41 shall be determined on the basis of his record up to the beginning of
42 such calendar year. If, at the beginning of such calendar year, the
43 total of all his contributions, paid on his own behalf, for all past
44 years exceeds the total benefits charged to his account for all such
45 years, his contribution rate shall be:

46 (1) $2 \frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
47 5%, of his average annual payroll (as defined in paragraph (2),
48 subsection (a) of R.S.43:21-19);

1 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
2 than 6%, of his average annual payroll;

3 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
4 than 7%, of his average annual payroll;

5 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
6 than 8%, of his average annual payroll;

7 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
8 than 9%, of his average annual payroll;

9 (6) 1%, if such excess equals or exceeds 9%, but is less than
10 10%, of his average annual payroll;

11 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
12 than 11%, of his average annual payroll;

13 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
14 average annual payroll.

15 (B) If the total of an employer's contributions, paid on his own
16 behalf, for all past periods for the purposes of this paragraph (4), is
17 less than the total benefits charged against his account during the
18 same period, his rate shall be:

19 (1) 4%, if such excess is less than 10% of his average annual
20 payroll;

21 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
22 than 20%, of his average annual payroll;

23 (3) 4 6/10%, if such excess equals or exceeds 20% of his
24 average annual payroll.

25 (C) Specially assigned rates.

26 (i) If no contributions were paid on wages for employment in
27 any calendar year used in determining the average annual payroll of
28 an employer eligible for an assigned rate under this paragraph (4),
29 the employer's rate shall be specially assigned as follows:

30 if the reserve balance in its account is positive, its assigned rate
31 shall be the highest rate in effect for positive balance accounts for
32 that period, or 5.4%, whichever is higher, and

33 if the reserve balance in its account is negative, its assigned rate
34 shall be the highest rate in effect for deficit accounts for that period.

35 (ii) If, following the purchase of a corporation with little or no
36 activity, known as a corporate shell, the resulting employing unit
37 operates a new or different business activity, the employing unit
38 shall be assigned a new employer rate.

39 (iii) Entities operating under common ownership, management or
40 control, when the operation of the entities is not identifiable,
41 distinguishable and severable, shall be considered a single employer
42 for the purposes of this chapter (R.S.43:21-1 et seq.).

43 (D) The contribution rates prescribed by subparagraphs (A) and
44 (B) of this paragraph (4) shall be increased or decreased in
45 accordance with the provisions of paragraph (5) of this subsection
46 (c) for experience rating periods through June 30, 1986.

47 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
48 31 of any calendar year the balance in the unemployment trust fund

1 equals or exceeds 4% but is less than 7% of the total taxable wages
2 reported to the controller as of that date in respect to employment
3 during the preceding calendar year, the contribution rate, effective
4 July 1 following, of each employer eligible for a contribution rate
5 calculation based upon benefit experience, shall be increased by
6 3/10 of 1% over the contribution rate otherwise established under
7 the provisions of paragraph (3) or (4) of this subsection. If on
8 March 31 of any calendar year the balance of the unemployment
9 trust fund exceeds 2 1/2% but is less than 4% of the total taxable
10 wages reported to the controller as of that date in respect to
11 employment during the preceding calendar year, the contribution
12 rate, effective July 1 following, of each employer eligible for a
13 contribution rate calculation based upon benefit experience, shall be
14 increased by 6/10 of 1% over the contribution rate otherwise
15 established under the provisions of paragraph (3) or (4) of this
16 subsection.

17 If on March 31 of any calendar year the balance of the
18 unemployment trust fund is less than 2 1/2% of the total taxable
19 wages reported to the controller as of that date in respect to
20 employment during the preceding calendar year, the contribution
21 rate, effective July 1 following, of each employer: (1) eligible for a
22 contribution rate calculation based upon benefit experience, shall be
23 increased by (i) 6/10 of 1% over the contribution rate otherwise
24 established under the provisions of paragraph (3), (4)(A) or (4)(B)
25 of this subsection, and (ii) an additional amount equal to 20% of the
26 total rate established herein, provided, however, that the final
27 contribution rate for each employer shall be computed to the nearest
28 multiple of 1/10% if not already a multiple thereof; (2) not eligible
29 for a contribution rate calculation based upon benefit experience,
30 shall be increased by 6/10 of 1% over the contribution rate
31 otherwise established under the provisions of paragraph (4) of this
32 subsection. For the period commencing July 1, 1984 and ending
33 June 30, 1986, the contribution rate for each employer liable to pay
34 contributions under R.S.43:21-7 shall be increased by a factor of
35 10% computed to the nearest multiple of 1/10% if not already a
36 multiple thereof.

37 (B) If on March 31 of any calendar year the balance in the
38 unemployment trust fund equals or exceeds 10% but is less than 12
39 1/2% of the total taxable wages reported to the controller as of that
40 date in respect to employment during the preceding calendar year,
41 the contribution rate, effective July 1 following, of each employer
42 eligible for a contribution rate calculation based upon benefit
43 experience, shall be reduced by 3/10 of 1% under the contribution
44 rate otherwise established under the provisions of paragraphs (3)
45 and (4) of this subsection; provided that in no event shall the
46 contribution rate of any employer be reduced to less than 4/10 of
47 1%. If on March 31 of any calendar year the balance in the
48 unemployment trust fund equals or exceeds 12 1/2% of the total

1 taxable wages reported to the controller as of that date in respect to
 2 employment during the preceding calendar year, the contribution
 3 rate, effective July 1 following, of each employer eligible for a
 4 contribution rate calculation based upon benefit experience, shall be
 5 reduced by 6/10 of 1% if his account for all past periods reflects an
 6 excess of contributions paid over total benefits charged of 3% or
 7 more of his average annual payroll, otherwise by 3/10 of 1% under
 8 the contribution rate otherwise established under the provisions of
 9 paragraphs (3) and (4) of this subsection; provided that in no event
 10 shall the contribution rate of any employer be reduced to less than
 11 4/10 of 1%.

12 (C) The "balance" in the unemployment trust fund, as the term is
 13 used in subparagraphs (A) and (B) above, shall not include moneys
 14 credited to the State's account under section 903 of the Social
 15 Security Act, as amended (42 U.S.C. s.1103), during any period in
 16 which such moneys are appropriated for the payment of expenses
 17 incurred in the administration of the "unemployment compensation
 18 law."

19 (D) Prior to July 1 of each calendar year the controller shall
 20 determine the Unemployment Trust Fund Reserve Ratio, which
 21 shall be calculated by dividing the balance of the unemployment
 22 trust fund as of the prior March 31 by total taxable wages reported
 23 to the controller by all employers as of March 31 with respect to
 24 their employment during the last calendar year.

25 (E) (i) (Deleted by amendment, P.L.1997, c.263).

26 (ii) (Deleted by amendment, P.L.2001, c.152).

27 (iii) (Deleted by amendment, P.L.2003, c.107).

28 (iv) (Deleted by amendment, P.L.2004, c.45).

29 (v) (Deleted by amendment, P.L.2008, c.17).

30 (vi) (Deleted by amendment, P.L.2013, c.75).

31 (vii) With respect to experience rating years beginning on or
 32 after July 1, 2011, the new employer rate or the unemployment
 33 experience rate of an employer under this section shall be the rate
 34 which appears in the column headed by the Unemployment Trust
 35 Fund Reserve Ratio as of the applicable calculation date and on the
 36 line with the Employer Reserve Ratio, as defined in paragraph (4)
 37 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 38 table:
 39

40 EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio ¹				
	3.50%	3.00%	2.5%	2.0%	1.99%
	and	to	to	to	and
Employer	Over	3.49%	2.99%	2.49%	Under
Reserve	A	B	C	D	E
Ratio ²					
46 Positive Reserve Ratio:					
47 17% and over	0.3	0.4	0.5	0.6	1.2
48 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2

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1	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
2	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
3	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
4	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
5	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
6	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
7	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
9	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
10	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
11	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
12	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
13	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
14	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
15	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
16	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
17	Deficit Reserve Ratio:					
18	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
19	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
20	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
21	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
22	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
23	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
24	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
25	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
26	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
27	-35.00% and under	5.4	5.4	5.8	6.4	7.0
28	New Employer Rate	2.8	2.8	2.8	3.1	3.4

29 1Fund balance as of March 31 as a percentage of taxable wages
30 in the prior calendar year.

31 2Employer Reserve Ratio (Contributions minus benefits as a
32 percentage of employer's taxable wages).

33 (F) (i) (Deleted by amendment, P.L.1997, c.263).

34 (ii) (Deleted by amendment, P.L.2008, c.17).

35 (iii) (Deleted by amendment, P.L.2013, c.75).

36 (iv) With respect to experience rating years beginning on or
37 after July 1, 2011 and before July 1, 2013, if the fund reserve ratio,
38 based on the fund balance as of the prior March 31, is less than
39 1.0%, the contribution rate for each employer liable to pay
40 contributions, as computed under subparagraph (E) of this
41 paragraph (5), shall be increased by a factor of 10% computed to
42 the nearest multiple of 1/10% if not already a multiple thereof.

43 (v) With respect to experience rating years beginning on or after
44 July 1, 2014, if the fund reserve ratio, based on the fund balance as
45 of the prior March 31, is less than 1.0%, the contribution rate for
46 each employer liable to pay contributions, as computed under
47 subparagraph (E) of this paragraph (5), shall be increased by a

1 factor of 10% computed to the nearest multiple of 1/10% if not
2 already a multiple thereof.

3 (G) On or after January 1, 1993, notwithstanding any other
4 provisions of this paragraph (5), the contribution rate for each
5 employer liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
7 except that, during any experience rating year starting before
8 January 1, 1998 in which the fund reserve ratio is equal to or greater
9 than 7.00% or during any experience rating year starting on or after
10 January 1, 1998, in which the fund reserve ratio is equal to or
11 greater than 3.5%, there shall be no decrease pursuant to this
12 subparagraph (G) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under.

14 (H) On and after January 1, 1998 until December 31, 2000 and
15 on or after January 1, 2002 until June 30, 2006, the contribution rate
16 for each employer liable to pay contributions, as computed under
17 subparagraph (E) of this paragraph (5), shall be decreased by a
18 factor, as set out below, computed to the nearest multiple of 1/10%,
19 except that, if an employer has a deficit reserve ratio of negative
20 35.0% or under, the employer's rate of contribution shall not be
21 reduced pursuant to this subparagraph (H) to less than 5.4%:

22 From January 1, 1998 until December 31, 1998, a factor of 12%;
23 From January 1, 1999 until December 31, 1999, a factor of 10%;
24 From January 1, 2000 until December 31, 2000, a factor of 7%;
25 From January 1, 2002 until March 31, 2002, a factor of 36%;
26 From April 1, 2002 until June 30, 2002, a factor of 85%;
27 From July 1, 2002 until June 30, 2003, a factor of 15%;
28 From July 1, 2003 until June 30, 2004, a factor of 15%;
29 From July 1, 2004 until June 30, 2005, a factor of 7%;
30 From July 1, 2005 until December 31, 2005, a factor of 16%; and
31 From January 1, 2006 until June 30, 2006, a factor of 34%.

32 The amount of the reduction in the employer contributions
33 stipulated by this subparagraph (H) shall be in addition to the
34 amount of the reduction in the employer contributions stipulated by
35 subparagraph (G) of this paragraph (5), except that the rate of
36 contribution of an employer who has a deficit reserve ratio of
37 negative 35.0% or under shall not be reduced pursuant to this
38 subparagraph (H) to less than 5.4% and the rate of contribution of
39 any other employer shall not be reduced to less than 0.0%.

40 (I) (Deleted by amendment, P.L.2008, c.17).

41 (J) On or after July 1, 2001, notwithstanding any other
42 provisions of this paragraph (5), the contribution rate for each
43 employer liable to pay contributions, as computed under
44 subparagraph (E) of this paragraph (5), shall be decreased by
45 0.0175%, except that, during any experience rating year starting on
46 or after July 1, 2001, in which the fund reserve ratio is equal to or
47 greater than 3.5%, there shall be no decrease pursuant to this
48 subparagraph (J) in the contribution of any employer who has a

1 deficit reserve ratio of negative 35.00% or under. The amount of the
2 reduction in the employer contributions stipulated by this
3 subparagraph (J) shall be in addition to the amount of the reduction
4 in the employer contributions stipulated by subparagraphs (G) and
5 (H) of this paragraph (5), except that the rate of contribution of an
6 employer who has a deficit reserve ratio of negative 35.0% or under
7 shall not be reduced pursuant to this subparagraph (J) to less than
8 5.4% and the rate of contribution of any other employer shall not be
9 reduced to less than 0.0%.

10 (K) With respect to experience rating years beginning on or after
11 July 1, 2009, if the fund reserve ratio, based on the fund balance as
12 of the prior March 31, is:

13 (i) Equal to or greater than 5.00% but less than 7.5%, the
14 contribution rate for each employer liable to pay contributions, as
15 computed under subparagraph (E) of this paragraph (5), shall be
16 reduced by a factor of 25% computed to the nearest multiple of
17 1/10% if not already a multiple thereof except that there shall be no
18 decrease pursuant to this subparagraph (K) in the contribution of
19 any employer who has a deficit reserve ratio of 35.00% or under;

20 (ii) Equal to or greater than 7.5%, the contribution rate for each
21 employer liable to pay contributions, as computed under
22 subparagraph (E) of this paragraph (5), shall be reduced by a factor
23 of 50% computed to the nearest multiple of 1/10% if not already a
24 multiple thereof except that there shall be no decrease pursuant to
25 this subparagraph (K) in the contribution of any employer who has
26 a deficit reserve ratio of 35.00% or under.

27 (L) Notwithstanding any other provision of this paragraph (5)
28 and notwithstanding the actual fund reserve ratio, the contribution
29 rate for employers liable to pay contributions, as computed under
30 subparagraph (E) of this paragraph (5), shall be, for fiscal year
31 2011, the rates set by column "C" of the table in that subparagraph.

32 (M) Notwithstanding any other provision of this paragraph (5)
33 and notwithstanding the actual fund reserve ratio, the contribution
34 rate for employers liable to pay contributions, as computed under
35 subparagraph (E) of this paragraph (5), shall be, for fiscal year
36 2012, the rates set by column "D" of the table in that subparagraph.

37 (N) Notwithstanding any other provision of this paragraph (5)
38 and notwithstanding the actual fund reserve ratio, the contribution
39 rate for employers liable to pay contributions, as computed under
40 subparagraph (E) of this paragraph (5), shall be, for fiscal year
41 2013, the rates set by column "E" of the table in that subparagraph.

42 (O) Notwithstanding any other provision of this paragraph (5)
43 and notwithstanding the actual fund reserve ratio, the contribution
44 rate for employers liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be, for fiscal year
46 2022, the rates set by column "C" of the table in that subparagraph.

47 (P) Notwithstanding any other provision of this paragraph (5)
48 and notwithstanding the actual fund reserve ratio, the contribution

1 rate for employers liable to pay contributions, as computed under
2 subparagraph (E) of this paragraph (5), shall be, for fiscal year
3 2023, the rates set by column "D" of the table in that subparagraph,
4 unless the application of the provisions of this paragraph (5) using
5 the actual fund reserve ratio would result in the contribution rate for
6 employers being set by a column which has lower tax rates than the
7 rates in column "D", in which case the employers shall be liable to
8 pay contributions at the rates set by the column with the lower tax
9 rates.

10 (Q) Notwithstanding any other provision of this paragraph (5)
11 and notwithstanding the actual fund reserve ratio, the contribution
12 rate for employers liable to pay contributions, as computed under
13 subparagraph (E) of this paragraph (5), shall be, for fiscal year
14 2024, the rates set by column "E" of the table in that subparagraph,
15 unless the application of the provisions of this paragraph (5) using
16 the actual fund reserve ratio would result in the contribution rate for
17 employers being set by a column which has lower tax rates than the
18 rates in column "E", in which case the employers shall be liable to
19 pay contributions at the rates set by the column with the lower tax
20 rates.

21 (6) Additional contributions.

22 Notwithstanding any other provision of law, any employer who
23 has been assigned a contribution rate pursuant to subsection (c) of
24 this section for the year commencing July 1, 1948, and for any year
25 commencing July 1 thereafter, may voluntarily make payment of
26 additional contributions, and upon such payment shall receive a
27 recomputation of the experience rate applicable to such employer,
28 including in the calculation the additional contribution so made,
29 except that, following a transfer as described under R.S.43:21-
30 7(c)(7)(D), neither the predecessor nor successor in interest shall be
31 eligible to make a voluntary payment of additional contributions
32 during the year the transfer occurs and the next full calendar year.
33 Any such additional contribution shall be made during the 30-day
34 period following the notification to the employer of his contribution
35 rate as prescribed in this section, unless, for good cause, the time
36 for payment has been extended by the controller for not to exceed
37 an additional 60 days; provided that in no event may such payments
38 which are made later than 120 days after the beginning of the year
39 for which such rates are effective be considered in determining the
40 experience rate for the year in which the payment is made. Any
41 employer receiving any extended period of time within which to
42 make such additional payment and failing to make such payment
43 timely shall be, in addition to the required amount of additional
44 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
45 greater, not to exceed \$50.00. Any adjustment under this subsection
46 shall be made only in the form of credits against accrued or future
47 contributions.

48 (7) Transfers.

1 (A) Upon the transfer of the organization, trade or business, or
2 substantially all the assets of an employer to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise, the controller shall transfer the employment experience
5 of the predecessor employer to the successor in interest, including
6 credit for past years, contributions paid, annual payrolls, benefit
7 charges, et cetera, applicable to such predecessor employer,
8 pursuant to regulation, if it is determined that the employment
9 experience of the predecessor employer with respect to the
10 organization, trade, assets or business which has been transferred
11 may be considered indicative of the future employment experience
12 of the successor in interest. The successor in interest may, within
13 four months of the date of such transfer of the organization, trade,
14 assets or business, or thereafter upon good cause shown, request a
15 reconsideration of the transfer of employment experience of the
16 predecessor employer. The request for reconsideration shall
17 demonstrate, to the satisfaction of the controller, that the
18 employment experience of the predecessor is not indicative of the
19 future employment experience of the successor.

20 (B) An employer who transfers part of his or its organization,
21 trade, assets or business to a successor in interest, whether by
22 merger, consolidation, sale, transfer, descent or otherwise, may
23 jointly make application with such successor in interest for transfer
24 of that portion of the employment experience of the predecessor
25 employer relating to the portion of the organization, trade, assets or
26 business transferred to the successor in interest, including credit for
27 past years, contributions paid, annual payrolls, benefit charges, et
28 cetera, applicable to such predecessor employer. The transfer of
29 employment experience may be allowed pursuant to regulation only
30 if it is found that the employment experience of the predecessor
31 employer with respect to the portion of the organization, trade,
32 assets or business which has been transferred may be considered
33 indicative of the future employment experience of the successor in
34 interest. Credit shall be given to the successor in interest only for
35 the years during which contributions were paid by the predecessor
36 employer with respect to that part of the organization, trade, assets
37 or business transferred.

38 (C) A transfer of the employment experience in whole or in part
39 having become final, the predecessor employer thereafter shall not
40 be entitled to consideration for an adjusted rate based upon his or its
41 experience or the part thereof, as the case may be, which has thus
42 been transferred. A successor in interest to whom employment
43 experience or a part thereof is transferred pursuant to this
44 subsection shall, as of the date of the transfer of the organization,
45 trade, assets or business, or part thereof, immediately become an
46 employer if not theretofore an employer subject to this chapter
47 (R.S.43:21-1 et seq.).

1 (D) If an employer transfers in whole or in part his or its
2 organization, trade, assets or business to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise and both the employer and successor in interest are at the
5 time of the transfer under common ownership, management or
6 control, then the employment experience attributable to the
7 transferred business shall also be transferred to and combined with
8 the employment experience of the successor in interest. The
9 transfer of the employment experience is mandatory and not subject
10 to appeal or protest.

11 (E) The transfer of part of an employer's employment experience
12 to a successor in interest shall become effective as of the first day of
13 the calendar quarter following the acquisition by the successor in
14 interest. As of the effective date, the successor in interest shall
15 have its employer rate recalculated by merging its existing
16 employment experience, if any, with the employment experience
17 acquired. If the successor in interest is not an employer as of the
18 date of acquisition, it shall be assigned the new employer rate until
19 the effective date of the transfer of employment experience.

20 (F) Upon the transfer in whole or in part of the organization,
21 trade, assets or business to a successor in interest, the employment
22 experience shall not be transferred if the successor in interest is not
23 an employer at the time of the acquisition and the controller finds
24 that the successor in interest acquired the business solely or
25 primarily for the purpose of obtaining a lower rate of contributions.

26 (d) Contributions of workers to the unemployment
27 compensation fund and the State disability benefits fund.

28 (1) (A) For periods after January 1, 1975, each worker shall
29 contribute to the fund 1% of his wages with respect to his
30 employment with an employer, which occurs on and after January
31 1, 1975, after such employer has satisfied the condition set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer; provided, however, that such contributions shall be at the
34 rate of 1/2 of 1% of wages paid with respect to employment while
35 the worker is in the employ of the State of New Jersey, or any
36 governmental entity or instrumentality which is an employer as
37 defined under R.S.43:21-19(h)(5), or is covered by an approved
38 private plan under the "Temporary Disability Benefits Law" or
39 while the worker is exempt from the provisions of the "Temporary
40 Disability Benefits Law" under section 7 of that law, P.L.1948,
41 c.110 (C.43:21-31).

42 (B) Effective January 1, 1978 there shall be no contributions by
43 workers in the employ of any governmental or nongovernmental
44 employer electing or required to make payments in lieu of
45 contributions unless the employer is covered by the State plan under
46 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
47 that case contributions shall be at the rate of 1/2 of 1%, except that
48 commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments
2 in lieu of contributions shall be required to make contributions to
3 the fund at the same rate prescribed for workers of other
4 nongovernmental employers.

5 (C) (i) Notwithstanding the above provisions of this paragraph
6 (1), during the period starting July 1, 1986 and ending December
7 31, 1992, each worker shall contribute to the fund 1.125% of wages
8 paid with respect to his employment with a governmental employer
9 electing or required to pay contributions or nongovernmental
10 employer, including a nonprofit organization which is an employer
11 as defined under R.S.43:21-19(h)(6), regardless of whether that
12 nonprofit organization elects or is required to finance its benefit
13 costs with contributions to the fund or by payments in lieu of
14 contributions, after that employer has satisfied the conditions set
15 forth in subsection R.S.43:21-19(h) with respect to becoming an
16 employer. Contributions, however, shall be at the rate of 0.625%
17 while the worker is covered by an approved private plan under the
18 "Temporary Disability Benefits Law" or while the worker is exempt
19 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
20 other provision of that law; provided that such contributions shall
21 be at the rate of 0.625% of wages paid with respect to employment
22 with the State of New Jersey or any other governmental entity or
23 instrumentality electing or required to make payments in lieu of
24 contributions and which is covered by the State plan under the
25 "Temporary Disability Benefits Law," except that, while the worker
26 is exempt from the provisions of the "Temporary Disability Benefits
27 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
28 any other provision of that law, or is covered for disability benefits
29 by an approved private plan of the employer, the contributions to
30 the fund shall be 0.125%.

31 (ii) (Deleted by amendment, P.L.1995, c.422.)

32 (D) Notwithstanding any other provisions of this paragraph (1),
33 during the period starting January 1, 1993 and ending June 30,
34 1994, each worker shall contribute to the unemployment
35 compensation fund 0.5% of wages paid with respect to the worker's
36 employment with a governmental employer electing or required to
37 pay contributions or nongovernmental employer, including a
38 nonprofit organization which is an employer as defined under
39 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
40 whether that nonprofit organization elects or is required to finance
41 its benefit costs with contributions to the fund or by payments in
42 lieu of contributions, after that employer has satisfied the conditions
43 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
44 an employer. No contributions, however, shall be made by the
45 worker while the worker is covered by an approved private plan
46 under the "Temporary Disability Benefits Law," P.L.1948, c.110
47 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
48 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;

1 provided that the contributions shall be at the rate of 0.50% of
2 wages paid with respect to employment with the State of New
3 Jersey or any other governmental entity or instrumentality electing
4 or required to make payments in lieu of contributions and which is
5 covered by the State plan under the "Temporary Disability Benefits
6 Law," except that, while the worker is exempt from the provisions
7 of the "Temporary Disability Benefits Law" under section 7 of that
8 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
9 law, or is covered for disability benefits by an approved private plan
10 of the employer, no contributions shall be made to the fund.

11 Each worker shall, starting on January 1, 1996 and ending March
12 31, 1996, contribute to the unemployment compensation fund
13 0.60% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 1998 and ending
27 December 31, 1998, contribute to the unemployment compensation
28 fund 0.10% of wages paid with respect to the worker's employment
29 with a governmental employer electing or required to pay
30 contributions or nongovernmental employer, including a nonprofit
31 organization which is an employer as defined under paragraph (6)
32 of subsection (h) of R.S.43:21-19, regardless of whether that
33 nonprofit organization elects or is required to finance its benefit
34 costs with contributions to the fund or by payments in lieu of
35 contributions, after that employer has satisfied the conditions set
36 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.10% of wages paid with respect to employment with the State of
39 New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on January 1, 1999 until December
42 31, 1999, contribute to the unemployment compensation fund
43 0.15% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,
2 after that employer has satisfied the conditions set forth in
3 subsection (h) of R.S.43:21-19 with respect to becoming an
4 employer, provided that the contributions shall be at the rate of
5 0.10% of wages paid with respect to employment with the State of
6 New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on January 1, 2000 until December
9 31, 2001, contribute to the unemployment compensation fund
10 0.20% of wages paid with respect to the worker's employment with
11 a governmental employer electing or required to pay contributions
12 or nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.10% of wages paid with respect to employment with the State of
21 New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,
24 2004, contribute to the unemployment compensation fund 0.1825%
25 of wages paid with respect to the worker's employment with a
26 governmental employer electing or required to pay contributions or
27 a nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.0825% of wages paid with respect to employment with the State
36 of New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute
39 to the unemployment compensation fund 0.3825% of wages paid
40 with respect to the worker's employment with a governmental
41 employer electing or required to pay contributions or
42 nongovernmental employer, including a nonprofit organization
43 which is an employer as defined under paragraph (6) of subsection
44 (h) of R.S.43:21-19, regardless of whether that nonprofit
45 organization elects or is required to finance its benefit costs with
46 contributions to the fund or by payments in lieu of contributions,
47 after that employer has satisfied the conditions set forth in
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.0825% of wages paid with respect to employment with the State
3 of New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law
6 in this State to the contrary, withhold in trust the amount of his
7 workers' contributions from their wages at the time such wages are
8 paid, shall show such deduction on his payroll records, shall furnish
9 such evidence thereof to his workers as the division or controller
10 may prescribe, and shall transmit all such contributions, in addition
11 to his own contributions, to the office of the controller in such
12 manner and at such times as may be prescribed. If any employer
13 fails to deduct the contributions of any of his workers at the time
14 their wages are paid, or fails to make a deduction therefor at the
15 time wages are paid for the next succeeding payroll period, he alone
16 shall thereafter be liable for such contributions, and for the purpose
17 of R.S.43:21-14, such contributions shall be treated as employer's
18 contributions required from him.

19 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
20 the context clearly requires otherwise, the term "contributions" shall
21 include the contributions of workers pursuant to this section.

22 (G) (i) Each worker, with respect to the worker's employment
23 with a government employer electing or required to pay
24 contributions to the State disability benefits fund or
25 nongovernmental employer, including a nonprofit organization
26 which is an employer as defined under paragraph (6) of subsection
27 (h) of R.S.43:21-19, unless the employer is covered by an approved
28 private disability plan or is exempt from the provisions of the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
30 et al.) under section 7 of that law (C.43:21-31) or any other
31 provision of that law, shall, for calendar year 2012 and each
32 subsequent calendar year, make contributions to the State disability
33 benefits fund at the annual rate of contribution necessary to obtain a
34 total amount of contributions, which, when added to employer
35 contributions made to the State disability benefits fund pursuant to
36 subsection (e) of this section, is, for calendar years prior to calendar
37 year 2018, equal to 120% of the benefits paid for periods of
38 disability, excluding periods of family temporary disability, during
39 the immediately preceding calendar year plus an amount equal to
40 100% of the cost of administration of the payment of those benefits
41 during the immediately preceding calendar year, less the amount of
42 net assets remaining in the State disability benefits fund, excluding
43 net assets remaining in the "Family Temporary Disability Leave
44 Account" of that fund, as of December 31 of the immediately
45 preceding year, and is, for calendar year 2018 and year 2019, equal
46 to 120% of the benefits paid for periods of disability, excluding
47 periods of family temporary disability, during the last preceding full
48 fiscal year plus an amount equal to 100% of the cost of

1 administration of the payment of those benefits during the last
2 preceding full fiscal year, less the amount of net assets anticipated
3 to be remaining in the "Family Temporary Disability Leave
4 Account" of that fund, as of December 31 of the immediately
5 preceding calendar year, and is, for each of calendar years 2020 and
6 2021, equal to 120% of the benefits which the department
7 anticipates will be paid for periods of disability, excluding periods
8 of family temporary disability, during the respective calendar year
9 plus an amount equal to 100% of the cost of administration of the
10 payment of those benefits which the department anticipates during
11 the respective calendar year, less the amount of net assets
12 anticipated to be remaining in the State disability benefits fund,
13 excluding net assets remaining in the "Family Temporary Disability
14 Leave Account" of that fund, as of December 31 of the immediately
15 preceding calendar year, and is, for calendar year 2022 and any
16 subsequent calendar year, equal to 120% of the benefits paid for
17 periods of disability, excluding periods of family temporary
18 disability, during the last preceding full fiscal year plus an amount
19 equal to 100% of the cost of administration of the payment of those
20 benefits during the last preceding full fiscal year, less the amount of
21 net assets anticipated to be remaining in the State disability benefits
22 fund, excluding net assets remaining in the "Family Temporary
23 Disability Leave Account" of that fund, as of December 31 of the
24 immediately preceding calendar year. All increases in the cost of
25 benefits for periods of disability caused by the increases in the
26 weekly benefit rate commencing July 1, 2020, pursuant to section
27 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by
28 contributions made by workers pursuant to this paragraph (i) and
29 none of those increases shall be funded by employer contributions.
30 The estimated rates for the next calendar year shall be made
31 available on the department's website no later than 60 days after the
32 end of the last preceding full fiscal year. The rates of employer
33 contributions determined pursuant to subsection (e) of this section
34 for any year shall be determined prior to the determination of the
35 rate of employee contributions pursuant to this subparagraph (i) and
36 any consideration of employee contributions in determining
37 employer rates for any year shall be based on amounts of employee
38 contributions made prior to the year to which the rate of employee
39 contributions applies and shall not be based on any projection or
40 estimate of the amount of employee contributions for the year to
41 which that rate applies.

42 (ii) Each worker shall contribute to the State disability benefits
43 fund, in addition to any amount contributed pursuant to
44 subparagraph (i) of this paragraph (1)(G), an amount equal to,
45 during calendar year 2009, 0.09%, and during calendar year 2010
46 0.12%, of wages paid with respect to the worker's employment with
47 any covered employer, including a governmental employer which is
48 an employer as defined under R.S.43:21-19(h)(5), unless the

1 employer is covered by an approved private disability plan for
2 benefits during periods of family temporary disability leave. The
3 contributions made pursuant to this subparagraph (ii) to the State
4 disability benefits fund shall be deposited into an account of that
5 fund reserved for the payment of benefits during periods of family
6 temporary disability leave as defined in section 3 of the "Temporary
7 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
8 administration of those payments and shall not be used for any other
9 purpose. This account shall be known as the "Family Temporary
10 Disability Leave Account." For calendar year 2011 and each
11 subsequent calendar year until 2018, the annual rate of contribution
12 to be paid by workers pursuant to this subparagraph (ii) shall be, for
13 calendar years prior to calendar year 2018, the rate necessary to
14 obtain a total amount of contributions equal to 125% of the benefits
15 paid for periods of family temporary disability leave during the
16 immediately preceding calendar year plus an amount equal to 100%
17 of the cost of administration of the payment of those benefits during
18 the immediately preceding calendar year, less the amount of net
19 assets remaining in the account as of December 31 of the
20 immediately preceding year, and shall be, for calendar year 2018
21 and calendar year 2019, the rate necessary to obtain a total amount
22 of contributions equal to 125% of the benefits paid for periods of
23 family temporary disability leave during the last preceding full
24 fiscal year plus an amount equal to 100% of the cost of
25 administration of the payment of those benefits during the last
26 preceding full fiscal year, less the amount of net assets anticipated
27 to be remaining in the account as of December 31 of the
28 immediately preceding calendar year. For each of calendar years
29 2020 and 2021, the annual rate of contribution to be paid by
30 workers pursuant to this subparagraph (ii) shall be the rate
31 necessary to obtain a total amount of contributions equal to 125% of
32 the benefits which the department anticipates will be paid for
33 periods of family temporary disability leave during the respective
34 calendar year plus an amount equal to 100% of the cost of
35 administration of the payment of those benefits which the
36 department anticipates during the respective calendar year, less the
37 amount of net assets remaining in the account as of December 31 of
38 the immediately preceding calendar year. For 2022 and any
39 subsequent calendar year, the annual rate of contribution to be paid
40 by workers pursuant to this subparagraph (ii) shall be the rate
41 necessary to obtain a total amount of contributions equal to 125% of
42 the benefits which were paid for periods of family temporary
43 disability leave during the last preceding full fiscal year plus an
44 amount equal to 100% of the cost of administration of the payment
45 of those benefits during the last preceding full fiscal year, less the
46 amount of net assets remaining in the account as of December 31 of
47 the immediately preceding calendar year. All increases in the cost
48 of benefits for periods of family temporary disability leave caused

1 by the increases in the weekly benefit rate commencing July 1, 2020
2 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
3 increases in the maximum duration of benefits commencing July 1,
4 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
5 and 43:21-39) shall be funded by contributions made by workers
6 pursuant to this paragraph (ii) and none of those increases shall be
7 funded by employer contributions. The estimated rates for the next
8 calendar year shall be made available on the department's website
9 no later than 60 days after the end of the last preceding full fiscal
10 year. Necessary administrative costs shall include the cost of an
11 outreach program to inform employees of the availability of the
12 benefits and the cost of issuing the reports required or permitted
13 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
14 monies, other than the funds in the "Family Temporary Disability
15 Leave Account," shall be used for the payment of benefits during
16 periods of family temporary disability leave or for the
17 administration of those payments, with the sole exception that,
18 during calendar years 2008 and 2009, a total amount not exceeding
19 \$25 million may be transferred to that account from the revenues
20 received in the State disability benefits fund pursuant to
21 subparagraph (i) of this paragraph (1)(G) and be expended for those
22 payments and their administration, including the administration of
23 the collection of contributions made pursuant to this subparagraph
24 (ii) and any other necessary administrative costs. Any amount
25 transferred to the account pursuant to this subparagraph (ii) shall be
26 repaid during a period beginning not later than January 1, 2011 and
27 ending not later than December 31, 2015. No monies, other than
28 the funds in the "Family Temporary Disability Leave Account,"
29 shall be used under any circumstances after December 31, 2009, for
30 the payment of benefits during periods of family temporary
31 disability leave or for the administration of those payments,
32 including for the administration of the collection of contributions
33 made pursuant to this subparagraph (ii).

34 (2) (A) (Deleted by amendment, P.L.1984, c.24.)

35 (B) (Deleted by amendment, P.L.1984, c.24.)

36 (C) (Deleted by amendment, P.L.1994, c.112.)

37 (D) (Deleted by amendment, P.L.1994, c.112.)

38 (E) (i) (Deleted by amendment, P.L.1994, c.112.)

39 (ii) (Deleted by amendment, P.L.1996, c.28.)

40 (iii) (Deleted by amendment, P.L.1994, c.112.)

41 (3) (A) If an employee receives wages from more than one
42 employer during any calendar year, and either the sum of his
43 contributions deposited in and credited to the State disability
44 benefits fund plus the amount of his contributions, if any, required
45 towards the costs of benefits under one or more approved private
46 plans under the provisions of section 9 of the "Temporary Disability
47 Benefits Law" (C.43:21-33) and deducted from his wages, or the
48 sum of such latter contributions, if the employee is covered during

1 such calendar year only by two or more private plans, exceeds an
2 amount equal to 1/2 of 1% of the "wages" determined in accordance
3 with the provisions of R.S.43:21-7(b)(3) during the calendar years
4 beginning on or after January 1, 1976 or, during calendar year 2012
5 or any subsequent calendar year, the total amount of his
6 contributions for the year exceeds the amount set by the annual rate
7 of contribution determined by the Commissioner of Labor and
8 Workforce Development pursuant to subparagraph (i) of paragraph
9 (1)(G) of this subsection (d), the employee shall be entitled to a
10 refund of the excess if he makes a claim to the controller within two
11 years after the end of the calendar year in which the wages are
12 received with respect to which the refund is claimed and establishes
13 his right to such refund. Such refund shall be made by the controller
14 from the State disability benefits fund. No interest shall be allowed
15 or paid with respect to any such refund. The controller shall, in
16 accordance with prescribed regulations, determine the portion of the
17 aggregate amount of such refunds made during any calendar year
18 which is applicable to private plans for which deductions were
19 made under section 9 of the "Temporary Disability Benefits Law"
20 (C.43:21-33) such determination to be based upon the ratio of the
21 amount of such wages exempt from contributions to such fund, as
22 provided in subparagraph (B) of paragraph (1) of this subsection
23 with respect to coverage under private plans, to the total wages so
24 exempt plus the amount of such wages subject to contributions to
25 the disability benefits fund, as provided in subparagraph (G) of
26 paragraph (1) of this subsection. The controller shall, in accordance
27 with prescribed regulations, prorate the amount so determined
28 among the applicable private plans in the proportion that the wages
29 covered by each plan bear to the total private plan wages involved
30 in such refunds, and shall assess against and recover from the
31 employer, or the insurer if the insurer has indemnified the employer
32 with respect thereto, the amount so prorated. The provisions of
33 R.S.43:21-14 with respect to collection of employer contributions
34 shall apply to such assessments. The amount so recovered by the
35 controller shall be paid into the State disability benefits fund.

36 (B) If an employee receives wages from more than one employer
37 during any calendar year, and the sum of his contributions deposited
38 in the "Family Temporary Disability Leave Account" of the State
39 disability benefits fund plus the amount of his contributions, if any,
40 required towards the costs of family temporary disability leave
41 benefits under one or more approved private plans under the
42 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
43 et al.) and deducted from his wages, exceeds an amount equal to,
44 during calendar year 2009, 0.09% of the "wages" determined in
45 accordance with the provisions of R.S.43:21-7(b)(3), or during
46 calendar year 2010, 0.12% of those wages, or, during calendar year
47 2011 or any subsequent calendar year, the percentage of those
48 wages set by the annual rate of contribution determined by the

1 Commissioner of Labor and Workforce Development pursuant to
2 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
3 employee shall be entitled to a refund of the excess if he makes a
4 claim to the controller within two years after the end of the calendar
5 year in which the wages are received with respect to which the
6 refund is claimed and establishes his right to the refund. The refund
7 shall be made by the controller from the "Family Temporary
8 Disability Leave Account" of the State disability benefits fund. No
9 interest shall be allowed or paid with respect to any such refund.
10 The controller shall, in accordance with prescribed regulations,
11 determine the portion of the aggregate amount of the refunds made
12 during any calendar year which is applicable to private plans for
13 which deductions were made under section 9 of the "Temporary
14 Disability Benefits Law" (C.43:21-33), with that determination
15 based upon the ratio of the amount of such wages exempt from
16 contributions to the fund, as provided in paragraph (1)(B) of this
17 subsection (d) with respect to coverage under private plans, to the
18 total wages so exempt plus the amount of such wages subject to
19 contributions to the "Family Temporary Disability Leave Account"
20 of the State disability benefits fund, as provided in subparagraph (ii)
21 of paragraph (1)(G) of this subsection (d). The controller shall, in
22 accordance with prescribed regulations, prorate the amount so
23 determined among the applicable private plans in the proportion
24 that the wages covered by each plan bear to the total private plan
25 wages involved in such refunds, and shall assess against and
26 recover from the employer, or the insurer if the insurer has
27 indemnified the employer with respect thereto, the prorated amount.
28 The provisions of R.S.43:21-14 with respect to collection of
29 employer contributions shall apply to such assessments. The
30 amount so recovered by the controller shall be paid into the "Family
31 Temporary Disability Leave Account" of the State disability
32 benefits fund.

33 (4) If an individual does not receive any wages from the
34 employing unit which for the purposes of this chapter (R.S.43:21-1
35 et seq.) is treated as his employer, or receives his wages from some
36 other employing unit, such employer shall nevertheless be liable for
37 such individual's contributions in the first instance; and after
38 payment thereof such employer may deduct the amount of such
39 contributions from any sums payable by him to such employing
40 unit, or may recover the amount of such contributions from such
41 employing unit, or, in the absence of such an employing unit, from
42 such individual, in a civil action; provided proceedings therefor are
43 instituted within three months after the date on which such
44 contributions are payable. General rules shall be prescribed
45 whereby such an employing unit may recover the amount of such
46 contributions from such individuals in the same manner as if it were
47 the employer.

1 (5) Every employer who has elected to become an employer
2 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
3 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
4 the provisions of R.S.43:21-8, shall post and maintain printed
5 notices of such election on his premises, of such design, in such
6 numbers, and at such places as the director may determine to be
7 necessary to give notice thereof to persons in his service.

8 (6) Contributions by workers, payable to the controller as herein
9 provided, shall be exempt from garnishment, attachment, execution,
10 or any other remedy for the collection of debts.

11 (e) Contributions by employers to the State disability benefits
12 fund.

13 (1) Except as hereinafter provided, each employer shall, in
14 addition to the contributions required by subsections (a), (b), and
15 (c) of this section, contribute $\frac{1}{2}$ of 1% of the wages paid by such
16 employer to workers with respect to employment unless he is not a
17 covered employer as defined in subsection (a) of section 3 of the
18 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
19 the rate for the State of New Jersey shall be $\frac{1}{10}$ of 1% for the
20 calendar year 1980 and for the first six months of 1981. Prior to
21 July 1, 1981 and prior to July 1 each year thereafter, the controller
22 shall review the experience accumulated in the account of the State
23 of New Jersey and establish a rate for the next following fiscal year
24 which, in combination with worker contributions, will produce
25 sufficient revenue to keep the account in balance; except that the
26 rate so established shall not be less than $\frac{1}{10}$ of 1%. Such
27 contributions shall become due and be paid by the employer to the
28 controller for the State disability benefits fund as established by
29 law, in accordance with such regulations as may be prescribed, and
30 shall not be deducted, in whole or in part, from the remuneration of
31 individuals in his employ. In the payment of any contributions, a
32 fractional part of a cent shall be disregarded unless it amounts to
33 \$0.005 or more, in which case it shall be increased to \$0.01.

34 (2) During the continuance of coverage of a worker by an
35 approved private plan of disability benefits under the "Temporary
36 Disability Benefits Law," the employer shall be exempt from the
37 contributions required by paragraph (1) above with respect to wages
38 paid to such worker.

39 (3) (A) The rates of contribution as specified in paragraph (1)
40 above shall be subject to modification as provided herein with
41 respect to employer contributions due on and after July 1, 1951.

42 (B) A separate disability benefits account shall be maintained for
43 each employer required to contribute to the State disability benefits
44 fund and such account shall be credited with contributions
45 deposited in and credited to such fund with respect to employment
46 occurring on and after January 1, 1949. Each employer's account
47 shall be credited with all contributions paid on or before January 31
48 of any calendar year on his own behalf and on behalf of individuals

1 in his service with respect to employment occurring in preceding
2 calendar years; provided, however, that if January 31 of any
3 calendar year falls on a Saturday or Sunday an employer's account
4 shall be credited as of January 31 of such calendar year with all the
5 contributions which he has paid on or before the next succeeding
6 day which is not a Saturday or Sunday. But nothing in this act shall
7 be construed to grant any employer or individuals in his service
8 prior claims or rights to the amounts paid by him to the fund either
9 on his own behalf or on behalf of such individuals. Benefits paid to
10 any covered individual in accordance with Article III of the
11 "Temporary Disability Benefits Law" on or before December 31 of
12 any calendar year with respect to disability in such calendar year
13 and in preceding calendar years shall be charged against the account
14 of the employer by whom such individual was employed at the
15 commencement of such disability or by whom he was last
16 employed, if out of employment.

17 (C) The controller may prescribe regulations for the
18 establishment, maintenance, and dissolution of joint accounts by
19 two or more employers, and shall, in accordance with such
20 regulations and upon application by two or more employers to
21 establish such an account, or to merge their several individual
22 accounts in a joint account, maintain such joint account as if it
23 constituted a single employer's account.

24 (D) Prior to July 1 of each calendar year, the controller shall
25 make a preliminary determination of the rate of contribution for the
26 12 months commencing on such July 1 for each employer subject to
27 the contribution requirements of this subsection (e).

28 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the
29 preceding January 31 of such year such employer shall have been a
30 covered employer who has paid contributions to the State disability
31 benefits fund with respect to employment in the three calendar
32 years immediately preceding such year.

33 (2) If the minimum requirements in subparagraph (D) (1) above
34 have been fulfilled and the credited contributions exceed the
35 benefits charged by more than \$500.00, such preliminary rate shall
36 be as follows:

37 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
38 less than $1\frac{1}{4}$ % of his average annual payroll as defined in this
39 chapter (R.S.43:21-1 et seq.);

40 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
41 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

42 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}$ %
43 of his average annual payroll.

44 (3) If the minimum requirements in subparagraph (D) (1) above
45 have been fulfilled and the contributions credited exceed the
46 benefits charged but by not more than \$500.00 plus 1% of his
47 average annual payroll, or if the benefits charged exceed the

1 contributions credited but by not more than \$500.00, the
2 preliminary rate shall be 1/4 of 1%.

3 (4) If the minimum requirements in subparagraph (D) (1) above
4 have been fulfilled and the benefits charged exceed the
5 contributions credited by more than \$500.00, such preliminary rate
6 shall be as follows:

7 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
8 1% of his average annual payroll;

9 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
10 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

11 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
12 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

13 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
14 3/4 of 1% but is less than 1% of his average annual payroll;

15 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
16 1% of his average annual payroll.

17 (5) Determination of the preliminary rate as specified in
18 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
19 to the condition that it shall in no event be decreased by more than
20 1/10 of 1% of wages or increased by more than 2/10 of 1% of
21 wages from the preliminary rate determined for the preceding year
22 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
23 shall have been applicable.

24 (E) (1) Prior to July 1 of each calendar year the controller shall
25 determine the amount of the State disability benefits fund as of
26 December 31 of the preceding calendar year, increased by the
27 contributions paid thereto during January of the current calendar
28 year with respect to employment occurring in the preceding
29 calendar year. If such amount exceeds the net amount withdrawn
30 from the unemployment trust fund pursuant to section 23 of the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
32 plus the amount at the end of such preceding calendar year of the
33 unemployment disability account as defined in section 22 of said
34 law (C.43:21-46), such excess shall be expressed as a percentage of
35 the wages on which contributions were paid to the State disability
36 benefits fund on or before January 31 with respect to employment
37 in the preceding calendar year.

38 (2) The controller shall then make a final determination of the
39 rates of contribution for the 12 months commencing July 1 of such
40 year for employers whose preliminary rates are determined as
41 provided in subparagraph (D) hereof, as follows:

42 (i) If the percentage determined in accordance with
43 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
44 final employer rates shall be the preliminary rates determined as
45 provided in subparagraph (D) hereof, except that if the employer's
46 preliminary rate is determined as provided in subparagraph (D)(2)
47 or subparagraph (D)(3) hereof, the final employer rate shall be the
48 preliminary employer rate decreased by such percentage of excess

1 taken to the nearest 5/100 of 1%, but in no case shall such final rate
2 be less than 1/10 of 1%.

3 (ii) If the percentage determined in accordance with
4 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%
5 and is less than 1 1/4 of 1%, the final employer rates shall be the
6 preliminary employer rates.

7 (iii) If the percentage determined in accordance with
8 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
9 excess of 1/4 of 1%, the final employer rates shall be the
10 preliminary employer rates determined as provided in subparagraph
11 (D) hereof increased by the difference between 3/4 of 1% and such
12 percentage taken to the nearest 5/100 of 1%; provided, however,
13 that no such final rate shall be more than 1/4 of 1% in the case of an
14 employer whose preliminary rate is determined as provided in
15 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
16 employer whose preliminary rate is determined as provided in
17 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
18 3/4 of 1% in the case of an employer whose preliminary rate is
19 determined as provided in subparagraph (D)(4) hereof.

20 (iv) If the amount of the State disability benefits fund determined
21 as provided in subparagraph (E)(1) of this paragraph is equal to or
22 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case
23 of an employer whose preliminary rate is determined as provided in
24 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer
25 whose preliminary rate is determined as provided in subparagraph
26 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
27 employer whose preliminary rate is determined as provided in
28 subparagraph (D)(4) hereof. Notwithstanding any other provision of
29 law or any determination made by the controller with respect to any
30 12-month period commencing on July 1, 1970, the final rates for all
31 employers for the period beginning January 1, 1971, shall be as set
32 forth herein.

33 (F) Notwithstanding any other provisions of this subsection (e),
34 the rate of contribution paid to the State disability benefits fund by
35 each covered employer as defined in paragraph (1) of subsection (a)
36 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
37 if:

38 (i) No disability benefits have been paid with respect to periods
39 of family temporary disability leave;

40 (ii) No worker paid any contributions to the State disability
41 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
42 this section;

43 (iii) No amounts were transferred from the State disability
44 benefits fund to the "Family Temporary Disability Leave Account"
45 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;
46 and

47 (iv) The total amount of benefits paid for periods of disability
48 were not subject to the increases in the weekly benefit rate for those

1 benefits commencing July 1, 2020 pursuant to section 16 of
2 P.L.1948, c.110 (C.43:21-40).

3 (cf: P.L.2020, c.150, s.2)

4

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

6 43:21-16. (a) (1) Whoever makes a false statement or
7 representation, knowing it to be false, or knowingly fails to disclose
8 a material fact, to obtain or increase or attempts to obtain or
9 increase any benefit or other payment under this chapter
10 (R.S.43:21-1 et seq.), or under an employment security law of any
11 other state or of the federal government, either for himself or for
12 any other person, shall be liable to a fine of 25% of the amount
13 fraudulently obtained, to be recovered in an action at law in the
14 name of the Division of Unemployment and Temporary Disability
15 Insurance of the Department of Labor and Workforce Development
16 of the State of New Jersey or as provided in subsection (e) of
17 R.S.43:21-14, said fine when recovered shall be immediately
18 deposited in the following manner: 10 percent of the amount
19 fraudulently obtained deposited into the unemployment
20 compensation auxiliary fund for the use of said fund, and 15 percent
21 of the amount fraudulently obtained deposited into the
22 unemployment compensation fund; and each such false statement or
23 representation or failure to disclose a material fact shall constitute a
24 separate offense. Any penalties imposed by this subsection shall be
25 in addition to those otherwise prescribed in this chapter (R.S.43:21-
26 1 et seq.).

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

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

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

39 (C) Trade readjustment allowances pursuant to 19 U.S.C.
40 2291-2294;

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

43 (E) Any federal temporary extension of unemployment
44 compensation;

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

47 (G) Any other federal program providing for the payment of
48 unemployment compensation.

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

27 (2) (Deleted by amendment, P.L.2022, c.120).

28 (3) Any employing unit, officer or agent of the employing unit,
29 or any other person, determined by the controller to have knowingly
30 violated, or attempted to violate, or advised another person to
31 violate the transfer of employment experience provisions found at
32 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
33 a lower rate of contributions by failing to disclose material
34 information, or by making a false statement, or by a
35 misrepresentation of fact, shall be subject to a fine of \$5,000 or
36 25% of the contributions under-reported or attempted to be under-
37 reported, whichever is greater, to be recovered as provided in
38 subsection (e) of R.S.43:21-14, and when recovered to be paid to
39 the unemployment compensation auxiliary fund for the use of said
40 fund. For the purposes of this subsection, "knowingly" means
41 having actual knowledge of, or acting with deliberate ignorance or
42 reckless disregard for the prohibition involved.

43 (c) Any person who shall willfully violate any provision of this
44 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
45 the violation of which is made unlawful or the observance of which
46 is required under the terms of this chapter (R.S.43:21-1 et seq.), and
47 for which a penalty is neither prescribed herein nor provided by any
48 other applicable statute, shall be liable to a fine of \$50.00, to be

1 recovered in an action at law in the name of the Division of
2 Unemployment and Temporary Disability Insurance of the
3 Department of Labor and Workforce Development of the State of
4 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
5 fine when recovered to be paid to the unemployment compensation
6 auxiliary fund for the use of said fund; and each day such violation
7 continues shall be deemed to be a separate offense.

8 (d) (1) When it is determined by a representative or
9 representatives designated by the Director of the Division of
10 Unemployment ~~and~~ Insurance or the Division of Temporary
11 Disability Insurance, as appropriate, of the Department of Labor
12 and Workforce Development of the State of New Jersey that any
13 person~~,~~ by reason of the knowing, fraudulent nondisclosure or
14 misrepresentation by him, or by anyone acting as his agent, of a
15 material fact,~~]~~ has received any sum as benefits under this chapter
16 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
17 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in
18 his case, or while he was disqualified from receiving benefits, or
19 while otherwise not entitled to receive such sum as benefits, such
20 person, unless the ~~director (with the concurrence of the controller)~~
21 directs otherwise by regulation, Director of the Division of
22 Unemployment Insurance or the Division of Temporary Disability
23 Insurance, as appropriate, has waived the claimant's repayment
24 obligation, pursuant to paragraph (4) or paragraph (5) of this
25 subsection (d), shall be liable to repay those benefits in full. ~~]~~ The
26 person shall not be liable to repay all or any portion of the
27 overpayment if the representative finds that the person received the
28 overpayment of benefits because of errors or failures to provide
29 information by the employer or errors by the division, and not
30 because of an error, or knowing, fraudulent nondisclosure or
31 misrepresentation, by the person. If the representative finds that
32 errors made by the person were a cause of the overpayment together
33 with errors of the division, or errors or failures to provide
34 information by the employer, but the person did not make a
35 knowing, fraudulent nondisclosure or misrepresentation, the
36 representative shall determine a portion of the overpayment for
37 which the person is liable taking into consideration possible
38 financial hardship to the person, whether recovery would be against
39 equity and good conscience, and how much the person's errors,
40 compared to errors of the division or employer, contributed to the
41 overpayment occurring, but the amount to which the person shall be
42 liable shall not exceed 50 percent of the overpayment. ~~]~~ The
43 employer's account shall not be charged for the amount of an
44 overpayment of benefits if the overpayment was caused by an error
45 of the division and not by any error of the employer, ~~]~~ but shall be
46 charged if the overpayment was caused by an error or failure to
47 provide information of the employer]. The sum ~~]~~ for which the

1 person is found liable to repay] shall be deducted from any future
2 benefits payable to the individual under this chapter (R.S.43:21-1 et
3 seq.) or shall be paid by the individual to the division for the
4 unemployment compensation fund, and such sum shall be
5 collectible in the manner provided for by law, including, but not
6 limited to, the filing of a certificate of debt with the Clerk of the
7 Superior Court of New Jersey; provided, however, that, except in
8 the event of fraud, no person shall be liable for any such refunds or
9 deductions against future benefits unless so notified before four
10 years have elapsed from the time the benefits in question were paid.
11 Such person shall be promptly notified of the determination and the
12 reasons therefor. The person shall be provided a written
13 notification of any determination regarding the repayment of an
14 overpayment and the opportunity to file an appeal of the
15 determination within 20 calendar days after a confirmed receipt of a
16 notice of the determination or 30 calendar days after the notice was
17 mailed to the last known address of the person, and a recovery of an
18 overpayment shall not commence until the end of whichever is
19 applicable of the 20- or 30-day periods and the resolution of any
20 appeal made during those periods.

21 (2) Interstate and cross-offset of state and federal unemployment
22 benefits. To the extent permissible under the laws and Constitution
23 of the United States, the commissioner is authorized to enter into or
24 cooperate in arrangements or reciprocal agreements with
25 appropriate and duly authorized agencies of other states or the
26 United States Secretary of Labor, or both, whereby:

27 (A) Overpayments of unemployment benefits as determined
28 under subsection (d) of R.S.43:21-16 shall be recovered by offset
29 from unemployment benefits otherwise payable under the
30 unemployment compensation law of another state, and
31 overpayments of unemployment benefits as determined under the
32 unemployment compensation law of another state shall be
33 recovered by offset from unemployment benefits otherwise payable
34 under R.S.43:21-1 et seq.; and

35 (B) Overpayments of unemployment benefits as determined
36 under applicable federal law, with respect to benefits or allowances
37 for unemployment provided under a federal program administered
38 by this State under an agreement with the United States Secretary of
39 Labor, shall be recovered by offset from unemployment benefits
40 otherwise payable under R.S.43:21-1 et seq., or any federal program
41 administered by this State, or under the unemployment
42 compensation law of another state or any federal unemployment
43 benefit or allowance program administered by another state under
44 an agreement with the United States Secretary of Labor, if the other
45 state has in effect a reciprocal agreement with the United States
46 Secretary of Labor as authorized by subsection (g) of 42
47 U.S.C.s.503, and if the United States agrees, as provided in the
48 reciprocal agreement with this State entered into under subsection

1 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
2 as determined under subsection (d) of R.S.43:21-16 and
3 overpayments as determined under the unemployment
4 compensation law of another state which has in effect a reciprocal
5 agreement with the United States Secretary of Labor as authorized
6 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
7 from benefits or allowances otherwise payable under a federal
8 program administered by this State or another state under an
9 agreement with the United States Secretary of Labor.

10 (3) The provisions of this subsection shall not be construed as
11 requiring or permitting a waiver of the recovery of any
12 overpayments of unemployment benefits if the waiver is prohibited
13 by any federal law, regulation or administrative directive. A
14 recovery shall not be waived unless the division determines that the
15 claimant is without fault and the repayment would be contrary to
16 equity and good conscience in the case of the recovery of an
17 overpayment of benefit under any of the following programs
18 authorized by the federal "Coronavirus Aid, Relief, and Economic
19 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
20 Unemployment Compensation (FPUC), Pandemic Emergency
21 Unemployment Compensation (PEUC), Mixed Earners
22 Unemployment Compensation (MEUC), Pandemic Unemployment
23 Assistance (PUA), or the first week of regular Unemployment
24 Compensation that is reimbursed in accordance with Section 2105
25 of the CARES Act".

26 (4) Upon request by the claimant, the Director of the Division of
27 Unemployment Insurance or the Division of Temporary Disability
28 Insurance, as appropriate, shall grant the claimant a full waiver of
29 recovery of an overpayment of benefits only after the director has
30 determined that the claimant has not misrepresented or withheld any
31 material fact to obtain benefits and only under the following
32 circumstances:

33 (A) Where the claimant is deceased;

34 (B) Where the claimant is disabled and no longer able to work;

35 (C) Where the claimant received the overpayment of benefits due
36 to an error by the division, or due to an error of the employer or a
37 failure by the employer to provide information; or

38 (D) Where the director determines that recovery of the
39 overpayment would be contrary to equity and good conscience.

40 (5) In the event that the Director of the Division of
41 Unemployment Insurance or the Division of Temporary Disability
42 Insurance, as appropriate, becomes aware, without a request from
43 the claimant pursuant to subparagraph (C) of paragraph (4) of this
44 subsection (d), that the claimant received an overpayment of
45 benefits due to an error by the division, or due to an error of the
46 employer or a failure by the employer to provide information, the
47 director shall grant a full waiver of recovery of an overpayment of
48 benefits, provided that the director has first determined that the

1 claimant did not misrepresent or withhold any material fact to
2 obtain benefits.

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

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

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

1 (g) There shall be created in the Division of Unemployment and
2 Temporary Disability Insurance of the Department of Labor and
3 Workforce Development of the State of New Jersey an investigative
4 staff for the purpose of investigating violations referred to in this
5 section and enforcing the provisions thereof.

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

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

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

38 3. This act shall take effect on the 270th day following
39 enactment, except that the division shall, prior to the 270th day after
40 enactment, take all administrative measures necessary to implement
41 this act, including making all needed changes in forms and
42 materials to be provided to employers, and notifying them of what
43 is required to be in compliance with this act, including the
44 requirements to provide the division with an email address for
45 communication to and from the division and to use electronic means
46 to communicate with the department.

47 (cf: P.L.2022, c.120, s.2)

1 7. R.S.43:21-19 is amended to read as follows:

2 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
3 seq.), unless the context clearly requires otherwise:

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

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

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

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

37 With respect to a benefit year commencing on or after July 1,
38 1995, if an individual does not have sufficient qualifying weeks or
39 wages in his base year to qualify for benefits, the individual shall
40 have the option of designating that his base year shall be the
41 "alternative base year," which means the last four completed
42 calendar quarters immediately preceding the individual's benefit
43 year; except that, with respect to a benefit year commencing on or
44 after October 1, 1995, if the individual also does not have sufficient
45 qualifying weeks or wages in the last four completed calendar
46 quarters immediately preceding his benefit year to qualify for
47 benefits, "alternative base year" means the last three completed
48 calendar quarters immediately preceding his benefit year and, of the

1 calendar quarter in which the benefit year commences, the portion
2 of the quarter which occurs before the commencing of the benefit
3 year.

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

18 (2) With respect to a benefit year commencing on or after June 1,
19 1990 for an individual who immediately preceding the benefit year
20 was subject to a disability compensable under the provisions of the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
22 et seq.), "base year" shall mean the first four of the last five
23 completed calendar quarters immediately preceding the individual's
24 period of disability, if the employment held by the individual
25 immediately preceding the period of disability is no longer
26 available at the conclusion of that period and the individual files a
27 valid claim for unemployment benefits after the conclusion of that
28 period. For the purposes of this paragraph, "period of disability"
29 means the period defined as a period of disability by section 3 of
30 the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-27). An individual who files a claim under the provisions
32 of this paragraph (2) shall not be regarded as having left work
33 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

34 (3) With respect to a benefit year commencing on or after June 1,
35 1990 for an individual who immediately preceding the benefit year
36 was subject to a disability compensable under the provisions of the
37 workers' compensation law (chapter 15 of Title 34 of the Revised
38 Statutes), "base year" shall mean the first four of the last five
39 completed calendar quarters immediately preceding the individual's
40 period of disability, if the period of disability was not longer than
41 two years, if the employment held by the individual immediately
42 preceding the period of disability is no longer available at the
43 conclusion of that period and if the individual files a valid claim for
44 unemployment benefits after the conclusion of that period. For the
45 purposes of this paragraph, "period of disability" means the period
46 from the time at which the individual becomes unable to work
47 because of the compensable disability until the time that the
48 individual becomes able to resume work and continue work on a

1 permanent basis. An individual who files a claim under the
2 provisions of this paragraph (3) shall not be regarded as having left
3 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

21 (2) "Controller" means the Office of the Assistant Commissioner
22 for Finance and Controller of the Department of Labor and
23 Workforce Development, established by the 1982 Reorganization
24 Plan of the Department of Labor.

25 (f) "Contributions" means the money payments to the State
26 Unemployment Compensation Fund, required by R.S.43:21-7.
27 "Payments in lieu of contributions" means the money payments to
28 the State Unemployment Compensation Fund by employers electing
29 or required to make payments in lieu of contributions, as provided
30 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or
31 43:21-7.3).

32 (g) "Employing unit" means the State or any of its
33 instrumentalities or any political subdivision thereof or any of its
34 instrumentalities or any instrumentality of more than one of the
35 foregoing or any instrumentality of any of the foregoing and one or
36 more other states or political subdivisions or any individual or type
37 of organization, any partnership, association, trust, estate, joint-
38 stock company, insurance company or corporation, whether
39 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
40 successor thereof, or the legal representative of a deceased person,
41 which has or subsequent to January 1, 1936, had in its employ one
42 or more individuals performing services for it within this State. All
43 individuals performing services within this State for any employing
44 unit which maintains two or more separate establishments within
45 this State shall be deemed to be employed by a single employing
46 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
47 individual employed to perform or to assist in performing the work
48 of any agent or employee of an employing unit shall be deemed to

1 be employed by such employing unit for all the purposes of this
2 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
3 paid directly by such employing unit or by such agent or employee;
4 provided the employing unit had actual or constructive knowledge
5 of the work.

6 (h) "Employer" means:

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

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

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

20 (4) Any employing unit which together with one or more other
21 employing units is owned or controlled (by legally enforceable
22 means or otherwise), directly or indirectly by the same interests, or
23 which owns or controls one or more other employing units (by
24 legally enforceable means or otherwise), and which, if treated as a
25 single unit with such other employing unit or interest, would be an
26 employer under paragraph (1) of this subsection;

27 (5) Any employing unit for which service in employment as
28 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
29 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
30 performed after December 31, 1977;

31 (6) Any employing unit for which service in employment as
32 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
33 1971 and which in either the current or the preceding calendar year
34 paid remuneration for employment in the amount of \$1,000.00 or
35 more;

36 (7) Any employing unit not an employer by reason of any other
37 paragraph of this subsection (h) for which, within either the current
38 or preceding calendar year, service is or was performed with respect
39 to which such employing unit is liable for any federal tax against
40 which credit may be taken for contributions required to be paid into
41 a state unemployment fund; or which, as a condition for approval of
42 the "unemployment compensation law" for full tax credit against
43 the tax imposed by the Federal Unemployment Tax Act, is required
44 pursuant to such act to be an employer under this chapter
45 (R.S.43:21-1 et seq.);

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

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

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

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

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

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

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

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

18 (A) Any service performed prior to January 1, 1972, which was
19 employment as defined in the "unemployment compensation law"
20 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
21 provisions of this subsection, service performed on or after January
22 1, 1972, including service in interstate commerce, performed for
23 remuneration or under any contract of hire, written or oral, express
24 or implied.

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

31 (ii) Service performed after December 31, 1977, in the employ of
32 this State or any of its instrumentalities or any political subdivision
33 thereof or any of its instrumentalities or any instrumentality of more
34 than one of the foregoing or any instrumentality of the foregoing
35 and one or more other states or political subdivisions, if such
36 service is not excluded from "employment" under paragraph (D)
37 below.

38 (C) Service performed after December 31, 1971 by an individual
39 in the employ of a religious, charitable, educational, or other
40 organization, which is excluded from "employment" as defined in
41 the Federal Unemployment Tax Act, solely by reason of section
42 3306 (c)(8) of that act, if such service is not excluded from
43 "employment" under paragraph (D) below.

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

46 (i) In the employ of (I) a church or convention or association of
47 churches, or (II) an organization, or school which is operated
48 primarily for religious purposes and which is operated, supervised,

1 controlled or principally supported by a church or convention or
2 association of churches;

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

6 (iii) Prior to January 1, 1978, in the employ of a school which is
7 not an institution of higher education, and after December 31, 1977,
8 in the employ of a governmental entity referred to in R.S.43:21-19

9 (i) (1) (B), if such service is performed by an individual in the
10 exercise of duties

11 (aa) as an elected official;

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

14 (cc) as a member of the State National Guard or Air National
15 Guard;

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

18 (ee) in a position which, under or pursuant to the laws of this
19 State, is designated as a major nontenured policy making or
20 advisory position, or a policy making or advisory position, the
21 performance of the duties of which ordinarily does not require more
22 than eight hours per week; or

23 (iv) By an individual receiving rehabilitation or remunerative
24 work in a facility conducted for the purpose of carrying out a
25 program of rehabilitation of individuals whose earning capacity is
26 impaired by age or physical or mental deficiency or injury or
27 providing remunerative work for individuals who because of their
28 impaired physical or mental capacity cannot be readily absorbed in
29 the competitive labor market;

30 (v) By an individual receiving work-relief or work-training as
31 part of an unemployment work-relief or work-training program
32 assisted in whole or in part by any federal agency or an agency of a
33 state or political subdivision thereof; or

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

38 (E) The term "employment" shall include the services of an
39 individual who is a citizen of the United States, performed outside
40 the United States after December 31, 1971 (except in Canada and in
41 the case of the Virgin Islands, after December 31, 1971) and prior
42 to January 1 of the year following the year in which the U.S.
43 Secretary of Labor approves the unemployment compensation law
44 of the Virgin Islands, under section 3304 (a) of the Internal
45 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
46 American employer (other than the service which is deemed
47 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or

1 the parallel provisions of another state's unemployment
2 compensation law), if

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

5 (ii) The American employer has no place of business in the
6 United States, but (I) the American employer is an individual who
7 is a resident of this State; or (II) the American employer is a
8 corporation which is organized under the laws of this State; or (III)
9 the American employer is a partnership or trust and the number of
10 partners or trustees who are residents of this State is greater than the
11 number who are residents of another state; or

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

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

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

32 (G) Notwithstanding any other provision of this subsection,
33 service in this State with respect to which the taxes required to be
34 paid under any federal law imposing a tax against which credit may
35 be taken for contributions required to be paid into a state
36 unemployment fund or which as a condition for full tax credit
37 against the tax imposed by the Federal Unemployment Tax Act is
38 required to be covered under the "unemployment compensation
39 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

32 (bb) such other entity shall be treated as having paid cash
33 remuneration to such individual in an amount equal to the amount
34 of cash remuneration paid to such individual by the crew leader
35 (either on his own behalf or on behalf of such other entity) for the
36 service in agricultural labor performed for such other entity.

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

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

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

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

47 (J) Domestic service after December 31, 1977 performed in the
48 private home of an employing unit which paid cash remuneration of

1 \$1,000.00 or more to one or more individuals for such domestic
2 service in any calendar quarter in the current or preceding calendar
3 year.

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

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

7 (B) The service is not localized in any state but some of the
8 service is performed in this State, and (i) the base of operations, or,
9 if there is no base of operations, then the place from which such
10 service is directed or controlled, is in this State; or (ii) the base of
11 operations or place from which such service is directed or
12 controlled is not in any state in which some part of the service is
13 performed, but the individual's residence is in this State.

14 (3) Services performed within this State but not covered under
15 paragraph (2) of this subsection shall be deemed to be employment
16 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
17 required and paid with respect to such services under an
18 unemployment compensation law of any other state or of the federal
19 government.

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

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

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

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

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

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

43 (B) Such service is either outside the usual course of the business
44 for which such service is performed, or that such service is
45 performed outside of all the places of business of the enterprise for
46 which such service is performed; and

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

1 (7) Provided that such services are also exempt under the Federal
2 Unemployment Tax Act, as amended, or that contributions with
3 respect to such services are not required to be paid into a state
4 unemployment fund as a condition for a tax offset credit against the
5 tax imposed by the Federal Unemployment Tax Act, as amended,
6 the term "employment" shall not include:

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

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

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

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

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

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

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

41 (F) Service performed in the employ of the United States
42 Government or of any instrumentality of the United States exempt
43 under the Constitution of the United States from the contributions
44 imposed by the "unemployment compensation law," except that to
45 the extent that the Congress of the United States shall permit states
46 to require any instrumentalities of the United States to make
47 payments into an unemployment fund under a state unemployment
48 compensation law, all of the provisions of this act shall be

1 applicable to such instrumentalities, and to service performed for
2 such instrumentalities, in the same manner, to the same extent and
3 on the same terms as to all other employers, employing units,
4 individuals and services; provided that if this State shall not be
5 certified for any year by the Secretary of Labor of the United States
6 under section 3304 of the federal Internal Revenue Code of 1986
7 (26 U.S.C. s.3304), the payments required of such instrumentalities
8 with respect to such year shall be refunded by the division from the
9 fund in the same manner and within the same period as is provided
10 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
11 or collected by the division;

12 (G) Services performed in the employ of fraternal beneficiary
13 societies, orders, or associations operating under the lodge system
14 or for the exclusive benefit of the members of a fraternity itself
15 operating under the lodge system and providing for the payment of
16 life, sick, accident, or other benefits to the members of such society,
17 order, or association, or their dependents;

18 (H) Services performed as a member of the board of directors, a
19 board of trustees, a board of managers, or a committee of any bank,
20 building and loan, or savings and loan association, incorporated or
21 organized under the laws of this State or of the United States, where
22 such services do not constitute the principal employment of the
23 individual;

24 (I) Service with respect to which unemployment insurance is
25 payable under an unemployment insurance program established by
26 an Act of Congress;

27 (J) Service performed by agents of mutual fund brokers or
28 dealers in the sale of mutual funds or other securities, by agents of
29 insurance companies, exclusive of industrial insurance agents or by
30 agents of investment companies, if the compensation to such agents
31 for such services is wholly on a commission basis;

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

34 (L) Services performed in the employ of any veterans'
35 organization chartered by Act of Congress or of any auxiliary
36 thereof, no part of the net earnings of which organization, or
37 auxiliary thereof, inures to the benefit of any private shareholder or
38 individual;

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

45 (N) Services performed after January 1, 1973 by an individual
46 for a labor union organization, known and recognized as a union
47 local, as a member of a committee or committees reimbursed by the
48 union local for time lost from regular employment, or as a part-time

1 officer of a union local and the remuneration for such services is
2 less than \$1,000.00 in a calendar year;

3 (O) Services performed in the sale or distribution of merchandise
4 by home-to-home salespersons or in-the-home demonstrators whose
5 remuneration consists wholly of commissions or commissions and
6 bonuses;

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

10 (Q) Service performed in the employ of an instrumentality
11 wholly owned by a foreign government if (i) the service is of a
12 character similar to that performed in foreign countries by
13 employees of the United States Government or of an instrumentality
14 thereof, and (ii) the division finds that the United States Secretary
15 of State has certified to the United States Secretary of the Treasury
16 that the foreign government, with respect to whose instrumentality
17 exemption is claimed, grants an equivalent exemption with respect
18 to similar services performed in the foreign country by employees
19 of the United States Government and of instrumentalities thereof;

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

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

29 (T) Service performed in the employ of a school, college, or
30 university if such service is performed (i) by a student enrolled at
31 such school, college, or university on a full-time basis in an
32 educational program or completing such educational program
33 leading to a degree at any of the severally recognized levels, or (ii)
34 by the spouse of such a student, if such spouse is advised at the time
35 such spouse commences to perform such service that (I) the
36 employment of such spouse to perform such service is provided
37 under a program to provide financial assistance to such student by
38 such school, college, or university, and (II) such employment will
39 not be covered by any program of unemployment insurance;

40 (U) Service performed by an individual who is enrolled at a
41 nonprofit or public educational institution which normally
42 maintains a regular faculty and curriculum and normally has a
43 regularly organized body of students in attendance at the place
44 where its educational activities are carried on, as a student in a full-
45 time program, taken for credit at such institution, which combines
46 academic instruction with work experience, if such service is an
47 integral part of such program, and such institution has so certified
48 to the employer, except that this subparagraph shall not apply to

1 service performed in a program established for or on behalf of an
2 employer or group of employers;

3 (V) Service performed in the employ of a hospital, if such
4 service is performed by a patient of the hospital; service performed
5 as a student nurse in the employ of a hospital or a nurses' training
6 school by an individual who is enrolled and regularly attending
7 classes in a nurses' training school approved under the laws of this
8 State;

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

13 (X) Services performed by operators of motor vehicles weighing
14 18,000 pounds or more, licensed for commercial use and used for
15 the highway movement of motor freight, who own their equipment
16 or who lease or finance the purchase of their equipment through an
17 entity which is not owned or controlled directly or indirectly by the
18 entity for which the services were performed and who were
19 compensated by receiving a percentage of the gross revenue
20 generated by the transportation move or by a schedule of payment
21 based on the distance and weight of the transportation move;

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

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

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

32 (8) If one-half or more of the services in any pay period
33 performed by an individual for an employing unit constitutes
34 employment, all the services of such individual shall be deemed to
35 be employment; but if more than one-half of the service in any pay
36 period performed by an individual for an employing unit does not
37 constitute employment, then none of the service of such individual
38 shall be deemed to be employment. As used in this paragraph, the
39 term "pay period" means a period of not more than 31 consecutive
40 days for which a payment for service is ordinarily made by an
41 employing unit to individuals in its employ.

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

46 (A) The limousine franchisee is incorporated;

47 (B) The franchisee is subject to regulation by the Interstate
48 Commerce Commission;

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

4 (D) The franchisee registers with the Department of Labor and
5 Workforce Development and receives an employer registration
6 number.

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

18 For purposes of this paragraph (10): "legal transcription service"
19 and "legal transcribing" mean making use, by audio, video or voice
20 recording, of a verbatim record of court proceedings, depositions,
21 other judicial proceedings, meetings of boards, agencies,
22 corporations, or other bodies or groups, and causing that record to
23 be printed in readable form or produced on a computer screen in
24 readable form; and "legal transcriber" means a person who engages
25 in "legal transcribing."

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

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

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

33 (m) "Unemployment."

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

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

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

1 (2) The term "remuneration" with respect to any individual for
2 benefit years commencing on or after July 1, 1961, and as used in
3 this subsection, shall include only that part of the same which in
4 any week exceeds 20% of his weekly benefit rate (fractional parts
5 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
6 include any moneys paid to an individual by a county board of
7 elections for work as a board worker on an election day or for work
8 pursuant to subsection d. of section 1 of P.L.2021, c.40 (C.19:15A-
9 1) during the early voting period.

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

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

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

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

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

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

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

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

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

42 (A) Any calendar week during which the individual earned in
43 employment from an employer remuneration not less than an
44 amount which is 20% of the Statewide average weekly
45 remuneration defined in subsection (c) of R.S.43:21-3 which
46 amount shall be adjusted to the next higher multiple of \$1.00 if not
47 already a multiple thereof, except that if in any calendar week an
48 individual subject to this subparagraph (A) is in employment with

1 more than one employer, the individual may in that calendar week
2 establish a base week with respect to each of the employers from
3 whom the individual earns remuneration equal to not less than the
4 amount defined in this subparagraph (A) during that week; or

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

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

34 (u) "Average weekly wage" means the amount derived by
35 dividing an individual's total base year wages [received during his
36 base year base weeks (as defined in subsection (t) of this section)
37 from that most recent base year employer with whom he has
38 established at least 20 base weeks, by the number of base weeks in
39 which such wages were earned] by the number of base weeks
40 worked by the individual during the base year; provided that for the
41 purpose of computing the average weekly wage, the maximum
42 number of base weeks used in the divisor shall be 52. In the event
43 that such claimant had no employer in his base year with whom he
44 had established at least 20 base weeks, then such individual's
45 average weekly wage shall be computed as if all of his base week
46 wages were received from one employer and as if all his base weeks
47 of 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)**
3 paragraph (4) or subparagraph (B) of paragraph (5) of subsection
4 (e) of R.S.43:21-4 shall only apply in those instances where the
5 individual did not have at least 20 base weeks in the base year.
6 **For benefit years commencing on or after July 1, 1986, "average**
7 **weekly wage" means the amount derived by dividing an individual's**
8 **total base year wages by the number of base weeks worked by the**
9 **individual during the base year; provided that for the purpose of**
10 **computing the average weekly wage, the maximum number of base**
11 **weeks used in the divisor shall be 52.**】

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (z) "Hospital" means an institution which has been licensed,
6 certified or approved under the law of this State as a hospital.
7 (cf: P.L.2022, c.71, s.4)

8

9 8. Section 2 of P.L.1981, c.90 (C.43:21-24.19) is amended to
10 read as follows:

11 2. a. Notwithstanding the provisions of section 6 of P.L.1970, c.
12 324 (C. 43:21-24.12) an individual shall be ineligible for payment
13 of extended benefits for any week of unemployment in his
14 eligibility period if it is determined during such period:

15 (1) The individual failed to accept any offer of suitable work as
16 defined in paragraph c. or failed to apply for any suitable work to
17 which the individual was referred to by the employment service or
18 the director; or

19 (2) The individual failed to actively engage in seeking work as
20 prescribed under paragraph e.

21 b. Any individual who has been found ineligible for extended
22 benefits by reason of the provisions in paragraph a. of this section
23 shall also be denied benefits beginning with the first day of the
24 week following the week in which the failure occurred and until the
25 individual has been employed in each of 4 subsequent weeks
26 (whether or not consecutive) and has earned remuneration equal to
27 not less than 4 times the individual's weekly extended benefit rate.

28 c. For purposes of this section the term suitable work means,
29 with respect to any individual, any work which is within such
30 individual's capabilities; this work shall be held to be suitable
31 only:

32 (1) If the gross average weekly remuneration payable for the
33 work exceeds the sum of: the individual's weekly extended benefit
34 rate as determined under section 8 of P.L.1970, c. 324 (C. 43:21-
35 24.14), plus the amount, if any, of supplemental unemployment
36 benefits (as defined in Section 501(c)(17) of the Internal Revenue
37 Code of 1954) payable to the individual for the respective week;

38 (2) If the position pays wages not less than the higher of

39 (a) The minimum wage provided by Section 6(a)(1) of the Fair
40 Labor Standards Act of 1938 (29 U.S.C. s. 206), without regard to
41 any exemption; or

42 (b) The applicable state or local minimum wage;

43 (3) Provided, however, that no individual shall be denied
44 extended benefits for failure to accept an offer of or apply for any
45 job which meets the definition of suitable work as described above
46 if:

47 (a) The position was not offered to the individual in writing or
48 was not listed with the employment service;

1 (b) The failure could not result in a denial of benefits under the
2 definition of suitable work for regular benefits as provided under
3 subsection (c) of R.S. 43:21-5 to the extent that the criteria of
4 suitability in that section are not inconsistent with the provisions of
5 this paragraph c.;

6 (c) The individual furnishes satisfactory evidence to the division
7 that his prospects for obtaining work in his customary occupation
8 within a reasonably short period are good. If the evidence is
9 deemed satisfactory for this purpose, the determination of whether
10 any work is suitable with respect to the individual shall be made in
11 accordance with the definition of suitable work for regular benefit
12 claimants as provided under subsection (c) of R.S. 43:21-5 without
13 regard to the definition specified by this paragraph c.

14 d. Notwithstanding the provisions of section 6 of P.L.1970, c.
15 324 (C. 43:21-24.12) to the contrary, no work shall be deemed to be
16 suitable work for an individual which does not accord with the labor
17 standard provisions required by Section 3304(a)(5) of the Internal
18 Revenue Code of 1954 and subsection (c) of R.S. 43:21-5.

19 e. For the purposes of subparagraph (2) of paragraph a. of this
20 section, an individual shall be treated as actively engaged in
21 seeking work during any week if

22 (1) The individual has engaged in a systematic and sustained
23 effort to obtain work during the week, and

24 (2) The individual furnishes tangible evidence that he has
25 engaged in this effort during the week.

26 f. The employment service shall refer any claimant entitled to
27 extended benefits under this act to any suitable work which meets
28 the criteria prescribed in paragraph c.

29 g. An individual who has been disqualified for regular benefits
30 under the provisions of subsection (b) or (c) of R.S. 43:21-5 will not
31 meet the eligibility requirements for the payment of extended
32 benefits unless the individual has **【had employment subsequent to**
33 **the effective date of disqualification for regular benefits and has**
34 **earned in employment remuneration equal to not less than four**
35 **times the individual's weekly benefit rate】** completed the period of
36 disqualification under subsection (b) or (c) of R.S. 43:21-5, and
37 would otherwise be eligible for the payment of extended benefits.

38 h. (1) An individual claiming extended benefits who is an
39 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
40 324 (C. 43:21-24.11), and who is subsequently discharged or
41 suspended for misconduct connected with his work as provided in
42 subsection (b) of R.S. 43:21-5, shall be disqualified for extended
43 benefits for the week in which the separation occurs and for each
44 week thereafter until he has earned in employment remuneration
45 equal to at least four times his weekly extended benefit rate,
46 notwithstanding the disqualifying period for regular benefits for
47 misconduct imposed under the provisions of subsection (b) of R.S.
48 43:21-5.

1 (2) An individual claiming extended benefits who is an
2 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
3 324 (C. 43:21-24.11), but has satisfied the requirements of
4 subparagraph c.(3)(c) of this section concerning prospects for
5 employment, and who subsequently fails without good cause either
6 to apply for available, suitable work when so directed by the
7 employment office or the director or to accept suitable work as
8 defined in subsection (c) of R.S. 43:21-5 when offered to him, or to
9 return to his customary self-employment when directed by the
10 director, shall be disqualified for extended benefits. The
11 disqualification shall be only for the week in which the refusal
12 occurs and for each week thereafter, until he has earned in
13 employment remuneration equal to at least four times his weekly
14 extended benefit rate, notwithstanding the disqualifying period for
15 regular benefits for the refusal normally imposed under the
16 provisions of subsection (c) of R.S. 43:21-5 or the disqualification
17 imposed in paragraph b. of this section for individuals who have not
18 satisfied the requirements of subparagraph c.(3)(c) of this section.
19 (cf: P.L.1982, c.144, s.5)

20

21 9. This act shall take effect immediately, except that sections 4
22 and 6 of this act shall be effective retroactively to July 31, 2023.

23

24

25

STATEMENT

26

27 This bill amends the State law regarding unemployment
28 insurance (UI) to:

29

30 1. Add any disabled, unmarried adult child of a UI benefit
31 claimant, whose disability began before the age of 22, to the
32 dependents counted for the purpose of calculating weekly UI
33 benefit amounts.

34

35 2. Provide that an individual otherwise eligible for UI benefits
36 is not deemed ineligible for the benefits solely because the
37 individual is a student in full-time attendance, or on vacation from,
38 at an educational institution, so long as the individual remains
39 available for work, eliminating the current benefit eligibility
40 requirement for the individual to have earned sufficient wages while
41 enrolled in full-time in education.

42

43 3. Shift the current provisions of the UI law that permit the
44 payment of UI benefits to a claimant who is a participant in a
45 department-approved training program from being an exception to
46 the disqualification from benefits when enrolled in full-time
47 education to being a circumstance under which a claimant is
eligible, and specify that the claimant's participation in the program
is required to be in accordance with the provisions of paragraph (4)
of subsection (c) of R.S.43:21-4, which states that a claimant is not

1 disqualified for benefits for failing or refusing to accept work while
2 attending the program.

3 4. Permit a claimant to request that the department make its
4 notification of its initial determination of the benefit claim by
5 electronic means.

6 5. Provide that the current requirement that benefits paid
7 pending an appeal be paid according to the initial determination
8 applies only to the period before the appeal tribunal makes a
9 decision regarding the appeal and provide that the benefits then will
10 be paid according to the decision of the appeal tribunal, pending
11 any appeal of the appeal tribunal decision made to the board of
12 review.

13 6. Remove the requirement in the current law that in cases
14 where an appeal made by an employer of a charge to its UI tax
15 account results in a reduction of benefits to a claimant, any
16 overpayment of benefits paid before the resolution of the appeal is
17 charged to the employer's UI tax account.

18 7. Require the Department of Labor and Workforce
19 Development to develop a mechanism for claimants to have
20 electronic access to their own benefit payment status and history.

21 8. Remove the provision of current law that a claimant is not
22 required to repay any of an overpayment of UI benefits if the
23 overpayment is not caused by a knowing, fraudulent nondisclosure
24 or misrepresentation by the claimant or representative of the
25 claimant, and is not required to repay more than 50 percent of the
26 overpayment if it was made because of both claimant error and
27 department error or employer error or nondisclosure, but without
28 knowing, fraudulent nondisclosure or misrepresentation by the
29 claimant. Instead, the bill provides that if a claimant requests a
30 waiver of the repayment, the department is required to provide a
31 full waiver repayment if the claimant did not withhold or
32 misrepresent any material fact to obtain benefits and the
33 overpayment is due to an error of the department or an error of the
34 employer or failure of the employers to provide information, or also
35 if the claimant has died or become disabled, or recovery is
36 determined to be contrary to equity and good conscience. The bill
37 also requires the department to provide a waiver, even if the
38 claimant makes no request, for an overpayment caused by
39 department error, employer error, or employer failure to provide
40 information, if the department has determined that the claimant did
41 not misrepresent or withhold any material fact to obtain benefits.

42 9. Provide that the calculation of the claimant's average weekly
43 wage used to determine a claimant's weekly benefit amount is
44 based on wages with all base year employers, not just the wages of
45 the most recent employer before the layoff, but with the total
46 number of base weeks limited to 52. The bill also prevents a base-
47 year employer's UI tax account from being charged for UI benefits

1 paid to a claimant while the claimant continues to work for that
2 employer but is laid off by another base year employer.

3 10. Remove, in the case of joint State-federal extended UI
4 benefits, the requirement that a claimant who has been disqualified
5 because of misconduct or failure to apply for or accept suitable
6 work not receive benefits until the claimant is reemployed and earns
7 at least four times the claimant's weekly benefit rate, and replace
8 that by providing that the claimant need only complete the period of
9 regular UI disqualification to be eligible for the extended benefits.

10 The provisions of sections 4 and 6 of the bill apply retroactively
11 back to July 21, 2023. Because all of the provisions of the current
12 law which are removed by section 4 and 6 of the bill were added by
13 P.L.2022, c.120 which went into effect on that date, having those
14 sections apply retroactively to that date would make it as if those
15 provisions had never been allowed to take effect.