

SENATE, No. 2528

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 10, 2018

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning family leave, temporary disability and family
2 temporary disability leave, and domestic or sexual violence
3 safety leave, amending various parts of the statutory law and
4 supplementing P.L.1948, c.100.

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

8
9 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
10 read as follows:

11 3. As used in this act:

12 a. "Child" means a biological, adopted, foster child, or resource
13 family child, stepchild, legal ward, or child of a parent, **[**who is

14 (1) under 18 years of age; or

15 (2) 18 years of age or older but incapable of self-care because of
16 a mental or physical impairment **]** including a child who becomes
17 the child of a parent pursuant to a valid written agreement between
18 the parent and a gestational carrier.

19 b. "Director" means the Director of the Division on Civil
20 Rights.

21 c. "Division" means the Division on Civil Rights in the
22 Department of Law and Public Safety.

23 d. "Employ" means to suffer or permit to work for
24 compensation, and includes ongoing, contractual relationships in
25 which the employer retains substantial direct or indirect control
26 over the employee's employment opportunities or terms and
27 conditions of employment.

28 e. "Employee" means a person who is employed for at least 12
29 months by an employer, with respect to whom benefits are sought
30 under this act, for not less than 1,000 base hours during the
31 immediately preceding 12-month period. Any time, up to a
32 maximum of 90 calendar days, during which a person is laid off or
33 furloughed by an employer due to that employer curtailing
34 operations because of a state of emergency declared after October
35 22, 2012, shall be regarded as time in which the person is employed
36 for the purpose of determining eligibility for leave time under this
37 act. In making the determination, the base hours per week during
38 the layoff or furlough shall be deemed to be the same as the average
39 number of hours worked per week during the rest of the 12-month
40 period.

41 f. "Employer" means a person or corporation, partnership,
42 individual proprietorship, joint venture, firm or company or other
43 similar legal entity which engages the services of an employee and
44 which:

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 (1) ~~With respect to the period of time from the effective date of~~
2 ~~this act until the 365th day following the effective date of this act,~~
3 ~~employs 100 or more employees for each working day during each~~
4 ~~of 20 or more calendar workweeks in the then current or~~
5 ~~immediately preceding calendar year~~ (Deleted by amendment,
6 P.L. , c. (pending before the Legislature as this bill));

7 (2) ~~With respect to the period of time from the 366th day~~
8 ~~following the effective date of this act until the 1,095th day~~
9 ~~following the effective date of this act, employs 75 or more~~
10 ~~employees for each working day during each of 20 or more calendar~~
11 ~~workweeks in the then current or immediately preceding calendar~~
12 ~~year~~ (Deleted by amendment, P.L. , c. (pending before the
13 Legislature as this bill); [and]

14 (3) With respect to ~~any~~ the period of time ~~after~~ from the
15 1,095th day following the effective date of ~~this act~~ P.L.1989,
16 c.261 (C.34:11B-1 et seq.) through June 30, 2019, employs 50 or
17 more employees for each working day during each of 20 or more
18 calendar workweeks in the then current or immediately preceding
19 calendar year; and

20 (4) With respect to any period of time after June 30, 2019,
21 employs 30 or more employees for each working day during each of
22 20 or more calendar workweeks in the then current or immediately
23 preceding calendar year.

24 "Employer" includes the State, any political subdivision thereof,
25 and all public offices, agencies, boards or bodies.

26 g. "Employment benefits" means all benefits and policies
27 provided or made available to employees by an employer, and
28 includes group life insurance, health insurance, disability insurance,
29 sick leave, annual leave, pensions, or other similar benefits.

30 h. "Parent" means a person who is the biological parent,
31 adoptive parent, foster parent, resource family parent, step-parent,
32 parent-in-law or legal guardian, having a "parent-child relationship"
33 with a child as defined by law, or having sole or joint legal or
34 physical custody, care, guardianship, or visitation with a child, or
35 who became the parent of the child pursuant to a valid written
36 agreement between the parent and a gestational carrier.

37 i. "Family leave" means leave from employment so that the
38 employee may provide care made necessary by reason of:

39 (1) the birth of a child of the employee, including a child born
40 pursuant to a valid written agreement between the employee and a
41 gestational carrier;

42 (2) the placement of a child with the employee in connection
43 with adoption of such child by the employee; or

44 (3) the serious health condition of a family member of the
45 employee.

46 j. "Family member" means a child, parent, parent-in-law,
47 sibling, grandparent, grandchild, spouse, or one partner in a civil

1 union couple, or any other individual related by blood to the
2 employee, and any other individual whose close association with
3 the employee is the equivalent of a family relationship.

4 k. "Reduced leave schedule" means leave scheduled for fewer
5 than an employee's usual number of hours worked per workweek
6 but not for fewer than an employee's usual number of hours worked
7 per workday, unless agreed to by the employee and the employer.

8 l. "Serious health condition" means an illness, injury,
9 impairment, or physical or mental condition which requires:

10 (1) inpatient care in a hospital, hospice, or residential medical
11 care facility; or

12 (2) continuing medical treatment or continuing supervision by a
13 health care provider.

14 m. "State of emergency" means a natural or man-made disaster
15 or emergency for which a state of emergency has been declared by
16 the President of the United States or the Governor, or for which a
17 state of emergency has been declared by a municipal emergency
18 management coordinator.

19 (cf: P.L.2013, c.221, s.1)

20

21 2. Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to read
22 as follows:

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

43 (1) seeking medical attention for, or recovering from, physical
44 or psychological injuries caused by domestic or sexual violence to
45 the employee or the employee's parent-in-law, sibling, grandparent,
46 grandchild, child, parent, spouse, domestic partner, or civil union
47 partner individual, or any other individual related by blood to the

1 employee, and any other individual whose close association with
2 the employee is the equivalent of a family relationship;

3 (2) obtaining services from a victim services organization for
4 the employee or the employee's parent-in-law, sibling, grandparent,
5 grandchild, child, parent, spouse, domestic partner, or civil union
6 partner individual, or any other individual related by blood to the
7 employee, and any other individual whose close association with
8 the employee is the equivalent of a family relationship;

9 (3) obtaining psychological or other counseling for the
10 employee or the employee's parent-in-law, sibling, grandparent,
11 grandchild, child, parent, spouse, domestic partner, or civil union
12 partner individual, or any other individual related by blood to the
13 employee, and any other individual whose close association with
14 the employee is the equivalent of a family relationship;

15 (4) participating in safety planning, temporarily or permanently
16 relocating, or taking other actions to increase the safety of the
17 employee or the employee's parent-in-law, sibling, grandparent,
18 grandchild, child, parent, spouse, domestic partner, or civil union
19 partner individual, or any other individual related by blood to the
20 employee, and any other individual whose close association with
21 the employee is the equivalent of a family relationship, from future
22 domestic or sexual violence or to ensure economic security;

23 (5) seeking legal assistance or remedies to ensure the health and
24 safety of the employee or the employee's parent-in-law, sibling,
25 grandparent, grandchild, child, parent, spouse, domestic partner, or
26 civil union partner, individual, or any other individual related by
27 blood to the employee, and any other individual whose close
28 association with the employee is the equivalent of a family
29 relationship, including preparing for, or participating in, any civil or
30 criminal legal proceeding related to or derived from domestic or
31 sexual violence; or

32 (6) attending, participating in, or preparing for a criminal or
33 civil court proceeding relating to an incident of domestic or sexual
34 violence of which the employee or the employee's parent-in-law,
35 sibling, grandparent, grandchild, child, parent, spouse, domestic
36 partner, or civil union partner, or any other individual related by
37 blood to the employee, and any other individual whose close
38 association with the employee is the equivalent of a family
39 relationship, was a victim.

40 An eligible employee may elect[, or an employer may require
41 the employee,] to use any of the accrued paid vacation leave,
42 personal leave, or medical or sick leave of the employee, or any
43 family temporary disability leave benefits provided pursuant to
44 section 3 of P.L.1948, c.110 (C.43:21-27), during any part of the
45 20-day period of unpaid leave provided under this subsection. In
46 such case, any paid leave provided by the employer, and accrued
47 pursuant to established policies of the employer, or family
48 temporary disability leave benefits, shall run concurrently with the

1 unpaid leave provided under this subsection and, accordingly, the
2 employee shall receive pay pursuant to the employer's applicable
3 paid leave policy, or family temporary disability leave benefits,
4 during the period of otherwise unpaid leave. If an employee
5 requests leave for a reason covered by both this subsection and the
6 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
7 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
8 U.S.C. s.2601 et seq.), the leave shall count simultaneously against
9 the employee's entitlement under each respective law.

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

16 b. Prior to taking the leave provided for in this section, an
17 employee shall, if the necessity for the leave is foreseeable, provide
18 the employer with written notice of the need for the leave. The
19 notice shall be provided to the employer as far in advance as is
20 reasonable and practical under the circumstances.

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

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

31 (2) a letter or other written documentation from the county or
32 municipal prosecutor documenting the domestic violence or
33 sexually violent offense;

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

36 (4) medical documentation of the domestic violence or sexually
37 violent offense;

38 (5) certification from a certified Domestic Violence Specialist or
39 the director of a designated domestic violence agency or Rape
40 Crisis Center, that the employee or employee's parent-in-law,
41 sibling, grandparent, grandchild, child, parent, spouse, domestic
42 partner, or civil union partner, or any other individual related by
43 blood to the employee, and any other individual whose close
44 association with the employee is the equivalent of a family
45 relationship, is a victim of domestic violence or a sexually violent
46 offense; or

47 (6) other documentation or certification of the domestic violence
48 or sexually violent offense provided by a social worker, member of

1 the clergy, shelter worker, or other professional who has assisted
2 the employee or employee's parent-in-law, sibling, grandparent,
3 grandchild, child, parent, spouse, domestic partner, or civil union
4 partner, or any other individual related by blood to the employee,
5 and any other individual whose close association with the employee
6 is the equivalent of a family relationship, in dealing with the
7 domestic violence or sexually violent offenses.

8 For the purposes of this subsection:

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

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

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

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

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

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

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

47 f. All information provided to an employer pursuant to
48 subsection c. of this section, and any information regarding a leave

1 taken pursuant to this section and any failure of an employee to
2 return to work, shall be retained in the strictest confidentiality,
3 unless the disclosure is voluntarily authorized in writing by the
4 employee or is required by a federal or State law, rule, or
5 regulation.

6 (cf: P.L.2013, c.82, s.3)

7

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

9 43:21-7. Employers other than governmental entities, whose
10 benefit financing provisions are set forth in section 4 of P.L.1971,
11 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
12 payment in lieu of contributions on the basis set forth in section 3 of
13 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
14 unemployment compensation fund, contributions as set forth in
15 subsections (a), (b) and (c) hereof, and the provisions of subsections
16 (d) and (e) shall be applicable to all employers, consistent with the
17 provisions of the "unemployment compensation law" and the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
19 et al.).

20 (a) Payment.

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

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

33 (b) Rate of contributions. Each employer shall pay the following
34 contributions:

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

39 (2) The "wages" of any individual, with respect to any one
40 employer, as the term is used in this subsection (b) and in
41 subsections (c), (d) and (e) of this section 7, shall include the first
42 \$4,800.00 paid during calendar year 1975, for services performed
43 either within or without this State; provided that no contribution
44 shall be required by this State with respect to services performed in
45 another state if such other state imposes contribution liability with
46 respect thereto. If an employer (hereinafter referred to as a
47 successor employer) during any calendar year acquires substantially
48 all the property used in a trade or business of another employer

1 (hereinafter referred to as a predecessor), or used in a separate unit
2 of a trade or business of a predecessor, and immediately after the
3 acquisition employs in his trade or business an individual who
4 immediately prior to the acquisition was employed in the trade or
5 business of such predecessors, then, for the purpose of determining
6 whether the successor employer has paid wages with respect to
7 employment equal to the first \$4,800.00 paid during calendar year
8 1975, any wages paid to such individual by such predecessor during
9 such calendar year and prior to such acquisition shall be considered
10 as having been paid by such successor employer.

11 (3) For calendar years beginning on and after January 1, 1976,
12 the "wages" of any individual, as defined in the preceding
13 paragraph (2) of this subsection (b), shall be established and
14 promulgated by the Commissioner of Labor and Workforce
15 Development on or before September 1 of the preceding year and,
16 except as provided in paragraph (4) of this subsection (b), shall be,
17 28 times the Statewide average weekly remuneration paid to
18 workers by employers, as determined under R.S.43:21-3(c), raised
19 to the next higher multiple of \$100.00 if not already a multiple
20 thereof, provided that if the amount of wages so determined for a
21 calendar year is less than the amount similarly determined for the
22 preceding year, the greater amount will be used; provided, further,
23 that if the amount of such wages so determined does not equal or
24 exceed the amount of wages as defined in subsection (b) of section
25 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
26 the wages as determined in this paragraph in any calendar year shall
27 be raised to equal the amount established under the "Federal
28 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
29 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

30 (4) For calendar years beginning on and after January 1, 2019,
31 the "wages" of any individual, as defined in the preceding
32 paragraph (2) of this subsection (b) for purposes of contributions of
33 workers to the "Family Temporary Disability Leave Account" and
34 the "Pregnancy Temporary Disability Account" of the State
35 disability benefits fund pursuant to subsection (d) of this section,
36 shall be established and promulgated by the Commissioner of Labor
37 and Workforce Development on or before September 1 of the
38 preceding year and shall be 52 times the Statewide average weekly
39 remuneration paid to workers by employers, as determined under
40 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not
41 already a multiple thereof, provided that if the amount of wages so
42 determined for a calendar year is less than the amount similarly
43 determined for the preceding year, the greater amount will be used.

44 (c) Future rates based on benefit experience.

45 (1) A separate account for each employer shall be maintained
46 and this shall be credited with all the contributions which he has
47 paid on his own behalf on or before January 31 of any calendar year
48 with respect to employment occurring in the preceding calendar

1 year; provided, however, that if January 31 of any calendar year
2 falls on a Saturday or Sunday, an employer's account shall be
3 credited as of January 31 of such calendar year with all the
4 contributions which he has paid on or before the next succeeding
5 day which is not a Saturday or Sunday. But nothing in this chapter
6 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
7 individuals in his service prior claims or rights to the amounts paid
8 by him into the fund either on his own behalf or on behalf of such
9 individuals. Benefits paid with respect to benefit years commencing
10 on and after January 1, 1953, to any individual on or before
11 December 31 of any calendar year with respect to unemployment in
12 such calendar year and in preceding calendar years shall be charged
13 against the account or accounts of the employer or employers in
14 whose employment such individual established base weeks
15 constituting the basis of such benefits, except that, with respect to
16 benefit years commencing after January 4, 1998, an employer's
17 account shall not be charged for benefits paid to a claimant if the
18 claimant's employment by that employer was ended in any way
19 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
20 R.S.43:21-5, would have disqualified the claimant for benefits if the
21 claimant had applied for benefits at the time when that employment
22 ended. Benefits paid under a given benefit determination shall be
23 charged against the account of the employer to whom such
24 determination relates. When each benefit payment is made,
25 notification shall be promptly provided to each employer included
26 in the unemployment insurance monetary calculation of benefits.
27 Such notification shall identify the employer against whose account
28 the amount of such payment is being charged, shall show at least
29 the name and social security account number of the claimant and
30 shall specify the period of unemployment to which said benefit
31 payment applies.

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

34 (2) Regulations may be prescribed for the establishment,
35 maintenance, and dissolution of joint accounts by two or more
36 employers, and shall, in accordance with such regulations and upon
37 application by two or more employers to establish such an account,
38 or to merge their several individual accounts in a joint account,
39 maintain such joint account as if it constituted a single employer's
40 account.

41 (3) No employer's rate shall be lower than 5.4% unless
42 assignment of such lower rate is consistent with the conditions
43 applicable to additional credit allowance for such year under section
44 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
45 s.3303(a)(1)), any other provision of this section to the contrary
46 notwithstanding.

47 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
48 8/10%, except as otherwise provided in the following provisions.

1 No employer's rate for the 12 months commencing July 1 of any
2 calendar year shall be other than 2 8/10%, unless as of the
3 preceding January 31 such employer shall have paid contributions
4 with respect to wages paid in each of the three calendar years
5 immediately preceding such year, in which case such employer's
6 rate for the 12 months commencing July 1 of any calendar year
7 shall be determined on the basis of his record up to the beginning of
8 such calendar year. If, at the beginning of such calendar year, the
9 total of all his contributions, paid on his own behalf, for all past
10 years exceeds the total benefits charged to his account for all such
11 years, his contribution rate shall be:

12 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
13 5%, of his average annual payroll (as defined in paragraph (2),
14 subsection (a) of R.S.43:21-19);

15 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
16 than 6%, of his average annual payroll;

17 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
18 than 7%, of his average annual payroll;

19 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
20 than 8%, of his average annual payroll;

21 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
22 than 9%, of his average annual payroll;

23 (6) 1%, if such excess equals or exceeds 9%, but is less than
24 10%, of his average annual payroll;

25 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
26 than 11%, of his average annual payroll;

27 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
28 average annual payroll.

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

33 (1) 4%, if such excess is less than 10% of his average annual
34 payroll;

35 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
36 than 20%, of his average annual payroll;

37 (3) 4 6/10%, if such excess equals or exceeds 20% of his
38 average annual payroll.

39 (C) Specially assigned rates.

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

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

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

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

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

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

13 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
14 31 of any calendar year the balance in the unemployment trust fund
15 equals or exceeds 4% but is less than 7% of the total taxable wages
16 reported to the controller as of that date in respect to employment
17 during the preceding calendar year, the contribution rate, effective
18 July 1 following, of each employer eligible for a contribution rate
19 calculation based upon benefit experience, shall be increased by
20 3/10 of 1% over the contribution rate otherwise established under
21 the provisions of paragraph (3) or (4) of this subsection. If on
22 March 31 of any calendar year the balance of the unemployment
23 trust fund exceeds 2 1/2% but is less than 4% of the total taxable
24 wages reported to the controller as of that date in respect to
25 employment during the preceding calendar year, the contribution
26 rate, effective July 1 following, of each employer eligible for a
27 contribution rate calculation based upon benefit experience, shall be
28 increased by 6/10 of 1% over the contribution rate otherwise
29 established under the provisions of paragraph (3) or (4) of this
30 subsection.

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

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

3 (B) If on March 31 of any calendar year the balance in the
4 unemployment trust fund equals or exceeds 10% but is less than 12
5 1/2% of the total taxable wages reported to the controller as of that
6 date in respect to employment during the preceding calendar year,
7 the contribution rate, effective July 1 following, of each employer
8 eligible for a contribution rate calculation based upon benefit
9 experience, shall be reduced by 3/10 of 1% under the contribution
10 rate otherwise established under the provisions of paragraphs (3)
11 and (4) of this subsection; provided that in no event shall the
12 contribution rate of any employer be reduced to less than 4/10 of
13 1%. If on March 31 of any calendar year the balance in the
14 unemployment trust fund equals or exceeds 12 1/2% of the total
15 taxable wages reported to the controller as of that date in respect to
16 employment during the preceding calendar year, the contribution
17 rate, effective July 1 following, of each employer eligible for a
18 contribution rate calculation based upon benefit experience, shall be
19 reduced by 6/10 of 1% if his account for all past periods reflects an
20 excess of contributions paid over total benefits charged of 3% or
21 more of his average annual payroll, otherwise by 3/10 of 1% under
22 the contribution rate otherwise established under the provisions of
23 paragraphs (3) and (4) of this subsection; provided that in no event
24 shall the contribution rate of any employer be reduced to less than
25 4/10 of 1%.

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

33 (D) Prior to July 1 of each calendar year the controller shall
34 determine the Unemployment Trust Fund Reserve Ratio, which
35 shall be calculated by dividing the balance of the unemployment
36 trust fund as of the prior March 31 by total taxable wages reported
37 to the controller by all employers as of March 31 with respect to
38 their employment during the last calendar year.

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

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

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

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

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

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

45 (vii) With respect to experience rating years beginning on or
46 after July 1, 2011, the new employer rate or the unemployment
47 experience rate of an employer under this section shall be the rate
48 which appears in the column headed by the Unemployment Trust

1 Fund Reserve Ratio as of the applicable calculation date and on the
 2 line with the Employer Reserve Ratio, as defined in paragraph (4)
 3 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 4 table:

EXPERIENCE RATING TAX TABLE

6	Fund Reserve Ratio ¹					
	7	8	9	10	11	
12	13	14	15	16	17	
18	19	20	21	22	23	
24	25	26	27	28	29	
Employer Reserve Ratio ²	and Over	to 3.49%	to 2.99%	to 2.49%	and Under	
	A	B	C	D	E	
11 Positive Reserve Ratio:						
12	17% and over	0.3	0.4	0.5	0.6	1.2
13	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
14	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
15	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
16	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
17	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
18	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
19	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
20	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
21	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
22	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
23	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
24	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
25	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
26	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
27	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
28	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
29	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
30 Deficit Reserve Ratio:						
31	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
32	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
33	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
34	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
35	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
36	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
37	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
38	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
39	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
40	-35.00% and under	5.4	5.4	5.8	6.4	7.0
41	New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

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

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

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

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

1 (iv) With respect to experience rating years beginning on or after
2 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based
3 on the fund balance as of the prior March 31, is less than 1.0%, the
4 contribution rate for each employer liable to pay contributions, as
5 computed under subparagraph (E) of this paragraph (5), shall be
6 increased by a factor of 10% computed to the nearest multiple of
7 1/10% if not already a multiple thereof.

8 (v) With respect to experience rating years beginning on or after
9 July 1, 2014, if the fund reserve ratio, based on the fund balance as
10 of the prior March 31, is less than 1.0%, the contribution rate for
11 each employer liable to pay contributions, as computed under
12 subparagraph (E) of this paragraph (5), shall be increased by a
13 factor of 10% computed to the nearest multiple of 1/10% if not
14 already a multiple thereof.

15 (G) On or after January 1, 1993, notwithstanding any other
16 provisions of this paragraph (5), the contribution rate for each
17 employer liable to pay contributions, as computed under
18 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
19 except that, during any experience rating year starting before
20 January 1, 1998 in which the fund reserve ratio is equal to or greater
21 than 7.00% or during any experience rating year starting on or after
22 January 1, 1998, in which the fund reserve ratio is equal to or
23 greater than 3.5%, there shall be no decrease pursuant to this
24 subparagraph (G) in the contribution of any employer who has a
25 deficit reserve ratio of negative 35.00% or under.

26 (H) On and after January 1, 1998 until December 31, 2000 and
27 on or after January 1, 2002 until June 30, 2006, the contribution rate
28 for each employer liable to pay contributions, as computed under
29 subparagraph (E) of this paragraph (5), shall be decreased by a
30 factor, as set out below, computed to the nearest multiple of 1/10%,
31 except that, if an employer has a deficit reserve ratio of negative
32 35.0% or under, the employer's rate of contribution shall not be
33 reduced pursuant to this subparagraph (H) to less than 5.4%:

34 From January 1, 1998 until December 31, 1998, a factor of 12%;
35 From January 1, 1999 until December 31, 1999, a factor of 10%;
36 From January 1, 2000 until December 31, 2000, a factor of 7%;
37 From January 1, 2002 until March 31, 2002, a factor of 36%;
38 From April 1, 2002 until June 30, 2002, a factor of 85%;
39 From July 1, 2002 until June 30, 2003, a factor of 15%;
40 From July 1, 2003 until June 30, 2004, a factor of 15%;
41 From July 1, 2004 until June 30, 2005, a factor of 7%;
42 From July 1, 2005 until December 31, 2005, a factor of 16%; and
43 From January 1, 2006 until June 30, 2006, a factor of 34%.

44 The amount of the reduction in the employer contributions
45 stipulated by this subparagraph (H) shall be in addition to the
46 amount of the reduction in the employer contributions stipulated by
47 subparagraph (G) of this paragraph (5), except that the rate of
48 contribution of an employer who has a deficit reserve ratio of

1 negative 35.0% or under shall not be reduced pursuant to this
2 subparagraph (H) to less than 5.4% and the rate of contribution of
3 any other employer shall not be reduced to less than 0.0%.

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

5 (J) On or after July 1, 2001, notwithstanding any other
6 provisions of this paragraph (5), the contribution rate for each
7 employer liable to pay contributions, as computed under
8 subparagraph (E) of this paragraph (5), shall be decreased by
9 0.0175%, except that, during any experience rating year starting on
10 or after July 1, 2001, 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 (J) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under. The amount of the
14 reduction in the employer contributions stipulated by this
15 subparagraph (J) shall be in addition to the amount of the reduction
16 in the employer contributions stipulated by subparagraphs (G) and
17 (H) of this paragraph (5), except that the rate of contribution of an
18 employer who has a deficit reserve ratio of negative 35.0% or under
19 shall not be reduced pursuant to this subparagraph (J) to less than
20 5.4% and the rate of contribution of any other employer shall not be
21 reduced to less than 0.0%.

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

25 (i) Equal to or greater than 5.00% but less than 7.5%, the
26 contribution rate for each employer liable to pay contributions, as
27 computed under subparagraph (E) of this paragraph (5), shall be
28 reduced by a factor of 25% computed to the nearest multiple of
29 1/10% if not already a multiple thereof except that there shall be no
30 decrease pursuant to this subparagraph (K) in the contribution of
31 any employer who has a deficit reserve ratio of 35.00% or under;

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

39 (L) Notwithstanding any other provision of this paragraph (5)
40 and notwithstanding the actual fund reserve ratio, the contribution
41 rate for employers liable to pay contributions, as computed under
42 subparagraph (E) of this paragraph (5), shall be, for fiscal year
43 2011, the rates set by column "C" of the table in that subparagraph.

44 (M) Notwithstanding any other provision of this paragraph (5)
45 and notwithstanding the actual fund reserve ratio, the contribution
46 rate for employers liable to pay contributions, as computed under
47 subparagraph (E) of this paragraph (5), shall be, for fiscal year
48 2012, the rates set by column "D" of the table in that subparagraph.

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

6 (6) Additional contributions.

7 Notwithstanding any other provision of law, any employer who
8 has been assigned a contribution rate pursuant to subsection (c) of
9 this section for the year commencing July 1, 1948, and for any year
10 commencing July 1 thereafter, may voluntarily make payment of
11 additional contributions, and upon such payment shall receive a
12 recomputation of the experience rate applicable to such employer,
13 including in the calculation the additional contribution so made,
14 except that, following a transfer as described under R.S.43:21-
15 7(c)(7)(D), neither the predecessor nor successor in interest shall be
16 eligible to make a voluntary payment of additional contributions
17 during the year the transfer occurs and the next full calendar year.
18 Any such additional contribution shall be made during the 30-day
19 period following the notification to the employer of his contribution
20 rate as prescribed in this section, unless, for good cause, the time
21 for payment has been extended by the controller for not to exceed
22 an additional 60 days; provided that in no event may such payments
23 which are made later than 120 days after the beginning of the year
24 for which such rates are effective be considered in determining the
25 experience rate for the year in which the payment is made. Any
26 employer receiving any extended period of time within which to
27 make such additional payment and failing to make such payment
28 timely shall be, in addition to the required amount of additional
29 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
30 greater, not to exceed \$50.00. Any adjustment under this subsection
31 shall be made only in the form of credits against accrued or future
32 contributions.

33 (7) Transfers.

34 (A) Upon the transfer of the organization, trade or business, or
35 substantially all the assets of an employer to a successor in interest,
36 whether by merger, consolidation, sale, transfer, descent or
37 otherwise, the controller shall transfer the employment experience
38 of the predecessor employer to the successor in interest, including
39 credit for past years, contributions paid, annual payrolls, benefit
40 charges, et cetera, applicable to such predecessor employer,
41 pursuant to regulation, if it is determined that the employment
42 experience of the predecessor employer with respect to the
43 organization, trade, assets or business which has been transferred
44 may be considered indicative of the future employment experience
45 of the successor in interest. The successor in interest may, within
46 four months of the date of such transfer of the organization, trade,
47 assets or business, or thereafter upon good cause shown, request a
48 reconsideration of the transfer of employment experience of the

1 predecessor employer. The request for reconsideration shall
2 demonstrate, to the satisfaction of the controller, that the
3 employment experience of the predecessor is not indicative of the
4 future employment experience of the successor.

5 (B) An employer who transfers part of his or its organization,
6 trade, assets or business to a successor in interest, whether by
7 merger, consolidation, sale, transfer, descent or otherwise, may
8 jointly make application with such successor in interest for transfer
9 of that portion of the employment experience of the predecessor
10 employer relating to the portion of the organization, trade, assets or
11 business transferred to the successor in interest, including credit for
12 past years, contributions paid, annual payrolls, benefit charges, et
13 cetera, applicable to such predecessor employer. The transfer of
14 employment experience may be allowed pursuant to regulation only
15 if it is found that the employment experience of the predecessor
16 employer with respect to the portion of the organization, trade,
17 assets or business which has been transferred may be considered
18 indicative of the future employment experience of the successor in
19 interest. Credit shall be given to the successor in interest only for
20 the years during which contributions were paid by the predecessor
21 employer with respect to that part of the organization, trade, assets
22 or business transferred.

23 (C) A transfer of the employment experience in whole or in part
24 having become final, the predecessor employer thereafter shall not
25 be entitled to consideration for an adjusted rate based upon his or its
26 experience or the part thereof, as the case may be, which has thus
27 been transferred. A successor in interest to whom employment
28 experience or a part thereof is transferred pursuant to this
29 subsection shall, as of the date of the transfer of the organization,
30 trade, assets or business, or part thereof, immediately become an
31 employer if not theretofore an employer subject to this chapter
32 (R.S.43:21-1 et seq.).

33 (D) If an employer transfers in whole or in part his or its
34 organization, trade, assets or business to a successor in interest,
35 whether by merger, consolidation, sale, transfer, descent or
36 otherwise and both the employer and successor in interest are at the
37 time of the transfer under common ownership, management or
38 control, then the employment experience attributable to the
39 transferred business shall also be transferred to and combined with
40 the employment experience of the successor in interest. The
41 transfer of the employment experience is mandatory and not subject
42 to appeal or protest.

43 (E) The transfer of part of an employer's employment experience
44 to a successor in interest shall become effective as of the first day of
45 the calendar quarter following the acquisition by the successor in
46 interest. As of the effective date, the successor in interest shall
47 have its employer rate recalculated by merging its existing
48 employment experience, if any, with the employment experience

1 acquired. If the successor in interest is not an employer as of the
2 date of acquisition, it shall be assigned the new employer rate until
3 the effective date of the transfer of employment experience.

4 (F) Upon the transfer in whole or in part of the organization,
5 trade, assets or business to a successor in interest, the employment
6 experience shall not be transferred if the successor in interest is not
7 an employer at the time of the acquisition and the controller finds
8 that the successor in interest acquired the business solely or
9 primarily for the purpose of obtaining a lower rate of contributions.

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

12 (1) (A) For periods after January 1, 1975, each worker shall
13 contribute to the fund 1% of his wages with respect to his
14 employment with an employer, which occurs on and after January
15 1, 1975, after such employer has satisfied the condition set forth in
16 subsection (h) of R.S.43:21-19 with respect to becoming an
17 employer; provided, however, that such contributions shall be at the
18 rate of 1/2 of 1% of wages paid with respect to employment while
19 the worker is in the employ of the State of New Jersey, or any
20 governmental entity or instrumentality which is an employer as
21 defined under R.S.43:21-19(h)(5), or is covered by an approved
22 private plan under the "Temporary Disability Benefits Law" or
23 while the worker is exempt from the provisions of the "Temporary
24 Disability Benefits Law" under section 7 of that law, P.L.1948,
25 c.110 (C.43:21-31).

26 (B) Effective January 1, 1978 there shall be no contributions by
27 workers in the employ of any governmental or nongovernmental
28 employer electing or required to make payments in lieu of
29 contributions unless the employer is covered by the State plan under
30 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
31 that case contributions shall be at the rate of 1/2 of 1%, except that
32 commencing July 1, 1986, workers in the employ of any
33 nongovernmental employer electing or required to make payments
34 in lieu of contributions shall be required to make contributions to
35 the fund at the same rate prescribed for workers of other
36 nongovernmental employers.

37 (C) (i) Notwithstanding the above provisions of this paragraph
38 (1), during the period starting July 1, 1986 and ending December
39 31, 1992, each worker shall contribute to the fund 1.125% of wages
40 paid with respect to his employment with a governmental employer
41 electing or required to pay contributions or nongovernmental
42 employer, including a nonprofit organization which is an employer
43 as defined under R.S.43:21-19(h)(6), regardless of whether that
44 nonprofit organization elects or is required to finance its benefit
45 costs with contributions to the fund or by payments in lieu of
46 contributions, after that employer has satisfied the conditions set
47 forth in subsection R.S.43:21-19(h) with respect to becoming an
48 employer. Contributions, however, shall be at the rate of 0.625%

1 while the worker is covered by an approved private plan under the
2 "Temporary Disability Benefits Law" or while the worker is exempt
3 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
4 other provision of that law; provided that such contributions shall
5 be at the rate of 0.625% of wages paid with respect to employment
6 with the State of New Jersey or any other governmental entity or
7 instrumentality electing or required to make payments in lieu of
8 contributions and which is covered by the State plan under the
9 "Temporary Disability Benefits Law," except that, while the worker
10 is exempt from the provisions of the "Temporary Disability Benefits
11 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
12 any other provision of that law, or is covered for disability benefits
13 by an approved private plan of the employer, the contributions to
14 the fund shall be 0.125%.

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

16 (D) Notwithstanding any other provisions of this paragraph (1),
17 during the period starting January 1, 1993 and ending June 30,
18 1994, each worker shall contribute to the unemployment
19 compensation fund 0.5% of wages paid with respect to the worker's
20 employment with a governmental employer electing or required to
21 pay contributions or nongovernmental employer, including a
22 nonprofit organization which is an employer as defined under
23 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
24 whether that nonprofit organization elects or is required to finance
25 its benefit costs with contributions to the fund or by payments in
26 lieu of contributions, after that employer has satisfied the conditions
27 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
28 an employer. No contributions, however, shall be made by the
29 worker while the worker is covered by an approved private plan
30 under the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
32 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
33 provided that the contributions shall be at the rate of 0.50% of
34 wages paid with respect to employment with the State of New
35 Jersey or any other governmental entity or instrumentality electing
36 or required to make payments in lieu of contributions and which is
37 covered by the State plan under the "Temporary Disability Benefits
38 Law," except that, while the worker is exempt from the provisions
39 of the "Temporary Disability Benefits Law" under section 7 of that
40 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
41 law, or is covered for disability benefits by an approved private plan
42 of the employer, no contributions shall be made to the fund.

43 Each worker shall, starting on January 1, 1996 and ending March
44 31, 1996, contribute to the unemployment compensation fund
45 0.60% of wages paid with respect to the worker's employment with
46 a governmental employer electing or required to pay contributions
47 or nongovernmental employer, including a nonprofit organization
48 which is an employer as defined under paragraph (6) of subsection

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

10 Each worker shall, starting on January 1, 1998 and ending
11 December 31, 1998, contribute to the unemployment compensation
12 fund 0.10% of wages paid with respect to the worker's employment
13 with a governmental employer electing or required to pay
14 contributions or nongovernmental employer, including a nonprofit
15 organization which is an employer as defined under paragraph (6)
16 of subsection (h) of R.S.43:21-19, regardless of whether that
17 nonprofit organization elects or is required to finance its benefit
18 costs with contributions to the fund or by payments in lieu of
19 contributions, after that employer has satisfied the conditions set
20 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
21 employer, provided that the contributions shall be at the rate of
22 0.10% of wages paid with respect to employment with the State of
23 New Jersey or any other governmental entity or instrumentality
24 electing or required to make payments in lieu of contributions.

25 Each worker shall, starting on January 1, 1999 until December
26 31, 1999, contribute to the unemployment compensation fund
27 0.15% of wages paid with respect to the worker's employment with
28 a governmental employer electing or required to pay contributions
29 or nongovernmental employer, including a nonprofit organization
30 which is an employer as defined under paragraph (6) of subsection
31 (h) of R.S.43:21-19, regardless of whether that nonprofit
32 organization elects or is required to finance its benefit costs with
33 contributions to the fund or by payments in lieu of contributions,
34 after that employer has satisfied the conditions set forth in
35 subsection (h) of R.S.43:21-19 with respect to becoming an
36 employer, provided that the contributions shall be at the rate of
37 0.10% of wages paid with respect to employment with the State of
38 New Jersey or any other governmental entity or instrumentality
39 electing or required to make payments in lieu of contributions.

40 Each worker shall, starting on January 1, 2000 until December
41 31, 2001, contribute to the unemployment compensation fund
42 0.20% of wages paid with respect to the worker's employment with
43 a governmental employer electing or required to pay contributions
44 or nongovernmental employer, including a nonprofit organization
45 which is an employer as defined under paragraph (6) of subsection
46 (h) of R.S.43:21-19, regardless of whether that nonprofit
47 organization elects or is required to finance its benefit costs with
48 contributions to the fund or by payments in lieu of contributions,

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

7 Each worker shall, starting on January 1, 2002 until June 30,
8 2004, contribute to the unemployment compensation fund 0.1825%
9 of wages paid with respect to the worker's employment with a
10 governmental employer electing or required to pay contributions or
11 a nongovernmental employer, including a nonprofit organization
12 which is an employer as defined under paragraph (6) of subsection
13 (h) of R.S.43:21-19, regardless of whether that nonprofit
14 organization elects or is required to finance its benefit costs with
15 contributions to the fund or by payments in lieu of contributions,
16 after that employer has satisfied the conditions set forth in
17 subsection (h) of R.S.43:21-19 with respect to becoming an
18 employer, provided that the contributions shall be at the rate of
19 0.0825% of wages paid with respect to employment with the State
20 of New Jersey or any other governmental entity or instrumentality
21 electing or required to make payments in lieu of contributions.

22 Each worker shall, starting on and after July 1, 2004, contribute
23 to the unemployment compensation fund 0.3825% of wages paid
24 with respect to the worker's employment with a governmental
25 employer electing or required to pay contributions or
26 nongovernmental employer, including a nonprofit organization
27 which is an employer as defined under paragraph (6) of subsection
28 (h) of R.S.43:21-19, regardless of whether that nonprofit
29 organization elects or is required to finance its benefit costs with
30 contributions to the fund or by payments in lieu of contributions,
31 after that employer has satisfied the conditions set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer, provided that the contributions shall be at the rate of
34 0.0825% of wages paid with respect to employment with the State
35 of New Jersey or any other governmental entity or instrumentality
36 electing or required to make payments in lieu of contributions.

37 (E) Each employer shall, notwithstanding any provision of law
38 in this State to the contrary, withhold in trust the amount of his
39 workers' contributions from their wages at the time such wages are
40 paid, shall show such deduction on his payroll records, shall furnish
41 such evidence thereof to his workers as the division or controller
42 may prescribe, and shall transmit all such contributions, in addition
43 to his own contributions, to the office of the controller in such
44 manner and at such times as may be prescribed. If any employer
45 fails to deduct the contributions of any of his workers at the time
46 their wages are paid, or fails to make a deduction therefor at the
47 time wages are paid for the next succeeding payroll period, he alone
48 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's
2 contributions required from him.

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

6 (G) (i) **【**Each worker shall, starting on July 1, 1994 and ending
7 on December 31, 2011, contribute to the State disability benefits
8 fund an amount equal to 0.50% of wages paid with respect to the
9 worker's employment with a government employer electing or
10 required to pay contributions to the State disability benefits fund or
11 nongovernmental employer, including a nonprofit organization
12 which is an employer as defined under paragraph (6) of subsection
13 (h) of R.S.43:21-19, unless the employer is covered by an approved
14 private disability plan or is exempt from the provisions of the
15 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
16 et al.) under section 7 of that law (C.43:21-31) or any other
17 provision of that law.**】** Each worker, with respect to the worker's
18 employment with a government employer electing or required to
19 pay contributions to the State disability benefits fund or
20 nongovernmental employer, including a nonprofit organization
21 which is an employer as defined under paragraph (6) of subsection
22 (h) of R.S.43:21-19, unless the employer is covered by an approved
23 private disability plan or is exempt from the provisions of the
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
25 et al.) under section 7 of that law (C.43:21-31) or any other
26 provision of that law, shall, for calendar year 2012 and each
27 subsequent calendar year, make contributions to the State disability
28 benefits fund at the annual rate of contribution necessary to obtain a
29 total amount of contributions, which, when added to employer
30 contributions made to the State disability benefits fund pursuant to
31 subsection (e) of this section, is, for calendar years prior to calendar
32 year 2018, equal to 120% of the benefits paid for periods of
33 disability, excluding periods of family temporary disability, during
34 the immediately preceding calendar year plus an amount equal to
35 100% of the cost of administration of the payment of those benefits
36 during the immediately preceding calendar year, less the amount of
37 net assets remaining in the State disability benefits fund, excluding
38 net assets remaining in the "Family Temporary Disability Leave
39 Account" of that fund, as of December 31 of the immediately
40 preceding year, and is, for calendar year 2018 **【**and subsequent
41 calendar years**】**, equal to 120% of the benefits paid for periods of
42 disability, excluding periods of family temporary disability, during
43 the last preceding full fiscal year plus an amount equal to 100% of
44 the cost of administration of the payment of those benefits during
45 the last preceding full fiscal year, less the amount of net assets
46 anticipated to be remaining in the "Family Temporary Disability
47 Leave Account" of that fund, as of December 31 of the immediately
48 preceding calendar year, and is, for each of calendar years 2019 and

1 2020, equal to 120% of the benefits which the department
2 anticipates will be paid for periods of disability, excluding periods
3 of family temporary disability and pregnancy temporary disability,
4 during the respective calendar year plus an amount equal to 100%
5 of the cost of administration of the payment of those benefits which
6 the department anticipates during the respective calendar year, less
7 the amount of net assets anticipated to be remaining in the "Family
8 Temporary Disability Leave Account" of that fund, as of December
9 31 of the immediately preceding calendar year, and is, for calendar
10 year 2021 and any subsequent calendar year, equal to 120% of the
11 benefits paid for periods of disability, excluding periods of family
12 temporary disability and pregnancy temporary disability, during the
13 last preceding full fiscal year plus an amount equal to 100% of the
14 cost of administration of the payment of those benefits during the
15 last preceding full fiscal year, less the amount of net assets
16 anticipated to be remaining in the "Family Temporary Disability
17 Leave Account" and the "Pregnancy Temporary Disability Leave
18 Account" of that fund, as of December 31 of the immediately
19 preceding calendar year. The estimated rates for the next calendar
20 year shall be made available on the department's website no later
21 than 60 days after the end of the last preceding full fiscal year. The
22 rates of employer contributions determined pursuant to subsection
23 (e) of this section for any year shall be determined prior to the
24 determination of the rate of employee contributions pursuant to this
25 subparagraph (i) and any consideration of employee contributions in
26 determining employer rates for any year shall be based on amounts
27 of employee contributions made prior to the year to which the rate
28 of employee contributions applies and shall not be based on any
29 projection or estimate of the amount of employee contributions for
30 the year to which that rate applies.

31 (ii) Each worker shall contribute to the State disability benefits
32 fund, in addition to any amount contributed pursuant to
33 subparagraph (i) of this paragraph (1)(G), an amount equal to,
34 during calendar year 2009, 0.09%, and during calendar year 2010
35 0.12%, of wages paid with respect to the worker's employment with
36 any covered employer, including a governmental employer which is
37 an employer as defined under R.S.43:21-19(h)(5), unless the
38 employer is covered by an approved private disability plan for
39 benefits during periods of family temporary disability leave. The
40 contributions made pursuant to this subparagraph (ii) to the State
41 disability benefits fund shall be deposited into an account of that
42 fund reserved for the payment of benefits during periods of family
43 temporary disability leave as defined in section 3 of the "Temporary
44 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
45 administration of those payments and shall not be used for any other
46 purpose. This account shall be known as the "Family Temporary
47 Disability Leave Account." For calendar year 2011 and each
48 subsequent calendar year until 2018, the annual rate of contribution

1 to be paid by workers pursuant to this subparagraph (ii) shall be, for
2 calendar years prior to calendar year 2018, the rate necessary to
3 obtain a total amount of contributions equal to 125% of the benefits
4 paid for periods of family temporary disability leave during the
5 immediately preceding calendar year plus an amount equal to 100%
6 of the cost of administration of the payment of those benefits during
7 the immediately preceding calendar year, less the amount of net
8 assets remaining in the account as of December 31 of the
9 immediately preceding year, and shall be, for calendar year 2018
10 **【and subsequent calendar years】**, the rate necessary to obtain a total
11 amount of contributions equal to 125% of the benefits paid for
12 periods of family temporary disability leave during the last
13 preceding full fiscal year plus an amount equal to 100% of the cost
14 of administration of the payment of those benefits during the last
15 preceding full fiscal year, less the amount of net assets anticipated
16 to be remaining in the account as of December 31 of the
17 immediately preceding calendar year. For each of calendar years
18 2019 and 2020, the annual rate of contribution to be paid by
19 workers pursuant to this subparagraph (ii) shall be the rate
20 necessary to obtain a total amount of contributions equal to 125% of
21 the benefits which the department anticipates will be paid for
22 periods of family temporary disability leave during the respective
23 calendar year plus an amount equal to 100% of the cost of
24 administration of the payment of those benefits which the
25 department anticipates during the respective calendar year, less the
26 amount of net assets remaining in the account as of December 31 of
27 the immediately preceding calendar year. For 2021 and any
28 subsequent calendar year, the annual rate of contribution to be paid
29 by workers pursuant to this subparagraph (ii) shall be the rate
30 necessary to obtain a total amount of contributions equal to 125% of
31 the benefits which were paid for periods of family temporary
32 disability leave during the last preceding full fiscal year plus an
33 amount equal to 100% of the cost of administration of the payment
34 of those benefits during the last preceding full fiscal year, less the
35 amount of net assets remaining in the account as of December 31 of
36 the immediately preceding calendar year. All increases in the cost
37 of benefits for periods of family temporary disability leave caused
38 by the increases in the weekly benefit rate commencing July 1, 2019
39 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
40 increases in the maximum duration of benefits commencing July 1,
41 2019 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
42 and 43:21-39) shall be funded by contributions made by workers
43 pursuant to this paragraph (ii) and none of those increases shall be
44 funded by employer contributions. The estimated rates for the next
45 calendar year shall be made available on the department's website
46 no later than 60 days after the end of the last preceding full fiscal
47 year. Necessary administrative costs shall include the cost of an
48 outreach program to inform employees of the availability of the

1 benefits and the cost of issuing the reports required or permitted
2 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
3 monies, other than the funds in the "Family Temporary Disability
4 Leave Account," shall be used for the payment of benefits during
5 periods of family temporary disability leave or for the
6 administration of those payments, with the sole exception that,
7 during calendar years 2008 and 2009, a total amount not exceeding
8 \$25 million may be transferred to that account from the revenues
9 received in the State disability benefits fund pursuant to
10 subparagraph (i) of this paragraph (1)(G) and be expended for those
11 payments and their administration, including the administration of
12 the collection of contributions made pursuant to this subparagraph
13 (ii) and any other necessary administrative costs. Any amount
14 transferred to the account pursuant to this subparagraph (ii) shall be
15 repaid during a period beginning not later than January 1, 2011 and
16 ending not later than December 31, 2015. No monies, other than
17 the funds in the "Family Temporary Disability Leave Account,"
18 shall be used under any circumstances after December 31, 2009, for
19 the payment of benefits during periods of family temporary
20 disability leave or for the administration of those payments,
21 including for the administration of the collection of contributions
22 made pursuant to this subparagraph (ii).

23 (iii) Each worker, with respect to the worker's employment with
24 a government employer electing or required to pay contributions to
25 the State disability benefits fund or nongovernmental employer,
26 including a nonprofit organization which is an employer as defined
27 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
28 employer is covered by an approved private disability plan or is
29 exempt from the provisions of the "Temporary Disability Benefits
30 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that
31 law (C.43:21-31) or any other provision of that law, shall make
32 contributions to the State disability benefits fund, in addition to any
33 amount contributed pursuant to subparagraph (i) of this paragraph
34 (1)(G), for the purpose of funding the provision of pregnancy
35 temporary disability benefits. The contributions made pursuant to
36 this subparagraph (iii) to the State disability benefits fund shall be
37 deposited into an account of that fund reserved for the payment of
38 benefits during periods of pregnancy temporary disability and for
39 the administration of those payments and shall not be used for any
40 other purpose. This account shall be known as the "Pregnancy
41 Temporary Disability Account." For each of calendar years 2019
42 and 2020, the annual rate of contribution to be paid by workers
43 pursuant to this subparagraph (iii) shall be the rate necessary to
44 obtain a total amount of contributions, which, when added to the
45 portion of employer contributions made to the State disability
46 benefits fund pursuant to subsection (e) of this section which is
47 allocated to benefits for periods of pregnancy temporary disability,
48 is equal to 120% of the benefits which the department anticipates

1 will be paid for periods of pregnancy temporary disability during
2 the respective calendar year plus an amount equal to 100% of the
3 cost of administration of the payment of those benefits which the
4 department anticipates during the respective calendar year, less the
5 amount of net assets remaining in the account as of December 31 of
6 the immediately preceding calendar year. For calendar year 2021
7 and any subsequent calendar year, the annual rate of contribution to
8 be paid by workers pursuant to this subparagraph (iii) shall be the
9 rate necessary to obtain a total amount of contributions, which,
10 when added to the portion of employer contributions made to the
11 State disability benefits fund pursuant to subsection (e) of this
12 section which is allocated to benefits for a period of pregnancy
13 temporary disability, is equal to 120% of the benefits which were
14 paid for periods of pregnancy temporary disability during the last
15 preceding full fiscal year plus an amount equal to 100% of the cost
16 of administration of the payment of those benefits during the last
17 preceding full fiscal year, less the amount of net assets remaining in
18 the account as of December 31 of the immediately preceding
19 calendar year. The estimated rates for the next calendar year shall
20 be made available on the department's website no later than 60 days
21 after the end of the last preceding full fiscal year. No monies, other
22 than the funds in the "Pregnancy Temporary Disability Leave
23 Account" contributed by workers, and the portion of employer
24 contributions to the State disability benefits fund which the
25 department determines is allocated to benefits for periods of
26 pregnancy temporary disability, shall be used for the payment of
27 benefits during periods of pregnancy temporary disability or for the
28 administration of those payments, including for the administration
29 of the collection of contributions made pursuant to this
30 subparagraph (iii). The department shall base its determination of
31 what portion of employer contributions to the State disability
32 benefits fund is allocated to benefits for periods of pregnancy
33 temporary disability on the percentage that the total amount of
34 benefits for periods of pregnancy temporary disability benefits
35 would represent of the total amount of all disability benefits if the
36 increases in the weekly benefit rate for benefits for periods of
37 pregnancy temporary disability commencing July 1, 2019 pursuant
38 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.
39 All increases in the cost of benefits for periods of pregnancy
40 temporary disability caused by increases in the weekly benefit rate
41 for those benefits commencing July 1, 2019 pursuant to section 16
42 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions
43 made by workers pursuant to this paragraph (iii) and none of those
44 increases shall be funded by employer contributions.

45 For the purposes of this section, periods of "pregnancy
46 temporary disability" means periods of disability due to pregnancy
47 or recovery from childbirth.

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

1 (B) (Deleted by amendment, P.L.1984, c.24.)
2 (C) (Deleted by amendment, P.L.1994, c.112.)
3 (D) (Deleted by amendment, P.L.1994, c.112.)
4 (E) (i) (Deleted by amendment, P.L.1994, c.112.)
5 (ii) (Deleted by amendment, P.L.1996, c.28.)
6 (iii) (Deleted by amendment, P.L.1994, c.112.)
7 (3) (A) If an employee receives wages from more than one
8 employer during any calendar year, and either the sum of his
9 contributions deposited in and credited to the State disability
10 benefits fund plus the amount of his contributions, if any, required
11 towards the costs of benefits under one or more approved private
12 plans under the provisions of section 9 of the "Temporary Disability
13 Benefits Law" (C.43:21-33) and deducted from his wages, or the
14 sum of such latter contributions, if the employee is covered during
15 such calendar year only by two or more private plans, exceeds an
16 amount equal to 1/2 of 1% of the "wages" determined in accordance
17 with the provisions of R.S.43:21-7(b)(3) during the calendar years
18 beginning on or after January 1, 1976 or, during calendar year 2012
19 or any subsequent calendar year, the total amount of his
20 contributions for the year exceeds the amount set by the annual rate
21 of contribution determined by the Commissioner of Labor and
22 Workforce Development pursuant to subparagraph (i) and, during
23 calendar year 2019 and subsequent calendar years, subparagraph
24 (iii), of paragraph (1)(G) of this subsection (d), the employee shall
25 be entitled to a refund of the excess if he makes a claim to the
26 controller within two years after the end of the calendar year in
27 which the wages are received with respect to which the refund is
28 claimed and establishes his right to such refund. Such refund shall
29 be made by the controller from the State disability benefits fund. No
30 interest shall be allowed or paid with respect to any such refund.
31 The controller shall, in accordance with prescribed regulations,
32 determine the portion of the aggregate amount of such refunds made
33 during any calendar year which is applicable to private plans for
34 which deductions were made under section 9 of the "Temporary
35 Disability Benefits Law" (C.43:21-33) such determination to be
36 based upon the ratio of the amount of such wages exempt from
37 contributions to such fund, as provided in subparagraph (B) of
38 paragraph (1) of this subsection with respect to coverage under
39 private plans, to the total wages so exempt plus the amount of such
40 wages subject to contributions to the disability benefits fund, as
41 provided in subparagraph (G) of paragraph (1) of this subsection.
42 The controller shall, in accordance with prescribed regulations,
43 prorate the amount so determined among the applicable private
44 plans in the proportion that the wages covered by each plan bear to
45 the total private plan wages involved in such refunds, and shall
46 assess against and recover from the employer, or the insurer if the
47 insurer has indemnified the employer with respect thereto, the
48 amount so prorated. The provisions of R.S.43:21-14 with respect to

1 collection of employer contributions shall apply to such
2 assessments. The amount so recovered by the controller shall be
3 paid into the State disability benefits fund.

4 (B) If an employee receives wages from more than one employer
5 during any calendar year, and the sum of his contributions deposited
6 in the "Family Temporary Disability Leave Account" of the State
7 disability benefits fund plus the amount of his contributions, if any,
8 required towards the costs of family temporary disability leave
9 benefits under one or more approved private plans under the
10 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
11 et al.) and deducted from his wages, exceeds an amount equal to,
12 during calendar year 2009, 0.09% of the "wages" determined in
13 accordance with the provisions of R.S.43:21-7(b)(3), or during
14 calendar year 2010, 0.12% of those wages, or, during calendar year
15 2011 or any subsequent calendar year, the percentage of those
16 wages set by the annual rate of contribution determined by the
17 Commissioner of Labor and Workforce Development pursuant to
18 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
19 employee shall be entitled to a refund of the excess if he makes a
20 claim to the controller within two years after the end of the calendar
21 year in which the wages are received with respect to which the
22 refund is claimed and establishes his right to the refund. The refund
23 shall be made by the controller from the "Family Temporary
24 Disability Leave Account" of the State disability benefits fund. No
25 interest shall be allowed or paid with respect to any such refund.
26 The controller shall, in accordance with prescribed regulations,
27 determine the portion of the aggregate amount of the refunds made
28 during any calendar year which is applicable to private plans for
29 which deductions were made under section 9 of the "Temporary
30 Disability Benefits Law" (C.43:21-33), with that determination
31 based upon the ratio of the amount of such wages exempt from
32 contributions to the fund, as provided in paragraph (1)(B) of this
33 subsection (d) with respect to coverage under private plans, to the
34 total wages so exempt plus the amount of such wages subject to
35 contributions to the "Family Temporary Disability Leave Account"
36 of the State disability benefits fund, as provided in subparagraph (ii)
37 of paragraph (1)(G) of this subsection (d). The controller shall, in
38 accordance with prescribed regulations, prorate the amount so
39 determined among the applicable private plans in the proportion
40 that the wages covered by each plan bear to the total private plan
41 wages involved in such refunds, and shall assess against and
42 recover from the employer, or the insurer if the insurer has
43 indemnified the employer with respect thereto, the prorated amount.
44 The provisions of R.S.43:21-14 with respect to collection of
45 employer contributions shall apply to such assessments. The
46 amount so recovered by the controller shall be paid into the "Family
47 Temporary Disability Leave Account" of the State disability
48 benefits fund.

1 (4) If an individual does not receive any wages from the
2 employing unit which for the purposes of this chapter (R.S.43:21-1
3 et seq.) is treated as his employer, or receives his wages from some
4 other employing unit, such employer shall nevertheless be liable for
5 such individual's contributions in the first instance; and after
6 payment thereof such employer may deduct the amount of such
7 contributions from any sums payable by him to such employing
8 unit, or may recover the amount of such contributions from such
9 employing unit, or, in the absence of such an employing unit, from
10 such individual, in a civil action; provided proceedings therefor are
11 instituted within three months after the date on which such
12 contributions are payable. General rules shall be prescribed
13 whereby such an employing unit may recover the amount of such
14 contributions from such individuals in the same manner as if it were
15 the employer.

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

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

26 (e) Contributions by employers to the State disability benefits
27 fund.

28 (1) Except as hereinafter provided, each employer shall, in
29 addition to the contributions required by subsections (a), (b), and
30 (c) of this section, contribute 1/2 of 1% of the wages paid by such
31 employer to workers with respect to employment unless he is not a
32 covered employer as defined in subsection (a) of section 3 of the
33 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
34 the rate for the State of New Jersey shall be 1/10 of 1% for the
35 calendar year 1980 and for the first six months of 1981. Prior to
36 July 1, 1981 and prior to July 1 each year thereafter, the controller
37 shall review the experience accumulated in the account of the State
38 of New Jersey and establish a rate for the next following fiscal year
39 which, in combination with worker contributions, will produce
40 sufficient revenue to keep the account in balance; except that the
41 rate so established shall not be less than 1/10 of 1%. Such
42 contributions shall become due and be paid by the employer to the
43 controller for the State disability benefits fund as established by
44 law, in accordance with such regulations as may be prescribed, and
45 shall not be deducted, in whole or in part, from the remuneration of
46 individuals in his employ. In the payment of any contributions, a
47 fractional part of a cent shall be disregarded unless it amounts to
48 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

9 (B) A separate disability benefits account shall be maintained for
10 each employer required to contribute to the State disability benefits
11 fund and such account shall be credited with contributions
12 deposited in and credited to such fund with respect to employment
13 occurring on and after January 1, 1949. Each employer's account
14 shall be credited with all contributions paid on or before January 31
15 of any calendar year on his own behalf and on behalf of individuals
16 in his service with respect to employment occurring in preceding
17 calendar years; provided, however, that if January 31 of any
18 calendar year falls on a Saturday or Sunday an employer's account
19 shall be credited as of January 31 of such calendar year with all the
20 contributions which he has paid on or before the next succeeding
21 day which is not a Saturday or Sunday. But nothing in this act shall
22 be construed to grant any employer or individuals in his service
23 prior claims or rights to the amounts paid by him to the fund either
24 on his own behalf or on behalf of such individuals. Benefits paid to
25 any covered individual in accordance with Article III of the
26 "Temporary Disability Benefits Law" on or before December 31 of
27 any calendar year with respect to disability in such calendar year
28 and in preceding calendar years shall be charged against the account
29 of the employer by whom such individual was employed at the
30 commencement of such disability or by whom he was last
31 employed, if out of employment.

32 (C) The controller may prescribe regulations for the
33 establishment, maintenance, and dissolution of joint accounts by
34 two or more employers, and shall, in accordance with such
35 regulations and upon application by two or more employers to
36 establish such an account, or to merge their several individual
37 accounts in a joint account, maintain such joint account as if it
38 constituted a single employer's account.

39 (D) Prior to July 1 of each calendar year, the controller shall
40 make a preliminary determination of the rate of contribution for the
41 12 months commencing on such July 1 for each employer subject to
42 the contribution requirements of this subsection (e).

43 (1) Such preliminary rate shall be 1/2 of 1% unless on the
44 preceding January 31 of such year such employer shall have been a
45 covered employer who has paid contributions to the State disability
46 benefits fund with respect to employment in the three calendar
47 years immediately preceding such year.

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

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

8 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
9 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

10 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}$
11 % of his average annual payroll.

12 (3) If the minimum requirements in subparagraph (D) (1) above
13 have been fulfilled and the contributions credited exceed the
14 benefits charged but by not more than \$500.00 plus 1% of his
15 average annual payroll, or if the benefits charged exceed the
16 contributions credited but by not more than \$500.00, the
17 preliminary rate shall be $\frac{1}{4}$ of 1%.

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

22 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
23 1% of his average annual payroll;

24 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
25 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

26 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
27 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

28 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

30 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
31 1% of his average annual payroll.

32 (5) Determination of the preliminary rate as specified in
33 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
34 to the condition that it shall in no event be decreased by more than
35 $\frac{1}{10}$ of 1% of wages or increased by more than $\frac{2}{10}$ of 1% of
36 wages from the preliminary rate determined for the preceding year
37 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
38 shall have been applicable.

39 (E) (1) Prior to July 1 of each calendar year the controller shall
40 determine the amount of the State disability benefits fund as of
41 December 31 of the preceding calendar year, increased by the
42 contributions paid thereto during January of the current calendar
43 year with respect to employment occurring in the preceding
44 calendar year. If such amount exceeds the net amount withdrawn
45 from the unemployment trust fund pursuant to section 23 of the
46 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
47 plus the amount at the end of such preceding calendar year of the
48 unemployment disability account as defined in section 22 of said

1 law (C.43:21-46), such excess shall be expressed as a percentage of
2 the wages on which contributions were paid to the State disability
3 benefits fund on or before January 31 with respect to employment
4 in the preceding calendar year.

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

9 (i) If the percentage determined in accordance with
10 subparagraph (E)(1) of this paragraph equals or exceeds $1\frac{1}{4}\%$, the
11 final employer rates shall be the preliminary rates determined as
12 provided in subparagraph (D) hereof, except that if the employer's
13 preliminary rate is determined as provided in subparagraph (D)(2)
14 or subparagraph (D)(3) hereof, the final employer rate shall be the
15 preliminary employer rate decreased by such percentage of excess
16 taken to the nearest $\frac{5}{100}$ of 1%, but in no case shall such final rate
17 be less than $\frac{1}{10}$ of 1%.

18 (ii) If the percentage determined in accordance with
19 subparagraph (E)(1) of this paragraph equals or exceeds $\frac{3}{4}$ of 1%
20 and is less than $1\frac{1}{4}$ of 1%, the final employer rates shall be the
21 preliminary employer rates.

22 (iii) If the percentage determined in accordance with
23 subparagraph (E)(1) of this paragraph is less than $\frac{3}{4}$ of 1%, but in
24 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the
25 preliminary employer rates determined as provided in subparagraph
26 (D) hereof increased by the difference between $\frac{3}{4}$ of 1% and such
27 percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
28 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case of an
29 employer whose preliminary rate is determined as provided in
30 subparagraph (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
31 employer whose preliminary rate is determined as provided in
32 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
33 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
34 determined as provided in subparagraph (D)(4) hereof.

35 (iv) If the amount of the State disability benefits fund determined
36 as provided in subparagraph (E)(1) of this paragraph is equal to or
37 less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case
38 of an employer whose preliminary rate is determined as provided in
39 subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer
40 whose preliminary rate is determined as provided in subparagraph
41 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
42 employer whose preliminary rate is determined as provided in
43 subparagraph (D)(4) hereof. Notwithstanding any other provision of
44 law or any determination made by the controller with respect to any
45 12-month period commencing on July 1, 1970, the final rates for all
46 employers for the period beginning January 1, 1971, shall be as set
47 forth herein.

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

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

8 (ii) No worker paid any contributions to the State disability
9 benefits fund pursuant to paragraph (1)(G)(ii) or paragraph
10 (1)(G)(iii) of subsection (d) of this section; **[and]**

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

15 (iv) The total amount of benefits paid for periods of pregnancy
16 temporary disability were not subject to the increases in the weekly
17 benefit rate for those benefits commencing July 1, 2019 pursuant to
18 section 16 of P.L.1948, c.110 (C.43:21-40).

19 (cf: P.L.2017, c.138. s.1)

20

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

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

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

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

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

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

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

1 While the Legislature recognizes the pressing need for benefits
2 for workers taking leave to care for family members incapable of
3 self-care, it also finds that the need of workers for leave during their
4 own disability continues to be especially acute, as a disabled worker
5 has less discretion about taking time off from work than a worker
6 caring for a family member. Notwithstanding any interpretation of
7 law which may be construed as providing a worker with rights to
8 take action against an employer who fails or refuses to restore the
9 worker to employment after the worker's own disability, the
10 Legislature does not intend that the policy established by P.L.2008,
11 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during
12 periods of family temporary disability leave to care for family
13 members incapable of self-care be construed as granting any worker
14 an entitlement to be restored by the employer to employment held
15 by the worker prior to taking family temporary disability leave or
16 any right to take action, in tort, or for breach of an implied
17 provision of the employment agreement, or under common law,
18 against an employer who fails or refuses to restore the worker to
19 employment after the family temporary disability leave, and the
20 Legislature does not intend that the policy of providing benefits
21 during family temporary disability leave be construed as increasing,
22 reducing or otherwise modifying any entitlement of a worker to
23 return to employment or right of the worker to take action under the
24 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
25 et seq.)**】**, or the federal "Family and Medical Leave Act of 1993,"
26 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)**】**.

27 Since the enactment of the "Temporary Disability Benefits Law,"
28 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated
29 State temporary disability benefits plan, or "State plan," has proven
30 to be highly efficient and cost effective in providing temporary
31 disability benefits to New Jersey workers. The State plan
32 guarantees the availability of coverage for all employers, regardless
33 of experience, with low overhead costs and a rapid processing of
34 claims and appeals by knowledgeable, impartial public employees.
35 Consequently, the percentage of all employers using the State plan
36 increased from 64% in 1952 to 98% in 2006, while the percentage
37 of employees covered by the State plan increased from 28% to 83%.
38 A publicly-operated, nonprofit State plan is therefore indispensable
39 to achieving the goals of the "Temporary Disability Benefits Law,"
40 P.L.1948, c.110 (C.43:21-25 et al.).
41 (cf: P.L.2008, c.17, s.1)

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

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

47 (a) (1) "Covered employer" means, with respect to whether an
48 employer is required to provide benefits during an employee's own

1 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
2 individual or type of organization, including any partnership,
3 association, trust, estate, joint-stock company, insurance company
4 or corporation, whether domestic or foreign, or the receiver, trustee
5 in bankruptcy, trustee or successor thereof, or the legal
6 representative of a deceased person, who is an employer subject to
7 the "unemployment compensation law" (R.S.43:21-1 et seq.),
8 except the State, its political subdivisions, and any instrumentality
9 of the State unless such governmental entity elects to become a
10 covered employer pursuant to paragraph (2) of this subsection (a);
11 provided, however, that commencing with the effective date of this
12 act, the State of New Jersey, including Rutgers, The State
13 University and the New Jersey Institute of Technology, shall be
14 deemed a covered employer, as defined herein.

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

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

43 (b) (1) "Covered individual" means, with respect to whether an
44 individual is eligible for benefits during an individual's own
45 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any
46 person who is in employment, as defined in the "unemployment
47 compensation law" (R.S.43:21-1 et seq.), for which the individual is
48 entitled to remuneration from a covered employer, or who has been

1 out of such employment for less than two weeks, except that a
2 "covered individual" who is employed by the State of New Jersey,
3 including Rutgers, The State University or the New Jersey Institute
4 of Technology, or by any governmental entity or instrumentality
5 which elects to become a "covered employer" pursuant to this
6 amendatory act, shall not be eligible to receive any benefits under
7 the "Temporary Disability Benefits Law" until such individual has
8 exhausted all sick leave accumulated as an employee in the
9 classified service of the State or accumulated under terms and
10 conditions similar to classified employees or accumulated under the
11 terms and conditions pursuant to the laws of this State or as the
12 result of a negotiated contract with any governmental entity or
13 instrumentality which elects to become a "covered employer."

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

19 (2) "Covered individual" means, with respect to whether an
20 individual is eligible for benefits during the individual's period of
21 family temporary disability leave pursuant to P.L.1948, c.110
22 (C.43:21-25 et al.), any individual who is in employment, as
23 defined in the "unemployment compensation law" (R.S.43:21-1 et
24 seq.), for which the individual is entitled to remuneration from a
25 covered employer, or who has been out of that employment for less
26 than two weeks.

27 (c) "Division" or "commission" means the Division of
28 Temporary Disability Insurance of the Department of Labor and
29 Workforce Development, and any transaction or exercise of
30 authority by the director of the division shall be deemed to be
31 performed by the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (j) (1) "Average weekly wage" means the amount derived by
39 dividing a covered individual's total wages earned from the
40 individual's most recent covered employer during the base weeks in
41 the eight calendar weeks immediately preceding the calendar week
42 in which a period of disability commenced, by the number of such
43 base weeks.

44 (2) If the computation in paragraph (1) of this subsection (j)
45 yields a result which is less than the individual's average weekly
46 earnings in employment with all covered employers during the base
47 weeks in such eight calendar weeks, then the average weekly wage
48 shall be computed on the basis of earnings from all covered

1 employers during the base weeks in the eight calendar weeks
2 immediately preceding the week in which the period of disability
3 commenced.

4 (3) For periods of disability commencing on or after July 1,
5 2009, if the computations in paragraphs (1) and (2) of this
6 subsection (j) both yield a result which is less than the individual's
7 average weekly earnings in employment with all covered employers
8 during the base weeks in the 26 calendar weeks immediately
9 preceding the week in which the period of disability commenced,
10 then the average weekly wage shall, upon a written request to the
11 department by the individual on a form provided by the department,
12 be computed by the department on the basis of earnings from all
13 covered employers of the individual during the base weeks in those
14 26 calendar weeks, and, in the case of a claim for benefits from a
15 private plan, that computation of the average weekly wage shall be
16 provided by the department to the individual and the individual's
17 employer.

18 When determining the "average weekly wage" with respect to a
19 period of family temporary disability leave for an individual who
20 has a period of family temporary disability immediately after the
21 individual has a period of disability for the individual's own
22 disability, the period of disability is deemed to have commenced at
23 the beginning of the period of disability for the individual's own
24 disability, not the period of family temporary disability.

25 (k) "Child" means a biological, adopted, or foster child,
26 stepchild or legal ward of a covered individual, child of a domestic
27 partner of the covered individual, or child of a civil union partner of
28 the covered individual, parent, **【**who is less than 19 years of age or
29 is 19 years of age or older but incapable of self-care because of
30 mental or physical impairment**】** including a child who becomes the
31 child of a parent pursuant to a valid written agreement between the
32 parent and a gestational carrier.

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

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

37 (n) "Family member" means a sibling, grandparent, grandchild,
38 child, spouse, domestic partner, civil union partner, parent-in-law,
39 or parent of a covered individual, or any other individual related by
40 blood to the employee, and any other individual whose close
41 association with the employee is the equivalent of a family
42 relationship.

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

45 (1) participate in the providing of care, as defined in the "Family
46 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations
47 adopted pursuant to that act, for a family member of the individual

1 made necessary by a serious health condition of the family member;

2 **[or]**

3 (2) be with a child during the first 12 months after the child's
4 birth, if the individual, or the domestic partner or civil union partner
5 of the individual, is a biological parent of the child, or is a parent of
6 the child pursuant to a valid gestational carrier agreement, or the
7 first 12 months after the placement of the child for adoption or as a
8 foster child with the individual; or

9 (3) engage in activities for which unpaid leave may be taken
10 pursuant to section 3 of the "New Jersey Security and Financial
11 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the
12 individual's own behalf, if the individual is a victim of an incident
13 of domestic violence a sexually violent offense, or to assist a family
14 member of the individual who has been a victim of an incident of
15 domestic violence a sexually violent offense, provided that any time
16 taken by an individual who has been a victim of an incident of
17 domestic violence a sexually violent offense for which the
18 individual receives benefits for a disability caused by the violence
19 or offense shall be regarded as a period of disability of the
20 individual and not as a period of family temporary disability leave.

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

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

29 (q) "Parent of a covered individual" means a biological parent,
30 foster parent, adoptive parent, or stepparent of the covered
31 individual or a person who was a legal guardian of the covered
32 individual when the covered individual was a child, or who became
33 the parent of the child pursuant to a valid written agreement
34 between the parent and a gestational carrier.

35 (r) "Placement for adoption" means the time when a covered
36 individual adopts a child or becomes responsible for a child pending
37 adoption by the covered individual.

38 (s) "Serious health condition" means an illness, injury,
39 impairment or physical or mental condition which requires:
40 inpatient care in a hospital, hospice, or residential medical care
41 facility; or continuing medical treatment or continuing supervision
42 by a health care provider.

43 (t) "12-month period" means, with respect to an individual who
44 establishes a valid claim for disability benefits during a period of
45 family temporary disability leave, the 365 consecutive days that
46 begin with the first day that the individual first establishes the
47 claim.

1 (u) "State of emergency" means a natural or man-made disaster
2 or emergency for which a state of emergency has been declared by
3 the President of the United States or the Governor, or for which a
4 state of emergency has been declared by a municipal emergency
5 management coordinator.

6 (cf: P.L.2013, c.221, s.3)

7
8 6. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
9 read as follows:

10 11. (a) If the division is furnished satisfactory evidence that a
11 majority of the employees covered by an approved private plan
12 have made election in writing to discontinue such plan, the division
13 shall withdraw its approval of such plan effective at the end of the
14 calendar quarter next succeeding that in which such evidence is
15 furnished. Upon receipt of a petition therefor signed by not less
16 than 10% of the employees covered by an approved private plan,
17 the division shall require the employer upon 30 days' written notice
18 to conduct an election by ballot in writing to determine whether or
19 not a majority of the employees covered by such private plan favor
20 discontinuance thereof; provided, that such election shall not be
21 required more often than once in any 12-month period.

22 (b) Unless sooner permitted, for cause, by the division, no
23 approved private plan shall be terminated by an employer, in whole
24 or in part, until at least 30 days after written notice of intention so
25 to do has been given by the employer to the division and after
26 notices are conspicuously posted so as reasonably to assure their
27 being seen, or after individual notices are given to the employees
28 concerned.

29 (c) The division may, after notice and hearing, withdraw its
30 approval of any approved private plan if it finds that there is danger
31 that the benefits accrued or to accrue will not be paid, that the
32 security for such payment is insufficient, or for other good cause
33 shown. No employer, and no union or association representing
34 employees, shall so administer or apply the provisions of an
35 approved private plan as to derive any profit therefrom. The
36 division may withdraw its approval from any private plan which is
37 administered or applied in violation of this provision.

38 (d) No termination of an approved private plan shall affect the
39 payment of benefits, in accordance with the provisions of the plan,
40 to employees whose period of disability commenced prior to the
41 date of termination. Employees who have ceased to be covered by
42 an approved private plan because of its termination shall, subject to
43 the limitations and restrictions of this act, become eligible forthwith
44 for benefits from the State Disability Benefits Fund for a period of
45 disability commencing after such cessation, and contributions with
46 respect to their wages shall immediately become payable as
47 otherwise provided by law. Any withdrawal of approval of a
48 private plan pursuant to this section shall be reviewable by writ of

1 certiorari or by such other procedure as may be provided by law.
2 With respect to a period of family temporary disability leave
3 immediately after the individual has a period of disability during the
4 individual's own disability, the period of disability is deemed, for
5 the purposes of determining whether the period of disability
6 commenced prior to the date of the termination, to have commenced
7 at the beginning of the period of disability during the individual's
8 own disability, not the period of family temporary disability leave.

9 (e) Anything in this act to the contrary notwithstanding, a
10 covered employer who, under an approved private plan, is
11 providing benefits at least equal to those required by the State plan,
12 may modify the benefits under the private plan so as to provide
13 benefits not less than the benefits required by the State plan.
14 Individuals covered under a private plan shall not be required to
15 contribute to the plan at a rate exceeding $\frac{3}{4}$ of 1% of the amount of
16 "wages" established for any calendar year under the provisions of
17 R.S.43:21-7(b) prior to January 1, 1975, and $\frac{1}{2}$ of 1% for calendar
18 years beginning on or after January 1, 1975 and before January 1,
19 2009. For a calendar year beginning on or after January 1, 2009
20 and before January 1, 2012: an employer providing a private plan
21 only for benefits for employees during their own disabilities may
22 require the employees to contribute to the plan at a rate not
23 exceeding 0.5% of the amount of "wages" established for the
24 calendar year under the provisions of R.S.43:21-7(b); an employer
25 providing a private plan only for benefits for employees during
26 periods of family temporary disability may require the individuals
27 covered by the private plan to contribute an amount not exceeding
28 the amount the individuals would pay pursuant to R.S.43:21-
29 7(d)(1)(G)(ii); an employer providing a private plan both for
30 benefits for employees during their own disabilities and for benefits
31 during periods of family temporary disability may require the
32 employees to contribute to the plan at a rate not exceeding 0.5% of
33 the amount of "wages" established for the calendar year under the
34 provisions of R.S.43:21-7(b) plus an additional amount not
35 exceeding the amount the individuals would pay pursuant to
36 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after
37 January 1, 2012: an employer providing a private plan only for
38 benefits for employees during their own disabilities may require the
39 employees to contribute to the plan at a rate not exceeding the
40 amount the individuals would pay pursuant to R.S.43:21-
41 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing
42 a private plan only for benefits for employees during periods of
43 family temporary disability may require the individuals covered by
44 the private plan to contribute an amount not exceeding the amount
45 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an
46 employer providing a private plan both for benefits for employees
47 during their own disabilities and for benefits during periods of
48 family temporary disability may require the employees to contribute

1 to the plan an amount not exceeding the amount the individuals
2 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-
3 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the
4 proposed modification shall be given by the employer to the
5 division and to the individuals covered under the plan.

6 (cf: P.L.2011, c.88, s.2)

7

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

10 14. With respect to any period of disability for an individual's
11 own disability commencing on or after January 1, 1953, disability
12 benefits, not in excess of an individual's maximum benefits, shall be
13 payable with respect to disability which commences while a person
14 is a covered individual under the Temporary Disability Benefits
15 Law, and shall be payable with respect to the eighth consecutive
16 day of such disability and each day thereafter that such period of
17 disability continues; and if benefits shall be payable for three
18 consecutive weeks with respect to any period of disability
19 commencing on or after January 1, 1968, then benefits shall also be
20 payable with respect to the first seven days thereof. With respect to
21 any period of family temporary disability leave commencing on or
22 after July 1, 2009 and while an individual is a covered individual,
23 family temporary disability benefits, not in excess of the
24 individual's maximum benefits, shall be payable with respect to the
25 first day of leave taken after the first one-week period following the
26 commencement of the period of family temporary disability leave
27 and each subsequent day of leave during that period of family
28 temporary disability leave; and if benefits become payable on any
29 day after the first three weeks in which leave is taken, then benefits
30 shall also be payable with respect to any leave taken during the first
31 one-week period in which leave is taken. The maximum total
32 benefits payable to any eligible individual for any period of
33 disability of the individual commencing on or after January 1, 1968,
34 shall be either 26 times his weekly benefit amount or 1/3 of his total
35 wages in his base year, whichever is the lesser; provided that such
36 maximum amount shall be computed in the next lower multiple of
37 \$1.00 if not already a multiple thereof. The maximum total benefits
38 payable to any eligible individual for any period of family
39 temporary disability leave commencing on or after July 1, 2009 and
40 before July 1, 2019, shall be six times the individual's weekly
41 benefit amount or 1/3 of his total wages in his base year, whichever
42 is the lesser; provided that the maximum amount shall be computed
43 in the next lower multiple of \$1.00, if not already a multiple
44 thereof. The maximum total benefits payable to any eligible
45 individual for any period of family temporary disability leave
46 commencing on or after July 1, 2019, shall be twelve times the
47 individual's weekly benefit amount; provided that the maximum

1 amount shall be computed in the next lower multiple of \$1.00, if not
2 already a multiple thereof.

3 (cf: P.L.2008, c.17, s.5)

4

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

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

11 (a) for the first seven consecutive days of each period of
12 disability; except that:

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

16 (2) in the case of intermittent leave in a single period of family
17 temporary disability leave taken to provide care for a family
18 member of the individual with a serious health condition, benefits
19 shall be payable with respect to the first day of leave taken after the
20 first one-week period following the commencement of the period of
21 family temporary disability leave and each subsequent day of leave
22 during that period of family temporary disability leave; and if
23 benefits become payable on any day after the first three weeks in
24 which leave is taken, then benefits shall also be payable with
25 respect to any leave taken during the first one-week period in which
26 leave is taken; and

27 (3) in the case of an individual taking family temporary
28 disability leave immediately after the individual has a period of
29 disability for the individual's own disability, there shall be no
30 waiting period between the period of the individual's own disability
31 and the period of family temporary disability;

32 (b) (1) for more than 26 weeks with respect to any one period of
33 disability of the individual;

34 (2) for more than six weeks with respect to any one period of
35 family temporary disability leave commencing before July 1, 2019
36 and more than 12 weeks if the period of leave commences on or
37 after July 1, 2019, or for more than 42 days with respect to any one
38 period of family temporary disability leave commencing before July
39 1, 2019 and more than 84 days if the period of leave commences on
40 or after July 1, 2019, in the case of leave taken on an intermittent
41 basis to provide care for a family member of the individual with a
42 serious health condition; and

43 (3) for more than six weeks of family temporary disability leave
44 during any 12-month period commencing before July 1, 2019 and
45 more than 12 weeks for any 12-month period commencing on or
46 after July 1, 2019, or for more than 42 days of family temporary
47 disability leave taken during any 12-month period commencing
48 before July 1, 2019 and more than 84 days if the period of leave

1 commences on or after July 1, 2019, on an intermittent basis to
2 provide care for a family member of the individual with a serious
3 health condition, including family temporary disability leave taken
4 pursuant to R.S.43:21-4(f)(2) while unemployed;

5 (c) for any period of disability which did not commence while
6 the claimant was a covered individual;

7 (d) for any period of disability of a claimant during which the
8 claimant is not under the care of a legally licensed physician,
9 dentist, optometrist, podiatrist, practicing psychologist, advanced
10 practice nurse, certified nurse midwife, or chiropractor, who, when
11 requested by the division, shall certify within the scope of the
12 practitioner's practice, the disability of the claimant, the probable
13 duration thereof, and, where applicable, the medical facts within the
14 practitioner's knowledge or for any period of family temporary
15 disability leave for a serious health condition of a family member of
16 the claimant, during which the family member is not receiving
17 inpatient care in a hospital, hospice, or residential medical care
18 facility or is not subject to continuing medical treatment or
19 continuing supervision by a health care provider, who, when
20 requested by the division, shall certify within the scope of the
21 provider's practice, the serious health condition of the family
22 member, the probable duration thereof, and, where applicable, the
23 medical facts within the provider's knowledge;

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

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

31 (g) for any period during which the claimant performs any work
32 for remuneration or profit;

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

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

40 and there shall be no other cause of disqualification or ineligibility
41 to receive disability benefits hereunder except as may be
42 specifically provided in this act.

43 (cf: P.L.2009, c.114, s.1)

44

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

47 10. a. Family temporary disability leave shall be compensable
48 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for

1 any period of family temporary disability leave taken by a covered
2 individual which commences after June 30, 2009.

3 b. An individual shall not simultaneously receive disability
4 benefits for family temporary disability leave and any other
5 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or
6 any unemployment compensation.

7 c. The employer of an individual may, notwithstanding any
8 other provision of law, including the provisions of N.J.S.18A:30-1
9 et seq., permit **【or require】** the individual, during a period of family
10 temporary disability leave, to use any paid sick leave, vacation time
11 or other leave at full pay made available by the employer before the
12 individual **【is eligible for】** uses disability benefits for family
13 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1
14 et al.)**【,** except that the employer may not require the individual to
15 use more than two weeks worth of leave at full pay**】**. **【The**
16 employer may also have the total number of days worth of disability
17 benefits paid pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) to the
18 individual during a period of family temporary disability leave
19 reduced by the number of days of leave at full pay paid by the
20 employer to the individual during that period.**】** If the employer
21 **【requires】** permits the individual to use leave at full pay, the
22 employee shall also be permitted to take that fully-paid leave during
23 the waiting period required pursuant to subsection (a) of section 15
24 of P.L.1948, c.110 (C.43:21-39). Nothing in P.L.2008, c.17
25 (C.43:21-39.1 et al.) shall be construed as nullifying any provision
26 of an existing collective bargaining agreement or employer policy,
27 or preventing any new provision of a collective bargaining
28 agreement or employer policy, which provides employees more
29 generous leave or gives employees greater rights to select which
30 kind of leave is used or select the order in which the different kinds
31 of leave are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.)
32 shall be construed as preventing an employer from providing more
33 generous benefits than are provided under P.L.2008, c.17 (C.43:21-
34 39.1 et al.) or providing benefits which supplement the benefits
35 provided under P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all
36 of the employer's employees.

37 d. An individual who is entitled to leave under the provisions
38 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
39 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
40 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
41 family temporary disability leave pursuant to P.L.2008, c.17
42 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the
43 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
44 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
45 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et
46 al.) shall be construed to grant an employee any entitlement to be
47 restored by the employer to employment held by the employee prior

1 to taking family temporary disability leave or any right to take
2 action against an employer who refuses to restore the employee to
3 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-
4 39.1 et al.) shall be construed to increase, reduce or otherwise
5 modify any entitlement of an employee to return to employment or
6 right of the employee to take action under the provisions of the
7 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
8 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
9 U.S.C. s.2601 et seq.). If an employee receives benefits for family
10 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1
11 et al.) with respect to employment with an employer who is not an
12 employer as defined in the "Family Leave Act," P.L.1989, c.261
13 (C.34:11B-1 et seq.) and that employer fails or refuses to restore the
14 employee to employment after the period of family temporary
15 disability leave, that failure or refusal shall not be a wrongful
16 discharge in violation of a clear mandate of public policy, and the
17 employee shall not have a cause of action against that employer, in
18 tort, or for breach of an implied provision of the employment
19 agreement, or under common law, for that failure or refusal.

20 e. An employee taking family temporary disability leave or an
21 employer from whom the employee is taking the leave shall have
22 the same right to appeal a determination of a benefit for the family
23 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1
24 et al.) as an employee or employer has to appeal a determination of
25 a benefit for the disability of the employee under the "Temporary
26 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and
27 any regulations adopted pursuant to the "Temporary Disability
28 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

29 f. In the event of a period of family temporary disability leave
30 of any individual covered under the State plan, the employer shall,
31 not later than the ninth day of the period of family temporary
32 disability leave, including any waiting period or time in which the
33 employer provides sick leave, vacation or other fully paid leave,
34 issue to the individual and to the division printed notices on
35 division forms containing the name, address and Social Security
36 number of the individual, such wage information as the division
37 may require to determine the individual's eligibility for benefits,
38 including any sick pay, vacation or other fully paid time off
39 provided by the employer during the period of family temporary
40 disability leave, and the name, address, and division identity
41 number of the employer. Not later than 30 days after the
42 commencement of the period of family temporary disability leave
43 for which the notice is furnished by the employer, the individual
44 shall furnish to the division a notice and claim for family temporary
45 disability leave benefits. Upon the submission of the notices by the
46 employer and the individual, the division may issue benefit
47 payments. In the case of family temporary disability leave taken to
48 care for a family member with a serious health condition, the

1 benefits may be paid for periods not exceeding three weeks pending
2 the receipt of the certification required pursuant to subsection b. of
3 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish
4 notice and certification in the manner above provided shall not
5 invalidate or reduce any claim if it shall be shown to the satisfaction
6 of the division not to have been reasonably possible to furnish the
7 notice and certification and that the notice and certification was
8 furnished as soon as reasonably possible.

9 g. Each covered employer shall conspicuously post
10 notification, in a place or places accessible to all employees in each
11 of the employer's workplaces, in a form issued by regulation
12 promulgated by the commissioner, of each covered employee's
13 rights regarding benefits payable pursuant to this section. The
14 employer shall also provide each employee of the employer with a
15 written copy of the notification: (1) not later than 30 days after the
16 form of the notification is issued by regulation; (2) at the time of the
17 employee's hiring, if the employee is hired after the issuance; (3)
18 whenever the employee notifies the employer that the employee is
19 taking time off for circumstances under which the employee is
20 eligible for benefits pursuant to this section; and (4) at any time,
21 upon the first request of the employee.

22 (cf: P.L.2008, c.17, s.10)

23
24 10. Section 12 of P.L.2008, c.17 (C.43:21-39.3) is amended to
25 read as follows:

26 12. a. (1) All of the disability benefits paid to a covered
27 individual during a period of family temporary disability leave with
28 respect to any one birth or adoption shall be for a single continuous
29 period of time **】, except that the employer of the covered individual**
30 **may permit the covered individual to receive the disability benefits**
31 **or during non-consecutive weeks** **【in a manner mutually agreed to**
32 **by the employer and the covered individual and】** **or days on an**
33 **intermittent basis pursuant to paragraph (2) of this subsection,**
34 **which shall be disclosed to the division by the employer.**

35 (2) In the case of intermittent benefits for family temporary
36 disability leave with respect to a birth or adoption, the covered
37 individual shall provide the employer with prior notice of the leave
38 not less than 15 days before the first day on which benefits are paid
39 for the intermittent leave, unless an emergency or other unforeseen
40 circumstance precludes prior notice; and the covered individual
41 makes a reasonable effort to schedule the leave so as not to unduly
42 disrupt the operations of the employer and, if possible, provide the
43 employer, prior to the commencement of intermittent leave, with a
44 regular schedule of the days or days of the week on which the
45 intermittent leave will be taken.

46 b. **【The】** In the case of single continuous benefits for family
47 temporary disability leave with respect to birth or adoption, the

1 covered individual shall provide the employer with prior notice of
2 the **【period of family temporary disability】** leave **【with respect to**
3 **birth or adoption】** not less than 30 days before the leave
4 commences, unless it commences while the individual is receiving
5 unemployment benefits, in which case the covered individual shall
6 notify the division. The amount of benefits shall be reduced by two
7 weeks worth of benefits if the individual does not provide notice to
8 an employer as required by this subsection b., unless the time of the
9 leave is unforeseeable or the time of the leave changes for
10 unforeseeable reasons.

11 c. Family temporary disability leave taken because of the birth
12 or placement for adoption of a child may be taken at any time
13 within a year after the date of the birth or placement for adoption.
14 (cf: P.L.2008, c.17, s.12)

15

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

18 13. a. The Commissioner of Labor and Workforce Development
19 shall issue and make available to the public, not later than
20 December 31, 2010, and each subsequent year, annual reports
21 providing data on temporary disability benefits, including separate
22 data for claims involving pregnancy and childbirth, and family
23 temporary disability benefits, including separate data for each of the
24 following categories of claims: care of newborn children; care of
25 newly adopted children; care of sick children; care of sick spouses,
26 and care of other sick family members. The reports shall include,
27 for each category of claims, the number of workers receiving the
28 benefits, the amount of benefits paid, the average duration of
29 benefits, the average weekly benefit, and, in the case of family
30 temporary disability benefits, any reported amount of sick leave,
31 vacation or other fully paid time which resulted in reduced benefit
32 duration. The report shall provide data by gender and by any other
33 demographic factors determined to be relevant by the
34 commissioner. The reports shall also provide, for all temporary
35 disability benefits and for all family temporary disability benefits,
36 the total costs of benefits and the total cost of administration, the
37 portion of benefits for claims during unemployment, and the total
38 revenues from: employer assessments, where applicable; employee
39 assessments; and other sources. For each of the reports issued not
40 later than December 31 of 2019 and each subsequent year, the
41 report shall also provide: the number of claims for bonding, and
42 care for family members, broken down by relationship;
43 demographic information: income, age, gender, ethnicity,
44 occupation, full or part-time employment status; what portion of the
45 leave is taken on an intermittent basis; the percentage of bonding
46 leave applicants who report providing their employer with 50 or
47 more days of notice of leave-taking; for all claims, the percentage
48 of employers who reported that the employee will have additional

1 paid time off with the source being the difference between their
2 regular weekly wages and the maximum benefit provided under
3 P.L.2008, c.17 (C.43:21-39.1 et al.); and the amount and rate of
4 contributions, with the amount of the tax base, made by employers
5 for each of the following: benefits for periods of pregnancy
6 temporary disability, and benefits for periods of all other disability,
7 and the amount and rate of contributions, with the amount of the tax
8 base, made by workers for each of the following: benefits for
9 periods of pregnancy temporary disability, benefits for periods of
10 all other disability, and benefits for periods of temporary disability
11 leave.

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

19 (1) Employees and their families, including surveys and
20 evaluations of: what portion of the total number of employees
21 taking leave would not have taken leave, or would have taken less
22 leave, without the availability of benefits; what portion of
23 employees return to work after receiving benefits and what portion
24 are not permitted to return to work; and what portion of employees
25 who are eligible for benefits do not claim or receive them and why
26 they do not;

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

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

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

38 (cf: P.L.2008, c.17, s.13).

39

40 12. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to
41 read as follows:

42 16. **【**With respect to periods of disability commencing on or
43 after July 1, 1961, an individual's weekly benefit amount shall be
44 determined and computed by the division on the same basis as the
45 weekly benefit rate is determined and computed pursuant to
46 subsection (c) of R.S. 43:21-3, except that for **】** a. For periods of
47 disability commencing on or after October 1, 1984, an individual's
48 weekly benefit rate shall be two-thirds of his average weekly wage,

1 subject to a maximum of 53% of the Statewide average weekly
2 remuneration paid to workers by employers, as determined under
3 subsection (c) of R.S. 43:21-3[; provided, however, that such].
4 except as provided in subsection b. of this section.

5 b. For periods of disability in cases of pregnancy or recovery
6 from childbirth commencing on or after July 1, 2019, and for
7 periods of family temporary disability leave commencing on or
8 after July 1, 2019, an individual's weekly benefit rate shall be 90%
9 of the individual's average weekly wage, subject to a maximum of
10 100% of the Statewide average weekly remuneration paid to
11 workers by employers.

12 c. Each individual's benefit rate shall be computed to the next
13 lower multiple of \$1.00 if not already a multiple thereof. The
14 amount of benefits for each day of disability for which benefits are
15 payable shall be one-seventh of the corresponding weekly benefit
16 amount; provided that the total benefits for a fractional part of a
17 week shall be computed to the next lower multiple of \$1.00 if not
18 already a multiple thereof.

19 (cf: P.L.1984, c.104, s.3)

20

21 13. (New section) a. The division shall implement disability
22 insurance goals for the timely determination and payment of
23 temporary disability benefits and family temporary disability
24 benefits under the State plan, as follows:

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

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

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

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

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

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

44 (a) not less than 80 percent of the original benefit
45 determinations shall be completed within seven days after the
46 commencement of the period of family temporary disability leave,
47 or the receipt of the benefit claims by the division, whichever is
48 later;

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

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

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

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

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

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

42 (3) the number and percentage of claims for which
43 determinations were delayed because of employer failure to make
44 the notifications or disclosures to employees and the division within
45 the amount of time required by subsection (a) of section 25 of
46 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of
47 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received
48 related to employer noncompliance with those requirements, and

1 the number of employers which have been, because of the failures,
2 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to
3 pay fines or penalties to the division or added amounts to claimants,
4 the total amount of payments to the division, and the total amount
5 of payments to claimants;

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

16 (5) if any of the disability insurance goals set pursuant to this
17 section were not attained during the year, the report shall provide an
18 evaluation of the causes of the deficiencies and a plan to correct
19 them and that plan shall include:

20 (a) any increase in personnel needed to process claims;

21 (b) any measures needed to enforce notification and reporting
22 requirements;

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

26 (d) any improvements needed in data processing and other
27 administrative services and equipment.

28 The plan shall specify any added costs entailed in implementing
29 the plan, which shall be regarded as costs of administration of
30 family temporary disability benefits, and shall specify the amount
31 of any resulting increase in the estimate made pursuant to
32 R.S.43:21-7(d)(1)(G)(i), (ii), and (iii) of the amount needed to
33 provide 100 percent of the cost of administration of family
34 temporary disability benefits.

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

41 c. (1) The division shall, during each calendar year beginning
42 with 2019, allocate not less than \$1,200,000 to disseminate
43 information about the rights and responsibilities of employers and
44 employees regarding temporary disability benefits and family
45 temporary disability benefits by means of programs of educational
46 outreach in communities and workplaces. Of that allocation, not
47 less than \$600,000 shall be used by the division to enter into
48 contracts with community-based organizations to disseminate

1 information to workers regarding temporary disability benefits and
2 family temporary disability benefits. That allocation shall be
3 regarded as a cost of administration of temporary disability and
4 family temporary disability benefits and be charged to the
5 administration account of the State disability benefit fund. Of the
6 costs charged to the administration account of the State disability
7 benefit fund pursuant to this subsection, the percentage which is
8 charged to the Family Temporary Disability Leave Account shall be
9 equal to the percentage that family temporary disability benefits
10 represents of all temporary disability benefits paid from the State
11 disability benefits fund during the preceding calendar year. The
12 allocation made pursuant to this subsection, including any
13 adjustments in the allocation specified in the plan provided pursuant
14 to paragraph (2) of this subsection, shall not result in the total
15 amount credited to administrative costs exceeding the maximum
16 amount permitted pursuant to subsection (a) of section 22 of
17 P.L.1948, c.110 (C.43:21-46).

18 (2) The commissioner shall, not later than September 30 of 2019
19 and September 30 of each subsequent year, issue, provide to the
20 Legislature, and make available to the public on the department's
21 webpage, a report regarding efforts made during the preceding
22 calendar year by the division and by community-based
23 organizations to disseminate information about the rights and
24 responsibilities of employers and employees regarding temporary
25 disability and family temporary disability benefits. Each report
26 shall include, for that preceding calendar year:

27 (a) an accounting of all funds allocated pursuant to this
28 subsection and all expenditures made from those funds by the
29 division and each community-based organization entering into
30 contracts with the division pursuant to this subsection, and
31 estimates of the number of employers and the number of workers to
32 which the information was disseminated;

33 (b) an estimate of the number of workers who were eligible for
34 temporary disability and family temporary disability benefits and
35 what percentage of those workers received those benefits, including
36 an assessment of whatever progress was made to increase that
37 percentage; and

38 (c) a plan to increase the percentage of workers who are aware
39 of the benefits which specifies the amounts to be allocated to the
40 division and community-based organizations for the purposes of
41 this subsection during the subsequent calendar year, provided that
42 the amounts specified shall not be less than or more than the
43 minimum and maximum amounts indicated in paragraph (1) of this
44 subsection.

45

46 14. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to
47 read as follows:

1 31. Penalties. (a) Whoever makes a false statement or
2 representation knowing it to be false or knowingly fails to disclose
3 a material fact, and each such false statement or representation or
4 failure to disclose a material fact shall constitute a separate offense,
5 to obtain or increase any disability benefit under the State plan or
6 an approved private plan, or for a disability during unemployment,
7 including any benefit during a period of family temporary disability
8 leave, either for himself or for any other person, shall be liable for a
9 fine of \$250 to be paid to the division. Upon refusal to pay such
10 fine, the same shall be recovered in a civil action by the division in
11 the name of the State of New Jersey. If in any case liability for the
12 payment of a fine as aforesaid shall be determined, any person who
13 shall have received any benefits hereunder by reason of the making
14 of such false statements or representations or failure to disclose a
15 material fact, shall not be entitled to any benefits under this act for
16 any disability occurring prior to the time he shall have discharged
17 his liability hereunder to pay such fine.

18 (b) Any employer or any officer or agent of any employer or
19 any other person who makes a false statement or representation
20 knowing it to be false or knowingly fails to disclose a material fact,
21 to prevent or reduce the benefits to any person entitled thereto, or to
22 avoid becoming or remaining subject hereto or to avoid or reduce
23 any contribution or other payment required from an employer under
24 this act, or who willfully fails or refuses to make any such
25 contributions or other payment or to furnish any reports required
26 hereunder or to produce or permit the inspection or copying of
27 records as required hereunder, or who fails to provide any
28 notification or disclosure to the division or the employee required
29 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or
30 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at
31 the time and in the manner required by those sections, including
32 disclosure of the information the division requires for the
33 processing of a claim, shall be liable for a fine of \$250 to be paid to
34 the division, and, if a failure of an employer to provide the
35 notification or disclosure to the division or the employee results in a
36 delay in the payment of benefits, the employer shall also be liable
37 for an added amount, to be paid to the claimant, equal to the
38 benefits due from the time that the employer was required to
39 provide the notification or disclosure until the time that the benefit
40 payments commenced. Upon refusal to pay such fine or added
41 payments to a claimant, the same shall be recovered in a civil action
42 by the division in the name of the State of New Jersey.

43 (c) Any person who shall willfully violate any provision hereof
44 or any rule or regulation made hereunder, for which a fine is neither
45 prescribed herein nor provided by any other applicable statute, shall
46 be liable to a fine of \$500 to be paid to the division. Upon the
47 refusal to pay such fine, the same shall be recovered in a civil

1 action by the division in the name of the State of New Jersey.

2 (d) Any person, employing unit, employer or entity violating
3 any of the provisions of the above subsections with intent to
4 defraud the division shall in addition to the penalties hereinbefore
5 described, be liable for each offense upon conviction before the
6 Superior Court or any municipal court for a fine not to exceed
7 \$1,000 or by imprisonment for a term not to exceed ninety days, or
8 both, at the discretion of the court. The fine upon conviction shall
9 be payable to the State disability benefits fund of the division. Any
10 penalties imposed by this subsection shall be in addition to those
11 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

12 (e) Any sum collected as a fine or penalty pursuant to this
13 section shall be deposited in the administration account of the State
14 disability benefits fund and applied toward enforcement and other
15 administrative costs of the division.

16 (cf: P.L.2008, c.17, s.8)

17

18 15. (New section) a. An employer shall not discharge, harass,
19 threaten, or otherwise discriminate or retaliate against an employee
20 with respect to the compensation, terms, conditions, or privileges of
21 employment on the basis that the employee requested or took any
22 temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-
23 25 et al.), or family temporary disability leave benefits pursuant to
24 P.L.2008, c.17 (C.43:21-39.1 et al.), provided that, pursuant to
25 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or
26 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or
27 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as
28 increasing, reducing or otherwise modifying any entitlement
29 provided to a worker by the provisions of the "Family Leave Act,"
30 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment
31 by the employer after a period of family temporary disability leave.

32 b. Upon a violation of subsection a. of this section, an
33 employee or former employee may institute a civil action in the
34 Superior Court for relief. All remedies available in common law
35 tort actions shall be available to a prevailing plaintiff. The court
36 may also order any or all of the following relief:

37 (1) an assessment of a civil fine of not less than \$1,000 and not
38 more than \$2,000 for the first violation of any of the provisions of
39 this section and not more than \$5,000 for each subsequent violation;

40 (2) an injunction to restrain the continued violation of any of the
41 provisions of this section;

42 (3) reinstatement of the employee to the same position or to a
43 position equivalent to that which the employee held prior to
44 unlawful discharge or retaliatory action;

45 (4) reinstatement of full fringe benefits and seniority rights;

46 (5) compensation for any lost wages, benefits and other
47 remuneration; and

48 (6) payment of reasonable costs and attorney's fees.

1 The bill provides that an employer may not retaliate against an
2 employee with respect to the compensation, terms, conditions, or
3 privileges of employment on the basis that the employee took or
4 requested any TDI or FLI benefits, except that not reinstating an
5 employee after a period of FLI benefits is not to be regarded as
6 retaliation in the case of an employer who is exempt from the FLA
7 because the employer has less than 30 employees. The bill provides
8 various remedies in cases of such retaliation, and applies existing
9 penalties of the TDI law to employers who fail to provide the
10 notifications and disclosures at the time and in the manner required
11 by the TDI and FLI laws. If the failure causes a delay in benefit
12 payments, the employer is required to pay the claimant an added
13 amount equal to the benefits due from the time that the notification
14 or disclosure was required until the benefit payments commence.

15 The bill also requires the division to implement goals for the
16 timely determination and payment of TDI and FLI benefits. For
17 TDI benefit claims, the goals specified by the bill set minimum
18 percentages of initial claims to be completed within specified time
19 spans as follows: 40 percent within seven days, 75 percent within
20 14 days, 85 percent within 21 days, and 90 percent within 28 days.
21 For FLI benefit claims, the goals specified by the bill set the
22 minimum percentages at 80 percent within seven days, 85 percent
23 within 14 days, 90 percent within 21 days, and 95 percent within 28
24 days.

25 The bill requires the issuing of annual reports regarding efforts to
26 attain those goals. Each report is required to include data
27 regarding: claims completed within the stated goal periods; claims
28 received with insufficient information causing delays in benefit
29 payment and any related fines, penalties or payments to claimants;
30 personnel processing TDI and FLI claims and related administrative
31 costs; along with an evaluation of the causes of any failures to meet
32 the goals, and a plan to correct them, including any needed increase
33 in personnel, any enforcement or educational measures, or
34 improvements in data processing and other administrative services
35 and equipment. The plans should specify any increase needed to
36 implement the plan in the estimate made pursuant to the TDI and
37 FLI laws of the amounts needed to provide the cost of
38 administration of TDI and FLI benefits. The commissioner is
39 required to use that increased estimate in setting the rate of TDI and
40 FLI worker taxes. The bill allocates \$1.2 million to education and
41 outreach efforts for the programs, of which not less than \$600,000
42 would be allocated to contracts with community-based
43 organizations.

44 The bill directs the department to disseminate information about
45 the rights and responsibilities of employers and employees
46 regarding family temporary disability benefits, and allows it to
47 contract with community-based organizations to assist.