

[Third Reprint]

ASSEMBLY, No. 4132

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

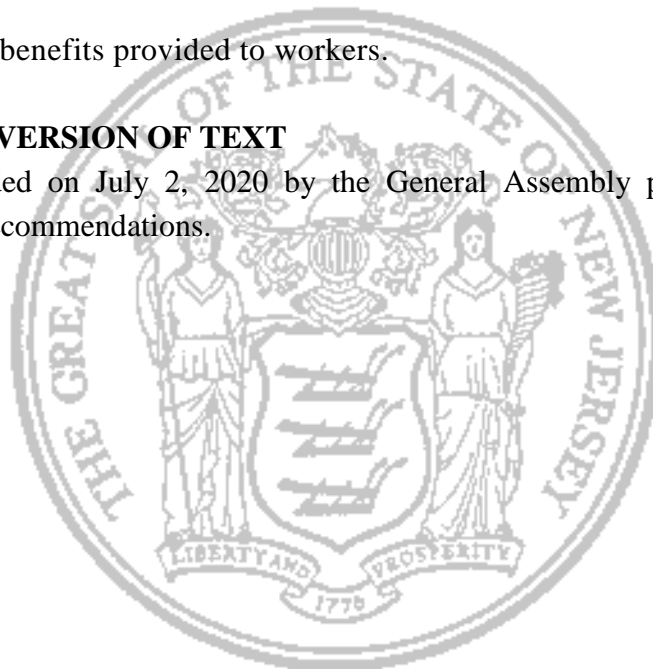
Assemblywomen Jimenez, Jasey, Assemblyman Houghtaling and Senator Cruz-Perez

SYNOPSIS

Concerns benefits provided to workers.

CURRENT VERSION OF TEXT

As amended on July 2, 2020 by the General Assembly pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 7/2/2020)

1 AN ACT concerning certain benefits ¹**[and leave]**¹ provided to
2 workers, and amending and supplementing various parts of the
3 statutory law.

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

7
8 ³**[1.N.J.S.11A:8-1 is amended to read as follows:**

9 11A:8-1. a. A permanent employee may be laid off for
10 economy, efficiency or other related reason. A permanent
11 employee shall receive 45 days' written notice, unless in State
12 government a greater time period is ordered by the commission,
13 which shall be served personally or by certified mail, of impending
14 layoff or demotion and the reasons therefor. The requirements of
15 this section to provide 45 days' written notice of a layoff shall not
16 apply to employees who have their weekly hours of work reduced
17 and receive shared time unemployment benefits under a shared
18 work program approved pursuant to the provisions of
19 P.L.2011.c.154 (C.43:21-20.3 et seq.). The notice shall expire 120
20 days after service unless extended by the commission for good
21 cause. At the same time the notice is served, the appointing
22 authority shall provide the commission with a list of the names and
23 permanent titles of all employees receiving the notice. The Civil
24 Service Commission shall adopt rules to implement employee
25 layoff rights consistent with the provisions of this section. The
26 commission shall consult with the advisory board representing labor
27 organizations prior to such recommendations.

28 b. Permanent employees in the service of the State or a
29 political subdivision shall be laid off in inverse order of seniority.
30 As used in this subsection, "seniority" means the length of
31 continuous permanent service in the jurisdiction, regardless of title
32 held during the period of service, except that for police and
33 firefighting titles, "seniority" means the length of continuous
34 permanent service only in the current permanent title and any other
35 title that has lateral or demotional rights to the current permanent
36 title. Seniority for all titles shall be based on the total length of
37 calendar years, months and days in continuous permanent service
38 regardless of the length of the employee's work week, work year or
39 part-time status.

40 c. For purposes of State service, a "layoff unit" means a
41 department or autonomous agency and includes all programs
42 administered by that department or agency. For purposes of
43 political subdivision service, the "layoff unit" means a department

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 11, 2020.

²Assembly floor amendments adopted May 14, 2020.

³Assembly amendments adopted in accordance with Governor's
recommendations July 2, 2020.

1 in a county or municipality, an entire autonomous agency, or an
2 entire school district, except that the commission may establish
3 broader layoff units.

4 d. For purposes of State service, "job location" means a county.
5 The commission shall assign a job location to every facility and
6 office within a State department or autonomous agency. For
7 purposes of local service, "job location" means the entire political
8 subdivision and includes any facility operated by the political
9 subdivision outside its geographic borders.

10 e. For purposes of determining lateral title rights in State and
11 political subdivision service, title comparability shall be determined
12 by the commission based upon whether the: (1) titles have
13 substantially similar duties and responsibilities; (2) education and
14 experience requirements for the titles are identical or similar; (3)
15 employees in an affected title, with minimal training and
16 orientation, could perform the duties of the designated title by
17 virtue of having qualified for the affected title; and (4) special
18 skills, licenses, certifications or registration requirements for the
19 designated title are similar and do not exceed those which are
20 mandatory for the affected title. Demotional title rights shall be
21 determined by the commission based upon the same criteria, except
22 that the demotional title shall have lower but substantially similar
23 duties and responsibilities as the affected title.

24 f. In State service, a permanent employee in a position affected
25 by a layoff action shall be provided with applicable lateral and
26 demotional title rights first, at the employee's option, within the
27 municipality in which the facility or office is located and then to the
28 job locations selected by the employee within the department or
29 autonomous agency. The employee shall select individual job
30 locations in preferential order from the list of all job locations and
31 shall indicate job locations at which the employee will accept lateral
32 and demotional title rights. In local service, a permanent employee
33 in a position affected by a layoff action shall be provided lateral and
34 demotional title rights within the layoff unit.

35 g. Following the employee's selection of job location
36 preferences, lateral and demotional title rights shall be provided in
37 the following order:

38 (1) a vacant position that the appointing authority has previously
39 indicated it is willing to fill;

40 (2) a position held by a provisional employee who does not have
41 permanent status in another title, and if there are multiple
42 employees at a job location, the specific position shall be
43 determined by the appointing authority;

44 (3) a position held by a provisional employee who has
45 permanent status in another title, and if there are multiple
46 provisional employees at a job location, the specific position shall
47 be determined based on level of the permanent title held and
48 seniority;

1 (4) the position held by the employee serving in a working test
2 period with the least seniority;

3 (5) in State service, and in local jurisdictions having a
4 performance evaluation program approved by the commission, the
5 position held by the permanent employee whose performance rating
6 within the most recent 12 months in the employee's permanent title
7 was significantly below standards or an equivalent rating;

8 (6) in State service, and in local jurisdictions having a
9 performance evaluation program approved by the commission, the
10 position held by the permanent employee whose performance rating
11 within the most recent 12 months in the employee's permanent title
12 was marginally below standards or an equivalent rating; and

13 (7) the position held by the permanent employee with the least
14 seniority.

15 h. A permanent employee shall be granted special
16 reemployment rights based on the employee's permanent title at the
17 time of the layoff action and the employee shall be certified for
18 reappointment after the layoff action to the same, lateral and lower
19 related titles. Special reemployment rights shall be determined by
20 the commission in the same manner as lateral and demotional
21 rights.

22 i. Notwithstanding the provisions above, at no time shall any
23 person on a military leave of absence for active service in the
24 Armed Forces of the United States or for active service in the
25 organized militia in time of war or emergency be laid off.

26 For the purposes of this section, "organized militia" means the
27 Army and Air National Guard of New Jersey or any other state, and
28 "active service" includes National Guard active service ordered by a
29 Governor of a state.

30 (cf: P.L.2019, c.286, s.3)³

31

32 ³1. (New section) Notwithstanding the provisions of section 25
33 of P.L.2008, c.89 (C.11A:6-24.1) or any other law or regulation to
34 the contrary, a State employee participating in a furlough program
35 may be required or elect to take a furlough day on a paid holiday
36 granted to State government employees in calendar years 2020 and
37 2021. An employee who is required to or elects to take a furlough
38 day on a paid holiday shall not receive pay for the holiday. An
39 employee on furlough leave on the day before or on the day
40 following a holiday shall receive pay for the holiday as long as the
41 employee is not required, or does not elect, to take a furlough day
42 on the paid holiday.³

43

44 ³2. (New section) Notwithstanding the provisions of any other
45 law or regulation to contrary, the provisions of chapter 8 of Title
46 11A of the New Jersey Statutes shall not apply to employees who
47 have their weekly hours of work reduced and receive short time
48 compensation benefits under a shared work program approved

1 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.)
2 or who participate in a furlough program, except the provisions of
3 Title 11A of the New Jersey Statutes concerning the seniority rights
4 of an employee who participates in a shared work program or
5 furlough program shall continue and shall not be adversely affected
6 by participation in such programs.³

7
8 ³**[2.] 3.**³ Section 9 of P.L.1996, c.138 (C.18A:7F-9) is amended
9 to read as follows:

10 9. a. In order to receive any State aid pursuant to P.L.2007, c.260
11 (C.18A:7F-43 et al.), a school district, charter school, renaissance
12 school project, county vocational school district, or county special
13 services school district shall comply with the rules and standards for
14 the equalization of opportunity which have been or may hereafter be
15 prescribed by law or formulated by the commissioner pursuant to law,
16 including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and
17 P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum
18 content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.),
19 and shall further comply with any directive issued by the
20 commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6).
21 The commissioner is hereby authorized to withhold all or part of a
22 district's State aid for failure to comply with any rule, standard or
23 directive. No State aid shall be paid to any district which has not
24 provided public school facilities for at least 180 days during the
25 preceding school year, but the commissioner, for good cause shown,
26 may remit the penalty.

27 b. Notwithstanding the provisions of subsection a. of this section
28 to the contrary, in the event that a school district is required to close
29 the schools of the district for more than three consecutive school days
30 due to a declared state of emergency, declared public health
31 emergency, or a directive by the appropriate health agency or officer to
32 institute a public health-related closure, the commissioner shall allow
33 the district to apply to the 180-day requirement established pursuant to
34 subsection a. of this section, one or more days of virtual or remote
35 instruction provided to students on the day or days the schools of the
36 district were closed if the program of virtual or remote instruction
37 meets such criteria as may be established by the commissioner. A
38 district that wants to use a program of virtual or remote instruction to
39 meet the 180-day requirement in accordance with this subsection shall,
40 with board of education approval, submit its proposed program of
41 virtual or remote instruction to the commissioner within 30 days of the
42 effective date of P.L.2020, c.27 and annually thereafter, provided
43 however that if the school district is unable to complete and submit its
44 proposed program within the 30-day period and the district is required
45 to close its schools for a declared state of emergency, declared public
46 health emergency, or a directive by the appropriate health agency or
47 officer to institute a public health-related closure, the commissioner
48 may retroactively approve the program.

1 A day of virtual or remote instruction, if instituted under a program
2 approved by the commissioner, shall be considered the equivalent of a
3 full day of school attendance for the purposes of meeting State and
4 local graduation requirements, the awarding of course credit, and such
5 other matters as determined by the commissioner.

6 If a program of virtual or remote instruction is implemented for the
7 general education students the same educational opportunities shall be
8 provided to students with disabilities. Special education and related
9 services, including speech language services, counseling services,
10 physical therapy, occupational therapy, and behavioral services, may
11 be delivered to students with disabilities through the use of electronic
12 communication or a virtual or online platform and as required by the
13 student's Individualized Education Program (IEP), to the greatest
14 extent practicable.

15 c. In the event that the State or local health department
16 determines that it is advisable to close or mandates closure of the
17 schools of a school district due to a declared state of emergency,
18 declared public health emergency, or a directive by the appropriate
19 health agency or officer to institute a public health-related closure, the
20 superintendent of schools shall have the authority to implement the
21 school district's program of virtual or remote instruction. The
22 superintendent shall consult with the board of education prior to such
23 decision if practicable. The superintendent shall ensure that students,
24 parents, staff, and the board of education or boards of education are
25 informed promptly of the superintendent's decision.

26 d. The commissioner shall define virtual and remote instruction
27 and establish guidance for its use. The guidance shall provide school
28 districts with information on:

29 (1) providing instruction to students who may not have access to a
30 computer or to sufficient broadband, or to any technology required for
31 virtual or remote instruction;

32 (2) the required length of a virtual or remote instruction day;

33 (3) the impact of virtual or remote instruction on the school lunch
34 and school breakfast programs;

35 (4) the impact of virtual or remote instruction on the schedule for
36 administering State assessments; and

37 (5) such other topics as the commissioner deems necessary.

38 e. (1) Nothing in subsection b., c., or d. of this section shall be
39 construed to limit, supersede or preempt the rights, privileges,
40 compensation, remedies, and procedures afforded to public school
41 employees or a collective bargaining unit under federal or State law or
42 any provision of a collective bargaining agreement entered into by the
43 school district. In the event of the closure of the schools of a school
44 district due to a declared state of emergency, declared public health
45 emergency, or a directive by the appropriate health agency or officer to
46 institute a public health-related closure for a period longer than three
47 consecutive school days, public school employees covered by a
48 collective negotiations agreement shall be entitled to compensation,

1 benefits, and emoluments as provided in the collective negotiations
2 agreement as if the school facilities remained open for any purpose
3 and for any time lost as a result of school closures or use of virtual or
4 remote instruction, except that additional compensation, benefits, and
5 emoluments may be negotiated for additional work performed.

6 (2) In the event of the closure of the schools of a school district
7 due to a declared state of emergency, declared public health
8 emergency, or a directive by the appropriate health agency or officer to
9 institute a public health-related closure for a period longer than three
10 consecutive school days, public school employees who are not covered
11 by a collective negotiations agreement shall be entitled to any benefits,
12 compensation, and emoluments to which they otherwise would be
13 entitled as if they had performed the work for such benefits,
14 compensation, and emoluments as if the school facilities remained
15 open for any purpose and for any time lost as a result of school
16 closures or use of virtual or remote instruction.

17 (3) If the schools of a school district are subject to a health-related
18 closure for a period longer than three consecutive school days, which
19 is the result of a declared state of emergency, declared public health
20 emergency, or a directive by the appropriate health agency or officer,
21 then the school district shall continue to make payments of benefits,
22 compensation, and emoluments pursuant to the terms of a contract
23 with a contracted service provider in effect on the date of the closure
24 as if the services for such benefits, compensation, and emoluments had
25 been provided, and as if the school facilities had remained open.
26 Payments received by a contracted service provider pursuant to this
27 paragraph shall be used to meet the payroll and fixed costs obligations
28 of the contracted service provider¹, and employees of the contracted
29 service provider shall be paid as if the school facilities had remained
30 open and in full operation¹. ² Upon request of the school district, the
31 contracted service provider shall certify, and provide any supporting
32 documentation to a school district as may be necessary to verify, that
33 payments received have been used solely to meet the payroll and fixed
34 costs of the contracted service provider. Any portion of those
35 payments not used to meet the payroll and fixed costs shall be returned
36 to the school district.¹² A school district shall make all reasonable
37 efforts to renegotiate a contract in good faith subject to this paragraph
38 and may direct contracted service providers, who are a party to a
39 contract and receive payments from the school district under this
40 paragraph, to provide services on behalf of the school district which
41 may reasonably be provided and are within the general expertise or
42 service provision of the original contract. Negotiations shall not
43 include indirect costs such as fuel or tolls. As a condition of
44 negotiations, a contracted service provider shall reveal to the school
45 district whether the entity has insurance coverage for business
46 interruption covering work stoppages. A school district shall not be
47 liable for the payment of benefits, compensation, and emoluments
48 pursuant to the terms of a contract with a contracted service provider

1 under this paragraph for services which otherwise would not have been
2 provided had the school facilities remained open. Nothing in this
3 paragraph shall be construed to require a school district to make
4 payments to a party in material breach of a contract with a contracted
5 service provider if the breach was not due to a closure resulting from a
6 declared state of emergency, declared public health emergency, or a
7 directive by the appropriate health agency or officer.

8 (4) If the schools of a school district are subject to a health-related
9 closure for a period longer than three consecutive school days, which
10 is the result of a declared state of emergency, declared public health
11 emergency, or a directive by the appropriate health agency or officer,
12 the school district shall be obligated to make payments for benefits,
13 compensation, and emoluments and all payments required pursuant to
14 P.L.1968, c.243 (C.18A:6-51 et seq.), to an educational services
15 commission, county special services school district, and a jointure
16 commission, and under any shared services agreement and cooperative
17 contract entered into with any other public entity. An educational
18 services commission, county special services school district, and
19 jointure commission shall continue to make payments of benefits,
20 compensation, and emoluments pursuant to the terms of a contract
21 with a contracted service provider or a shared services agreement in
22 effect on the date of the closure as if the services for such benefits,
23 compensation, and emoluments had been provided, and as if the school
24 facilities had remained open. Payments received by a contracted
25 service provider or public entity pursuant to this paragraph shall be
26 used to meet the payroll and fixed costs obligations of the contracted
27 service provider or public entity¹, and employees of the contracted
28 service provider or public entity shall be paid as if the school facilities
29 had remained open and in full operation¹. ¹Upon request of the school
30 district, the educational services commission, county special services
31 school district, and a jointure commission shall certify, and provide
32 any supporting documentation to a school district as may be necessary
33 to verify, that payments received have been used solely to meet the
34 payroll and fixed costs of the contracted service provider or public
35 entity. Any portion of those payments not used to meet the payroll and
36 fixed costs shall be returned to the school district.¹ An educational
37 services commission, county special services school district, jointure
38 commission or any lead school district under a shared services
39 agreement or cooperative contract, shall make all reasonable efforts to
40 renegotiate a contract in good faith subject to this paragraph and may
41 direct contracted service providers or public entities, who are a party to
42 a contract and receive payments under this paragraph, to provide
43 services which may reasonably be provided and are within the general
44 expertise or service provision of the original contract. Negotiations
45 shall not include indirect costs such as fuel or tolls. As a condition of
46 negotiations, a contracted service provider or public entity shall reveal
47 whether the entity has insurance coverage for business interruption
48 covering work stoppages.

1 (5) The provisions ¹of paragraphs (1) through (4)¹ of this
2 subsection e. shall not apply to any employee whose weekly hours of
3 work are reduced, and to whom unemployment benefits are provided,
4 pursuant to a shared work program approved pursuant to the
5 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.). ¹A contracted
6 service provider, educational services commission, county special
7 services school district, or jointure commission shall notify any
8 school district with which it has entered into a contract to provide
9 services of its intent to reduce the hours of work of its employees
10 pursuant to a shared work program approved pursuant to the
11 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.).
12 Notwithstanding the provisions of paragraph (3) of this subsection e.,
13 if a contracted service provider reduces the amount that it pays to its
14 employees providing services to a school district, and that reduction is
15 the result of a reduction of workhours of the those employees made
16 pursuant to a shared work program approved pursuant to the
17 provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.), then the amount
18 paid by the public school district to the contracted service provider
19 shall be reduced by the same amount. Notwithstanding the provisions
20 of paragraph (4) of this subsection e., if an educational services
21 commission, county special services school district, or jointure
22 commission reduces the amount that it pays to its employees providing
23 services to a school district, and that reduction is the result of a
24 reduction of workhours of the those employees made pursuant to a
25 shared work program approved pursuant to the provisions of P.L.2011,
26 c.154 (C.43:21-20.3 et seq.), then the amount paid by the public school
27 district to the educational services commission, county special services
28 school district, or jointure commission shall be reduced by the same
29 amount.¹

30 f. For purposes of subsections b., c., d., and e. of this section,
31 “school district” shall include a charter school and a renaissance
32 school project.

33 (cf: P.L.2020, c.27, s.1)

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

37 3. As used in this act:

38 a. "Child" means a biological, adopted, foster child, or resource
39 family child, stepchild, legal ward, or child of a parent, including a
40 child who becomes the child of a parent pursuant to a valid written
41 agreement between the parent and a gestational carrier.

42 b. "Director" means the Director of the Division on Civil
43 Rights.

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

46 d. "Employ" means to suffer or permit to work for
47 compensation, and includes ongoing, contractual relationships in
48 which the employer retains substantial direct or indirect control

1 over the employee's employment opportunities or terms and
2 conditions of employment.

3 e. "Employee" means a person who is employed for at least 12
4 months by an employer, with respect to whom benefits are sought
5 under this act, for not less than 1,000 base hours during the
6 immediately preceding 12-month period. Any time, up to a
7 maximum of 90 calendar days, during which a person is laid off or
8 furloughed by an employer due to that employer curtailing
9 operations because of a state of emergency declared after October
10 22, 2012, shall be regarded as time in which the person is employed
11 for the purpose of determining eligibility for leave time under this
12 act. In making the determination, the base hours per week during
13 the layoff or furlough shall be deemed to be the same as the average
14 number of hours worked per week during the rest of the 12-month
15 period.

16 f. "Employer" means a person or corporation, partnership,
17 individual proprietorship, joint venture, firm or company or other
18 similar legal entity which engages the services of an employee and
19 which:

20 (1) (Deleted by amendment, P.L.2019, c.37);

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

22 (3) **【**With respect to the period of time from the 1,095th day
23 following the effective date of P.L.1989, c.261 (C.34:11B-1 et seq.)
24 through June 30, 2019, employs 50 or more employees for each
25 working day during each of 20 or more calendar workweeks in the
26 then current or immediately preceding calendar year; and **】** (Deleted
27 by amendment, P.L. _____, c. _____) (pending before the Legislature as
28 this bill)

29 (4) With respect to any period of time **【**on or after **】** from June
30 30, 2019 until the effective date of P.L. _____ c. _____ (pending before the
31 Legislature as this bill), employs 30 or more employees for each
32 working day during each of 20 or more calendar workweeks in the
33 then current or immediately preceding calendar year; and

34 (5) With respect to any period of time after the effective date of
35 P.L. _____ c. _____ (pending before the Legislature as this bill), employs
36 one or more employees for each working day during each of 20 or
37 more calendar workweeks in the then current or immediately
38 preceding calendar year.

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

41 g. "Employment benefits" means all benefits and policies
42 provided or made available to employees by an employer, and
43 includes group life insurance, health insurance, disability insurance,
44 sick leave, annual leave, pensions, or other similar benefits.

45 h. "Parent" means a person who is the biological parent,
46 adoptive parent, foster parent, resource family parent, step-parent,
47 parent-in-law or legal guardian, having a "parent-child relationship"
48 with a child as defined by law, or having sole or joint legal or

- 1 physical custody, care, guardianship, or visitation with a child, or
2 who became the parent of the child pursuant to a valid written
3 agreement between the parent and a gestational carrier.
- 4 i. "Family leave" means leave from employment so that the
5 employee may provide care made necessary by reason of:
- 6 (1) the birth of a child of the employee, including a child born
7 pursuant to a valid written agreement between the employee and a
8 gestational carrier;
- 9 (2) the placement of a child into foster care with the employee
10 or in connection with adoption of such child by the employee;
- 11 (3) the serious health condition of a family member of the
12 employee; or.
- 13 (4) in the event of a state of emergency declared by the
14 Governor, or when indicated to be needed by the Commissioner of
15 Health or other public health authority, an epidemic of a
16 communicable disease, a known or suspected exposure to the
17 communicable disease, or efforts to prevent spread of a
18 communicable disease, which:
- 19 (a) requires in-home care or treatment of a child due to the
20 closure of the school or place of care of the child of the employee,
21 by order of a public official due to the epidemic or other public
22 health emergency;
- 23 (b) prompts the issuance by a public health authority of a
24 determination, including by mandatory quarantine, requiring or
25 imposing responsive or prophylactic measures as a result of illness
26 caused by an epidemic of a communicable disease or known or
27 suspected exposure to the communicable disease because the
28 presence in the community of a family member in need of care by
29 the employee, would jeopardize the health of others; or
- 30 (c) results in the recommendation of a health care provider or
31 public health authority, that a family member in need of care by the
32 employee voluntarily undergo self-quarantine as a result of
33 suspected exposure to a communicable disease because the presence
34 in the community of that family member in need of care by the
35 employee, would jeopardize the health of others.
- 36 j. "Family member" means a child, parent, parent-in-law,
37 sibling, grandparent, grandchild, spouse, domestic partner, or one
38 partner in a civil union couple, or any other individual related by
39 blood to the employee, and any other individual that the employee
40 shows to have a close association with the employee which is the
41 equivalent of a family relationship.
- 42 k. "Reduced leave schedule" means leave scheduled for fewer
43 than an employee's usual number of hours worked per workweek
44 but not for fewer than an employee's usual number of hours worked
45 per workday, unless agreed to by the employee and the employer.
- 46 l. "Serious health condition" means an illness, injury,
47 impairment, or physical or mental condition which requires:

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

3 (2) continuing medical treatment or continuing supervision by a
4 health care provider.

5 m. "State of emergency" means a natural or man-made disaster
6 or emergency for which a state of emergency has been declared by
7 the President of the United States or the Governor, or for which a
8 state of emergency has been declared by a municipal emergency
9 management coordinator.

10 n. "Health care provider" means a duly licensed health care
11 provider or other health care provider deemed appropriate by the
12 director.

13 (cf: P.L.2020, c.23, s.1)]¹

14

15 ¹[4.] [³3.]¹ R.S.43:21-3 is amended to read as follows:

16 43:21-3. Benefits.

17 (a) Payment of benefits.

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

20 (b) Weekly benefits for unemployment.

21 (1) With respect to an individual's benefit year commencing on
22 or after July 1, 1961 and before June 1, 2020¹, and after the time
23 that federal financing of unemployment benefits in this State,
24 pursuant to the "Coronavirus Aid, Relief, and Economic Security
25 Act," Pub. Law 116-136, ceases¹, such individual, if eligible and
26 unemployed (as defined in subsection (m) of R.S.43:21-19), shall
27 be paid an amount (except as to final payment) equal to his weekly
28 benefit rate less any remuneration, other than remuneration from
29 self-employment paid to an individual who is receiving a self-
30 employment assistance allowance, paid or payable to him for such
31 week in excess of 20% of his weekly benefit rate (fractional part of
32 a dollar omitted) or \$5.00, whichever is the greater; provided that
33 such amount shall be computed to the next lower multiple of \$1.00
34 if not already a multiple thereof.

35 (2) With respect to an individual's benefit year commencing on
36 or after June 1, 2020 ¹until the time that federal financing of
37 unemployment benefits in this State, pursuant to the "Coronavirus
38 Aid, Relief, and Economic Security Act," Pub. Law 116-136
39 ceases¹, such individual, if eligible and unemployed (as defined in
40 subsection (m) of R.S.43:21-19), shall be paid an amount (except as
41 to final payment) equal to his weekly benefit rate less any
42 remuneration, other than remuneration from self-employment paid
43 to an individual who is receiving a self-employment assistance
44 allowance, paid or payable to him for such week in excess of 40%
45 of his weekly benefit rate (fractional part of a dollar omitted) or
46 \$5.00, whichever is the greater; provided that such amount shall be

1 computed to the next lower multiple of \$1.00 if not already a
2 multiple thereof.

3 (c) Weekly benefit rate.

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

14 (2) Dependency benefits.

15 (A) With respect to an individual whose benefit year commences
16 after September 30, 1984, the individual's weekly benefit rate as
17 determined in paragraph (1) of this subsection (c) will be increased
18 by 7% for the first dependent and 4% each for the next two
19 dependents (up to a maximum of three dependents), computed to
20 the next lower multiple of \$1.00 if not already a multiple thereof,
21 except that the maximum weekly benefit rate payable for an
22 individual claiming dependency benefits shall not exceed the
23 maximum amount determined under paragraph (1) of this
24 subsection (c).

25 (B) For the purposes of this paragraph (2), a dependent is
26 defined as an individual's unemployed spouse or an unemployed
27 unmarried child (including a stepchild or a legally adopted child)
28 under the age of 19 or an unemployed unmarried child, who is
29 attending an educational institution as defined in subsection (y) of
30 R.S.43:21-19 on a full-time basis and is under the age of 22. If an
31 individual's spouse is employed during the week the individual files
32 an initial claim for benefits, this paragraph (2) shall not apply. If
33 both spouses establish a claim for benefits in accordance with the
34 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
35 entitled to dependency benefits as provided in this paragraph (2).

36 (C) Any determination establishing dependency benefits under
37 this paragraph (2) shall remain fixed for the duration of the
38 individual's benefit year and shall not be increased or decreased
39 unless it is determined by the division that the individual
40 wrongfully claimed dependency benefits as a result of false or
41 fraudulent representation.

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

47 (i) All married individuals claiming dependents under this
48 paragraph (2) shall be required to provide the social security

1 number of the individual's spouse. If the individual indicates that
2 the spouse is unemployed, the division shall match the social
3 security number of the spouse against available wage records to
4 determine whether earnings were reported on the last quarterly
5 earnings report filed by employers under R.S.43:21-14. If earnings
6 were reported, the division shall contact in writing the last employer
7 to determine whether the spouse is currently employed.

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

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

21 (d) Maximum total benefits.

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

23 (B) (i) With respect to an individual for whom benefits shall be
24 payable for benefit years commencing on or after July 1, 1986, and
25 before July 1, 2003 as provided in this section, the individual shall
26 be entitled to receive a total amount of benefits equal to three-
27 quarters of the individual's base weeks with all employers in the
28 base year multiplied by the individual's weekly benefit rate; but the
29 amount of benefits thus resulting under that determination shall be
30 adjusted to the next lower multiple of \$1.00 if not already a
31 multiple thereof. With respect to an individual for whom benefits
32 shall be payable for benefit years commencing on or after July 1,
33 2003 as provided in this section, the individual shall be entitled to
34 receive a total amount of benefits equal to the number of the
35 individual's base weeks with all employers in the base year
36 multiplied by the individual's weekly benefit rate; but the amount of
37 benefits thus resulting under that determination shall be adjusted to
38 the next lower multiple of \$1.00 if not already a multiple thereof.

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

44 Each week of benefits paid to an eligible individual shall be
45 charged against each base year employer's account in the same
46 proportion that the wages paid by each employer to the individual
47 during the base year bear to the wages paid by all employers to that
48 individual during the base year.

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

2 (2) No such individual shall be entitled to receive benefits under
3 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
4 benefit rate in any benefit year under either of subsections (c) and
5 (f) of R.S. 43:21-4. In the event that any individual qualifies for
6 benefits under both of said subsections during any benefit year, the
7 maximum total amount of benefits payable under said subsections
8 combined to such individual during the benefit year shall be one
9 and one-half times the maximum amount of benefits payable under
10 one of said subsections.

11 (3) (Deleted by amendment, P.L.1984, c.24.)

12 (cf: P.L.2004, c.45, s.1)³

13

14 ¹[5.]³[4.¹ R.S.43:21-4 is amended to read as follows:

15 43:21-4. Benefit eligibility conditions. An unemployed
16 individual shall be eligible to receive benefits with respect to any
17 week eligible only if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (4) With respect to benefit years commencing on or after
41 January 7, 2001 and before June 1 2020, except as otherwise
42 provided in paragraph (5) of this subsection, the individual has,
43 during his base year as defined in subsection (c) of R.S.43:21-19:

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

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

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

5 (5) With respect to benefit years commencing on or after
6 January 7, 2001 and before June 1, 2020¹, and after the time that
7 federal financing of unemployment benefits in this State, pursuant
8 to the “Coronavirus Aid, Relief, and Economic Security Act,” Pub.
9 Law 116-136, ceases¹, notwithstanding the provisions of paragraph
10 (4) of this subsection, an unemployed individual claiming benefits
11 on the basis of service performed in the production and harvesting
12 of agricultural crops shall, subject to the limitations of subsection
13 (i) of R.S.43:21-19, be eligible to receive benefits if during his base
14 year, as defined in subsection (c) of R.S.43:21-19, the individual:

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

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

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

25 (6) With respect to benefit years commencing on or after June 1,
26 2020¹, until the time that federal financing of unemployment
27 benefits in this State, pursuant to the “Coronavirus Aid, Relief, and
28 Economic Security Act,” Pub. Law 116-136 ceases¹, the individual,
29 during his base year as defined in subsection (c) of R.S.43:21-19:

30 (A) Has established at least 20 base weeks as defined in
31 ‘[paragraphs (2) and (3)] paragraph (4)¹ of subsection (t) of
32 R.S.43:21-19; or

33 (B) Has, if the individual has not met the requirements of
34 subparagraph (A) of this paragraph (6), earned remuneration not
35 less than an amount 500 times the minimum wage in effect pursuant
36 to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
37 calendar year preceding the calendar year in which the benefit year
38 commences, which amount shall be adjusted to the next higher
39 multiple of \$100 if not already a multiple thereof; or

40 (C) Has, if the individual has not met the requirements of
41 subparagraph (A) or subparagraph (B) of this paragraph (6),
42 performed at least 770 hours of service in the production and
43 harvesting of agricultural crops, subject to the limitations of
44 subparagraph (I) of paragraph (1) of subsection (i) of R.S.43:21-19.

45 (7) The individual applying for benefits in any successive
46 benefit year has earned at least six times his previous weekly
47 benefit amount and has had four weeks of employment since the

1 beginning of the immediately preceding benefit year. This
2 provision shall be in addition to the earnings requirements specified
3 in paragraph ~~[(4) or]~~ (5) or (6) of this subsection, as applicable.

4 (f) (1) The individual has suffered any accident or sickness not
5 compensable under the workers' compensation law, R.S.34:15-1 et
6 seq. and resulting in the individual's total disability to perform any
7 work for remuneration, and would be eligible to receive benefits
8 under this chapter (R.S.43:21-1 et seq.) (without regard to the
9 maximum amount of benefits payable during any benefit year)
10 except for the inability to work and has furnished notice and proof
11 of claim to the division, in accordance with its rules and
12 regulations, and payment is not precluded by the provisions of
13 R.S.43:21-3(d); provided, however, that benefits paid under this
14 subsection (f) shall be computed on the basis of only those base
15 year wages earned by the claimant as a "covered individual," as
16 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
17 27); provided further that no benefits shall be payable under this
18 subsection to any individual:

19 (A) For any period during which such individual is not under the
20 care of a legally licensed physician, dentist, optometrist, podiatrist,
21 practicing psychologist, advanced practice nurse, or chiropractor,
22 who, when requested by the division, shall certify within the scope
23 of the practitioner's practice, the disability of the individual, the
24 probable duration thereof, and, where applicable, the medical facts
25 within the practitioner's knowledge;

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

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

30 (D) For any week with respect to which or a part of which the
31 individual has received or is seeking benefits under any
32 unemployment compensation or disability benefits law of any other
33 state or of the United States; provided that if the appropriate agency
34 of such other state or the United States finally determines that the
35 individual is not entitled to such benefits, this disqualification shall
36 not apply;

37 (E) For any week with respect to which or part of which the
38 individual has received or is seeking disability benefits under the
39 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
40 25 et al.);

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

45 (2) The individual is taking family temporary disability leave to
46 provide care for a family member with a serious health condition or
47 to be with a child during the first 12 months after the child's birth or
48 placement of the child for adoption or as a foster child with the

1 individual, and the individual would be eligible to receive benefits
2 under R.S.43:21-1 et seq. (without regard to the maximum amount
3 of benefits payable during any benefit year) except for the
4 individual's unavailability for work while taking the family
5 temporary disability leave, and the individual has furnished notice
6 and proof of claim to the division, in accordance with its rules and
7 regulations, and payment is not precluded by the provisions of
8 R.S.43:21-3(d) provided, however, that benefits paid under this
9 subsection (f) shall be computed on the basis of only those base
10 year wages earned by the claimant as a "covered individual," as
11 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
12 27); provided further that no benefits shall be payable under this
13 subsection to any individual:

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

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

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

29 (D) For any period of family temporary disability leave for a
30 serious health condition of a family member of the claimant during
31 which the family member is not receiving inpatient care in a
32 hospital, hospice, or residential medical care facility and is not
33 subject to continuing medical treatment or continuing supervision
34 by a health care provider, who, when requested by the division,
35 shall certify within the scope of the provider's practice, the serious
36 health condition of the family member, the probable duration
37 thereof, and, where applicable, the medical facts within the
38 provider's knowledge.

39 (3) Benefit payments under this subsection (f) shall be charged
40 to and paid from the State disability benefits fund established by the
41 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
42 25 et al.), and shall not be charged to any employer account in
43 computing any employer's experience rate for contributions payable
44 under this chapter.

45 (g) Benefits based on service in employment defined in
46 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
47 in the same amount and on the terms and subject to the same
48 conditions as benefits payable on the basis of other service subject

1 to the "unemployment compensation law"; except that,
2 notwithstanding any other provisions of the "unemployment
3 compensation law":

4 (1) With respect to service performed after December 31, 1977,
5 in an instructional, research, or principal administrative capacity for
6 an educational institution, benefits shall not be paid based on such
7 services for any week of unemployment commencing during the
8 period between two successive academic years, or during a similar
9 period between two regular terms, whether or not successive, or
10 during a period of paid sabbatical leave provided for in the
11 individual's contract, to any individual if such individual performs
12 such services in the first of such academic years (or terms) and if
13 there is a contract or a reasonable assurance that such individual
14 will perform services in any such capacity for any educational
15 institution in the second of such academic years or terms;

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

31 (3) With respect to those services described in paragraphs (1)
32 and (2) above, benefits shall not be paid on the basis of such
33 services to any individual for any week which commences during
34 an established and customary vacation period or holiday recess if
35 such individual performs such services in the period immediately
36 before such vacation period or holiday recess, and there is a
37 reasonable assurance that such individual will perform such
38 services in the period immediately following such period or holiday
39 recess;

40 (4) With respect to any services described in paragraphs (1) and
41 (2) above, benefits shall not be paid as specified in paragraphs (1),
42 (2), and (3) above to any individual who performed those services
43 in an educational institution while in the employ of an educational
44 service agency, and for this purpose the term "educational service
45 agency" means a governmental agency or governmental entity
46 which is established and operated exclusively for the purpose of
47 providing those services to one or more educational institutions.

1 (5) With respect to services performed after the effective date of
2 P.L. _____, c. _____ (pending before the legislature as this bill), as used in
3 this subsection:

4 “Established and customary vacation period or holiday recess”
5 includes those breaks scheduled during fall, winter, and spring
6 recesses when those vacation periods occur within a term or
7 semester. “Established and customary vacation period or holiday
8 recess” does not include the summer term or semester, unless, based
9 on objective criteria including enrollment and staffing, the summer
10 is not in fact a part of the academic year for a particular institution.

11 “Reasonable assurance” means a written, verbal, or implied
12 agreement that the employee will perform services in the same
13 capacity during the ensuing academic year or term as in the first
14 academic year or term. A person shall not be deemed to be
15 performing services “in the same capacity” unless those services are
16 rendered under the same terms or conditions of employment in the
17 ensuing year as in the first academic year or term.

18 An individual who is tenured or holds tenure track status is
19 considered to have reasonable assurance, unless advised otherwise.
20 For the purposes of this subsection, tenure track status means a
21 probationary faculty employee having an opportunity to be
22 reviewed for tenure.

23 A person is presumed not to have reasonable assurance under an
24 offer that is conditioned on enrollment, funding, program changes,
25 or other circumstances under the control of the employer. It is the
26 employer's burden to provide sufficient documentation to overcome
27 this presumption. Reasonable assurance shall be determined on a
28 case-by-case basis considering the totality of circumstances rather
29 than on the existence of any one factor. For an individual to be
30 regarded as having reasonable assurance of employment, the totality
31 of circumstances must show that it is highly probable that there is a
32 job available for the employee in the following academic year or
33 term. If any contingencies in the employment offer are within the
34 employer’s control, the claimant shall not be regarded as having a
35 reasonable assurance of employment. Contingencies within the
36 employer’s control include, but are not limited to, enrollment,
37 funding, including appropriations and the allocation of funding,
38 program changes, final course offering, and facility availability.

39 (h) Benefits shall not be paid to any individual on the basis of
40 any services, substantially all of which consist of participating in
41 sports or athletic events or training or preparing to so participate,
42 for any week which commences during the period between two
43 successive sports seasons (or similar periods) if such individual
44 performed such services in the first of such seasons (or similar
45 periods) and there is a reasonable assurance that such individual
46 will perform such services in the later of such seasons (or similar
47 periods).

1 (i) (1) Benefits shall not be paid on the basis of services
2 performed by an alien unless such alien is an individual who was
3 lawfully admitted for permanent residence at the time the services
4 were performed and was lawfully present for the purpose of
5 performing the services or otherwise was permanently residing in
6 the United States under color of law at the time the services were
7 performed (including an alien who is lawfully present in the United
8 States as a result of the application of the provisions of section
9 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
10 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
11 modifications of the provisions of section 3304(a)(14) of the
12 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) [as
13 provided by Pub.L.94-566], which specify other conditions or other
14 effective dates than stated herein for the denial of benefits based on
15 services performed by aliens and which modifications are required
16 to be implemented under State law as a condition for full tax credit
17 against the tax imposed by the Federal Unemployment Tax Act,
18 shall be deemed applicable under the provisions of this section.

19 (2) Any data or information required of individuals applying for
20 benefits to determine whether benefits are not payable to them
21 because of their alien status shall be uniformly required from all
22 applicants for benefits.

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

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

34 (cf: P.L.2019, c.37, s.5)]³

35

36 ¹[6.] ³[5.]¹ R.S.43:21-6 is amended to read as follows:

37 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
38 accordance with such regulations as the Director of the Division of
39 Unemployment and Temporary Disability Insurance of the
40 Department of Labor and Workforce Development of the State of
41 New Jersey may approve. Each employer shall post and maintain
42 on his premises printed notices of his subject status, of such design,
43 in such numbers and at such places as the director of the division
44 may determine to be necessary to give notice thereof to persons in
45 the employer's service. Each employer shall give to each individual
46 at the time he becomes unemployed, for any reason, whether the
47 unemployment is permanent or temporary, or, if the employer
48 provides the individual an advanced notification of a layoff, at the

1 time of that notification, a printed copy of benefit instructions. The
2 benefit instructions given to the individual shall include, but not be
3 limited to, the following information: (A) the date upon which the
4 individual becomes unemployed, and, in the case that the
5 unemployment is temporary, to the extent possible, the date upon
6 which the individual is expected to be recalled to work; and (B) that
7 the individual may lose some or all of the benefits to which he is
8 entitled if he fails to file a claim in a timely manner. Both the
9 aforesaid notices and instructions, including information detailing
10 the time sensitivity of filing a claim, shall be supplied by the
11 division to employers without cost to them. Nothing in this section
12 shall be construed so as to require an employer to re-hire an
13 individual formerly in the employer's service.

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

20 (3) If an employer provides advanced notification of a layoff
21 pursuant to paragraph (1) of this subsection a., the notified
22 individual may file for benefits at the time of the notification, and
23 the division, upon finding that the claim is valid, shall pay the
24 benefit upon the commencement of the period of unemployment.

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

27 A representative or representatives designated by the director of
28 the division and hereafter referred to as a "deputy" shall promptly
29 examine the claim, and shall notify the most recent employing unit
30 and, successively as necessary, each employer in inverse
31 chronological order during the base year. Such notification shall
32 require said employing unit and employer to furnish such
33 information to the deputy as may be necessary to determine the
34 claimant's eligibility and his benefit rights with respect to the
35 employer in question.

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

39 If any employer or employing unit fails to respond to the request
40 for information within 10 days after the mailing, or communicating
41 by electronic means, of such request, the deputy shall rely entirely
42 on information from other sources, including an affidavit to the best
43 of the knowledge and belief of the claimant with respect to his
44 wages and time worked. Except in the event of fraud, if it is
45 determined that any information in such affidavit is erroneous, no
46 penalty shall be imposed on the claimant.

47 The deputy shall make an initial determination contingent upon
48 the receipt of all necessary information and notify the claimant no

1 later than three weeks from the date on which the division received
2 the claim for benefits. If an initial determination cannot be made
3 due to the lack of documentation, notification will be sent to the
4 claimant providing a status of the claim. The division will then
5 have an additional two weeks to obtain the missing information in
6 order to make the initial determination and advise the claimant
7 accordingly. The initial determination shall show the weekly benefit
8 amount payable, the maximum duration of benefits with respect to
9 the employer to whom the determination relates, and the ratio of
10 benefits chargeable to the employer's account for benefit years
11 commencing on or after July 1, 1986, and also shall show whether
12 the claimant is ineligible or disqualified for benefits under the
13 initial determination. The employer whose account may be charged
14 for benefits payable pursuant to said determination shall be
15 promptly notified thereof.

16 Whenever an initial determination is based upon information
17 other than that supplied by an employer because such employer
18 failed to respond to the deputy's request for information, such initial
19 determination and any subsequent determination thereunder shall be
20 incontestable by the noncomplying employer, as to any charges to
21 his employer's account because of benefits paid prior to the close of
22 the calendar week following the receipt of his reply. Such initial
23 determination shall be altered if necessary upon receipt of
24 information from the employer, and any benefits paid or payable
25 with respect to weeks occurring subsequent to the close of the
26 calendar week following the receipt of the employer's reply shall be
27 paid in accordance with such altered initial determination.

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

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

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

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

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

47 The amount of benefits payable under an initial determination
48 may be reduced or canceled if necessary to avoid payment of

1 benefits for a number of weeks in excess of the maximum specified
2 in subsection (d) of R.S.43:21-3.

3 Unless the claimant or any interested party, within seven
4 calendar days after delivery of notification of an initial
5 determination or within 10 calendar days after such notification was
6 mailed to his or their last-known address and addresses, files an
7 appeal from such decision, such decision shall be final and benefits
8 shall be paid or denied in accordance therewith, except for such
9 determinations as may be altered in benefit amounts or duration as
10 provided in this paragraph. Benefits payable for periods pending an
11 appeal and not in dispute shall be paid as such benefits accrue;
12 provided that insofar as any such appeal is or may be an appeal
13 from a determination to the effect that the claimant is disqualified
14 under the provisions of R.S.43:21-5 or any amendments thereof or
15 supplements thereto, benefits pending determination of the appeal
16 shall be withheld only for the period of disqualification as provided
17 for in said section, and notwithstanding such appeal, the benefits
18 otherwise provided by this act shall be paid for the period
19 subsequent to such period of disqualification; and provided, also,
20 that if there are two determinations of entitlement, benefits for the
21 period covered by such determinations shall be paid regardless of
22 any appeal which may thereafter be taken, but no employer's
23 account shall be charged with benefits so paid, if the decision is
24 finally reversed.

25 (2) Procedure for making initial determinations in certain cases
26 of concurrent employment, with respect to benefit years
27 commencing on or after January 1, 1953 and prior to benefit years
28 commencing on or after July 1, 1986.

29 Notwithstanding any other provisions of this Title, if an
30 individual shows to the satisfaction of the deputy that there were at
31 least 13 weeks in his base period in each of which he earned wages
32 from two or more employers totaling \$30.00 or more but in each of
33 which there was no single employer from whom he earned as much
34 as \$100.00, then such individual's claim shall be determined in
35 accordance with the special provisions of this paragraph. In such
36 case, the deputy shall determine the individual's eligibility for
37 benefits, his average weekly wage, weekly benefit rate and
38 maximum total benefits as if all his base year employers were a
39 single employer. Such determination shall apportion the liability
40 for benefit charges thereunder to the individual's several base year
41 employers so that each employer's maximum liability for charges
42 thereunder bears approximately the same relation to the maximum
43 total benefits allowed as the wages earned by the individual from
44 each employer during the base year bears to his total wages earned
45 from all employers during the base year. Such initial determination
46 shall also specify the individual's last date of employment within
47 the base year with respect to each base year employer, and such
48 employers shall be charged for benefits paid under said initial

1 determination in the inverse chronological order of such last date of
2 employment.

3 (3) Procedure for making subsequent determinations with
4 respect to benefit years commencing on or after January 1, 1953.
5 The deputy shall make determinations with respect to claims for
6 benefits thereafter in the course of the benefit year, in accordance
7 with any initial determination allowing benefits, and under which
8 benefits have not been exhausted, and each notification of a benefit
9 payment shall be a notification of an affirmative subsequent
10 determination. The allowance of benefits by the deputy on any such
11 determination, or the denial of benefits by the deputy on any such
12 determination, shall be appealable in the same manner and under
13 the same limitations as is provided in the case of initial
14 determinations.

15 (c) Appeals. Unless such appeal is withdrawn, an appeal
16 tribunal, after affording the parties reasonable opportunity for fair
17 hearing, shall affirm or modify the findings of fact and the
18 determination. The parties shall be duly notified of such tribunal's
19 decision, together with its reasons therefor, which shall be deemed
20 to be the final decision of the board of review, unless further appeal
21 is initiated pursuant to subsection (e) of this section within 10 days
22 after the date of notification or mailing of the decision for any
23 decision made on or before December 1, 2010, or within 20 days
24 after the date of notification or mailing of such decision for any
25 decision made after December 1, 2010.

26 (d) Appeal tribunals. To hear and decide disputed benefit
27 claims, including appeals from determinations with respect to
28 demands for refunds of benefits under subsection (d) of R.S.43:21-
29 16, the director with the approval of the Commissioner of Labor and
30 Workforce Development shall establish impartial appeal tribunals
31 consisting of a salaried body of examiners under the supervision of
32 a Chief Appeals Examiner, all of whom shall be appointed pursuant
33 to the provisions of Title 11A of the New Jersey Statutes, Civil
34 Service and other applicable statutes.

35 (e) Board of review. The board of review may on its own
36 motion affirm, modify, or set aside any decision of an appeal
37 tribunal on the basis of the evidence previously submitted in such
38 case, or direct the taking of additional evidence, or may permit any
39 of the parties to such decision to initiate further appeals before it.
40 The board of review shall permit such further appeal by any of the
41 parties interested in a decision of an appeal tribunal which is not
42 unanimous and from any determination which has been overruled or
43 modified by any appeal tribunal. The board of review may remove
44 to itself or transfer to another appeal tribunal the proceedings on
45 any claim pending before an appeal tribunal. Any proceedings so
46 removed to the board of review shall be heard by a quorum thereof
47 in accordance with the requirements of subsection (c) of this

1 section. The board of review shall promptly notify the interested
2 parties of its findings and decision.

3 (f) Procedure. The manner in which disputed benefit claims,
4 and appeals from determinations with respect to (1) claims for
5 benefits and (2) demands for refunds of benefits under subsection
6 (d) of R.S.43:21-16 shall be presented, the reports thereon required
7 from the claimant and from employers, and the conduct of hearings
8 and appeals shall be in accordance with rules prescribed by the
9 board of review for determining the rights of the parties, whether or
10 not such rules conform to common law or statutory rules of
11 evidence and other technical rules of procedure. A full and
12 complete record shall be kept of all proceedings in connection with
13 a disputed claim. All testimony at any hearing upon a disputed
14 claim shall be recorded, but need not be transcribed unless the
15 disputed claim is further appealed.

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

21 (h) Court review. Any decision of the board of review shall
22 become final as to any party upon the mailing of a copy thereof to
23 such party or to his attorney, or upon the mailing of a copy thereof
24 to such party at his last-known address. The Division of
25 Unemployment and Temporary Disability Insurance and any party
26 to a proceeding before the board of review may secure judicial
27 review of the final decision of the board of review. Any party not
28 joining in the appeal shall be made a defendant; the board of review
29 shall be deemed to be a party to any judicial action involving the
30 review of, or appeal from, any of its decisions, and may be
31 represented in any such judicial action by any qualified attorney,
32 who may be a regular salaried employee of the board of review or
33 has been designated by it for that purpose, or, at the board of
34 review's request, by the Attorney General.

35 (i) Failure to give notice. The failure of any public officer or
36 employee at any time heretofore or hereafter to give notice of
37 determination or decision required in subsections (b), (c) and (e) of
38 this section, as originally passed or amended, shall not relieve any
39 employer's account of any charge by reason of any benefits paid,
40 unless and until that employer can show to the satisfaction of the
41 director of the division that the said benefits, in whole or in part,
42 would not have been charged or chargeable to his account had such
43 notice been given. Any determination hereunder by the director
44 shall be subject to court review.

45 (j) With respect to benefit payments made on or after October
46 22, 2013, an employer's account shall not be relieved of charges
47 related to a benefit payment that was made erroneously from the
48 division if it is determined that:

1 (1) The erroneous benefit payment was made because the
2 employer, or an agent of the employer, failed to respond in a timely
3 or adequate manner to a request from the division for information
4 related to the claim for benefits; and

5 (2) The employer, or an agent of the employer, has established a
6 pattern of failing to respond in a timely or adequate manner to
7 requests from the division for information related to claims for
8 benefits.

9 Determinations of the division prohibiting the relief of charges
10 pursuant to this subsection shall be subject to appeal in the same
11 manner as other determinations of the division related to the
12 charging of employer accounts.

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

14 "Erroneous benefit payment" means a benefit payment that,
15 except for the failure by the employer, or an agent of the employer,
16 to respond in a timely or adequate manner to a request from the
17 division for information with respect to the claim for benefits,
18 would not have been made; and

19 "Pattern of failing" means repeated documented failure on the
20 part of the employer, or an agent of the employer, to respond to
21 requests from the division to the employer or employer's agent for
22 information related to a claim for benefits, except that an employer,
23 or an agent of an employer, shall not be determined to have engaged
24 in a "pattern of failing" if the number of failures to respond to
25 requests from the division for information related to claims for
26 benefits during the previous 365 calendar days is less than three, or
27 if the number of failures is less than two percent of the number of
28 requests from the division, whichever is greater.

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

38 (cf: P.L.2017, c.163, s.1)³

39
40 ¹[7.] ³[6.¹ R.S.43:21-19 is amended to read as follows:

41 43:21-19. Definitions. As used in this chapter (R.S.43:21-
42 1 et seq.), unless the context clearly requires otherwise:

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

46 (2) "Average annual payroll" means the average of the annual
47 payrolls of any employer for the last three or five preceding
48 calendar years, whichever average is higher, except that any year or

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

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

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

28 With respect to a benefit year commencing on or after July 1,
29 1995, if an individual does not have sufficient qualifying weeks or
30 wages in his base year to qualify for benefits, the individual shall
31 have the option of designating that his base year shall be the
32 "alternative base year," which means the last four completed
33 calendar quarters immediately preceding the individual's benefit
34 year; except that, with respect to a benefit year commencing on or
35 after October 1, 1995, if the individual also does not have sufficient
36 qualifying weeks or wages in the last four completed calendar
37 quarters immediately preceding his benefit year to qualify for
38 benefits, "alternative base year" means the last three completed
39 calendar quarters immediately preceding his benefit year and, of the
40 calendar quarter in which the benefit year commences, the portion
41 of the quarter which occurs before the commencing of the benefit
42 year.

43 The division shall inform the individual of his options under this
44 section as amended by P.L.1995, c.234. If information regarding
45 weeks and wages for the calendar quarter or quarters immediately
46 preceding the benefit year is not available to the division from the
47 regular quarterly reports of wage information and the division is not
48 able to obtain the information using other means pursuant to State

1 or federal law, the division may base the determination of eligibility
2 for benefits on the affidavit of an individual with respect to weeks
3 and wages for that calendar quarter. The individual shall furnish
4 payroll documentation, if available, in support of the affidavit. A
5 determination of benefits based on an alternative base year shall be
6 adjusted when the quarterly report of wage information from the
7 employer is received if that information causes a change in the
8 determination.

9 (2) With respect to a benefit year commencing on or after June
10 1, 1990 for an individual who immediately preceding the benefit
11 year was subject to a disability compensable under the provisions of
12 the "Temporary Disability Benefits Law," P.L.1948, c.110
13 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
14 five completed calendar quarters immediately preceding the
15 individual's period of disability, if the employment held by the
16 individual immediately preceding the period of disability is no
17 longer available at the conclusion of that period and the individual
18 files a valid claim for unemployment benefits after the conclusion
19 of that period. For the purposes of this paragraph, "period of
20 disability" means the period defined as a period of disability by
21 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
22 c.110 (C.43:21-27). An individual who files a claim under the
23 provisions of this paragraph (2) shall not be regarded as having left
24 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

25 (3) With respect to a benefit year commencing on or after June
26 1, 1990 for an individual who immediately preceding the benefit
27 year was subject to a disability compensable under the provisions of
28 the workers' compensation law (chapter 15 of Title 34 of the
29 Revised Statutes), "base year" shall mean the first four of the last
30 five completed calendar quarters immediately preceding the
31 individual's period of disability, if the period of disability was not
32 longer than two years, if the employment held by the individual
33 immediately preceding the period of disability is no longer
34 available at the conclusion of that period and if the individual files a
35 valid claim for unemployment benefits after the conclusion of that
36 period. For the purposes of this paragraph, "period of disability"
37 means the period from the time at which the individual becomes
38 unable to work because of the compensable disability until the time
39 that the individual becomes able to resume work and continue work
40 on a permanent basis. An individual who files a claim under the
41 provisions of this paragraph (3) shall not be regarded as having left
42 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

43 (d) "Benefit year" with respect to any individual means the 364
44 consecutive calendar days beginning with the day on, or as of,
45 which he first files a valid claim for benefits, and thereafter
46 beginning with the day on, or as of, which the individual next files a
47 valid claim for benefits after the termination of his last preceding
48 benefit year. Any claim for benefits made in accordance with

1 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
2 for the purpose of this subsection if (1) he is unemployed for the
3 week in which, or as of which, he files a claim for benefits; and (2)
4 he has fulfilled the conditions imposed by subsection (e) of
5 R.S.43:21-4.

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

12 (2) "Controller" means the Office of the Assistant
13 Commissioner for Finance and Controller of the Department of
14 Labor and Workforce Development, established by the 1982
15 Reorganization Plan of the Department of Labor.

16 (f) "Contributions" means the money payments to the State
17 Unemployment Compensation Fund, required by R.S.43:21-7.
18 "Payments in lieu of contributions" means the money payments to
19 the State Unemployment Compensation Fund by employers electing
20 or required to make payments in lieu of contributions, as provided
21 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
22 7.3).

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

45 (h) "Employer" means:

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

- 1 (2) Any employing unit (whether or not an employing unit at the
2 time of acquisition) which acquired the organization, trade or
3 business, or substantially all the assets thereof, of another which, at
4 the time of such acquisition, was an employer subject to this chapter
5 (R.S.43:21-1 et seq.);
- 6 (3) Any employing unit which acquired the organization, trade
7 or business, or substantially all the assets thereof, of another
8 employing unit and which, if treated as a single unit with such other
9 employing unit, would be an employer under paragraph (1) of this
10 subsection;
- 11 (4) Any employing unit which together with one or more other
12 employing units is owned or controlled (by legally enforceable
13 means or otherwise), directly or indirectly by the same interests, or
14 which owns or controls one or more other employing units (by
15 legally enforceable means or otherwise), and which, if treated as a
16 single unit with such other employing unit or interest, would be an
17 employer under paragraph (1) of this subsection;
- 18 (5) Any employing unit for which service in employment as
19 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
20 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
21 performed after December 31, 1977;
- 22 (6) Any employing unit for which service in employment as
23 defined in R.S.43:21-19 (i) (1) ~~[(c)]~~ (C) is performed after
24 December 31, 1971 and which in either the current or the preceding
25 calendar year paid remuneration for employment in the amount of
26 \$1,000.00 or more;
- 27 (7) Any employing unit not an employer by reason of any other
28 paragraph of this subsection (h) for which, within either the current
29 or preceding calendar year, service is or was performed with respect
30 to which such employing unit is liable for any federal tax against
31 which credit may be taken for contributions required to be paid into
32 a state unemployment fund; or which, as a condition for approval of
33 the "unemployment compensation law" for full tax credit against
34 the tax imposed by the Federal Unemployment Tax Act, is required
35 pursuant to such act to be an employer under this chapter
36 (R.S.43:21-1 et seq.);
- 37 (8) (Deleted by amendment; P.L.1977, c.307.)
- 38 (9) (Deleted by amendment; P.L.1977, c.307.)
- 39 (10) (Deleted by amendment; P.L.1977, c.307.)
- 40 (11) Any employing unit subject to the provisions of the
41 Federal Unemployment Tax Act within either the current or the
42 preceding calendar year, except for employment hereinafter
43 excluded under paragraph (7) of subsection (i) of this section;
- 44 (12) Any employing unit for which agricultural labor in
45 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
46 December 31, 1977;

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

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

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

11 (A) Any service performed prior to January 1, 1972, which was
12 employment as defined in the "unemployment compensation law"
13 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
14 provisions of this subsection, service performed on or after January
15 1, 1972, including service in interstate commerce, performed for
16 remuneration or under any contract of hire, written or oral, express
17 or implied.

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

24 (ii) Service performed after December 31, 1977, in the employ
25 of this State or any of its instrumentalities or any political
26 subdivision thereof or any of its instrumentalities or any
27 instrumentality of more than one of the foregoing or any
28 instrumentality of the foregoing and one or more other states or
29 political subdivisions, if such service is not excluded from
30 "employment" under paragraph (D) below.

31 (C) Service performed after December 31, 1971 by an individual
32 in the employ of a religious, charitable, educational, or other
33 organization, which is excluded from "employment" as defined in
34 the Federal Unemployment Tax Act, solely by reason of section
35 3306 (c)(8) of that act, if such service is not excluded from
36 "employment" under paragraph (D) below.

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

39 (i) In the employ of (I) a church or convention or association of
40 churches, or (II) an organization, or school which is operated
41 primarily for religious purposes and which is operated, supervised,
42 controlled or principally supported by a church or convention or
43 association of churches;

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

47 (iii) Prior to January 1, 1978, in the employ of a school which
48 is not an institution of higher education, and after December 31,

1 1977, in the employ of a governmental entity referred to in
2 R.S.43:21-19 (i) (1) (B), if such service is performed by an
3 individual in the exercise of duties

4 (aa) as an elected official;

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

7 (cc) as a member of the State National Guard or Air National
8 Guard;

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

11 (ee) in a position which, under or pursuant to the laws of this
12 State, is designated as a major nontenured policy making or
13 advisory position, or a policy making or advisory position, the
14 performance of the duties of which ordinarily does not require more
15 than eight hours per week; or

16 (iv) By an individual receiving rehabilitation or remunerative
17 work in a facility conducted for the purpose of carrying out a
18 program of rehabilitation of individuals whose earning capacity is
19 impaired by age or physical or mental deficiency or injury or
20 providing remunerative work for individuals who because of their
21 impaired physical or mental capacity cannot be readily absorbed in
22 the competitive labor market;

23 (v) By an individual receiving work-relief or work-training as
24 part of an unemployment work-relief or work-training program
25 assisted in whole or in part by any federal agency or an agency of a
26 state or political subdivision thereof; or

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

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

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

45 (ii) The American employer has no place of business in the
46 United States, but (I) the American employer is an individual who
47 is a resident of this State; or (II) the American employer is a
48 corporation which is organized under the laws of this State; or (III)

1 the American employer is a partnership or trust and the number of
2 partners or trustees who are residents of this State is greater than the
3 number who are residents of another state; or

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

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

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

24 (G) Notwithstanding any other provision of this subsection,
25 service in this State with respect to which the taxes required to be
26 paid under any federal law imposing a tax against which credit may
27 be taken for contributions required to be paid into a state
28 unemployment fund or which as a condition for full tax credit
29 against the tax imposed by the Federal Unemployment Tax Act is
30 required to be covered under the "unemployment compensation
31 law" (R.S.43:21-1 et seq.).

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

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

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

- 1 (bb) for some portion of a day in each of 20 different calendar
2 weeks, whether or not such weeks were consecutive, in either the
3 current or the preceding calendar year, employed in agricultural
4 labor 10 or more individuals, regardless of whether they were
5 employed at the same moment in time.
- 6 (ii) for the purposes of this subsection any individual who is a
7 member of a crew furnished by a crew leader to perform service in
8 agricultural labor for any other entity shall be treated as an
9 employee of such crew leader
- 10 (aa) if such crew leader holds a certification of registration
11 under the Migrant and Seasonal Agricultural Worker Protection
12 Act, [Pub.L.97-470] (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
13 (C.34:8A-7 et seq.); or substantially all the members of such crew
14 operate or maintain tractors, mechanized harvesting or cropdusting
15 equipment, or any other mechanized equipment, which is provided
16 by such crew leader; and
- 17 (bb) if such individual is not an employee of such other person
18 for whom services were performed.
- 19 (iii) For the purposes of subparagraph (I) (i) in the case of any
20 individual who is furnished by a crew leader to perform service in
21 agricultural labor or any other entity and who is not treated as an
22 employee of such crew leader under (I) (ii)
- 23 (aa) such other entity and not the crew leader shall be treated as
24 the employer of such individual; and
- 25 (bb) such other entity shall be treated as having paid cash
26 remuneration to such individual in an amount equal to the amount
27 of cash remuneration paid to such individual by the crew leader
28 (either on his own behalf or on behalf of such other entity) for the
29 service in agricultural labor performed for such other entity.
- 30 (iv) For the purpose of subparagraph (I)(ii), the term "crew
31 leader" means an individual who
- 32 (aa) furnishes individuals to perform service in agricultural
33 labor for any other entity;
- 34 (bb) pays (either on his own behalf or on behalf of such other
35 entity) the individuals so furnished by him for the service in
36 agricultural labor performed by them; and
- 37 (cc) has not entered into a written agreement with such other
38 entity under which such individual is designated as an employee of
39 such other entity.
- 40 (J) Domestic service after December 31, 1977 performed in the
41 private home of an employing unit which paid cash remuneration of
42 \$1,000.00 or more to one or more individuals for such domestic
43 service in any calendar quarter in the current or preceding calendar
44 year.
- 45 (2) The term "employment" shall include an individual's entire
46 service performed within or both within and without this State if:
- 47 (A) The service is localized in this State; or

1 (B) The service is not localized in any state but some of the
2 service is performed in this State, and (i) the base of operations, or,
3 if there is no base of operations, then the place from which such
4 service is directed or controlled, is in this State; or (ii) the base of
5 operations or place from which such service is directed or
6 controlled is not in any state in which some part of the service is
7 performed, but the individual's residence is in this State.

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

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

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

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

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

30 (6) Services performed by an individual for remuneration shall
31 be deemed to be employment subject to this chapter (R.S.43:21-
32 1 et seq.) unless and until it is shown to the satisfaction of the
33 division that:

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

37 (B) Such service is either outside the usual course of the
38 business for which such service is performed, or that such service is
39 performed outside of all the places of business of the enterprise for
40 which such service is performed; and

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

43 (7) Provided that such services are also exempt under the
44 Federal Unemployment Tax Act, as amended, or that contributions
45 with respect to such services are not required to be paid into a state
46 unemployment fund as a condition for a tax offset credit against the
47 tax imposed by the Federal Unemployment Tax Act, as amended,
48 the term "employment" shall not include:

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

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

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

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

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

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

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

35 (F) Service performed in the employ of the United States
36 Government or of any instrumentality of the United States exempt
37 under the Constitution of the United States from the contributions
38 imposed by the "unemployment compensation law," except that to
39 the extent that the Congress of the United States shall permit states
40 to require any instrumentalities of the United States to make
41 payments into an unemployment fund under a state unemployment
42 compensation law, all of the provisions of this act shall be
43 applicable to such instrumentalities, and to service performed for
44 such instrumentalities, in the same manner, to the same extent and
45 on the same terms as to all other employers, employing units,
46 individuals and services; provided that if this State shall not be
47 certified for any year by the Secretary of Labor of the United States
48 under section 3304 of the federal Internal Revenue Code of 1986

1 (26 U.S.C. s.3304), the payments required of such instrumentalities
2 with respect to such year shall be refunded by the division from the
3 fund in the same manner and within the same period as is provided
4 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
5 or collected by the division;

6 (G) Services performed in the employ of fraternal beneficiary
7 societies, orders, or associations operating under the lodge system
8 or for the exclusive benefit of the members of a fraternity itself
9 operating under the lodge system and providing for the payment of
10 life, sick, accident, or other benefits to the members of such society,
11 order, or association, or their dependents;

12 (H) Services performed as a member of the board of directors, a
13 board of trustees, a board of managers, or a committee of any bank,
14 building and loan, or savings and loan association, incorporated or
15 organized under the laws of this State or of the United States, where
16 such services do not constitute the principal employment of the
17 individual;

18 (I) Service with respect to which unemployment insurance is
19 payable under an unemployment insurance program established by
20 an Act of Congress;

21 (J) Service performed by agents of mutual fund brokers or
22 dealers in the sale of mutual funds or other securities, by agents of
23 insurance companies, exclusive of industrial insurance agents or by
24 agents of investment companies, if the compensation to such agents
25 for such services is wholly on a commission basis;

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

28 (L) Services performed in the employ of any veterans'
29 organization chartered by Act of Congress or of any auxiliary
30 thereof, no part of the net earnings of which organization, or
31 auxiliary thereof, inures to the benefit of any private shareholder or
32 individual;

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

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

45 (O) Services performed in the sale or distribution of merchandise
46 by home-to-home salespersons or in-the-home demonstrators whose
47 remuneration consists wholly of commissions or commissions and
48 bonuses;

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

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

14 (R) Service in the employ of an international organization
15 entitled to enjoy the privileges, exemptions and immunities under
16 the International Organizations Immunities Act
17 (22 U.S.C. s.288 et seq.);

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

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

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

45 (V) Service performed in the employ of a hospital, if such
46 service is performed by a patient of the hospital; service performed
47 as a student nurse in the employ of a hospital or a nurses' training
48 school by an individual who is enrolled and regularly attending

1 classes in a nurses' training school approved under the laws of this
2 State;

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

7 (X) Services performed by operators of motor vehicles weighing
8 18,000 pounds or more, licensed for commercial use and used for
9 the highway movement of motor freight, who own their equipment
10 or who lease or finance the purchase of their equipment through an
11 entity which is not owned or controlled directly or indirectly by the
12 entity for which the services were performed and who were
13 compensated by receiving a percentage of the gross revenue
14 generated by the transportation move or by a schedule of payment
15 based on the distance and weight of the transportation move;

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

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

23 (8) If one-half or more of the services in any pay period
24 performed by an individual for an employing unit constitutes
25 employment, all the services of such individual shall be deemed to
26 be employment; but if more than one-half of the service in any pay
27 period performed by an individual for an employing unit does not
28 constitute employment, then none of the service of such individual
29 shall be deemed to be employment. As used in this paragraph, the
30 term "pay period" means a period of not more than 31 consecutive
31 days for which a payment for service is ordinarily made by an
32 employing unit to individuals in its employ.

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

37 (A) The limousine franchisee is incorporated;

38 (B) The franchisee is subject to regulation by the Interstate
39 Commerce Commission;

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

43 (D) The franchisee registers with the Department of Labor and
44 Workforce Development and receives an employer registration
45 number.

46 (10) Services performed by a legal transcriber, or certified court
47 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
48 shall not be deemed to be employment subject to the

1 "unemployment compensation law," R.S.43:21-1 et seq., if those
2 services are provided to a third party by the transcriber or reporter
3 who is referred to the third party pursuant to an agreement with
4 another legal transcriber or legal transcription service, or certified
5 court reporter or court reporting service, on a freelance basis,
6 compensation for which is based upon a fee per transcript page, flat
7 attendance fee, or other flat minimum fee, or combination thereof,
8 set forth in the agreement.

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

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

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

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

24 (m) "Unemployment."

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

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

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

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

47 (3) An individual's week of unemployment shall be deemed to
48 commence only after the individual has filed a claim at an

1 unemployment insurance claims office, except as the division may
2 by regulation otherwise prescribe.

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

7 (o) "Wages" means remuneration paid by employers for
8 employment. If a worker receives gratuities regularly in the course
9 of his employment from other than his employer, his "wages" shall
10 also include the gratuities so received, if reported in writing to his
11 employer in accordance with regulations of the division, and if not
12 so reported, his "wages" shall be determined in accordance with the
13 minimum wage rates prescribed under any labor law or regulation
14 of this State or of the United States, or the amount of remuneration
15 actually received by the employee from his employer, whichever is
16 the higher.

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

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

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

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

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

29 (2) ["Base week," commencing on or after January 1, 1996 and
30 before January 1, 2001, means:

31 (A) Any calendar week during which the individual earned in
32 employment from an employer remuneration not less than an
33 amount which is 20% of the Statewide average weekly
34 remuneration defined in subsection (c) of R.S.43:21-3 which
35 amount shall be adjusted to the next higher multiple of \$1.00 if not
36 already a multiple thereof, except that if in any calendar week an
37 individual subject to this subparagraph (A) is in employment with
38 more than one employer, the individual may in that calendar week
39 establish a base week with respect to each of the employers from
40 whom the individual earns remuneration equal to not less than the
41 amount defined in this subparagraph (A) during that week; or

42 (B) If the individual does not establish in his base year 20 or
43 more base weeks as defined in subparagraph (A) of this paragraph
44 (2), any calendar week of an individual's base year during which the
45 individual earned in employment from an employer remuneration
46 not less than an amount 20 times the minimum wage in effect
47 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
48 1 of the calendar year preceding the calendar year in which the

1 benefit year commences, which amount shall be adjusted to the next
2 higher multiple of \$1.00 if not already a multiple thereof, except
3 that if in any calendar week an individual subject to this
4 subparagraph (B) is in employment with more than one employer,
5 the individual may in that calendar week establish a base week with
6 respect to each of the employers from whom the individual earns
7 remuneration not less than the amount defined in this subparagraph
8 (B) during that week.】 (Deleted by amendment, P.L. _____,
9 c.)(pending before the Legislature as this bill)

10 (3) "Base week," commencing on or after January 1, 2001 and
11 before January 1, 2020¹, and after the time that federal financing of
12 unemployment benefits in this State, pursuant to the "Coronavirus
13 Aid, Relief, and Economic Security Act," Pub. Law 116-136,
14 ceases¹, means any calendar week during which the individual
15 earned in employment from an employer remuneration not less than
16 an amount 20 times the minimum wage in effect pursuant to section
17 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
18 year preceding the calendar year in which the benefit year
19 commences, which amount shall be adjusted to the next higher
20 multiple of \$1.00 if not already a multiple thereof, except that if in
21 any calendar week an individual subject to this paragraph (3) is in
22 employment with more than one employer, the individual may in
23 that calendar week establish a base week with respect to each of the
24 employers from whom the individual earns remuneration equal to
25 not less than the amount defined in this paragraph (3) during that
26 week.

27 (4) "Base week," commencing on or after January 1, 2020 ¹until
28 the time that federal financing of unemployment benefits in this
29 State, pursuant to the "Coronavirus Aid, Relief, and Economic
30 Security Act," Pub. Law 116-136 ceases¹, means any calendar week
31 during which the individual earned in employment from an
32 employer remuneration not less than an amount 10 times the
33 minimum wage in effect pursuant to section 5 of P.L.1966, c.113
34 (C.34:11-56a4) on October 1 of the calendar year preceding the
35 calendar year in which the benefit year commences, which amount
36 shall be adjusted to the next higher multiple of \$1.00 if not already
37 a multiple thereof, except that if in any calendar week an individual
38 subject to this paragraph (4) is in employment with more than one
39 employer, the individual may in that calendar week establish a base
40 week with respect to each of the employers from whom the
41 individual earns remuneration equal to not less than the amount
42 defined in this paragraph (4) during that week.

43 (u) "Average weekly wage" means the amount derived by
44 dividing an individual's total wages received during his base year
45 base weeks (as defined in subsection (t) of this section) from that
46 most recent base year employer with whom he has established at
47 least 20 base weeks, by the number of base weeks in which such

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

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

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

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

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

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

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

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

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

41 (2) "Institution of higher education" means an educational
42 institution which:

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

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

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

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

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

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

13 (cf: P.L.2017, c.230, s.1)]³

14
15 ¹[~~8.~~]³ ³[~~7.~~]¹ ~~4.~~³ (New section) Sections ¹[~~8.~~]³ ³[~~7.~~]¹ ~~4.~~³ through
16 ¹[~~11.~~]³ ³[~~10.~~]¹ ~~7.~~³ of this act shall be known and may be cited as the
17 "Employee Job-Sharing Furlough Protection Act."
18

19 ¹[~~9.~~]³ ³[~~8.~~]¹ ~~5.~~³ (New section) To facilitate the providing of the
20 maximum possible benefits for employees and savings for
21 employers in the State from the federal financing of unemployment
22 benefits provided in connection with short-time compensation
23 programs pursuant to section 2108 of the "Coronavirus Aid, Relief,
24 and Economic Security Act," Pub. Law 116-136 and from federal
25 financing of emergency increases in unemployment benefits under
26 section 2104 of that act, the division shall, during the period from
27 the effective date of this act until December 31, 2020, undertake the
28 following actions:

29 a. Make available to all employers who may be eligible to
30 participate in a shared work program pursuant to P.L.2011, c.154
31 (C.43:21-20.3 et seq.) for which full federal funding of short-time
32 unemployment benefits is available pursuant to section 2108 of the
33 "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law
34 116-136, a guidance document which explains:

35 (1) what the employer is required to do to establish, pursuant to
36 P.L.2011, c.154 (C.43:21-20.3 et seq.), shared work programs
37 eligible for the federal funding, including providing certification to
38 the division that any union representing employees in collective
39 bargaining has entered into a written agreement regarding the terms
40 of the program and certification that the employer will continue
41 providing any current health insurance and pension coverage, paid
42 time off and other benefits in the manner required by P.L.2011,
43 c.154 (C.43:21-20.3 et seq.);

44 (2) procedures for an employer to make an application for
45 approval of a shared work program, including an explanation of
46 how the employer may make preliminary calculations of benefits to
47 be paid to participating employees to expedite the commencement
48 of the payment of the benefits in the shortest possible time;

- 1 b. Provide any eligible employer with ³[any assistance
2 requested by the employer] guidance³ in making an application;
- 3 c. Permit an application for approval of a shared work program
4 to be submitted to, and approved by, the division in advance of the
5 date on which reduced hours of employment are to commence to
6 permit payment of benefits under the program immediately upon
7 that commencement³], or, as an alternative, permit the payment]³
8 of ³[benefits under a shared work program to commence
9 immediately upon the date of an application by an eligible employer
10 for approval of the program, and pay, for any period of shared work
11 under the program, amounts of benefits which are based on
12 determinations made by the division or based on preliminary
13 determinations made by the employer pursuant to paragraph (2) of
14 subsection a. of this section, which the division shall review and, if
15 appropriate, revise, and shall subsequently pay any underpayment in
16 benefits, or collect from subsequent benefits any overpayment in
17 benefits, including the collecting of an amount equal to all benefits
18 paid, if the application is rejected, without penalty to the employees
19 and, if the division finds that the employer made a good faith effort
20 to follow the division's guidance, impose no penalty on the
21 employer for the overpayment;]³
- 22 d. Permit employers who have fully laid off employees to
23 resume employing those employees on a partial basis in a manner
24 consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3
25 et seq.), and establish a shared work program to make short-time
26 benefits available to those employees; ³and³
- 27 e. Permit, upon the approval of a shared work program, of the
28 payment of benefits retroactively back to the time that ³the³ shared
29 work ³application was submitted and³ commenced in a manner
30 consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3
31 et seq.)³];
- 32 f. Contact each employer which is a non-profit organization
33 subject to the provisions of section 3 of P.L.1971, c.346 (C.43:21-
34 7.2) or a governmental entity or instrumentality subject to the
35 provisions of section 4 of P.L.1971, c.346 (C.43:21-7.3) to provide
36 that employer, in addition to the guidance document indicated in
37 subsection a. of this section, information regarding the potential
38 reduction in the expenses of that employer from participating in a
39 shared work program pursuant to P.L.2011, c.154 (C.43:21-20.3 et
40 seq.) for which full federal funding of short-time unemployment
41 benefits is available pursuant to section 2108 of the "Coronavirus
42 Aid, Relief, and Economic Security Act," Pub. Law 116-136]³.
- 43
- 44 ¹[10.] ³[9.] ¹ 6.³ (New section) A public employee enrolled
45 in a State-administered retirement system or fund, and the employer
46 of that employee, shall be required to make contributions to the
47 system or fund during the period that the employee is ³[on a

1 furlough] participating in a shared work program³ pursuant to
 2 ³[section]³ ¹[9] ³[8¹ of this act, P.L. , c. (C.) (pending
 3 before the Legislature as this bill) and³ P.L.2011, c.154 (C.43:21-
 4 20.3 et seq.). The contributions shall be based on the base salary or
 5 compensation, as defined by the retirement system or fund, that
 6 would have been paid to the employee if the employee had not been
 7 ³[on furlough] participating in a shared work program. No
 8 deduction for the payment of such contributions shall be made from
 9 the unemployment compensation or short-time compensation
 10 benefits of the employee³. The employee's service credit as a
 11 member of the system or fund shall include the period ³[of
 12 furlough] during which the employee participated in a shared work
 13 program³. For all purposes under the retirement system or fund, the
 14 period ³[of furlough] during which the employee participated in a
 15 shared work program³ and the base salary or compensation upon
 16 which contribution were made during ³[the] such³ period ³[of
 17 furlough]³ shall be recognized by the retirement system or fund.
 18 The seniority rights and health benefits coverage of an employee
 19 who participates in ³[this furlough] a shared work³ program shall
 20 continue and shall not be adversely affected by participation. The
 21 employer shall enter into a written agreement with any collective
 22 bargaining agent representing the employees regarding the terms of
 23 the program, including terms regarding attendance in training
 24 programs while receiving short-time benefits, and provide
 25 certification, and the copy, of the agreement to the division as
 26 required by P.L.2011, c.154 (C.43:21-20.3 et seq.). This section
 27 shall not be construed to conflict with any applicable provisions of
 28 federal law.

29

30 ¹[11.] ³[10.1] 7.3 (New section) a. The division shall, not
 31 later than March 31, 2021, issue, make public on the website of the
 32 Department of Labor and Workforce Development, and submit to
 33 the Governor and Legislature, pursuant to section 2 of P.L.1991,
 34 c.164 (C.52:14-19.1), a report on all shared work programs
 35 approved during calendar year 2020 pursuant to P.L.2011, c.154
 36 (C.43:21-20.3 et seq.) and the impact of federal financing of those
 37 programs pursuant to section 2108 of the "Coronavirus Aid, Relief,
 38 and Economic Security Act," Pub. Law 116-136 and of federal
 39 financing pursuant to section 2104 of that act of emergency
 40 increases in unemployment benefits for participants in approved
 41 shared work programs.

42 b. The report shall provide separately for governmental
 43 employers, for-profit private employers, and nonprofit employers,
 44 during calendar year 2020:

45 (1) The total number of participating employers and employees,
 46 the total amount of unemployment benefits paid to participants, the
 47 portion of those benefits that was pandemic unemployment

1 compensation, the total wage compensation that was paid to
2 participants during participation in the program, and the share, if
3 any, of the benefit costs not paid or reimbursed by the federal
4 government;

5 (2) The minimum, maximum, and average duration of programs,
6 the average weekly benefit, and the average weekly wage paid
7 during participation in the program;

8 (3) ³【The number of participating employers who provided, and
9 the total number of employees who received, health insurance
10 coverage, and the total number of participating employers who
11 provided, and the total number of employees who received, pension
12 coverage;

13 (4) ³【The number of participating employers who entered into
14 agreements with collective bargaining agents regarding the terms of
15 the program, and the total number of employees covered by those
16 agreements; ³and³

17 ³【(5) ³ (4) ³ The total reduction in payroll costs due to reduced
18 hours of paid employment by participants³】;

19 (6) In the case of governmental employers and, separately,
20 nonprofit employers, the portion of the participating employers that
21 elected to make payments in lieu of contributions pursuant to
22 section 3 of P.L.1971, c.346 (C.43:21-7.2) or section 4 of P.L.1971,
23 c.346 (C.43:21-7.3), the portion of participating employees who
24 were employed by those employers, the portion of benefits that
25 were paid by those employers, and the total reduction in cost to
26 those employers due to federal financing of short-time
27 compensation】³.

28 c. ³【The report shall provide an estimate of the total cost of
29 unemployment benefits to the unemployment compensation fund if
30 employers who used federally-funded, approved shared work
31 programs to partially lay off employees had instead reduced work
32 hours by the same amount, by fully laying off a smaller number of
33 employees, and the effect that would have had on employer
34 contribution rates.

35 d. ³【The report shall provide, for each calendar year from 2012
36 through 2019, the total number of employers and employees
37 participating in approved shared work programs and the total
38 amount of unemployment benefits paid to participating employees.
39

40 ³8. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
41 as follows:

42 7. There is hereby established the Public Employees'
43 Retirement System of New Jersey in the Division of Pensions and
44 Benefits of the Department of the Treasury. The membership of the
45 retirement system shall include:

46 a. The members of the former "State Employees' Retirement
47 System of New Jersey" enrolled as such as of December 30, 1954,

1 who shall not have claimed for refund their accumulated deductions
2 in said system as provided in this section;

3 b. Any person becoming an employee of the State or other
4 employer after January 2, 1955 and every veteran, other than a
5 retired member who returns to service pursuant to subsection b. of
6 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
7 whose appointments are seasonal, becoming an employee of the
8 State or other employer after such date, including a temporary
9 employee with at least one year's continuous service. The
10 membership of the retirement system shall not include those
11 persons appointed to serve as described in paragraphs (2) and (3) of
12 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
13 person who was a member of the retirement system prior to the
14 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
15 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and
16 C.43:15A-135) and continuously thereafter; and

17 c. Every employee veteran in the employ of the State or other
18 employer on January 2, 1955, who is not a member of any
19 retirement system supported wholly or partly by the State.

20 d. Membership in the retirement system shall be optional for
21 elected officials other than veterans, and for school crossing guards,
22 who having become eligible for benefits under other pension
23 systems are so employed on a part-time basis. Elected officials
24 commencing service on or after the effective date of sections 1
25 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,
26 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not
27 be eligible for membership in the retirement system based on
28 service in the elective public office, except that an elected official
29 enrolled in the retirement system as of that effective date who
30 continues to hold that elective public office or, for an elected
31 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),
32 another elective public office, without a break in service shall be
33 eligible to continue membership in the retirement system under the
34 terms and conditions of enrollment. Service in the Legislature shall
35 be considered a single elective public office. Any part-time school
36 crossing guard who is eligible for benefits under any other pension
37 system and who was hired as a part-time school crossing guard
38 prior to March 4, 1976, may at any time terminate his membership
39 in the retirement system by making an application in writing to the
40 board of trustees of the retirement system. Upon receiving such
41 application, the board of trustees shall terminate his enrollment in
42 the system and direct the employer to cease accepting contributions
43 from the member or deducting from the compensation paid to the
44 member. State employees who become members of any other
45 retirement system supported wholly or partly by the State as a
46 condition of employment shall not be eligible for membership in
47 this retirement system. Notwithstanding any other law to the
48 contrary, all other persons accepting employment in the service of

1 the State shall be required to enroll in the retirement system as a
2 condition of their employment, regardless of age.

3 (1) Before or on November 1, 2008, no person in employment,
4 office or position, for which the annual salary or remuneration is
5 fixed at less than \$1,500.00, shall be eligible to become a member
6 of the retirement system.

7 (2) After November 1, 2008, a person who was a member of the
8 retirement system on that date and continuously thereafter shall be
9 eligible to be a member of the retirement system in employment,
10 office or position, for which the annual salary or remuneration is
11 fixed at \$1,500 or more.

12 (3) After November 1, 2008 and before or on the effective date
13 of P.L.2010, c.1, a person who was not a member of the retirement
14 system on November 1, 2008, or who was a member of the
15 retirement system on that date but not continuously thereafter, and
16 who is in employment, office or position, for which the annual
17 salary or remuneration is certified by the applicable public entity at
18 \$7,500 or more, shall be eligible to become a member of the
19 retirement system. The \$7,500 minimum annual salary or
20 remuneration amount shall be adjusted annually by the Director of
21 the Division of Pensions and Benefits, by regulation, in accordance
22 with changes in the Consumer Price Index but by no more than 4
23 percent. "Consumer Price Index" means the average of the annual
24 increase, expressed as a percentage, in the consumer price index for
25 all urban consumers in the New York City and Philadelphia
26 metropolitan statistical areas during the preceding calendar year as
27 reported by the United States Department of Labor.

28 (4) After the effective date of P.L.2010, c.1, no person in an
29 employment, office or position of the State, or an agency, board,
30 commission, authority or instrumentality of the State, for which the
31 hours of work are fixed at fewer than 35 per week shall be eligible
32 to become a member of the retirement system; and no person in
33 employment, office or position with a political subdivision of the
34 State, or an agency, board, commission, authority or instrumentality
35 of a political subdivision of the State, for which the hours of work
36 are fixed by an ordinance or resolution of the political subdivision,
37 or agency, board, commission, authority or instrumentality thereof,
38 at fewer than 32 per week shall be eligible to become a member of
39 the retirement system. Any hour or part thereof, during which the
40 person does not work due to the person's participation in a
41 voluntary or mandatory furlough program shall not be deducted in
42 determining if a person's hours of work are fixed at fewer than 35 or
43 32 per week, as appropriate, for the purpose of eligibility and the
44 person's service credit as a member of the system or fund shall
45 include the period of mandatory or voluntary furlough provided the
46 person continues to make contributions based on the person's base
47 salary or compensation. If the pay of a furloughed person is
48 insufficient to withhold the entirety of the person's regular

1 contributions, then the person shall remit the entirety of the regular
2 contribution which was not withheld from the person's pay to the
3 Division of Pensions and Benefits in the Department of the
4 Treasury in a manner determined by the division, except that no
5 deduction for the payment of such contributions shall be made from
6 the unemployment compensation benefits of the employee.

7 e. Membership of any person in the retirement system shall
8 cease if he shall discontinue his service for more than two
9 consecutive years.

10 f. The accumulated deductions of the members of the former
11 "State Employees' Retirement System" which have been set aside in
12 a trust fund designated as Fund A as provided in section 5 of this
13 act and which have not been claimed for refund prior to February 1,
14 1955 shall be transferred from said Fund A to the Annuity Savings
15 Fund of the Retirement System, provided for in section 25 of this
16 act. Each member whose accumulated deductions are so transferred
17 shall receive the same prior service credit, pension credit, and
18 membership credit in the retirement system as he previously had in
19 the former "State Employees' Retirement System" and shall have
20 such accumulated deductions credited to his individual account in
21 the Annuity Savings Fund. Any outstanding obligations of such
22 member shall be continued.

23 g. Any school crossing guard electing to terminate his
24 membership in the retirement system pursuant to subsection d. of
25 this section shall, upon his request, receive a refund of his
26 accumulated deductions as of the date of his appointment to the
27 position of school crossing guard. Such refund of contributions
28 shall serve as a waiver of all benefits payable to the employee, to
29 his dependent or dependents, or to any of his beneficiaries under the
30 retirement system.

31 h. A temporary employee who is employed under the federal
32 Workforce Investment Act shall not be eligible for membership in
33 the system. Membership for temporary employees employed under
34 the federal Job Training Partnership Act, Pub.L.97-300 (29
35 U.S.C.s.1501) who are in the system on September 19, 1986 shall
36 be terminated, and affected employees shall receive a refund of
37 their accumulated deductions as of the date of commencement of
38 employment in a federal Job Training Partnership Act program.
39 Such refund of contributions shall serve as a waiver of all benefits
40 payable to the employee, to his dependent or dependents, or to any
41 of his beneficiaries under the retirement system.

42 i. Membership in the retirement system shall be optional for a
43 special service employee who is employed under the federal Older
44 American Community Service Employment Act, Pub.L.94-135 (42
45 U.S.C.s.3056). Any special service employee employed under the
46 federal Older American Community Service Employment Act,
47 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
48 the effective date of P.L.1996, c.139 may terminate membership in

1 the retirement system by making an application in writing to the
2 board of trustees of the retirement system. Upon receiving the
3 application, the board shall terminate enrollment in the system and
4 the member shall receive a refund of accumulated deductions as of
5 the date of commencement of employment in a federal Older
6 American Community Service Employment Act program. This
7 refund of contributions shall serve as a waiver of all benefits
8 payable to the employee, to any dependent or dependents, or to any
9 beneficiary under the retirement system.

10 j. An employee of the South Jersey Port Corporation who was
11 employed by the South Jersey Port Corporation as of the effective
12 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
13 employed within 365 days of such effective date by a subsidiary
14 corporation or other corporation, which has been established by the
15 Delaware River Port Authority pursuant to subdivision (m) of
16 Article I of the compact creating the Delaware River Port Authority
17 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
18 146), shall be eligible to continue membership while an employee
19 of such subsidiary or other corporation.

20 k. An employee of a renaissance school project established
21 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon
22 commencement of employment.³

23 (cf: P.L.2018, c.129, s.2)

24
25 ³9. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
26 read as follows:

27 2. As used in P.L.1961, c.49 (C.52:14-17.26 et seq.):

28 (a) The term "State" means the State of New Jersey.

29 (b) The term "commission" means the State Health Benefits
30 Commission, created by section 3 of P.L.1961, c.49 (C.52:14-
31 17.27).

32 (c) (1) The term "employee" means an appointive or elective
33 officer, a full-time employee of the State of New Jersey, or a full-
34 time employee of an employer other than the State who appears on
35 a regular payroll and receives a salary or wages for an average of
36 the number of hours per week as prescribed by the governing body
37 of the participating employer which number of hours worked shall
38 be considered full-time, determined by resolution, and not less than
39 20.

40 (2) After the effective date of P.L.2010, c.2, the term
41 "employee" means (i) a full-time appointive or elective officer
42 whose hours of work are fixed at 35 or more per week, a full-time
43 employee of the State, or a full-time employee of an employer other
44 than the State who appears on a regular payroll and receives a
45 salary or wages for an average of the number of hours per week as
46 prescribed by the governing body of the participating employer
47 which number of hours worked shall be considered full-time,
48 determined by resolution, and not less than 25, or (ii) an appointive

1 or elective officer, an employee of the State, or an employee of an
2 employer other than the State who has or is eligible for health
3 benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et
4 seq.) or sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1
5 et seq.) on that effective date and continuously thereafter provided
6 the officer or employee is covered by the definition in paragraph (1)
7 of this subsection. Any hour or part thereof, during which an
8 employee does not work due to the employee's participation in a
9 voluntary or mandatory furlough program shall not be deducted in
10 determining if a person's hours of work are fixed at fewer than 35 or
11 32 per week, as appropriate, for the purpose of eligibility for health
12 benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et
13 seq.) provided the employee continues to pay contributions for
14 coverage during the period of furlough. If the pay of a furloughed
15 employee is insufficient to withhold the entirety of the employee's
16 contribution, then the employee shall remit the portion of the
17 contribution not withheld from the employee's pay to the Division
18 of Pensions and Benefits in the Department of the Treasury in a
19 manner determined by the division, except that no deduction for the
20 payment of such contributions shall be made from the
21 unemployment compensation benefits of the employee. For the
22 purposes of this act an employee of Rutgers, The State University
23 of New Jersey, shall be deemed to be an employee of the State, and
24 an employee of the New Jersey Institute of Technology shall be
25 considered to be an employee of the State during such time as the
26 Trustees of the Institute are party to a contractual agreement with
27 the State Treasurer for the provision of educational services. The
28 term "employee" shall further mean, for purposes of this act, a
29 former employee of the South Jersey Port Corporation, who is
30 employed by a subsidiary corporation or other corporation, which
31 has been established by the Delaware River Port Authority pursuant
32 to subdivision (m) of Article I of the compact creating the Delaware
33 River Port Authority (R.S.32:3-2), as defined in section 3 of
34 P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued
35 membership in the Public Employees' Retirement System pursuant
36 to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

37 For the purposes of this act the term "employee" shall not
38 include persons employed on a short-term, seasonal, intermittent or
39 emergency basis, persons compensated on a fee basis, persons
40 having less than two months of continuous service or persons whose
41 compensation from the State is limited to reimbursement of
42 necessary expenses actually incurred in the discharge of their
43 official duties, provided, however, that the term "employee" shall
44 include persons employed on an intermittent basis to whom the
45 State has agreed to provide coverage under P.L.1961, c.49
46 (C.52:14-17.25 et seq.) in accordance with a binding collective
47 negotiations agreement. An employee paid on a 10-month basis,
48 pursuant to an annual contract, will be deemed to have satisfied the

1 two-month waiting period if the employee begins employment at
2 the beginning of the contract year. The term "employee" shall also
3 not include retired persons who are otherwise eligible for benefits
4 under this act but who, although they meet the age or disability
5 eligibility requirement of Medicare, are not covered by Medicare
6 Hospital Insurance, also known as Medicare Part A, and Medicare
7 Medical Insurance, also known as Medicare Part B. A determination
8 by the commission that a person is an eligible employee within the
9 meaning of this act shall be final and shall be binding on all parties.

10 (d) (1) The term "dependents" means an employee's spouse,
11 partner in a civil union couple or an employee's domestic partner as
12 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the
13 employee's unmarried children under the age of 23 years who live
14 with the employee in a regular parent-child relationship. "Children"
15 shall include stepchildren, legally adopted children and children
16 placed by the Division of Child Protection and Permanency in the
17 Department of Children and Families, provided they are reported
18 for coverage and are wholly dependent upon the employee for
19 support and maintenance. A spouse, partner in a civil union couple,
20 domestic partner or child enlisting or inducted into military service
21 shall not be considered a dependent during the military service. The
22 term "dependents" shall not include spouses, partners in a civil
23 union couple or domestic partners of retired persons who are
24 otherwise eligible for the benefits under this act but who, although
25 they meet the age or disability eligibility requirement of Medicare,
26 are not covered by Medicare Hospital Insurance, also known as
27 Medicare Part A, and Medicare Medical Insurance, also known as
28 Medicare Part B.

29 (2) Notwithstanding the provisions of paragraph (1) of this
30 subsection to the contrary and subject to the provisions of paragraph
31 (3) of this subsection, for the purposes of an employer other than
32 the State that is participating in the State Health Benefits Program
33 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
34 "dependents" means an employee's spouse or partner in a civil
35 union couple and the employee's unmarried children under the age
36 of 23 years who live with the employee in a regular parent-child
37 relationship. "Children" shall include stepchildren, legally adopted
38 children and children placed by the Division of Child Protection
39 and Permanency in the Department of Children and Families
40 provided they are reported for coverage and are wholly dependent
41 upon the employee for support and maintenance. A spouse, partner
42 in a civil union couple or child enlisting or inducted into military
43 service shall not be considered a dependent during the military
44 service. The term "dependents" shall not include spouses or partners
45 in a civil union couple of retired persons who are otherwise eligible
46 for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who,
47 although they meet the age or disability eligibility requirement of
48 Medicare, are not covered by Medicare Hospital Insurance, also

1 known as Medicare Part A, and Medicare Medical Insurance, also
2 known as Medicare Part B.

3 (3) An employer other than the State that is participating in the
4 State Health Benefits Program pursuant to section 3 of P.L.1964,
5 c.125 (C.52:14-17.34) may adopt a resolution providing that the
6 term "dependents" as defined in paragraph (2) of this subsection
7 shall include domestic partners as provided in paragraph (1) of this
8 subsection.

9 (e) The term "carrier" means a voluntary association,
10 corporation or other organization, including a health maintenance
11 organization as defined in section 2 of the "Health Maintenance
12 Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully
13 engaged in providing or paying for or reimbursing the cost of,
14 personal health services, including hospitalization, medical and
15 surgical services, under insurance policies or contracts, membership
16 or subscription contracts, or the like, in consideration of premiums
17 or other periodic charges payable to the carrier.

18 (f) The term "hospital" means (1) an institution operated
19 pursuant to law which is primarily engaged in providing on its own
20 premises, for compensation from its patients, medical diagnostic
21 and major surgical facilities for the care and treatment of sick and
22 injured persons on an inpatient basis, and which provides such
23 facilities under the supervision of a staff of physicians and with 24
24 hour a day nursing service by registered graduate nurses, or (2) an
25 institution not meeting all of the requirements of (1) but which is
26 accredited as a hospital by the Joint Commission on Accreditation
27 of Hospitals. In no event shall the term "hospital" include a
28 convalescent nursing home or any institution or part thereof which
29 is used principally as a convalescent facility, residential center for
30 the treatment and education of children with mental disorders, rest
31 facility, nursing facility or facility for the aged or for the care of
32 drug addicts or alcoholics.

33 (g) The term "State managed care plan" means a health care
34 plan under which comprehensive health care services and supplies
35 are provided to eligible employees, retirees, and dependents: (1)
36 through a group of doctors and other providers employed by the
37 plan; or (2) through an individual practice association, preferred
38 provider organization, or point of service plan under which services
39 and supplies are furnished to plan participants through a network of
40 doctors and other providers under contracts or agreements with the
41 plan on a prepayment or reimbursement basis and which may
42 provide for payment or reimbursement for services and supplies
43 obtained outside the network. The plan may be provided on an
44 insured basis through contracts with carriers or on a self-insured
45 basis, and may be operated and administered by the State or by
46 carriers under contracts with the State.

47 (h) The term "Medicare" means the program established by the
48 "Health Insurance for the Aged Act," Title XVIII of the "Social

1 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
2 or its successor plan or plans.

3 (i) The term "traditional plan" means a health care plan which
4 provides basic benefits, extended basic benefits and major medical
5 expense benefits as set forth in section 5 of P.L.1961, c.49
6 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
7 dependents for expenses for covered health care services and
8 supplies through payments to providers or reimbursements to
9 participants.

10 (j) The term "successor plan" means a State managed care plan
11 that shall replace the traditional plan and that shall provide benefits
12 as set forth in subsection (B) of section 5 of P.L.1961, c.49
13 (C.52:14-17.29) with provisions regarding reimbursements and
14 payments as set forth in paragraph (1) of subsection (C) of section 5
15 of P.L.1961, c.49 (C.52:14-17.29).³
16 (cf: P.L.2012, c.16, s.137)

17

18 ³10. R.S.43:21-4 is amended to read as follows:

19 43:21-4. Benefit eligibility conditions. An unemployed
20 individual shall be eligible to receive benefits with respect to any
21 week eligible only if:

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

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

36 (c) (1) The individual is able to work, and is available for work,
37 and has demonstrated to be actively seeking work, except as
38 hereinafter provided in this subsection or in subsection (f) of this
39 section.

40 (2) The director may modify the requirement of actively seeking
41 work if such modification of this requirement is warranted by
42 economic conditions.

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

1 (4) (A) Subject to such limitations and conditions as the
2 division may prescribe, an individual, who is otherwise eligible,
3 shall not be deemed unavailable for work or ineligible because the
4 individual is attending a training program approved for the
5 individual by the division to enhance the individual's employment
6 opportunities or because the individual failed or refused to accept
7 work while attending such program.

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

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

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

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

24 (iv) The training does not include on the job training or other
25 training under which the individual is paid by an employer for work
26 performed by the individual during the time that the individual
27 receives benefits; and

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

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

36 (i) The training includes remedial basic skills education
37 necessary for the individual to successfully complete the vocational
38 component of the training;

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

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

43 (iv) The lack of a prior guarantee of employment upon
44 completion of the training.

45 (D) For the purpose of this paragraph (4), "labor demand
46 occupation" means an occupation for which there is or is likely to
47 be an excess of demand over supply for adequately trained workers,
48 including, but not limited to, an occupation designated as a labor

1 demand occupation by the Center for Occupational Employment
2 Information pursuant to the provisions of subsection d. of section
3 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

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

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

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

34 (A) The individual has completed the reemployment services; or

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

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

47 (10) An individual who is employed by a shared work employer
48 and is otherwise eligible for benefits shall not be deemed ineligible

1 for short-time benefits because the individual is unavailable for
2 work with employers other than the shared work employer, so long
3 as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (A) For any period during which such individual is not under the
47 care of a legally licensed physician, dentist, optometrist, podiatrist,
48 practicing psychologist, advanced practice nurse, or chiropractor,

1 who, when requested by the division, shall certify within the scope
2 of the practitioner's practice, the disability of the individual, the
3 probable duration thereof, and, where applicable, the medical facts
4 within the practitioner's knowledge;

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

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

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

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

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

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

41 (A) For any week with respect to which or a part of which the
42 individual has received or is seeking benefits under any
43 unemployment compensation or disability benefits law of any other
44 state or of the United States; provided that if the appropriate agency
45 of such other state or the United States finally determines that the
46 individual is not entitled to such benefits, this disqualification shall
47 not apply;

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

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

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

19 (3) Benefit payments under this subsection (f) shall be charged
20 to and paid from the State disability benefits fund established by the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
22 25 et al.), and shall not be charged to any employer account in
23 computing any employer's experience rate for contributions payable
24 under this chapter.

25 (g) Benefits based on service in employment defined in
26 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
27 in the same amount and on the terms and subject to the same
28 conditions as benefits payable on the basis of other service subject
29 to the "unemployment compensation law"; except that,
30 notwithstanding any other provisions of the "unemployment
31 compensation law":

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

44 (2) With respect to weeks of unemployment beginning after
45 September 3, 1982, on the basis of service performed in any other
46 capacity for an educational institution, benefits shall not be paid on
47 the basis of such services to any individual for any week which
48 commences during a period between two successive academic years

1 or terms if such individual performs such services in the first of
2 such academic years or terms and there is a reasonable assurance
3 that such individual will perform such services in the second of
4 such academic years or terms, except that if benefits are denied to
5 any individual under this paragraph (2) and the individual was not
6 offered an opportunity to perform these services for the educational
7 institution for the second of any academic years or terms, the
8 individual shall be entitled to a retroactive payment of benefits for
9 each week for which the individual filed a timely claim for benefits
10 and for which benefits were denied solely by reason of this clause;

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

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

28 (5) With respect to services performed after the effective date of
29 P.L. , c. (pending before the Legislature as this bill), and only
30 upon written notification from the United States Department of
31 Labor that the amendatory language added to this section by that act
32 conforms to the "Between and Within Terms" denial provisions of
33 26 U.S.C. s.3304, as used in this subsection:

34 "Established and customary vacation period or holiday recess"
35 includes those breaks scheduled during fall, winter, and spring
36 recesses when those vacation periods occur within a term or
37 semester. "Established and customary vacation period or holiday
38 recess" does not include the summer term or semester, unless, based
39 on objective criteria including enrollment and staffing, the summer
40 is not in fact a part of the academic year for a particular institution.

41 "Reasonable assurance" means a written, verbal, or implied
42 agreement that the employee will perform services in the same
43 capacity during the ensuing academic year or term as in the first
44 academic year or term. A person shall not be deemed to be
45 performing services "in the same capacity" unless those services are
46 rendered under the same terms or conditions of employment in the
47 ensuing year as in the first academic year or term.

1 An individual who is tenured or holds tenure track status is
2 considered to have reasonable assurance, unless advised otherwise.
3 For the purposes of this subsection, tenure track status means a
4 probationary faculty employee having an opportunity to be
5 reviewed for tenure.

6 A person is presumed not to have reasonable assurance under an
7 offer that is conditioned on enrollment, funding, program changes,
8 or other circumstances under the control of the employer. It is the
9 employer's burden to provide sufficient documentation to overcome
10 this presumption. Reasonable assurance shall be determined on a
11 case-by-case basis considering the totality of circumstances rather
12 than on the existence of any one factor. For an individual to be
13 regarded as having reasonable assurance of employment, the totality
14 of circumstances must show that it is highly probable that there is a
15 job available for the employee in the following academic year or
16 term. If any contingencies in the employment offer are within the
17 employer's control, the claimant shall not be regarded as having a
18 reasonable assurance of employment. Contingencies within the
19 employer's control include, but are not limited to, enrollment,
20 funding, including appropriations and the allocation of funding,
21 program changes, final course offering, and facility availability.

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

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

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

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

9 (j) Notwithstanding any other provision of this chapter, the
10 director may, to the extent that it may be deemed efficient and
11 economical, provide for consolidated administration by one or more
12 representatives or deputies of claims made pursuant to subsection
13 (f) of this section with those made pursuant to Article III (State
14 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
15 (C.43:21-25 et al.).³
16 (cf: P.L.2019, c.37, s.5)

17

18 ¹¶12. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
19 read as follows:

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

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

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

45 It was found, prior to the enactment of the "Temporary Disability
46 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), that then
47 existing voluntary plans for the payment of cash sickness benefits
48 covered less than one-half of the number of working people of this

1 State who were covered by the "unemployment compensation law,"
2 and that even that degree of voluntary protection afforded uneven,
3 unequal and sometimes uncertain protection among the various
4 voluntary benefit programs.

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

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

44 **【**While the Legislature recognizes the pressing need for benefits
45 for workers taking leave to care for family members incapable of
46 self-care, it also finds that the need of workers for leave during their
47 own disability continues to be especially acute, as a disabled worker
48 has less discretion about taking time off from work than a worker

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

21 Since the enactment of the "Temporary Disability Benefits Law,"
22 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated
23 State temporary disability benefits plan, or "State plan," has proven
24 to be highly efficient and cost effective in providing temporary
25 disability benefits to New Jersey workers. The State plan
26 guarantees the availability of coverage for all employers, regardless
27 of experience, with low overhead costs and a rapid processing of
28 claims and appeals by knowledgeable, impartial public employees.
29 Consequently, the percentage of all employers using the State plan
30 increased from 64% in 1952 to 98% in 2006, while the percentage
31 of employees covered by the State plan increased from 28% to 83%.
32 A publicly-operated, nonprofit State plan is therefore indispensable
33 to achieving the goals of the "Temporary Disability Benefits Law,"
34 P.L.1948, c.110 (C.43:21-25 et al.).
35 (cf: P.L.2019, c.37, s.7)**】**¹

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

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

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

1 c. The employer of an individual may, notwithstanding any
2 other provision of law, including the provisions of N.J.S.18A:30-1
3 et seq., permit the individual, during a period of family temporary
4 disability leave, to use any paid sick leave, vacation time or other
5 leave at full pay made available by the employer before the
6 individual uses disability benefits for family temporary disability
7 leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.). Nothing in
8 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as nullifying
9 any provision of an existing collective bargaining agreement or
10 employer policy, or preventing any new provision of a collective
11 bargaining agreement or employer policy, which provides
12 employees more generous leave or gives employees greater rights to
13 select which kind of leave is used or select the order in which the
14 different kinds of leave are used. Nothing in P.L.2008, c.17
15 (C.43:21-39.1 et al.) shall be construed as preventing an employer
16 from providing more generous benefits than are provided under
17 P.L.2008, c.17 (C.43:21-39.1 et al.) or providing benefits which
18 supplement the benefits provided under P.L.2008, c.17 (C.43:21-
19 39.1 et al.) for some or all of the employer's employees.

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

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

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

43 g. Each covered employer shall conspicuously post
44 notification, in a place or places accessible to all employees in each
45 of the employer's workplaces, in a form issued by regulation
46 promulgated by the commissioner, of each covered employee's
47 rights regarding benefits payable pursuant to this section. The
48 employer shall also provide each employee of the employer with a

1 written copy of the notification: (1) not later than 30 days after the
2 form of the notification is issued by regulation; (2) at the time of the
3 employee's hiring, if the employee is hired after the issuance; (3)
4 whenever the employee notifies the employer that the employee is
5 taking time off for circumstances under which the employee is
6 eligible for benefits pursuant to this section; and (4) at any time,
7 upon the first request of the employee.

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

41 (cf: P.L.2019, c.37, s.13)]¹

42

43 ¹【14. Section 24 of P.L.2019, c.37 (C.43:21-55.2) is amended to
44 read as follows:

45 24. a. An employer shall not discharge, harass, threaten, or
46 otherwise discriminate or retaliate against an employee with respect
47 to the compensation, terms, conditions, or privileges of employment
48 on the basis that the employee requested or took any temporary

1 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.),
2 or family temporary disability leave benefits pursuant to P.L.2008,
3 c.17 (C.43:21-39.1 et al.), including retaliation by refusing to
4 **【restore】** reinstate the employee to employment following a period
5 of leave**【**, except that, pursuant to section 2 of P.L.1948, c.110
6 (C.43:21-26), nothing in this section or any other section of
7 P.L.1948, c.110 (C.43:21-25 et al.) or P.L.2008, c.17 (C.43:21-39.1
8 et al.) shall be construed as increasing, reducing or otherwise
9 modifying any entitlement provided to a worker by the provisions
10 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) to
11 be restored to employment by the employer after a period of family
12 temporary disability leave**】** in the position held when the leave
13 commenced or an equivalent position of like seniority, status,
14 employment benefits, pay and other terms and conditions of
15 employment, except that if, during period of leave, the employer
16 reduces the number of employees and that reduction would have
17 caused the employee to have been laid off if the employee had not
18 been on leave, the employee shall not be entitled to reinstatement,
19 but only if the employer notifies the employee of the employee's
20 right to file a claim for unemployment benefits after the leave
21 period ends as provided by paragraph (2) of subsection (c) of
22 R.S.43:21-19.

23 b. Upon a violation of subsection a. of this section, an
24 employee or former employee may, as an alternative to any action
25 that the employee is permitted to take for the violation pursuant to
26 the provisions of P.L.1948, c.110 (C.43:21-25 et al.), P.L.2008, c.17
27 (C.43:21-39.1 et al.), or the "Family Leave Act," P.L.1989, c.261
28 (C.34:11B-1 et seq.), institute a civil action in the Superior Court
29 for relief**【**. **All】** in which all remedies available in common law
30 tort actions shall be available to a prevailing plaintiff. The court
31 may also order any or all of the following relief:

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

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

37 (3) reinstatement of the employee to the same position or to a
38 position equivalent to that which the employee held prior to
39 unlawful discharge or retaliatory action;

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

41 (5) compensation for any lost wages, benefits and other
42 remuneration; and

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

44 (cf: P.L.2019, c.37, s.24).**】**¹

45

46 ¹**【15.】** 11.¹ This act shall take effect ³**【immediately¹】** on June
47 29, 2020³【, provided that:

1 a. in the case of any employer who becomes subject to the
2 provisions of P.L.1989, c.261 (C.34:11B-1 et seq.) because of the
3 provisions of paragraph (5) of subsection f. of section 3 of
4 P.L.1989, c.261 (C.34:11B-3), the provisions of P.L.1989, c.261
5 (C.34:11B-1 et seq.) shall apply to the employer only with respect
6 to periods of family leave which take place, in full or in part, after
7 the effective date of this act; and
8 b. in the case of any employer who becomes subject to the
9 provisions of section 24 of P.L.2019, c.37 (C.43:21-55.2) because
10 of the changes made in that section by P.L. ,
11 c. (C.)(pending before the Legislature as this bill) the
12 provisions of section 24 of P.L.2019, c.37 (C.43:21-55.2) shall
13 apply to the employer only with respect to periods of disability for
14 family temporary disability leave which take place, in full or in
15 part, after the effective date of this act¹.