

P.L. 2020, CHAPTER 122, *approved November 10, 2020*

Senate, No. 2852

1 **AN ACT** concerning eligibility of certain education employees for
2 unemployment benefits and amending R.S.43:21-4.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

1 opportunities or because the individual failed or refused to accept
2 work while attending such program.

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

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

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

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

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

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

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

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

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

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

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

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

47 (5) An unemployed individual, who is otherwise eligible, shall
48 not be deemed unavailable for work or ineligible solely by reason of

1 the individual's attendance before a court in response to a summons
2 for service on a jury.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (A) For any period during which such individual is not under the
44 care of a legally licensed physician, dentist, optometrist, podiatrist,
45 practicing psychologist, advanced practice nurse, or chiropractor,
46 who, when requested by the division, shall certify within the scope
47 of the practitioner's practice, the disability of the individual, the

1 probable duration thereof, and, where applicable, the medical facts
2 within the practitioner's knowledge;

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

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

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

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

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

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

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

46 (B) For any week with respect to which or part of which the
47 individual has received or is seeking disability benefits for a

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

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

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

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

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

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

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

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

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

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

26 (5) [with respect to services performed after the effective date of
27 P.L.2020, c.57, and only upon written notification from the United
28 States Department of Labor that the amendatory language added to
29 this section by that act conforms to the "Between and Within
30 Terms" denial provisions of 26 U.S.C. s.3304, as used in this
31 subsection:

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

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

46 An individual who is tenured or holds tenure track status is
47 considered to have reasonable assurance, unless advised otherwise.
48 For the purposes of this subsection, tenure track status means a

1 probationary faculty employee having an opportunity to be
2 reviewed for tenure.

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

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

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

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

29 (D) The economic conditions of the employment offered may not
30 be considerably less in the following academic year or term than in
31 the then current academic year or term. For the purpose of this
32 paragraph, "considerably less" means that the claimant will earn
33 less than 90 percent of the amount the claimant earned in the then
34 current academic year or term;

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

40 (F) Based on a totality of the circumstances, it is highly probable
41 that there is a job available for the claimant in the following
42 academic year or term. If a job offer contains a contingency,
43 primary weight should be given to the contingent nature of the offer
44 of employment. Contingencies that are not necessarily within the
45 educational institution's control, such as funding, enrollment and
46 seniority, may be taken into consideration but the existence of any
47 one contingency should not determine whether it is highly probably

1 that there is a job available for the claimant in the following
2 academic year or term.

3 (6) Determinations by the department whether claimants have a
4 “reasonable assurance” shall be done on a case-by-case basis.

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

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

15 (B) For each employee that the educational institution maintains
16 does have a reasonable assurance of employment in the following
17 academic year or term, a statement explaining the manner in which
18 the employee was given a reasonable assurance of employment, that
19 is, whether it was in writing, oral, or implied, and what information
20 about the offer, including contingencies, was communicated to the
21 individual.

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

28 (9) Failure of an educational institution to provide the statement
29 required under subparagraph (B) of paragraph (7) of this subsection
30 (g) not less than 10 business days prior to the end of the academic
31 year or term shall result in a rebuttable presumption that the
32 claimant does not have a reasonable assurance of employment in the
33 following academic year or term. This rebuttable presumption shall
34 give rise to an inference that the claimant does not have a
35 reasonable assurance of employment in the following academic year
36 or term, but shall not conclusively demonstrate that the claimant
37 does not have a reasonable assurance of employment in the
38 following academic year or term.

39 (10) If any part of P.L. _____, c. _____ (C. _____)(pending before the
40 Legislature as this bill) is found to be in conflict with federal
41 requirements that are a prescribed condition to the allocation of
42 federal funds to the State or the eligibility of employers in this State
43 for federal unemployment tax credits, the conflicting part of that act
44 is inoperative solely to the extent of the conflict, and the finding or
45 determination does not affect the operation of the remainder of this
46 act. Rules adopted under this act shall meet federal requirements
47 that are a necessary condition to the receipt of federal funds by the

1 State or the granting of federal unemployment tax credits to
2 employers in this State.

3 (h) Benefits shall not be paid to any individual on the basis of
4 any services, substantially all of which consist of participating in
5 sports or athletic events or training or preparing to so participate,
6 for any week which commences during the period between two
7 successive sports seasons (or similar periods) if such individual
8 performed such services in the first of such seasons (or similar
9 periods) and there is a reasonable assurance that such individual
10 will perform such services in the later of such seasons (or similar
11 periods).

12 (i) (1) Benefits shall not be paid on the basis of services
13 performed by an alien unless such alien is an individual who was
14 lawfully admitted for permanent residence at the time the services
15 were performed and was lawfully present for the purpose of
16 performing the services or otherwise was permanently residing in
17 the United States under color of law at the time the services were
18 performed (including an alien who is lawfully present in the United
19 States as a result of the application of the provisions of section
20 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
21 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
22 modifications of the provisions of section 3304(a)(14) of the
23 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
24 provided by Pub.L.94-566, which specify other conditions or other
25 effective dates than stated herein for the denial of benefits based on
26 services performed by aliens and which modifications are required
27 to be implemented under State law as a condition for full tax credit
28 against the tax imposed by the Federal Unemployment Tax Act,
29 shall be deemed applicable under the provisions of this section.

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

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

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

45 (cf: P.L.2020, c.57, s.10)

46

47 2. This act shall take effect immediately.

STATEMENT

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This bill provides that certain employees of educational institutions may not be denied unemployment insurance (UI) benefits when those employees are denied employment during a summer or holiday break without assurance of reinstatement after the break. The bill clarifies provisions of the UI law making an education institution employee eligible for UI benefits during a summer or holiday break when the employee is not given a reasonable assurance of equivalent work after the break by specifying that in order for there to be reasonable assurances:

1. An offer of employment for after the break is required to be made;
2. The offer of employment is required to be made by an individual with authority to offer employment;
3. The employment is required to be in the same capacity;
4. The economic conditions of the offer cannot be substantially less than in previous employment;
5. The offer of employment is required not to be contingent on factors within the institution's control; and
6. The agency is required to find based on the totality of the circumstances that it is highly probable a claimant will get a job after the break.

This bill requires educational institution employers to inform the Department of Labor of employees who they have determined do not have reasonable assurances or provide an explanation for those that they deem do have reasonable assurances 10 days prior to the end of the academic term. If an employer fails to meet the 10 day deadline, the claimant is entitled to a rebuttable presumption that they qualify for a benefit.

Concerns eligibility of education employees for unemployment.