

SENATE, No. 2753

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Concerns UI benefits provided to workers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unemployment insurance benefits and
2 amending R.S.43:21-4 and R.S.43:21-19.

3

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

6

7 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
43 opportunities or because the individual failed or refused to accept
44 work while attending such program.

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

36 (iv) The lack of a prior guarantee of employment upon
37 completion of the training.

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

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

1 (6) 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 at the funeral of an immediate family
4 member, provided that the duration of the attendance does not extend
5 beyond a two-day period.

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

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

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

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

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

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

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

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

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

1 (d) With respect to any benefit year commencing before January
2 1, 2002, the individual has been totally or partially unemployed for a
3 waiting period of one week in the benefit year which includes that
4 week. When benefits become payable with respect to the third
5 consecutive week next following the waiting period, the individual
6 shall be eligible to receive benefits as appropriate with respect to the
7 waiting period. No week shall be counted as a week of unemployment
8 for the purposes of this subsection:

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

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

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

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

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

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

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

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

32 (4) With respect to benefit years commencing on or after January
33 7, 2001 and before January 1, 2021, except as otherwise provided in
34 paragraph (5) of this subsection, the individual has, during his base
35 year as defined in subsection (c) of R.S.43:21-19:

36 (A) Established at least 20 base weeks as defined in paragraphs
37 **[(2) and] (3) and (4)** of subsection (t) of R.S.43:21-19; or

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

45 (5) With respect to benefit years commencing on or after January
46 7, 2001 and before January 1, 2021, notwithstanding the provisions of
47 paragraph (4) of this subsection, an unemployed individual claiming
48 benefits on the basis of service performed in the production and

1 harvesting of agricultural crops shall, subject to the limitations of
2 subsection (i) of R.S.43:21-19, be eligible to receive benefits if during
3 his base year, as defined in subsection (c) of R.S.43:21-19, the
4 individual:

5 (A) Has established at least 20 base weeks as defined in
6 paragraphs ~~[(2) and]~~ (3) and (4) of subsection (t) of R.S.43:21-19; or

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

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

15 (6) With respect to benefit years commencing on or after January
16 1, 2021, the individual, during his base year as defined in subsection
17 (c) of R.S.43:21-19:

18 (A) Has established at least 20 base weeks as defined in
19 paragraph (4) of subsection (t) of R.S.43:21-19; or

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) For any week with respect to which or a part of which the
46 individual has received or is seeking benefits under any unemployment
47 compensation or disability benefits law of any other state or of the
48 United States; provided that if the appropriate agency of such other

1 state or the United States finally determines that the individual is not
2 entitled to such benefits, this disqualification shall not apply;

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

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

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

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

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

32 (1) With respect to service performed after December 31, 1977,
33 in an instructional, research, or principal administrative capacity for an
34 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 during
38 a period of paid sabbatical leave provided for in the individual's
39 contract, to any individual if such individual performs such services in
40 the first of such academic years (or terms) and if there is a contract or
41 a reasonable assurance that such individual will perform services in
42 any such capacity for any educational institution in the second of such
43 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 the
47 basis of such services to any individual for any week which
48 commences during a period between two successive academic years or

1 terms if such individual performs such services in the first of such
2 academic years or terms and there is a reasonable assurance that such
3 individual will perform such services in the second of such academic
4 years or terms, except that if benefits are denied to any individual
5 under this paragraph (2) and the individual was not offered an
6 opportunity to perform these services for the educational institution for
7 the second of any academic years or terms, the individual shall be
8 entitled to a retroactive payment of benefits for each week for which
9 the individual filed a timely claim for benefits and for which benefits
10 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 services
13 to any individual for any week which commences during an
14 established and customary vacation period or holiday recess if such
15 individual performs such services in the period immediately before
16 such vacation period or holiday recess, and there is a reasonable
17 assurance that such individual will perform such services in the period
18 immediately following such period or holiday recess;

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

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

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

1 and which modifications are required to be implemented under State
2 law as a condition for full tax credit against the tax imposed by the
3 Federal Unemployment Tax Act, shall be deemed applicable under the
4 provisions of this section.

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

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

13 (j) Notwithstanding any other provision of this chapter, the
14 director may, to the extent that it may be deemed efficient and
15 economical, provide for consolidated administration by one or more
16 representatives or deputies of claims made pursuant to subsection (f)
17 of this section with those made pursuant to Article III (State plan) of
18 the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
19 25 et al.).

20 (cf: P.L.2019, c.37, s.5)

21

22 2. R.S.43:21-19 is amended to read as follows:

23 43:21-19. Definitions. As used in this chapter (R.S.43:21-
24 1 et seq.), unless the context clearly requires otherwise:

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

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

1 the beginning of the 12-month period for which the employer's
2 contribution rate is computed.

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

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

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

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

38 (2) With respect to a benefit year commencing on or after June 1,
39 1990 for an individual who immediately preceding the benefit year
40 was subject to a disability compensable under the provisions of the
41 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
42 25 et seq.), "base year" shall mean the first four of the last five
43 completed calendar quarters immediately preceding the individual's
44 period of disability, if the employment held by the individual
45 immediately preceding the period of disability is no longer available at
46 the conclusion of that period and the individual files a valid claim for
47 unemployment benefits after the conclusion of that period. For the
48 purposes of this paragraph, "period of disability" means the period

1 defined as a period of disability by section 3 of the "Temporary
2 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An
3 individual who files a claim under the provisions of this paragraph (2)
4 shall not be regarded as having left work voluntarily for the purposes
5 of subsection (a) of R.S.43:21-5.

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

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

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

39 (2) "Controller" means the Office of the Assistant Commissioner
40 for Finance and Controller of the Department of Labor and Workforce
41 Development, established by the 1982 Reorganization Plan of the
42 Department of Labor.

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

1 (g) "Employing unit" means the State or any of its
2 instrumentalities or any political subdivision thereof or any of its
3 instrumentalities or any instrumentality of more than one of the
4 foregoing or any instrumentality of any of the foregoing and one or
5 more other states or political subdivisions or any individual or type of
6 organization, any partnership, association, trust, estate, joint-stock
7 company, insurance company or corporation, whether domestic or
8 foreign, or the receiver, trustee in bankruptcy, trustee or successor
9 thereof, or the legal representative of a deceased person, which has or
10 subsequent to January 1, 1936, had in its employ one or more
11 individuals performing services for it within this State. All individuals
12 performing services within this State for any employing unit which
13 maintains two or more separate establishments within this State shall
14 be deemed to be employed by a single employing unit for all the
15 purposes of this chapter (R.S.43:21-1 et seq.). Each individual
16 employed to perform or to assist in performing the work of any agent
17 or employee of an employing unit shall be deemed to be employed by
18 such employing unit for all the purposes of this chapter (R.S.43:21-
19 1 et seq.), whether such individual was hired or paid directly by such
20 employing unit or by such agent or employee; provided the employing
21 unit had actual or constructive knowledge of the work.

22 (h) "Employer" means:

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

26 (2) Any employing unit (whether or not an employing unit at the
27 time of acquisition) which acquired the organization, trade or business,
28 or substantially all the assets thereof, of another which, at the time of
29 such acquisition, was an employer subject to this chapter (R.S.43:21-
30 1 et seq.);

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

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

42 (5) Any employing unit for which service in employment as
43 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31,
44 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
45 December 31, 1977;

46 (6) Any employing unit for which service in employment as
47 defined in R.S.43:21-19 (i) (1) ~~[(c)]~~ (C) is performed after December
48 31, 1971 and which in either the current or the preceding calendar year

1 paid remuneration for employment in the amount of \$1,000.00 or
2 more;

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

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

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

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

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

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

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

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

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

32 (A) Any service performed prior to January 1, 1972, which was
33 employment as defined in the "unemployment compensation law"
34 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
35 provisions of this subsection, service performed on or after January 1,
36 1972, including service in interstate commerce, performed for
37 remuneration or under any contract of hire, written or oral, express or
38 implied.

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

45 (ii) Service performed after December 31, 1977, in the employ of
46 this State or any of its instrumentalities or any political subdivision
47 thereof or any of its instrumentalities or any instrumentality of more
48 than one of the foregoing or any instrumentality of the foregoing and

1 one or more other states or political subdivisions, if such service is not
2 excluded from "employment" under paragraph (D) below.

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

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

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

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

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

24 (aa) as an elected official;

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

27 (cc) as a member of the State National Guard or Air National
28 Guard;

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

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

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

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

47 (vi) Prior to January 1, 1978, for a hospital in a State prison or
48 other State correctional institution by an inmate of the prison or

1 correctional institution and after December 31, 1977, by an inmate of a
2 custodial or penal institution.

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

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

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

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

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

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

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

1 by the Federal Unemployment Tax Act is required to be covered under
2 the "unemployment compensation law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (J) Domestic service after December 31, 1977 performed in the
10 private home of an employing unit which paid cash remuneration of
11 \$1,000.00 or more to one or more individuals for such domestic
12 service in any calendar quarter in the current or preceding calendar
13 year.

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

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

17 (B) The service is not localized in any state but some of the
18 service is performed in this State, and (i) the base of operations, or, if
19 there is no base of operations, then the place from which such service
20 is directed or controlled, is in this State; or (ii) the base of operations
21 or place from which such service is directed or controlled is not in any
22 state in which some part of the service is performed, but the
23 individual's residence is in this State.

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

30 (4) Services not covered under paragraph (2) of this subsection
31 and performed entirely without this State, with respect to no part of
32 which contributions are required and paid under an unemployment
33 compensation law of any other state or of the federal government, shall
34 be deemed to be employment subject to this chapter (R.S.43:21-
35 1 et seq.) if the individual performing such services is a resident of this
36 State and the employing unit for whom such services are performed
37 files with the division an election that the entire service of such
38 individual shall be deemed to be employment subject to this chapter
39 (R.S.43:21-1 et seq.).

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

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

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

46 (6) Services performed by an individual for remuneration shall
47 be deemed to be employment subject to this chapter (R.S.43:21-

1 1 et seq.) unless and until it is shown to the satisfaction of the division
2 that:

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

6 (B) Such service is either outside the usual course of the business
7 for which such service is performed, or that such service is performed
8 outside of all the places of business of the enterprise for which such
9 service is performed; and

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

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

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

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

26 (ii) for some portion of a day in each of 20 different calendar
27 weeks, whether or not such weeks were consecutive, in either the
28 current or the preceding calendar year, employed in agricultural labor
29 10 or more individuals, regardless of whether they were employed at
30 the same moment in time;

31 (B) Domestic service in a private home performed prior to
32 January 1, 1978; and after December 31, 1977, unless performed in the
33 private home of an employing unit which paid cash remuneration of
34 \$1,000.00 or more to one or more individuals for such domestic
35 service in any calendar quarter in the current or preceding calendar
36 year;

37 (C) Service performed by an individual in the employ of his son,
38 daughter or spouse, and service performed by a child under the age of
39 18 in the employ of his father or mother;

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

45 (E) Service performed in the employ of any other state or its
46 political subdivisions or of an instrumentality of any other state or
47 states or their political subdivisions to the extent that such
48 instrumentality is with respect to such service exempt under the

1 Constitution of the United States from the tax imposed under the
2 Federal Unemployment Tax Act, as amended, except as provided in
3 R.S.43:21-19 (i) (1) (B) above;

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

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

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

34 (I) Service with respect to which unemployment insurance is
35 payable under an unemployment insurance program established by an
36 Act of Congress;

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

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

44 (L) Services performed in the employ of any veterans'
45 organization chartered by Act of Congress or of any auxiliary thereof,
46 no part of the net earnings of which organization, or auxiliary thereof,
47 inures to the benefit of any private shareholder or individual;

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

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

13 (O) Services performed in the sale or distribution of merchandise
14 by home-to-home salespersons or in-the-home demonstrators whose
15 remuneration consists wholly of commissions or commissions and
16 bonuses;

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

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

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

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

38 (T) Service performed in the employ of a school, college, or
39 university if such service is performed (i) by a student enrolled at such
40 school, college, or university on a full-time basis in an educational
41 program or completing such educational program leading to a degree
42 at any of the severally recognized levels, or (ii) by the spouse of such a
43 student, if such spouse is advised at the time such spouse commences
44 to perform such service that (I) the employment of such spouse to
45 perform such service is provided under a program to provide financial
46 assistance to such student by such school, college, or university, and
47 (II) such employment will not be covered by any program of
48 unemployment insurance;

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

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

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

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

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

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

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

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

1 (A) The limousine franchisee is incorporated;

2 (B) The franchisee is subject to regulation by the Interstate
3 Commerce Commission;

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

7 (D) The franchisee registers with the Department of Labor and
8 Workforce Development and receives an employer registration
9 number.

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

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

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

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

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

34 (m) "Unemployment."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (Deleted by amendment, P.L. , c.)(pending before the Legislature
20 as this bill)

21 (3) "Base week," commencing on or after January 1, 2001 and
22 before January 1, 2021, means any calendar week during which the
23 individual earned in employment from an employer remuneration not
24 less than an amount 20 times the minimum wage in effect pursuant to
25 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
26 calendar year preceding the calendar year in which the benefit year
27 commences, which amount shall be adjusted to the next higher
28 multiple of \$1.00 if not already a multiple thereof, except that if in any
29 calendar week an individual subject to this paragraph (3) is in
30 employment with more than one employer, the individual may in that
31 calendar week establish a base week with respect to each of the
32 employers from whom the individual earns remuneration equal to not
33 less than the amount defined in this paragraph (3) during that week.

34 (4) "Base week," commencing on or after January 1, 2021,
35 means any calendar week during which the individual earned in
36 employment from an employer remuneration not less than an amount
37 10 times the minimum wage in effect pursuant to section 5 of
38 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
39 preceding the calendar year in which the benefit year commences,
40 which amount shall be adjusted to the next higher multiple of \$1.00 if
41 not already a multiple thereof, except that if in any calendar week an
42 individual subject to this paragraph (4) is in employment with more
43 than one employer, the individual may in that calendar week establish
44 a base week with respect to each of the employers from whom the
45 individual earns remuneration equal to not less than the amount
46 defined in this paragraph (4) during that week.

47 (u) "Average weekly wage" means the amount derived by
48 dividing an individual's total wages received during his base year base

1 weeks (as defined in subsection (t) of this section) from that most
2 recent base year employer with whom he has established at least 20
3 base weeks, by the number of base weeks in which such wages were
4 earned. In the event that such claimant had no employer in his base
5 year with whom he had established at least 20 base weeks, then such
6 individual's average weekly wage shall be computed as if all of his
7 base week wages were received from one employer and as if all his
8 base weeks of employment had been performed in the employ of one
9 employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (cf: P.L.2017, c.230, s.1)

15

16 3. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill amends the unemployment insurance (UI) law by
22 reducing the minimum weekly earnings required in each of 20 base
23 weeks for a worker to be eligible for UI benefits from 20 times to
24 10 times the State minimum wage, and reducing the alternative
25 annual earnings required for eligibility from 1,000 times to 500
26 times the State minimum wage.

27 Under current law, UI benefits are not specifically withheld from
28 seasonal workers per se, but only to the extent that they do not meet
29 the earnings requirements. Thusly, while plausible, it is very
30 difficult for a seasonal worker to qualify under the current
31 condition. The bill will expand eligibility for benefits for a seasonal
32 (and other) workers to qualify for UI benefits