STATE OF NEW JERSEY
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

NEW JERSEY
UNEMPLOYMENT COMPENSATION LAW

EXTENDED BENEFITS LAW

WORKFORCE DEVELOPMENT PARTNERSHIP ACT

SUPPLEMENTARY LEGISLATION

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Bureau of Program Services and Standards
June 2023

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43:21-1. Short title

This chapter shall be known and may be cited as the "unemployment compensation law”.

43:21-2. Declaration of state public policy

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state requires the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed after qualifying periods of employment.

43:21-3. Benefits

(a) Payment of benefits.

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

(b) Weekly benefits for unemployment.

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

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences after September 30, 1984, his weekly benefit rate under each determination shall be 60% of his average weekly wage, subject to a maximum of 56 2/3 % of the Statewide average weekly remuneration paid to workers

by employers subject to this chapter (R.S.43:21-1 et seq.), as determined and promulgated by the Commissioner of Labor and Workforce Development; provided, however, that such individual's weekly benefit rate shall be computed to the next lower multiple of $1.00 if not already a multiple thereof.

(2) Dependency benefits.

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

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

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

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

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

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

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

(d) Maximum total benefits.

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

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

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

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

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

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

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

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

Amended 1938, c.396; 1939, c.94, s.1; 1940, c.247, s.1; 1945, c.72; 1948, c.110, s.19; 1950, c.172, s.1; 1952, c.187, s.1; 1954, c.248; 1955, c.203, s.1; 1961, c.43, s.1; 1967, c.30, s.1, 1967, c.30, title amended 1967, c.286, s.12; 1974, c.86, s.1; 1977, c.307, s.1; 1978, c.18; 1984, c.24, s.1; 1995, c.394, s.6; 1997, c.255, s.1; 2003, c.107, s.2; 2004, c.45, s.1.

43:21-3.1. Supplemental unemployment benefits for certain ex-service members

1. Any individual who is eligible for, and receives, benefits under the unemployment compensation law, R.S.43:21-1 et seq., which are based on wages assigned to New Jersey pursuant to section 8522 of Title 5, United States Code (5 U.S.C. s.8522), shall be, upon the expiration of those benefits, eligible for supplemental benefits pursuant to this section which are equal to 26 times the individual's weekly benefit amount minus the amount of benefits paid to the individual as an ex-service member pursuant to subchapter II of chapter 85 of Title 5, United States Code (5 U.S.C. s.8521 et seq.), regardless of the number of base weeks worked or the amount of contributions paid by the individual or any employer of the individual. The supplemental benefits paid pursuant to this section shall not be paid for any week which occurs prior to the individual exhausting benefits paid pursuant to subchapter II of chapter 85 of Title 5, United States Code (5 U.S.C. s.8521 et seq.) and shall not be charged to any employer.

L.2013, c.102, s.1.

43:21-4. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any week eligible only if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment

services to which the individual is referred by the division or in similar services, unless the division determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) The statement required under subparagraph (B) of paragraph (7) of this subsection (g) may be used by the department in its analysis under paragraphs (5) and (6) of this subsection (g),

but it does not conclusively demonstrate that the claimant has a reasonable assurance of employment in the following academic year or term.

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

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

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

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

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

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

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

Amended 1940, c.247, s.2; 1941, c.114, s.1; 1947, c.35, s.1; 1948, c.110, s.20; 1950, c.172, s.2; 1952, c.187, s.2; 1957, c.104; 1961, c.43, s.2; 1966, c.124; 1967, c.30, s.2 1967, c.30, title amended 1967, c.286, s.12; 1971, c.346, s.1; 1974, c.85; 1974, c.86, s.2; 1977, c.307, s.2; 1979, c.86, s.18; 1980, c.90, s.11; 1983, c.221; 1984, c.24, s.2; 1984, c.216, s.1; 1985, c.508, s.2; 1987, c.216; 1987, c.391; 1989, c.89; 1989, c.213, s.1; 1992, c.46, s.1; 1995, c.234, s.1; 1995, c.394, s.7; 2001, c.17, s.1; 2002, c.13, s.2; 2002, c.94, s.1; 2004, c.130, s.116; 2006, c.47, s.187; 2008, c.17, s.14; 2011, c.154, s.11; 2019, c.37, s.5; 2020, c.57, s.10; 2020, c.122.

43:21-4.1. Worker profiling system; notice to applicant of benefits, services available

2. a. There is established a worker profiling system for the purpose of determining which new claimants for regular benefits are likely to exhaust benefits and therefore have the greatest need for reemployment services to make a successful transition to new employment. Information obtained from the profiling system shall be used in making referrals for reemployment services and may be used in making referrals to other services and benefits, but no individual shall be excluded from seeking or receiving reemployment services or other services or benefits because the individual is not among those determined to be likely to exhaust benefits, unless the exclusion is specifically required by federal law. Nor shall an individual be required to participate, as a condition for receiving regular benefits, in any employment and training services because the individual is among those determined to be likely to exhaust benefits, unless that participation by the individual is specifically required by federal law. A characteristic of an individual shall not be used in making a determination regarding whether the individual is likely to exhaust benefits unless it is demonstrated to be an actual indicator of a high likelihood that benefits will be exhausted.

b. The division shall provide each individual who applies for unemployment compensation with an initial interview which includes:

(1) Notice of the benefits and services available pursuant to the provisions of this 1992 amendatory and supplementary act and the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.), P.L.1992, c.47 (C.43:21-57 et al.) and the "Job Training Partnership Act," Pub.L. 97-300 (29 U.S.C. 1501 et seq.) and of the tuition waivers available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and P.L.1983, c.470 (C.18A:64A-23.1 et seq.); and

(2) A review of the individual's rights and responsibilities with respect to the unemployment compensation, including an explanation of the appeal process and of the worker profiling system and its possible impact on the individual.

L.1992,c.46,s.2; amended 1995,c.394,s.8.

43:21-4.2. Notification of availability of earned income tax credit, recipients of unemployment compensation

1. The Commissioner of Labor and Workforce Development shall notify in writing any person who received unemployment compensation pursuant to R.S.43:21-1 et seq. of the availability of the earned income tax credit provided in section 32 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.32, and the New Jersey earned income tax credit provided in section 2 of P.L.2000, c.80 (C.54A:4-7). The written notification shall use the statement developed by the State Treasurer pursuant to section 4 of P.L.2005, c.210 (C.52:18-11.3) for this purpose. The notification shall be distributed in a manner deemed by the commissioner to be the most practicable and cost effective, but that will ensure personal notification of each person. The notification shall be distributed between January 1 and February 15 of each calendar year following the calendar year in which the person received the unemployment compensation.

L.2005,c.210,s.1.

43:21-4.3. Pre-notification of exhaustion of UI benefits

1. The Commissioner of Labor and Workforce Development shall give written notification to any individual receiving unemployment compensation pursuant to R.S.43:21-1 et seq., including any State or federal extension of the unemployment compensation, of the date of the final exhaustion of all unemployment compensation for the individual, not less than four weeks prior to that date. The written notification shall include a referral for services from the Department of Human Services and any other appropriate State agency to counsel and assist the individual to obtain any resources which may be available for the individual and dependents of the individual, including assistance regarding housing, child care, food, mental health, addiction services, and health care coverage. The notification shall be distributed in a manner deemed by the commissioner to be the most practicable and cost effective, but that will ensure timely personal notification of each person.

L.2010, c.118, s.1.

43:21-5. Disqualification for benefits

An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed

and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract. This subsection shall not apply to an individual who voluntarily leaves work with one employer to accept from another employer employment which commences not more than seven days after the individual leaves employment with the first employer, if the employment with the second employer has weekly hours or pay not less than the hours or pay of the employment of the first employer, except that if the individual gives notice to the first employer that the individual will leave employment on a specified date and the first employer terminates the individual before that date, the seven-day period will commence from the specified date.

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

"Misconduct" means conduct which is improper, intentional, connected with the individual's work, within the individual's control, not a good faith error of judgment or discretion, and is either a deliberate refusal, without good cause, to comply with the employer's lawful and reasonable rules made known to the employee or a deliberate disregard of standards of behavior the employer has a reasonable right to expect, including reasonable safety standards and reasonable standards for a workplace free of drug and substance abuse.

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

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

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

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

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

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

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

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

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

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

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

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

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

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

(4) For any claim for a period of unemployment commencing on or after July 1, 2018 and before January 1, 2022, if the unemployment is caused by a labor dispute, including a strike or other concerted activities of employees at the claimant's workplace, whether or not authorized or sanctioned by a union representing the claimant, but not including a dispute subject to the provisions of paragraph (2) or (3) of this subsection (d), the claimant shall not be provided benefits for a period of the first 30 days following the commencement of the unemployment caused by the labor dispute, except that the period without benefits shall not apply if the employer hires a permanent replacement worker for the claimant's position. A replacement worker shall be presumed to be permanent unless the employer certifies in writing that the claimant will be permitted to return to his or her prior position upon conclusion of the dispute. If the employer does not permit the return, the claimant shall be entitled to recover any benefits lost as a result of the 30-day waiting period before receiving benefits, and the department may impose a penalty upon the employer of up to $750 per employee per week of benefits lost. The penalty collected shall be paid into the unemployment compensation auxiliary fund established pursuant to subsection (g) of R.S.43:21-14. For any claim for a period of unemployment commencing on or after January 1, 2022

due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, including a strike or other concerted activities of employees at the claimant's workplace, whether or not authorized or sanctioned by a union representing the claimant, but not including a dispute subject to the provisions of paragraph (2) or (3) of this subsection (d), the claimant shall not be provided benefits for a period of the first 14 days following the commencement of the unemployment caused by the labor dispute, except that the claimant shall be provided benefits during any part of that the 14-day period in which the employer engages the services of a replacement worker for the claimant's position, whether that replacement worker is engaged on a permanent or temporary basis, or is an existing worker reassigned permanently or temporarily from other duties to perform the duties of the claimant's position. For any claim for a period of unemployment commencing on or after January 1, 2022 which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, if the labor dispute has not resulted in a stoppage of work, no disqualification under this subsection (d) shall apply, and the 14-day waiting period in this paragraph (4) shall not apply.

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

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

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

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

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

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

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

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

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

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

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

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

(2) A police record documenting the domestic violence;

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

(4) Medical documentation of the domestic violence;

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

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

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Youth and Family Services in the Department of Children and Families and is under contract with the division for the express purpose of providing such services.

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

Amended 1939, c.94, s.2; 1945, c.73, s.1; 1945, c.308, s.1; 1950, c.172, s.3; 1961, c.43, s.3; 1967, c.30, s.3 1967, c.30, title amended 1967, c.286, s.12; 1968, c.1; 1974, c.86, s.3; 1980, c.90, s.12; 1982, c.144, s.6; 1984, c.24, s.3; 1985, c.508, s.3; 1999, c.391; 2005, c.103; 2007, c.162; 2010, c.37, s.2; 2015, c.41; 2018, c.83; 2018, c.112; 2023, c.37, s.1.

43:21-5a. Reduction by pension amount; rollover, certain; no reduction

1. The amount of benefits payable to an individual for any week which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week; provided that such reduced weekly benefit rate shall be computed to the next lower multiple of $1.00 if not already a multiple thereof and that any such reduction in the weekly benefit rate shall reduce the maximum total benefits of the individual during the benefit year; provided further that, if the provisions of the federal Unemployment Tax Act permit, the Commissioner of Labor and Workforce Development may prescribe in regulations which are consistent with the federal Unemployment Tax Act any of the following:

a. The requirements of this section shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer as determined under the chapter to which this act is a supplement;

b. The amount of any such reduction shall be determined taking into account contributions made by the individual for the pension, retirement or retired pay, annuity or other similar periodic payment;

c. An individual shall not have his benefits reduced where there has been a transfer of an eligible rollover distribution from a qualified trust to an eligible retirement plan, as defined in section 402(c)(8) of the federal Internal Revenue Code of 1986, 26 U.S.C.S.402(c)(8), provided that, pursuant to that section, the transfer of payments is made within 60 days of receipt. If, however, any distribution from the qualified trust is made which is subject to federal income tax, then unemployment benefits for which the base year earnings include pay from the employer who paid into the qualified trust shall be reduced by the amount of the distribution if otherwise required by section 3304(a)(15) of the Internal Revenue Code of 1986, 26 U.S.C.s.3304(a)(15).

The amount of benefits payable to an individual who is involuntarily and permanently separated from employment prior to the date at which the individual may retire with full pension rights shall not be reduced pursuant to this section because the individual receives a lump sum payment in lieu of periodic pension, retirement or annuity payments, except that the benefits payable to the individual may be reduced during the week in which the individual receives the lump sum payment.

L.1980,c.13,s.1; amended 1984, c.24, s.15; 1993, c.330; 2007, c.34.

43:21-5.1. Repealed by L.1984, c.24 & 21, eff. October 1, 1984

43:21-5.2. Agreement with United States Secretary of Labor authorized

The Division of Employment Security is authorized to enter into an agreement with the United States Secretary of Labor under Title XV of the Social Security Act--"Unemployment Compensation for Federal Employees" (Public Law 767-83d Congress), whereby the division, as agent of the United States, will in accordance with the provisions of said Title, make payments of compensation to Federal employees as therein defined, and will otherwise co-operate with the Secretary of Labor and with other State agencies in making such payments; provided, however, that all costs and expenses incurred, as well as all moneys required to make payments of such compensation shall be provided by Federal funds and shall not devolve upon the State of New Jersey; and further provided, that subsection (f) of section 43:21-5 of the Revised Statutes shall be inapplicable to any week with respect to which or a part of which a claimant has received or is seeking unemployment benefits under Title XV of the Social Security Act, except that no claimant shall be eligible during any week for benefits in an amount in excess of the amount allowable under R.S. 43:21-1 et seq. plus any additional amount permitted under the agreement with the Secretary of Labor, or shall be eligible for weeks of benefits in a benefit year, based on employment under R.S. 43:21-1 et seq. plus Federal employment, in excess of the number of weeks allowable under R.S. 43:21-1 et seq.

L.1954, c. 259, p. 934, s. 1.

43:21-6. Claims for benefits

(a) Filing. (1) Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions. The benefit instructions given to the individual shall include, but not be limited to, the following information: (A) the date upon which the individual becomes unemployed, and, in the case that the unemployment is temporary, to the extent possible, the date upon which the individual is expected to be recalled to work; and (B) that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner. Both the aforesaid notices and instructions, including information detailing the time sensitivity of filing a claim, and directions provided in advance to all employers regarding what information the division requires employers to provide to the division by electronic means immediately upon a separation from employment sufficient to enable the division to make a benefit determination, including any information relevant to whether the individual may be disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-5, shall be supplied by the division to employers without cost to them. The directions provided to all employers in advance shall include that each employer provide the division with an email address for communications to and from the division. When an employer provides benefit instructions to the individual which disclose the date on which unemployment will commence, the employer shall immediately and simultaneously provide by electronic means that disclosure to the division together with the information required by the division pursuant to the

directions provided in advance by the division. An employer who fails to make the immediate and simultaneous disclosure to the department as required by this paragraph shall be liable for the penalties imposed by subsection (b) of R.S.43:21-16 on employers for willful failure to furnish reports. The division shall notify the employer by electronic means not more than seven calendar days after the department receives the disclosure of any failure of the employer to provide all of the information needed by the division to make a benefit determination. Nothing in this section shall be construed so as to require an employer to re-hire an individual formerly in the employer's service. Nothing in this section shall be construed as requiring the division to issue a benefit determination solely based on the information supplied by the employer. Notwithstanding the provisions of this section which require employers to provide information to the division by electronic means, and the division to provide notifications to an employer by electronic means, the commissioner shall have the discretion to establish by rule an alternate method or methods for employers to provide the required information to the division and for the division to provide the required notifications to an employer in circumstances where it is established, to the satisfaction of the commissioner, that the employer is unable to provide the information to the division or is unable to receive notifications from the division by electronic means.

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

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

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

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

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine any disclosure of information to the division by an employer required by paragraph (1) of subsection (a) of this section upon a separation from work and any claim for benefits, and shall, by electronic means, notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. The notification shall be made not later than seven calendar days after the employer provides to the department the disclosure required by paragraph (1) of subsection (a) of this section, or seven calendar days after the filing of the claim, whichever occurs first, and require said employing unit and employer to furnish, by electronic means, not more than seven calendar days after the notification is made, any information to the deputy which the employer failed to provide as required by paragraph (1) of subsection (a) of this section as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question. The claimant shall, at the time the claim is filed, be provided any information the division has received from the employer upon the separation from work and an opportunity to respond to that information. If a claim is filed and the employer has provided the information required upon separation from work, the employer shall immediately be notified by electronic means of the opportunity to provide, by electronic means and in not more than seven calendar days, additional information in response to the claim for benefits. If a claim is filed and the employer has failed to provide the information required upon the separation from work, the division shall immediately, by electronic means, request the required information and the employer shall provide the information, by electronic means and in not more than seven calendar days. The division shall provide the claimant any additional information it receives and an opportunity to respond.

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

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

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

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

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

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

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

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

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

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

Unless the employer, within seven calendar days after a confirmed receipt of notification of an initial determination, including by electronic means, or the claimant, within 21 calendar days after the notification was mailed to the claimant's last-known address and addresses, files an appeal of the decision, the decision shall be final and benefits shall immediately be paid or denied in accordance therewith, except for such determinations as may be altered in benefit

amounts or duration as provided in this paragraph. An appeal concerning an initial determination shall not be filed after whichever is applicable of the seven-day or 21-day period. Benefits payable for periods pending an appeal shall be paid as such benefits accrue and be paid according to the initial determination but shall be, to the extent that the amount paid exceeds the amount determined in the appeal, regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment; provided that if the appeal is an appeal of a determination that the claimant is disqualified under the provisions of R.S.43:21-5, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in that section, and while the appeal is pending, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; provided further that if it is determined in the appeal that the claimant was not disqualified, the claimant shall be paid the benefits due for the period of the disqualification, except that no such benefits shall be paid to the claimant for any week during which the claimant has failed to provide to the division a weekly certification evidencing the claimant's eligibility for benefits; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed. If an employer appeals the charging of benefits to the employer's account after the seven-day period to appeal the initial benefit determination, and, as a result of the appeal on the charging to the employer's account, the division, after the claimant is notified and given the opportunity to respond, reduces the amount charged to the employer's account, any resulting reduction in the amount of benefits shall take effect only after the resolution of the appeal of the charging, and any amount of benefits paid before the resolution of the appeal of the charging which exceeds the amount determined in that appeal shall be regarded as an overpayment caused by employer error and shall be charged to the employer's account, and the claimant shall not be liable to repay any portion of that overpayment where the overpayment is of regular Unemployment Compensation. In the case of the recovery of an overpayment of benefit under any of the following programs authorized by the federal "Coronavirus Aid, Relief, and Economic Security (CARES) Act," Pub.L.116-136: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), Pandemic Unemployment Assistance (PUA), or the first week of regular Unemployment Compensation that is reimbursed in accordance with Section 2105 of the CARES Act, a recovery shall not be waived unless the division determines that the claimant is without fault and the repayment would be contrary to equity and good conscience.

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

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. Any change in the allowance, amount, or other characteristic of benefits by the

deputy in any such determination, or the denial of benefits by the deputy in any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations, except that, after an initial determination, the resolution of any appeal of the initial determination, and the payment of one or more weeks of benefits pursuant to the initial determination, if a subsequent determination will result in any termination or reduction of those benefits from the amount or duration of benefits specified in the initial determination, the claimant shall be provided notification with a full written explanation of why the reduction or termination of benefits will occur, and provided, during the seven calendar days following the notification, an opportunity to file an appeal before the reduction or termination goes into effect. If the claimant files an appeal during the seven-day period, benefits shall continue to be paid at the rate, and for the duration, stipulated in the initial determination until the appeal is resolved. If the claimant does not file an appeal, or the claimant files an appeal and it is found in the resolution of the appeal that the amount in benefits paid during the processing of the appeal exceeded the amount determined in the appeal to be correct, or the claimant is found in the appeal to be ineligible for benefits, any resulting excess payment of benefits shall be regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment.

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

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

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

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

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

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

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

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

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

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

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

For purposes of subsection (j) of this section:

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

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

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

Amended 1945, c.308, s.2; 1950, c.167, s.1; 1951, c.338, s.1; 1952, c.187, s.3; 1955, c.203, s.2; 1961, c.43, s.4; 1974, c.86, s.4; 1975, c.385; 1977, c.307, s.3; 1984, c.24, s.4; 2010, c.82, s.1; 2011, c.32, s.1; 2011, c.87, s.1; 2013, c.148; 2015, c.42; 2016, c.62; 2017, c.163; 2022, c.120, s.1.

43:21-6.1. Child support obligations; withholding from unemployment compensation payments; distribution

a. An individual filing a new claim for unemployment compensation with an effective date on or after October 1, 1982 shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under paragraph g. If any individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the division shall

notify the State or local child support enforcement agency enforcing this obligation that the individual has been determined to be eligible for unemployment compensation.

b. The division shall deduct and withhold from any unemployment compensation to an individual that owes child support obligations as defined under paragraph g.,

(1) the amount specified by the individual to the division to be deducted and withheld under this section, or

(2) the amount (if any) determined pursuant to an agreement submitted to the division under Section 454(20)(B)(i) of the Social Security Act, P.L. 97-35, 42 U.S.C. 654, by the State or local child support enforcement agency, or

(3) any amount otherwise required to be so deducted and withheld from unemployment compensation pursuant to legal process (as that term is defined by the Commissioner of Labor in regulations, which definition shall be identical to the definition of legal process in Section 462(e) of the Social Security Act, P.L. 95-30, Title V, 42 U.S.C. 662) properly served upon the division.

c. Any amount deducted and withheld under paragraph b. shall be paid by the division to the appropriate State or local child support enforcement agency.

d. Any amount deducted and withheld under paragraph b. shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State or local child support enforcement agency in satisfaction of the individual's child support obligations.

e. For purposes of paragraphs a. through d., the term "unemployment compensation" means any compensation payable under the Unemployment Compensation Law (R.S. 43:21-1 et seq.) (including amounts payable by the division pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).

f. This section applies only if appropriate arrangements have been made for reimbursement by the State or local child support enforcement agency for the administrative costs incurred by the division under this section which are attributable to child support obligations being enforced by the State or local child support enforcement agency.

g. The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act, P.L. 97-35, 42 U.S.C. 654, which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

h. The term "State or local child support enforcement agency" as used in these provisions means any agency of a State or a political subdivision thereof operating pursuant to a plan described in paragraph g.

L.1982, c. 144, s. 7, eff. Sept. 24, 1982.

43:21-6.2. Registration of authorized agent

3. a. An authorized agent who represents parties for a fee shall not represent any party after December 1, 2010 in any procedure with the division regarding claims for unemployment benefits or any obligations of employers regarding charges or taxes for unemployment compensation, including any filing of information, or any appeal, hearing, or other proceeding regarding unemployment benefit claims, charges or taxes before any representative of the division, unless the authorized agent is registered with the division pursuant to this section.

b. Each authorized agent shall register with the division using forms provided by the division. An applying authorized agent who is an individual shall provide the individual's name, permanent address and telephone number. An authorized agent which is an organization or business shall provide the name, local address and telephone numbers, and address and telephone number of the principal place of business, if different, and the names of principals or others authorized to act on behalf of the organization and to receive notice. Any changes in identifying information shall be promptly reported to the division. The division may elect to set by regulation a schedule of fees for the registration of agents required by this section, except that if the division elects to set a schedule of fees pursuant to this subsection, the amount collected in fees shall not exceed the amount determined by the director of the division to be necessary for the implementation of the provisions of sections 3 through 9 of this act.

c. Upon registration, an authorized agent shall be assigned a registration number that shall be used in all communications with, or appearances before, any representative of the division. An individual communicating or appearing on behalf of an organization or business providing representation for a fee to parties before any representative of the division shall indicate the registration number of the individual, unless that individual is an attorney, and the registration number of the organization or business, and the division shall not accept any representation of the party in a communication with, or proceeding of, the division by an individual, organization or business if the number or numbers are not provided. If an attorney is employed by, or otherwise provides service to, an organization or business which is an authorized agent, the registration number of the organization or business shall be provided.

d. Each registrant shall file notice with the division within thirty days after the agent ceases activity as an authorized agent.

L.2010, c.82, s.3.

43:21-6.3 Responsibilities of authorized agent to client

4. a. An authorized agent shall keep any party that is a client of the agent reasonably informed about the status of any matter before the division and verify with the client the accuracy of any information it provides to the division.

b. An authorized agent shall promptly notify the client of any scheduled proceedings before any representative of the division to allow time for case preparation and the scheduling of witnesses. Clients shall be apprised of the consequences of not appearing and the importance of participation at all stages of the proceedings and of producing first-hand testimony.

c. If a client determines that it does not wish to pursue an appeal, a request for withdrawal of the appeal shall be made in writing, or communicated orally and followed by a written request, in a timely fashion. If the client and the authorized agent determine that there is no basis for an appeal, that the appeal is frivolous, or that the client is not interested in pursuing the appeal, the appeal shall be withdrawn, as soon as possible, and prior to the scheduling of a hearing if possible.

L.2010, c.82, s.4.

43 :21-6.4. Postponement request

5. a. If an authorized agent believes that a critical witness will not be available for a scheduled hearing and requests a postponement in order to produce the witness, the authorized agent shall, after consulting with the client, provide the division with the name, address, and title of the witness, the reason the witness is unable to attend, the general nature and importance of the witness's testimony, and an explanation of why there is no other witness able to provide the essential testimony that the critical witness would provide. Upon request, the authorized agent shall submit a written statement of its request and supporting documentation or sworn affidavit to the division.

b. If a postponement request is denied, the authorized agent shall notify the client that the hearing will go forward as scheduled and advise the client to appear. In the event that a postponement request made pursuant to subsection a. of this section is denied, the client shall be advised to appear with or without the critical witness or another witness, and that it may renew the postponement request at the hearing by requesting a continuance of the hearing.

c. In the event that the client or agent does not appear at a scheduled hearing without requesting a postponement, or that a postponement request is made but properly denied and the agent or the client does not appear, no further hearings will be scheduled at the request of the client or agent, unless the client or agent can demonstrate to the satisfaction of a representative of the division that the failure to appear was due to circumstances beyond the control of the client or agent.

L.2010, c.82, s.5.

43:21-6.5. Representation provided by authorized agent

6. a. An authorized agent shall provide competent representation to each party that is a client of the agent. The authorized agent shall explain the proceedings and prepare the case with the client and any witnesses before any division hearing is called, shall be acquainted with the

facts and legal issues involved, and shall arrange for producing witnesses and documentary evidence at the hearing.

b. An authorized agent shall make a reasonable effort to have testimony given by first-hand witnesses in the case.

c. An authorized agent seeking to inspect or review a case file may do so prior to the date of the hearing. If it is necessary for the authorized agent to review the file on the day of the hearing, the authorized agent shall make arrangements with the division in advance of the scheduled hearing time.

d. An authorized agent shall not delay the hearing or disturb the progress of other cases or the functioning of the division in an effort to view a case file or consult with its client or witnesses.

L.2010, c.82, s.6.

43 :21-6.6. Production of evidence, witnesses at hearing

7. An authorized agent shall be prepared to produce all necessary evidence and witnesses at the time the hearing is scheduled to commence and provide, prior to the date of the hearing, to all parties copies of any documentary evidence to be admitted into the record. An authorized agent shall not:

a. Engage in, or counsel or assist any party that is a client to engage in, conduct which the authorized agent knows or should know to be criminal, in violation of the provisions of sections 3 through 9 of this act or other provisions of this chapter (R.S.43:21-1 et seq.), or is prejudicial to, or unnecessarily delays, the efficient administration of this chapter (R.S.43:21-1 et seq.), including any failure to be, without good cause, available and properly prepared to participate in appeals, hearings and other procedures at the scheduled times;

b. Engage in, or counsel or assist any party that is a client to engage in, conduct involving dishonesty, fraud, deceit, misrepresentation, or the withholding of material facts;

c. Unlawfully obstruct another party's access to evidence or destroy or conceal evidence; assert personal knowledge of the facts unless testifying as a witness;

d. Refer at a hearing to a matter which the authorized agent does not reasonably believe is relevant or is not supported by evidence;

e. Seek to improperly influence any representative of the division; or

f. Engage in any ex parte communication with any representative of the division concerning the merits of any pending appeal unless all other parties have waived their right to participate.

L.2010, c.82, s.7.

43 :21-6.7. Violations committed by authorized agent

8. a. If the commissioner determines that an authorized agent has exhibited a pattern of repeated violations of the provisions of sections 3 through 9 of this act or other provisions of this chapter (R.S.43:21-1 et seq.), including any violations of the provisions of R.S.43:21-16 which apply to the agents of employing units, the commissioner shall, in addition to any other actions taken in the enforcement of this chapter, notify the authorized agent of this finding and that the commissioner will monitor the authorized agent to ascertain whether the violations continue after the notification.

b. If, at the conclusion of a monitoring period of not more than 12 months after the first determination, the commissioner determines that the agent has continued the pattern of repeated violations of the provisions, the commissioner:

(1) May, after affording the authorized agent notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), suspend the registration of the authorized agent, for a period of time determined by the commissioner. In determining the length of a suspension, the commissioner shall distinguish between serious violations which potentially undermine the integrity of the benefit determination and appeals processes and lesser violations, and shall consider any of the following factors which are relevant: whether the violations represent a continuation of the violations identified in the previous determination, the gravity and duration of the violations, the amount of harm resulting from the violations, the experience of the authorized agent, the authorized agent's history of previous violations or complaints filed of a similar or different nature, the number of violations identified, and the existence of mitigating circumstances, whether the authorized agent made good faith efforts to comply with any applicable requirements, and any other factors the commissioner considers relevant.

(2) Shall continue to monitor the conduct of the authorized agent for a period of not more than 12 months after the determination made pursuant to this subsection b.

c. If, in the subsequent monitoring of the conduct of the authorized agent pursuant to subsection b. of this section, the commissioner determines that the authorized agent has continued the pattern of repeated violations, the commissioner, after affording the authorized agent notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall revoke the registration of the authorized agent.

An authorized agent representing an employer shall be regarded as an agent of an employing unit for the purposes of R.S.43:21-16 and be subject to, in addition to the provisions of this section, all requirements and penalties imposed pursuant to that section for a agent of an employing unit.

Any individual, organization or business which, after notification of the registration requirements of sections 3 though 9 of this act, operates, or attempts to operate, as an authorized agent without the required registration, shall be liable to a fine of $1,000 for each violation, to be recovered in an action at law in the name of the division, and shall not be permitted by the division to represent any party in connection with any communication with, or proceeding of, the division.

L.2010, c.82, s.8.

43:21-6.8. Definitions relative to C.43:21-6.2 et seq.

9. For the purposes of sections 3 through 9 of this act:

"Authorized agent" means an individual, organization or business that, for a fee, provides representation to parties in communications with, or hearings or other proceedings before, representatives of the division in connection with claims for unemployment benefits, charges or tax assessments. In the case of an individual authorized agent representing an organization or business that provides representation to parties for a fee, both the individual and the organization or business shall register with the division and both will be held responsible as the authorized agents. An attorney is not an authorized agent for purposes of this section and is not required to register. If an attorney is employed by, or otherwise provides service to, an organization or business which is an authorized agent, the organization or business shall register with the division and will be considered the authorized agent for purposes of this section. An authorized agent representing an employer shall be regarded as an agent of an employing unit for the purposes of R.S.43:21-16 and be subject to all requirements and penalties imposed by that section for an agent of an employing unit.

"Party" means any of the following parties to an appeal, hearing or other procedure of the division: the division; a claimant for unemployment compensation; or any employer against whom charges may be made or tax liability may be assessed due to the claim for unemployment compensation.

"Representative of the division" means any individual or entity, including any deputy, appeal tribunal, the board of review or any other individual or entity which represents the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development in connection with claims, benefits, charges or taxes for unemployment compensation.

L.2010, c.82, s.9.

43 :21-7. Contributions

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

(a) Payment.

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

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

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

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

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

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

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

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when

that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, notification shall be promptly provided to each employer included in the unemployment insurance monetary calculation of benefits. Such notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said benefit payment applies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Specially assigned rates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXPERIENCE RATING TAX TABLE

Employer	Fund Reserve Ratio 1				
Reserve Ratio 2 Positive Reserve Ratio:	3.50% and Over	3.00% to 3.49%	2.5% to 2.99%	2.0% to 2.49%	1.99% and Under
	A	B	C	D	E
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4

4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.
[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

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

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

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

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

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

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

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

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%;

From January 1, 2002 until March 31, 2002, a factor of 36%;

From April 1, 2002 until June 30, 2002, a factor of 85%;

From July 1, 2002 until June 30, 2003, a factor of 15%;

From July 1, 2003 until June 30, 2004, a factor of 15%;

From July 1, 2004 until June 30, 2005, a factor of 7%;

From July 1, 2005 until December 31, 2005, a factor of 16%; and

From January 1, 2006 until June 30, 2006, a factor of 34%.

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

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

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and

(H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

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

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

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

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

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

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

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

(P) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2023, the rates set by column "D" of the table in that subparagraph, unless the application of the provisions of

this paragraph (5) using the actual fund reserve ratio would result in the contribution rate for employers being set by a column which has lower tax rates than the rates in column "D", in which case the employers shall be liable to pay contributions at the rates set by the column with the lower tax rates.

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

(6) Additional contributions.

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

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred

may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

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

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

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

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition,

it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

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

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

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

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

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

payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

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

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

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

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined

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

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

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

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

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

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

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

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

for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for each of calendar years 2020 and 2021, equal to 120% of the benefits which the department anticipates will be paid for periods of disability, excluding periods of family temporary disability, during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for calendar year 2022 and any subsequent calendar year, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of disability caused by the increases in the weekly benefit rate commencing July 1, 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by contributions made by workers pursuant to this paragraph (i) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. The rates of employer contributions determined pursuant to subsection (e) of this section for any year shall be determined prior to the determination of the rate of employee contributions pursuant to this subparagraph (i) and any consideration of employee contributions in determining employer rates for any year shall be based on amounts of employee contributions made prior to the year to which the rate of employee contributions applies and shall not be based on any projection or estimate of the amount of employee contributions for the year to which that rate applies.

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

(ii) shall be, for calendar years prior to calendar year 2018, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year, and shall be, for calendar year 2018 and calendar year 2019, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the account as of December 31 of the immediately preceding calendar year. For each of calendar years 2020 and 2021, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which the department anticipates will be paid for periods of family temporary disability leave during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. For 2022 and any subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which were paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of family temporary disability leave caused by the increases in the weekly benefit rate commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and increases in the maximum duration of benefits commencing July 1, 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions made by workers pursuant to this paragraph (ii) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding $25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall

be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976 or, during calendar year 2012 or any subsequent calendar year, the total amount of his contributions for the year exceeds the amount set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (i) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the

proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

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

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may

recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) 1/10 of 1% if such excess over $500.00 equals or exceeds 1 1/2% of his average annual payroll.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The total amount of benefits paid for periods of disability were not subject to the increases in the weekly benefit rate for those benefits commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40).

Amended 1938, c.58; 1939, c.289; 1941, c.388; 1947, c.35, s.2; 1948, c.109, s.1; 1950, c.172, s.4; 1951, c.249; 1952, c.187, s.4; 1953, c.219; 1961, c.43, s.5; 1967, c.30, s.4; 1967, c.30, title amended 1967, c.286, s.12; 1970, c.324, s.1; 1971, c.346, s.2; 1972, c.172, s.1; 1974, c.86, s.5; 1977, c.307, s.4; 1980, c.18, s.1; 1984, c.24, s.5; 1992, c.44, s.10; 1992, c.160, s.35; 1994, c.112, s.1; 1995, c.422, s.1; 1996, c.28, s.13; 1996, c.30, s.6; 1997, c.255, s.2; 1997, c.263, s.12; 2001, c.152, s.13; 2002, c.13, s.3; 2002, c.29, s.1; 2003, c.107, s.3; 2004, c.45, s.2; 2005, c.123, s.1; 2005, c.239, s.1; 2005, c.249, s.1; 2008, c.17, s.15; 2009, c.12; 2009, c.144; 2009, c.195; 2010, c.37, s.1; 2011, c.81, s.1; 2011, c.88, s.1; 2013, c.75; 2017, c.138; 2019, c.37, s.6; 2020, c.150, s.2.

43:21-7a. Definitions

28. As used in sections 28 through 34 of this act:

"Commissioner" means the Commissioner of Labor or his designee.

"Department" means the Department of Labor.

"Employee" means a person who performs services for remuneration for an employer.

"Employer" means an employer as defined in subsection (h) of R.S.43:21-19.

"Fund" means the "Health Care Subsidy Fund" established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

"Taxable wages" means wages as determined in accordance with paragraph (3) of subsection (b) of R.S.43:21-7.

"Total wages" means wages as defined in subsection (o) of R.S.43:21-19.

L.1992,c.160,s.28.

43:21-7b. Contributions to Health Care Subsidy Fund

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Beginning April 1, 1996 through December 31, 1996, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount

equal to 0.6% of the employee's taxable wages, except that the total amount contributed to the fund when combined with the employee's contribution made pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996 through March 31, 1996, shall not exceed 0.6% of the employee's taxable wages for the 1996 calendar year.

Beginning January 1, 1997 through December 31, 1997, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.5% of the employee's taxable wages.

Beginning on January 1, 1998 until December 31, 1998, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.30% of the employee's taxable wages.

Beginning on January 1, 1999 until December 31, 1999, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.25% of the employee's taxable wages.

Beginning on January 1, 2000 until June 30, 2004, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2006, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds $600 million, all contributions which exceed $600 million shall be

deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds $500 million, all contributions which exceed $500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds $330 million, all contributions which exceed $330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds $288 million, all contributions which exceed $288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds $233.9 million, all contributions which exceed $233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds $178.6 million, all contributions which exceed $178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds $94.9 million, all contributions which exceed $94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds $516.5 million, all contributions which exceed $516.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 or fiscal year 2004 exceeds $325 million, all contributions which exceed $325 million in the fiscal year 2003 or fiscal year 2004 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2005 exceeds $100 million, all contributions which exceed $100 million in the fiscal year 2005 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2006 exceeds $350 million, all contributions which exceed $350 million in the fiscal year 2006 shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

L.1992,c.160,s.29; amended 1996, c.28, s.14; 1997, c.263, s.14; 2002, c.13, s.4; 2002, c.29, s.2; 2003, c.107, s.4; 2004, c.45, s.3; 2005, c.123, s.2.

43:21-7c. Employer obligations

30. Notwithstanding the provisions of any other law to the contrary, each employer shall: withhold in trust the amount of all workers' contributions from their wages at the time wages are paid, show the deduction on the payroll records, furnish the evidence thereof and permit any inspection of the records as prescribed by the commissioner, and transmit all workers' contributions and other contributions due from the employer pursuant to this act to the fund in

a manner and at the times that the commissioner, in consultation with the Essential Health Services Commission established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.), prescribes. Interest and any expense to the department of recovery may be assessed by the commissioner on payments not made within the prescribed due dates at the same rate as provided for pursuant to paragraph (1) of subsection (a) of R.S.43:21-14. If any employer fails to deduct the contributions of any workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, the employer shall be solely liable for those contributions.

L.1992,c.160,s.30.

43:21-7d. Failure to make report

31. If an employer fails to make any report or permit any inspection required by the commissioner to implement the provisions of this act, an estimate shall be made regarding the liability of the employer from information available and the employer shall be assessed for any amount due, including the amount that was withheld or that should have been withheld from its employees for deposit into the fund. Also, if, after an examination of any report filed, a deficiency is discovered with respect to the taxable wages reported, the employer shall be assessed the amount of any determined deficiency. Additional remedies through the court may be established by the commissioner, including the charging of any expenses incurred by the department in recovering the assessment.

L.1992,c.160,s.31.

43:21-7e. Entitlement to refund or tax credit

32. a. If an employee receives wages from more than one employer during any calendar year, and the sum of the employee's contributions deposited in the fund exceeds an amount equal to 0.6% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year 1993, calendar year 1994 or calendar year 1995, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

If an employee receives wages from more than one employer during the calendar year 1996 and the sum of the employee's contributions deposited in the unemployment compensation fund during the period January 1, 1996 through March 31, 1996 and the employee's contributions deposited in the health care subsidy fund during the period April 1, 1996 through December 31, 1996 exceeds an amount equal to 0.6% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the period January 1, 1996 through December 31, 1996, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is

made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

If an employee receives wages from more than one employer during the calendar year 1997, and the sum of the employee's contributions deposited in the fund exceeds an amount equal to 0.5% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year 1997, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

If an employee receives wages from more than one employer during the calendar year 1998, 1999, 2000 or 2001 and the sum of the employee's contributions deposited in the unemployment compensation fund and the employee's contributions deposited in the health care subsidy fund during the calendar year 1998, 1999, 2000 or 2001 exceeds an amount equal to 0.4% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the respective calendar year, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

If an employee receives wages from more than one employer during the calendar year 2002 or any subsequent calendar year, and the sum of the employee's contributions deposited in the unemployment compensation fund and the employee's contributions deposited in the health care subsidy fund during the calendar year 2002 or the subsequent year exceeds an amount equal to 0.3825% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which wages are received during the respective calendar year, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment without interest from the unemployment compensation fund or the health care subsidy fund, or both, as appropriate.

b. Any employee who is a taxpayer and entitled, pursuant to the provisions of subsection a. of this section, to a refund of contributions deducted during a tax year from his wages shall, in lieu of the refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in the manner provided by regulation by the Director of the Division of Taxation. In any case in which the amount, or any

portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax liability, the amount of the new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.

L.1992,c.160,s.32; amended 1996, c.28, s.15; 1997, c.263, s.15; 2002, c.13, s.5.

43:21-7f. Schedule of fines

33. A schedule of fines, with no fine exceeding $1,000 for a single offense, shall be established by the commissioner for any of the following actions or omissions with respect to the collection of contributions or the use of moneys disbursed from the fund:

a. A false statement or misrepresentation made knowingly;

b. Failure to disclose a material fact;

c. Attempt to defraud;

d. Willful failure or refusal to: withhold or transfer any contribution or other payment; furnish any report or information; or produce or permit the inspection or copying of records as required pursuant to this act; and

e. Willful violation of any provision of this act or any rule or regulation promulgated pursuant to this act.

The fines shall be recoverable in a civil action by the commissioner in the name of the State of New Jersey. In addition to penalties established for any person, employing unit, employer or entity, each shall be liable for each offense upon conviction before any court of competent jurisdiction at the discretion of the court. All fines shall be payable to the commissioner for deposit in the fund.

L.1992,c.160,s.33.

43:21-7g. Rules, regulations

34. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) promulgate rules and regulations necessary to implement the provisions of this act, including any requirements regarding the keeping and reporting of records and any sanctions against false statement, misrepresentation, willful violations or fraud.

L.1992,c.160,s.34.

43:21-7.1. Repealed by L.1970, c. 324 s.4

43:21-7.2. Nonprofit organizations

(a) Notwithstanding any other provisions of the Unemployment Compensation Law, for payments of contributions by employers, benefits paid to individuals in the employ of nonprofit organizations, as described in section 501(c)(3) of the Internal Revenue Code and which are exempt from income tax under section 501(a) of the Internal Revenue Code, shall be financed in accordance with the following provisions:

(1) Any nonprofit organization which is, or becomes, subject to the Unemployment Compensation Law on or after January 1, 1972, shall pay contributions under the provisions of R.S. 43:21-7, unless it elects in accordance with this paragraph to pay to the unemployment fund an amount equal to the amount of regular benefits and 1/2 of the extended benefits paid that are attributable to base year service in the employ of such nonprofit organization during the effective period of such election;

(2) Any nonprofit organization which is, or becomes, subject to the Unemployment Compensation Law on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972, provided it files a written notice of its election within the 120-day period immediately following such date or within a like period immediately following the enactment of this act, whichever occurs later;

(3) Any nonprofit organization which becomes subject to the Unemployment Compensation Law after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with the date on which such subjectivity begins, by filing a written notice of its election not later than 120 days immediately following the date of such subjectivity or not later than 30 days from the date such organization is notified of its subjectivity, whichever is later;

(4) Any nonprofit organization which makes an election in accordance with paragraph (2) or paragraph (3) shall be liable for payments in lieu of contributions on benefits paid that are attributable to base year service in the employ of such organization during the effective period of the election. Any nonprofit organization may file a written notice terminating its election not later than February 1 of any year with respect to which the termination is to become effective;

(5) Any nonprofit organization which has been paying contributions under the Unemployment Compensation Law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing not later than February 1 of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization during that calendar year or the next calendar year;

(6) For good cause the period within which a notice of election or a notice of termination must be filed may be extended and a retroactive election may be permitted;

(7) If an election for payments in lieu of contributions is terminated by a nonprofit organization or canceled, the nonprofit organization shall remain liable for payments in lieu of contributions with respect to all benefits paid, based on base year wages earned in the employ of such nonprofit organization during the effective period of the election;

(8) In accordance with such regulations as may be prescribed, such nonprofit organization shall be notified of any determination which may be made of the effective date and the termination date of any such election and such determination shall be subject to reconsideration, appeal and review; and

(9) As of the effective date of the termination of an election to make payments in lieu of contributions, a nonprofit organization shall become liable to pay unemployment insurance contributions on taxable wages paid to its employees subsequent to the termination. Its contribution rate beginning with the first July 1 in the period following the termination of an election shall be assigned in accordance with the provisions of R.S. 43:21-7, except that:

(A) The benefit charges to its account which are attributable to base year services in the employ of such nonprofit organization during the effective period of its election to make payments in lieu of contributions shall not be included in the total benefit charges to its account in the calculation of its reserve balance for determining its rate under R.S. 43 :21-7(c);

(B) Its average annual payroll shall be determined without inclusion of any of the wages paid in any calendar year during which its election to make payments in lieu of contributions was effective for any part of the calendar year;

(C) The period during which the election to make payments in lieu of contributions was effective shall not be included in calculating the period of eligibility for modification of its rate under R.S. 43:21-7(c)(3);

(D) For the period from the date of the termination of its election to the July 1 following termination, the nonprofit organization shall be assigned a rate of 1% for contributions under the Unemployment Compensation Law.

(b) Reimbursement payments. At the end of each calendar month, or at the end of any other period as determined by the controller, the controller shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus 1/2 of the amount of any extended benefits paid during such month or other prescribed period that are attributable to base year service of individuals in the employ of such organization during the effective period of the election, and the provisions of the Unemployment Compensation Law (R.S. 43:21-1 et seq.), and the amendments and supplements thereto, shall be applicable with respect to the payment of claims for benefits and the charging thereof; provided, however, that no employer who elects to make payments in lieu of contributions shall be relieved of any charges for benefits paid to his

workers by reason of R.S. 43 :21-6(b)(1), R.S. 43:21-7(c)(1), or section 6 of chapter 324 of the Laws of 1970 (C. 43:21-24.12, Extended Benefits Law).

(c) Payment of any bill rendered under subsection (b) above shall be made not later than 30 days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subsection (e).

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(e) The amount of any payment required under subsection (b) from any nonprofit organization, as specified in any bill from the controller, shall be conclusive on the organization, unless, not later than 15 days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the controller, setting forth the grounds for such application. The controller shall promptly review and reconsider the amount specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization, unless, not later than 15 days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the controller, setting forth the grounds for the appeal. Proceedings on appeal to the controller from the amount of a bill rendered under this subsection or a redemption of such amount shall be in accordance with the rules and regulations of the controller.

(f) Any organization failing to file a timely report or to make a timely payment of the amount in lieu of contributions due hereunder shall be subject to the same interest, penalties, remedies and methods of enforcement that apply to contributions and reports due under the provisions of the Unemployment Compensation Law.

(g) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this section, the controller may terminate such organization's election to make payments in lieu of contributions as of the January 1 immediately following, and such termination shall be effective for at least two calendar years and until all payments due the division have been satisfied.

(h) Provision for bond or other security. In the discretion of the controller, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required, within 30 days after the effective date of its election, to execute and file with the controller a surety bond approved by the controller or it may elect instead to deposit with the controller money or securities approved by the controller. The amount of the bond or deposit shall be determined by the controller and shall not exceed the amount derived by multiplying the organization's taxable wages for the preceding calendar year, or the organization's estimated taxable wages for the ensuing year, whichever is the greater, by the maximum unemployment

insurance contribution rate in effect at the beginning of the calendar year for which the bond or deposit is required; provided, however, that any organization which is a self-insurer and is exempt from insuring workers' compensation liability under the Workers' Compensation Law shall, so long as such exemption remains in effect, be exempt from the surety bond and security deposit requirements of this subsection; and any other organization which shall satisfy the controller as to its financial ability to meet the cost of benefits provided under the Unemployment Compensation Law and the Temporary Disability Benefits Law may, upon application, be exempted from such requirements by written order of the controller, which order shall be revocable at any time.

(1) Bond. The amount of any bond deposited under this subsection shall require adjustments as the controller deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within 30 days after notice of the required adjustment was mailed or otherwise delivered to it. Failure of any organization covered by such bond to pay the full amount of payment in lieu of contributions when due, together with any applicable interest and penalties, shall render the surety liable on said bond, to the extent of said bond as though the surety was such organization.

(2) Deposit of money or securities. Any deposit of money or securities in accordance with this subsection shall be retained by the controller in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The controller may deduct from any money deposited under this subsection by a nonprofit organization, or sell the securities it has so deposited, to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties. The controller shall require the organization within 30 days following any deduction from a money deposit or sale of deposited securities under the provisions of this subsection to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The controller may at any time review the adequacy of the deposit made by any organization. If, as a result of such review, the controller determines that an adjustment is necessary, it shall require the organization to make an additional deposit within 30 days of written notice of the controller's determination or shall return to it such portion as the controller no longer considers necessary, as deemed appropriate. Disposition of income from securities held in escrow shall be governed by applicable State law.

(3) Authority to terminate elections. If any nonprofit organization fails to file a bond or make a deposit, or to increase or make whole the amount of a precisely made bond or deposit, as provided under this subsection, the controller may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for no less than 24 calendar months, beginning with the first quarter in which such termination becomes effective, provided the controller may extend for good cause the applicable filing, deposit or adjustment period by not more than 90 days.

(i) Group accounts. Two or more employers that have become liable for payments in lieu of contributions may file a joint application for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to services in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purpose of this subsection. Upon approval of the application, a group account shall be established for such employers, effective as of the beginning of the calendar quarter in which the application is received or the next calendar quarter, as appropriate, and the group's representative shall be notified of the effective date of the account. Such account shall remain in effect for not less than two calendar years and thereafter until terminated or upon application by the group. Regulations may be prescribed as necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group, and the time and manner of such payments.

L.1971, c. 346, s. 3. Amended by L.1977, c. 307, s. 5, eff. Jan. 1, 1978; L.1984, c. 24, s. 6, eff. Oct. 1, 1984.

43:21-7.3. Governmental entities

4. (a) Notwithstanding any other provisions of the "unemployment compensation law" for the payment of contributions, benefits paid to individuals based upon wages earned in the employ of any governmental entity or instrumentality which is an employer defined under R.S.43:21-19(h)(5) shall, to the extent that such benefits are chargeable to the account of such governmental entity or instrumentality in accordance with the provisions of R.S.43:21-1 et seq., be financed by payments in lieu of contributions.

(b) Any governmental entity or instrumentality may, as an alternative to financing benefits by payments in lieu of contributions, elect to pay contributions beginning with the date on which its subjectivity begins by filing written notice of its election with the department no later than 120 days after such subjectivity begins, provided that such election shall be effective for at least two full calendar years; or it may elect to pay contributions for a period of not less than two calendar years beginning January 1 of any year if written notice of such election is filed with the department not later than February 1 of such year; provided, further, that such governmental entity or instrumentality shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits by payments in lieu of contributions.

(c) Any governmental entity or instrumentality may terminate its election to pay contributions as of January 1 of any year by filing written notice not later than February 1 of any year with respect to which termination is to become effective. It may not revert to a contributions method of financing for at least two full calendar years after such termination.

(d) Any governmental entity or instrumentality electing the option for contributions financing shall report and pay contributions in accordance with the provisions of R.S.43:21-7 except that, notwithstanding the provisions of that section, the contribution rate for such governmental entity or instrumentality shall be 1% for the entire calendar year 1978 and the contribution rate for any subsequent calendar years shall be the rate established for governmental entities or instrumentalities under subsection (e) of this section.

(e) On or before September 1 of each year, the Commissioner of Labor shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for the next following calendar year which can be expected to yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for that calendar year.

(f) Any covered governmental entity or instrumentality electing to pay contributions shall each year appropriate, out of its general funds, moneys to pay the projected costs of benefits at the rate determined under subsection (e) of this section. These funds shall be held in a trust fund maintained by the governmental entity for this purpose. Any surplus remaining in this trust fund may be retained in reserve for payment of benefit costs for subsequent years either by contributions or payments in lieu of contributions.

(g) Any governmental entity or instrumentality electing to finance benefit costs with payments in lieu of contributions shall pay into the fund an amount equal to all benefit costs for which it is liable pursuant to the provisions of the "unemployment compensation law." Each subject governmental entity or instrumentality shall require payments from its workers in the same manner and amount as prescribed under R.S.43:21-7(d) for governmental entities and instrumentalities financing their benefit costs with contributions. No such payment shall be used for a purpose other than to meet the benefits liability of such governmental entity or instrumentality. In addition, each subject governmental entity or instrumentality shall appropriate out of its general funds sufficient moneys which, in addition to any worker payments it requires, are necessary to pay its annual benefit costs estimated on the basis of its past benefit cost experience; provided that for its first year of coverage, its benefit costs shall be deemed to require an appropriation equal to 1% of the projected total of its taxable wages for the year. These appropriated moneys and worker payments shall be held in a trust fund maintained by the governmental entity or instrumentality for this purpose. Any surplus remaining in this trust fund shall be retained in reserve for payment of benefit costs in subsequent years. If a governmental entity or instrumentality requires its workers to make payments as authorized herein, such workers shall not be subject to the contributions required in R.S.43:21-7(d).

(h) Notwithstanding the provisions of the above subsection (g), commencing July 1, 1986 worker contributions to the unemployment trust fund with respect to wages paid by any governmental entity or instrumentality electing or required to make payments in lieu of contributions, including the State of New Jersey, shall be made in accordance with the provisions of R.S.43:21-7(d)(1)(C) or R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each governmental entity or instrumentality electing or required to make payments in lieu of contributions shall, except during the period starting January 1, 1993 and ending December 31, 1995 and the period

starting April 1, 1996 and ending December 31, 1998, require payments from its workers at the following rates of wages paid, which amounts are to be held in the trust fund maintained by the governmental entity or instrumentality for payment of benefit costs: for the calendar year 1999, 0.05%; for each calendar year from 2000 to 2002, and the period from January 1, 2003 to June 30, 2004, 0.10%; and each fiscal year thereafter, 0.30%.

L.1971,c.346,s.4; amended 1977, c.307, s.6; 1984, c.24, s.17; 1992, c.205; 1996, c.28, s.16; 1996, c.30, s.7; 1997, c.263, s.13; 2002, c.13, s.6; 2003, c.107, s.5.

43:21-7.4. Application of exemptions from taxation to contributions

No exemption from taxation granted under any other law of the State shall be construed to apply to the payment of contributions under the Unemployment Compensation Law and Temporary Disability Benefits Law.

L.1971, c. 346, s. 5.

43:21-7.5. Contribution rate calculated upon benefit experience; increase if low balance in unemployment trust fund

Notwithstanding any provisions of R.S. 43:21-7(c)(5)(A) to the contrary, if the balance in the unemployment trust fund on March 31, 1972 is less than 7% of the total taxable wages reported to the division in respect to employment during the calendar year 1971, the contribution rate to become effective on July 1, 1972 for each employer eligible for a contribution rate calculated upon benefit experience, shall be increased 3/10 of 1% over the contribution rate otherwise established under paragraphs (3) or (4) of R.S. 43:21-7(c); provided, however, that if the balance in the unemployment trust fund on December 1, 1972 is less than 2 1/2 % of the total taxable wages reported to the division in respect to employment during calendar year 1971, the contribution rates, which would take effect on July 1, 1973 if the balance in the fund on March 31, 1973 were less than 2 1/2 % of the total taxable wages reported during calendar year 1972, pursuant to R.S. 43:21-7(c)(5)(A), shall take effect January 1, 1973.

L.1971, c. 346, s. 6. Amended by L.1972, c. 172, s. 2, eff. Nov. 29, 1972.

43:21-7.6. Inapplicability of expenditure limitations of Public School Education Act of 1975

Notwithstanding the provisions of P.L.1975, c. 212 (C. 18A:7A-3 and 18A:7A-25) or rules and regulations promulgated pursuant thereto, any increase in expenditure required as a result of this act shall not be subject to the expenditure limitations imposed pursuant to P.L.1975, c. 212 (C. 18A:7A-3 and 18A:7A-25).

L.1977, c. 307, s. 10, eff. Jan. 1, 1978.

43:21-7.7. Reduced new employer contribution rate

1. a. Notwithstanding any other provisions of the "unemployment compensation law," R.S.43:21-1 et seq., for the payment of contributions, an employer who transfers all or an approved part of its operations from another state to this State may qualify for a reduced new employer contribution rate until the employer establishes eligibility based on benefit experience within the State as provided in subsection (c) of R.S.43:21-7. A reduced new employer contribution rate of not less than 1.0% of taxable wages as defined in R.S. 43:21-7(b)(3) may be assigned for those operations, or any part thereof, as approved by the department, if the employer:

(1) As of January 31 immediately preceding the fiscal year within which that transfer occurs, has paid wages subject to the Federal Unemployment Tax Act, 26 U.S.C. s.3301 et seq., for not less than 28 consecutive completed calendar quarters;

(2) Has acquired in the other state an employer reserve ratio of not less than 11% or an equivalent cumulative positive reserve balance experience with unemployment insurance contributions and benefits;

(3) Demonstrates to the satisfaction of the department that the employer reserve ratio acquired in the other state or equivalent cumulative reserve balance experience with unemployment insurance contributions and benefits acquired in the other state may be considered indicative of future employment experience in this State; and

(4) Certifies to the satisfaction of the department that at least 50 full-time jobs will be established at the New Jersey location within 180 days of the transfer of operations.

For the purposes of this subsection, "employer reserve ratio" means total employer contributions minus total benefits charged to the employer's account as a percentage of the employer's average annual payroll as defined in paragraph (2) of subsection (a) of R.S.43:21-19.

b. An employer shall, within 30 days of the transfer of operations to this State, apply to the department in a form and manner prescribed for determination of eligibility for a reduced new employer contribution rate. The department shall review the application and, if the employer qualifies, assign a reduced new employer contribution rate as set forth in the following table:

Fund Reserve Ratio	10.0% and Over	7.00% to 9.99	4.00% to 6.99%	2.50% to 3.99%	0.00% to 2.49%	Less than 0.00%
Reduced New Employer Rate:	1.0	1.0	1.0	1.1	1.2	1.3

For the purposes of this subsection, "fund reserve ratio" means the unemployment trust fund balance as of March 31 as a percentage of the total taxable wages reported as of that date with respect to the prior calendar year. The employer may, within 30 days of receipt of notice of determination of such a rate, withdraw the request.

c. An employer applying for determination of a contribution rate pursuant to this section shall certify to the department that information with respect to wages, contributions and benefits in connection with the transferred operation, and any other information, as the department deems necessary. The employer shall furnish to the department, at those times and in the manner prescribed, that information with respect to those benefits paid after the transfer, and before each succeeding computation date, which were based on wages applicable to the transferred operations and paid in another state.

L.1992,c.202,s.1.

43:21-7.8. Responsibilities of employee leasing company

3. a. For purposes of the "unemployment compensation law," R.S.43:21-1 et seq., a covered employee is an employee of the employee leasing company. An employee leasing company is responsible for the payment of contributions, surcharges, penalties, and interest assessed under the "unemployment compensation law," R.S.43:21-1 et seq. on wages paid by the employee leasing company to the covered employees during the term of the employee leasing agreement. An employee leasing company shall use the Entity Level Reporting Method to report and pay all required contributions to the unemployment compensation fund as required by R.S.43:21-7, unless the employee leasing company elects the Client Level Reporting Method under subsection c. of this section. An employee leasing company that does not initially elect the Client Level Reporting Method under subsection c. may subsequently elect the Client Level Reporting Method. An employee leasing company which, at sometime after the enactment of this act, elects to use the Client Level Reporting Method may switch back to the Entity Level Reporting Method in the future, but only with the approval of the department, which may not be granted to that employee leasing company more than one time. An employee leasing company and any related "controlled group of corporations" as that term is defined in section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563 shall use the same reporting method for all clients.

b. The Entity Level Reporting Method uses the State employer account number and contribution rate of the employee leasing company to report and pay all required contributions to the unemployment compensation fund as required by R.S.43:21-7 relating exclusively to covered employees. The following provisions apply to an employee leasing company that reports under the Entity Level Reporting Method:

(1) The employee leasing company shall file all quarterly contribution and wage reports in accordance with R.S.43:21-7 using the state tax identification number and the contribution rate of the employee leasing company as determined under the "unemployment compensation law," R.S.43:21-1 et seq.;

(2) The employee leasing company and its client are subject to the provisions of R.S.43:21-7(c)(7), irrespective of whether there is common ownership, as follows:

(a) On July 1 of the year following the effective date of the employee leasing agreement, the department shall transfer the employment experience of the client company to the employee leasing company as a successor in interest, including any credit for past years, contributions paid, annual payrolls, or benefit charges applicable to the client company. The employee leasing company, however, upon the effective date of the employee leasing agreement, shall immediately receive credit for prior contributions paid on behalf of and relating to the covered employees by the client company or, if applicable, another employee leasing company, against wages in the tax year in which the employee leasing agreement begins and shall be immediately subject to the existing rate of the employee leasing company. The department shall provide to the employee leasing company, within 15 days of request, any data related to the client's prior unemployment insurance history, including but not limited to, contributions paid, annual payrolls and benefit charges, on or after the effective date of the employee leasing agreement.

(b) Upon dissolution of an employee leasing agreement, the department shall transfer all of the employment experience of the client company relating to covered employees as a successor in interest from the employee leasing company, including any credit for past years, contributions paid, annual payrolls, or benefit charges applicable to the client company. The employee leasing company shall provide the department with the data the department deems necessary to make that transfer.

(c) On the first July 1 following the termination of an employee leasing agreement, the department shall transfer the employment experience relating to the client company to the succeeding employee leasing company, if any, as a successor in interest, including any credit for past years, contributions paid, annual payrolls, or benefit charges applicable to the client company. The successor employee leasing company, however, upon the effective date of the employee leasing agreement, shall immediately receive credit for prior contributions paid on behalf of and relating to the covered employees by the predecessor employee leasing company, against wages in the tax year in which the new employee leasing agreement begins and the balance of wages due in the tax year shall be immediately subject to the existing rate of the successor employee leasing company. The department shall provide to either employee leasing

company, within 15 days of a written request, any data related to the client company's prior unemployment insurance history, including but not limited to, contributions paid, annual payrolls and benefit charges, on or after the effective date of the employee leasing agreement;

(3) Whenever the employee leasing company enters into an employee leasing agreement with a client company, the employee leasing company shall notify the department not later than 30 days after the end of the quarter in which the employee leasing agreement became effective; and

(4) The employee leasing company shall notify the department in writing on forms prescribed by the department not later than 30 days after the date of the following:

(a) The termination of an employee leasing agreement; or

(b) The employee leasing company elects the Client Level Reporting Method under subsection c. of this section.

Upon dissolution of an employee leasing agreement: the client company's contribution rate and benefit experience shall be determined in accordance with subsection b. of section 7 of P.L.2001, c.260 (C.34:8-73); and the employee leasing company shall provide the department with the information required by subsection b. of section 7 of P.L.2001, c.260 (C.34:8-73).

c. (1) An employee leasing company may elect to use the Client Level Reporting Method, using the state employer account, account number and contribution rate of the client company to report and pay all required contributions to the unemployment compensation fund as required by R.S.43:21-7 relating exclusively to covered employees.

(2) An employee leasing company doing business in New Jersey as of the effective date of this act shall make the election to use the Client Level Reporting Method in writing to the department not later than:

(a) 60 days after the effective date of this act for reporting and payment of contributions under the "unemployment compensation law," R.S.43:21-1 et seq., for the 2014 calendar year; or

(b) September 30, 2014, for reporting and payment of contributions under the "unemployment compensation law," R.S.43:21-1 et seq., effective no later than July 1, 2015.

An employee leasing company not doing business in New Jersey or not registered pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) as of the effective date of this act shall, if it so desires, make the election to use the Client Level Reporting Method and notify the department in writing of that election at the time of registration.

(3) An employee leasing company which uses the Entity Level Reporting Method may subsequently elect the Client Level Reporting Method, subject to the provisions of this section, including the following requirements:

(a) The employee leasing company shall make the election to use the Client Level Reporting Method not later than December 1 of the calendar year before the calendar year in which the election is to be effective;

(b) The election shall be made in a written notice submitted to the department; and

(c) The election shall be effective for the calendar year immediately following the year in which the department receives the notice of election.

(4) The following apply to an employee leasing company that elects to use the Client Level Reporting Method:

(a) Whenever the employee leasing company enters into an employee leasing agreement with a client company, the employee leasing company shall notify the department not later than 30 days after the end of the quarter in which the employee leasing agreement became effective;

(b) An employee leasing company reporting under the Entity Level Reporting Method which elects, in writing, to report under the Client Level Reporting Method shall, within 30 days, provide any data which the department deems necessary to the department to enable the department to calculate the benefit experience rate of each client company;

(c) If a client company is an employing unit when the employee leasing agreement becomes effective, the employee leasing company shall use the client company's account, account number, experience rate, liabilities, and wage credits to file quarterly wage reports and remit payment for taxes associated with those wages;

(d) Unless contrary to applicable law, if a client company is not an employing unit on the date the employee leasing agreement becomes effective, the client company immediately qualifies for an employer experience account under R.S.43:21-7 and is subject to section 1 of P.L.1992, c.202 (C.43:21-7.7) for purposes of establishing an initial contribution rate and the employee leasing company shall use the client company's account and account number to file quarterly wage reports and remit payment for taxes associated with those wages; and

(e) Upon the dissolution of an employee leasing agreement, the client company shall retain the experience balance, liabilities, and wage credits for the client company's employing unit account.

d. For the purposes of this section, the client company which reports under the Entity Level Reporting Method or the Client Level Reporting Method, and not the employee leasing

company, shall remain solely liable for any and all liabilities which originated or preceded the effective date of the employee leasing agreement.

Regardless of the reporting method utilized by an employee leasing company, either the employee leasing company or the client can hold the short term private or public disability insurance policy covering the covered employees.

e. For the purposes of this section:

(1) The term "Client Level Reporting Method" has the meaning set forth in subsection c. of this section;

(2) The term "Entity Level Reporting Method" has the meaning set forth in subsection b. of this section; and

(3) The terms "client company," "covered employee," "employee leasing agreement" or "professional employer agreement," and "employee leasing company" or "professional employer organization" have the meanings set forth in section 1 of P.L.2001, c.260 (C.34:8-67).

L.2013, c.225, s.3; amended 2021, c.39.

43:21-7.9. Unemployment compensation benefits for 2020 not considered in employer's reserve ratio

1. a. The costs of any unemployment compensation benefits paid to employees of an employer during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency, shall not be considered when calculating that employer's reserve ratio for the purposes of determining the rate of the employer's contributions to the State unemployment compensation fund pursuant to R.S.43:21-7.

b. Any employer that is a nonprofit organization which elects to make payments in lieu of contributions pursuant to section 3 of P.L.1971, c.346 (C.43:21-7.2) or is a governmental entity or instrumentality which elects to make payments in lieu of contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-7.3), shall not be liable for payments in lieu of contributions with respect to the payments of unemployment compensation benefits made pursuant to either of those two sections during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency, except that the employer shall be required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. Any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, or pursuant to any other applicable federal law, shall not result in a

liability for the employer but shall be regarded as State liability relief to the employer and shall be paid from the unemployment compensation fund. Any reimbursing employer who, prior to the effective date of this act, made payments in lieu of contributions during the public health emergency shall be entitled to a reimbursement from the unemployment compensation fund of all of those payments in lieu of contributions made during this period, except that the employer shall not be reimbursed for payments made in lieu of contributions from funds held in trust for that purpose from contributions made by its employees.

2020, c.150, s.1; amended 2021, c.143.

43:21-8. Period, election, and termination of employer's coverage

(a) Any employing unit which is or becomes an employer subject to this chapter (R.S. 43:21-1 et seq.) within any calendar year shall be subject to this chapter (R.S. 43:21-1 et seq.) during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this chapter (R.S. 43:21-1 et seq.) only as of January 1 of any calendar year, if

(1) The employing unit files with the division prior to February 1 of such year, a written application for termination of coverage, and the division finds that the employing unit did not pay wages in the amount of $1,000.00 or more within the preceding calendar year for employment subject to this chapter (R.S. 43:21-1 et seq.) or

(2) The division finds that during the 2 calendar years preceding such January 1, there was no day on which such employing unit employed one or more individuals in employment subject to this chapter (R.S. 43:21-1 et seq.).

For the purpose of this subsection, the employing units mentioned in section 43:21-19(h)(2), (3) or (4) of the Revised Statutes shall be treated as a single employing unit.

(c)(1) An employing unit, not otherwise subject to this chapter (R.S. 43:21-1 et seq.), which files with the division its written election to become an employer subject hereto for not less than 2 calendar years shall become an employer subject hereto, to the same extent as all other employers, as of the date of filing of such election or as of an earlier date if approved by the division, and shall cease to be subject to this chapter (R.S. 43:21-1 et seq.) as of January 1 of any calendar year subsequent to such period of election, only, if, prior to February 1, of such calendar year, such employing unit has filed with the division a written notice to that effect and it meets the conditions for termination of coverage set forth in subsection (b) hereof.

(2) If an employing unit for which services are performed that do not constitute employment as defined in this chapter (R.S. 43:21-1 et seq.) files with the division its written election that all such services performed by individuals in its employ in one or more distinct

establishments or places of business shall be deemed to constitute employment for all purposes of this chapter (R.S. 43:21-1 et seq.) for not less than 2 calendar years such services shall be deemed to constitute employment subject to this chapter (R.S. 43:21-1 et seq.) as of the date of the filing of such election, or as of an earlier date if approved by the division, and shall cease to be subject to this chapter (R.S. 43:21-1 et seq.) as of January 1 of any calendar year subsequent to such period of election, only, if, (A) prior to February 1 of such calendar year, such employing unit has filed with the division a written notice to that effect, or (B) the division finds that during the 2 calendar years preceding such January 1, there was no day on which such services were performed for the employing unit.

Amended by L.1945, c. 73, p. 367, s. 2; L.1953, c. 220, p. 1673, s. 1; L.1961, c. 43 , p. 450, s. 6; L.1967, c. 30, s. 5; L.1971, c. 346, s. 7; L.1977, c. 307, s. 7, eff. Dec. 30, 1977.

43:21-9. Unemployment compensation fund

(a) Establishment and control. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an unemployment compensation fund, which shall be administered by the Department of Labor exclusively for the purpose of this chapter (R.S. 43:21-1 et seq.). This fund shall consist of: (1) all contributions and payments in lieu of contributions collected under this chapter (R.S. 43:21-1 et seq.); (2) interest earned upon any moneys in the fund; (3) any property or securities acquired through the use of moneys belonging to the fund; (4) all earnings on such property or securities; (5) all moneys credited to this State's account in the unemployment trust fund pursuant to section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended; and (6) all moneys received for the fund from any other source. All moneys in this fund shall be mingled and undivided.

(b) Accounts and deposits. The Treasurer of the State of New Jersey shall be ex officio the treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department and shall issue his warrants upon it in accordance with such regulations as the department shall prescribe. He shall maintain within the fund three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the department, shall be forwarded to the treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to subsection (f) of section 43:21-14 of this Title may be paid from the clearing account upon warrants issued by the treasurer under the direction of the controller. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act (42 U.S.C. s. 1104), as amended, any provisions of law in this State relating to the deposit, administration, release or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the controller, in any bank or public depository in which general funds of the State may be deposited, but no public

deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the controller and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals from the unemployment trust fund.

(1) Benefit payments. Moneys requisitioned from this State's account in the unemployment trust fund shall be used solely for the payment of benefits and in accordance with regulations prescribed by the division, except that money credited to this State's account pursuant to section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended, may be used for the payment of expenses for the administration of this chapter (R.S. 43:21-1 et seq.), as provided in paragraph (2) of this subsection. The controller shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account, and the payment of benefits shall be made solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations of other formal release by State officers of money in their custody. All warrants for the payment of benefits shall be issued by and bear only the signature of the Commissioner of Labor or his duly authorized agent for that purpose. All warrants for the payment of refunds shall be issued by the treasurer and bear the signature of the treasurer and the countersignature of the commissioner or his duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the department, shall be deposited with the Secretary of the Treasury of the United States of America, to the credit to this State's account in the unemployment trust fund, as provided in subsection (b) of this section.

(2) Administrative use. Moneys credited to the account of this State by the Secretary of the Treasury of the United States in the unemployment trust fund pursuant to section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended, may be requisitioned and used for the payment of expenses for the administration of the Unemployment Compensation Law (R.S. 43:21-1 et seq.), pursuant to a specific appropriation by the Legislature, provided that the expenses are incurred and the moneys are requisitioned after the enactment of an appropriation law which:

(A) specifies the purposes for which such moneys are appropriated and the amounts appropriated therefor;

(B) limits the period within which such moneys may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(C) limits the moneys which may be obligated during a 12-month period beginning on July 1 and ending on the next June 30 to a sum which does not exceed the amount by which the aggregate of the moneys credited to the account of this State pursuant to section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended, during the same 12-month period and the 34 preceding 12-month periods, exceeds the aggregate of moneys obligated for the payment of expenses incurred for the administration of this chapter (R.S. 43:21-1 et seq.) and the moneys paid out for benefits, which is charged against the moneys credited to the account of this State during such 35 12-month periods.

Moneys credited to this State's account in the unemployment trust fund under section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended, which are obligated for the payment of expenses for the administration of this chapter (R.S. 43:21-1 et seq.) or paid out for benefits, shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no moneys obligated for the payment of expenses for the administration of this chapter (R.S. 43:21-1 et seq.) during a 12-month period specified herein may be charged against any amount credited during such a 12-month period earlier than the thirty-fourth preceding such period.

Money appropriated as provided herein for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under such appropriation and upon requisition shall be deposited in the unemployment compensation administration fund from which such payments shall be made. Money so deposited shall, until expended, remain a part of the unemployment compensation fund. If such money will not be expended, it shall be returned promptly to the Secretary of the Treasury of the United States for credit to this State's account in the unemployment trust fund. The controller shall maintain a separate record of the credits, appropriation, obligation and expenditure of the money credited to the account of this State in the unemployment trust fund pursuant to section 903 of the Social Security Act (42 U.S.C. s. 1103), as amended.

(d) Management of funds upon discontinuance of unemployment trust fund. The provisions of subsections (a), (b) and (c) to the extent that they relate to the unemployment trust fund shall be operative only so long as such unemployment trust fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein belonging to the unemployment compensation fund of this State shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such moneys, properties or securities in a manner approved by the department, in accordance with the provisions of this chapter; provided that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America and of the State of New Jersey; and provided, further, that such investment shall at all times be so made that all the assets

of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the department.

Amended by L.1939, c. 94, p. 191, s. 3; L.1948, c. 79, p. 453, s. 1; L.1955, c. 67, p. 225, s. 1; L.1955, c. 258, p. 944, s. 1; L.1960, c. 28, p. 91, s. 2; L.1966, c. 173, s. 1, eff. June 18, 1966; L.1971, c. 346, s. 8; L.1973, c. 362, s. 1, eff. Jan. 2, 1974; L.1984, c. 24, s. 7, eff. Oct. 1, 1984.

43:21-9.1. Cancellation of record of checks not presented for payment within 6 years

The State Treasurer, as treasurer and custodian of the unemployment compensation and State disability benefits funds, is hereby authorized and directed to cancel of record and to refuse to honor checks issued against any of the accounts established within the unemployment compensation and State disability benefits funds which have not been presented for payment within 6 years from the date of issuance. Upon such cancellation, moneys held on deposit for the payment of the checks shall be credited to the accounts against which said checks were drawn.

L.1966, c. 24, s. 1, eff. April 21, 1966.

43:21-10. Unemployment compensation commission

(a) Organization. There is hereby created a commission to be known as the Unemployment Compensation Commission of New Jersey. It shall consist of seven members who shall be appointed by the Governor, with confirmation by the Senate, not more than four of whom shall be of the same political affiliation. Each member shall be reimbursed for his traveling and other expenses actually and necessarily incurred by him in the performance of his duties, and, in addition, shall receive a per diem allowance of twenty-five dollars ($25.00) for each day, or part thereof, spent in the rendition of service to or for the commission under this act; provided, however, that no member shall in any case receive per diem compensation as such member in an amount in excess of three thousand five hundred dollars ($3,500.00) for any one fiscal year. The payment heretofore of any such per diem allowance to any member of the commission for services performed under this chapter during the period from April twentieth, one thousand nine hundred and forty-five, to October seventh, one thousand nine hundred and forty-seven, is hereby approved, ratified and confirmed; and the payment hereafter of any such per diem allowance to any member of the commission for services performed under this chapter, since September first, one thousand nine hundred and forty-seven, and for which no such per diem allowance was paid, is hereby authorized. No person may be appointed who is an officer or committee member of any political party organization. First appointees to the commission shall serve as designated by the Governor at the time of appointment, as follows: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years. At the expiration of initial terms, appointments shall be made for a term of seven years in each case. Any vacancies created by death, resignation or removal shall be filled by appointment for the unexpired portion of the term so vacated.

The Governor may, at any time after a fair public hearing, remove any member of the commission for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

(b) Executive director. The commission shall appoint an executive director who shall be the chief executive and approval officer of the commission and its official agent for all purposes, and who shall hold office at its pleasure. He shall give his full time to the duties of his office, shall be paid a suitable salary to be fixed by the commission and shall have general charge and supervision of the work of all departments of the commission as well as any subdivisions thereof.

It shall be the duty of the executive director to administer this chapter with the advice of the commission; and to that end, the executive director shall have the following duties and powers:

(1) To formulate necessary rules and regulations, subject to approval by the commission.

(2) To appoint and fix the compensation of members of the staff, subject to approval by the commission and subject to the provisions of subsection (d) of section eleven of this chapter.

(3) To make such expenditures as are necessary in the discharge of his functions hereunder as provided for in the budget to be approved annually by the commission, to make requisitions for any funds provided by the Federal Government for administration of this chapter, and he is hereby authorized to draw vouchers on the administration fund for the purpose of administering this chapter.

(4) To draw vouchers upon the unemployment compensation fund and the appropriate accounts therein for the payment of benefits.

(5) To delegate to other persons any of the powers conferred upon him by this chapter, so far as is reasonably necessary.

(c) Divisions. The executive director shall establish such administrative divisions as may be necessary to carry out the purposes of this chapter, subject to approval of the commission. Among such divisions shall be New Jersey State Employment Service Division, established pursuant to section 43:21-12 of this Title. The New Jersey State Employment Service shall be a separate administrative unit with respect to personnel, budget, and duties, except insofar as the commission may find such separation to be impracticable.

(d) Board of review. The executive director shall appoint, subject to the provisions of Title 11, Civil Service, from civil service eligible lists, subject to approval of the commission, a board of review, consisting of three members whose duties shall be to act as a final appeals board in cases of benefit disputes, including appeals from determinations with respect to demands by the deputy for refunds of benefits under section 43:21-16(d) of this chapter and to whom shall be delegated the duty of supervising the work of local appeal tribunals to be organized as provided

for elsewhere in this chapter. No member of the board of review shall participate in any case in which he is an interested party.

(e) Powers and duties. The commission shall have the following specific powers and duties:

(1) To designate its chairman.

(2) To study the operation of this chapter and from time to time prepare recommendations to the Governor and Legislature with respect to any improvements which might be desirable.

(3) To make rules and regulations governing its own procedure.

(4) To advise the executive director and other members of the commission staff with particular respect to policies and procedures.

(f) Quorum. Any four commissioners shall constitute a quorum. No vacancies shall impair the right of the remaining commissioners to exercise all of the powers of the commissioner.

Amended by L.1940, c. 252, p. 955, s. 1; L.1945, c. 308, p. 897, s. 3; L.1948, c. 184, p. 930, s. 1.

43:21-11. Administration

(a) Duties and powers of the Department of Labor and Workforce Development. The department shall have power and authority to adopt, amend, or rescind such rules and regulations, require such reports, make such investigations, and take such other action as it deems necessary or suitable or to administer this chapter; provided that the Commissioner of Labor and Workforce Development may delegate such power and authority, subject to his ultimate supervision and control. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the department shall prescribe. The department shall determine its own organization and methods of procedure, in accordance with the provisions of this chapter. Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

(b) Regulations and general and special rules. General and special rules may be adopted, amended, or rescinded by the department. General rules shall become effective 10 days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective 10 days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the department and shall become effective in the manner and at the time prescribed by the department.

(c) Publication. The department shall cause to be printed for distribution to the public the text of this chapter, the department's regulations and general rules, its annual reports to the Governor, and any other material the department deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel. Subject to other provisions of this chapter, the department is authorized to appoint (subject to the provisions of Title 11, Civil Service), fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under R.S. 43:21-1 et seq. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis from lists of eligible persons prepared by the Civil Service Commission, in accordance with the provisions of Title 11, Civil Service, except that any attorney, now or hereafter in office or position of legal assistant for the department, shall be placed in the exempt class of the civil service and thereafter shall not be subject to removal except for cause and then only in accordance with the provisions of Title 11, Civil Service; provided, however, that nothing herein shall be construed to apply to any attorney designated as special counsel in accordance with the provisions of sections 43:21-6, subsection (h), and 43:21-17. The division shall not employ or pay any person who is an officer or committee member of any political party organization. The commissioner may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this chapter, and may in his discretion bond any person handling moneys or signing checks hereunder.

(e) Employment Security Council. There shall be within the department an Employment Security Council, as established and constituted under the Department of Labor and Industry Act of 1948 (P.L.1948, c. 446; C. 34:1A-1 et seq.).

(f) Employment stabilization. The department, with the advice and aid of the Employment Security Council, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the State in every other way that may be feasible, and to these ends to carry on and publish the records of investigations and research studies.

(g) Records and reports. Each employing unit shall keep true and accurate employment records, containing such information as may be prescribed. Such records shall be open to inspection and be subject to being copied by the director of the division and the controller or their authorized representatives at any reasonable time. The department may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which are deemed necessary for the effective administration of this chapter. Under such rules and regulations as may be adopted by the department, reports relative to wages and separation from employment may be required from any employer or employing unit at the time such employer or employing unit suspends business operations in this State, or from any employer or employing

unit which fails to cooperate in submitting promptly the wage and employment data which may be required under paragraph (2) of subsection (b) of section 43:21-6 of this Title. If the nature of such suspension is temporary or in the nature of a transfer, then the employer or employing unit may be excused from furnishing such a termination report upon assurances that proper arrangements have been made to supply any information which may be required under paragraph (2) of subsection (b) of section 43:21-6 of this Title. The department may require from any employer or employing unit reports relative to wages and separation in such manner and at such time as may be necessary for the effective administration of this chapter.

All records, reports and other information obtained from employers and employees under this chapter, except to the extent necessary for the proper administration of this chapter, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties, and shall not be subject to subpena or admissible in evidence in any civil action or proceeding other than one arising under this chapter, but any claimant at a hearing before an appeal tribunal, the division or the board of review shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any officer or employee of the department who violates any provision of this section shall be liable to a fine of $200.00, to be recovered in a civil action in the name of the division, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund.

(h) Oaths and witnesses. In the discharge of the duties imposed by this chapter, the controller, the appeal tribunal and any duly authorized representative or member of the division, the director or any deputy director thereof or member of the board of review shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter. Witnesses subpenaed pursuant to this section shall in the discretion of the department be allowed fees at a rate to be fixed by it. Such fees shall be deemed a part of the expense of administering this chapter.

(i) Subpenas. In case of contumacy by or refusal to obey a subpena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the department or its duly authorized representative, or the board of review, shall have jurisdiction to issue to such person an order requiring such person to appear before the board of review or a member thereof, the department or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpena of the division or of the board of review shall be punished by a fine of not more than

$200.00 or by imprisonment for not longer than 60 days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the department or the board of review or in obedience to the subpena of a member of the department or the board of review or a member thereof, or any duly authorized representative thereof in any cause or proceeding before the department, the board of review or a member thereof, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) State-Federal cooperation. In the administration of this chapter the department shall cooperate to the fullest extent, consistent with the provisions of this chapter, with the United States Department of Labor to secure to this State and its citizens all advantages available under the provisions of the Social Security Act (42 U.S.C. s. 301 et seq.), as amended, the Federal Unemployment Tax Act (26 U.S.C. s. 3301 et seq.), as amended, and the Wagner-Peyser Act (29 U.S.C. s. 49 et seq.), as amended; shall make such reports, in such form and containing such information as the United States Secretary of Labor may from time to time require; and shall comply with such provisions as the United States Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States Secretary of Labor governing the expenditure of such sums as may be allotted and paid to this State under any of such federal acts.

Upon request therefor, the department shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter.

The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

The department is authorized to make such investigations and exercise such of the other powers provided herein with respect to the administration of this chapter and to transmit such information and make available such services and facilities to the agency charged with the administration of any State or federal unemployment insurance or public employment service law as it deems necessary or appropriate to facilitate the administration of such law and to accept and utilize information, services and facilities made available to this State by such agency.

The department shall adopt regulations prescribed by the United States Secretary of Labor to address state unemployment tax avoidance and to insure that the transfer or acquisition of a business is not done for the specific purpose of avoiding higher contribution rates.

(l) The controller shall establish procedures to identify employers who engage in the transfer or acquisition of a business, trade or organization for the purposes of achieving an unemployment tax rate unrelated to employment experience.

Amended 1939, c.94, s.4; 1940, c.252, s.2; 1952, c.187, s.5; 1961, c.43, s.7; 1984, c.24, s.8; 2005, c.239, s.2.

43:21-11.1. Administration; agricultural workers

The Department of Labor shall take any actions as the commissioner deems necessary to improve the administration of the unemployment compensation program as it concerns agricultural workers. The actions shall include, but not be limited to, the following:

a. Strengthening the enforcement of the provisions of subsections (a) and (c) of R.S. 43:21-5 concerning the disqualification of applicants for benefits as the provisions apply to agricultural workers;

b. Making bilingual forms available for all Spanish speaking agricultural workers applying for or receiving benefits; and

c. Implementing procedures to accelerate the processing of the unemployment compensation claims of agricultural workers, including workers who live outside of the State.

L. 1985, c. 508, s. 9, eff. Jan. 21, 1986.

43:21-11.2. Notice posting; penalties for violation

a. An employer or contracting agent of an employer who employs any employee covered by subparagraph (I) of paragraph (1) of subsection (i) of R.S.43:21-19 shall post, in a conspicuous location or locations accessible to all employees, a notice which shall contain in English and Spanish the following or a substantially similar statement prescribed by the Commissioner of Labor: "Attention Farm Laborer: Any individual seeking unemployment benefits on the basis of the production and harvesting of agricultural crops is required under law to accept an offer of continuing suitable work with his current employer following the completion of the contract of hire if no other suitable work is offered. Failure to accept work under these conditions may result in a denial of benefits until the worker is employed for four weeks and earns six times his weekly benefit rate. If you have any questions about eligibility under the New Jersey 'unemployment compensation law,' you may contact the New Jersey Department of Labor."

b. An employer who fails to post a notice as required under subsection a. of this act shall be issued by the Department of Labor a written warning for the first violation of subsection a. of this section, and shall be fined up to $25.00 for the second violation and up to $100.00 for the third violation and each subsequent violation of subsection a. of this section. A penalty imposed by the commissioner pursuant to this act shall be final, unless within 15 days after receipt of

notice thereof by certified mail, the person charged with the violation takes exception to the determination that the violation for which the penalty is imposed occurred, in which event final determination of the penalty shall be made as a declaratory ruling under section 8 of P.L.1968, c.410 (C.52:14B-8) and subject to review in the Superior Court of the State of New Jersey.

c. The Department of Labor shall provide to each employer covered by this section a copy or copies of the notice prescribed by subsection a. of this section.

L. 1989, c. 29, s. 1.

43:21-11.3. Returns for domestic service filed on calendar year basis; exceptions.

2. a. Notwithstanding the provisions of subsection (a) of R.S.43:21-14 and subparagraph (E) of paragraph (1) of subsection (d) of R.S.43:21-7 to the contrary, except for an employer also liable for making or withholding contributions with respect to remuneration for services rendered other than for domestic service, returns reporting employer and employee contributions with respect to domestic service shall be filed on a calendar year basis. Such a return shall be filed on or before January 31 following the close of the calendar year, and the amount of contributions shall be paid over to the Director of the Division of Revenue in the Department of the Treasury at that time.

b. Notwithstanding the provisions of R.S.43:21-16 or any other law to the contrary, the contributions due pursuant to subsection a. of this section shall be treated as taxes due pursuant to N.J.S.54A:1-1 et seq., subject to the provisions of section 1 of P.L.1999, c.94 (C.54A:9-17.2).

c. The Commissioner of the Department of Labor, in consultation with Director of the Division of Revenue in the Department of the Treasury, shall prescribe such regulations as the commissioner deems necessary to carry out the purpose of allowing employers to convert from a quarterly system of payments and filing to annual filing, and to simplify employer filing by allowing the combination of unemployment compensation, disability benefits and gross income tax remittance for reporting and payment purposes for employees providing domestic services.

d. Notwithstanding the provisions of subsection a. of this section, an employer subject to the provisions of this section shall, within 10 days of the separation from employment of an employee in domestic service whose contributions are treated as taxes pursuant to the provisions of this section, report to the Commissioner of the Department of Labor, on a form determined by the commissioner, wage information for all completed calendar quarters of employment not previously reported and such other separation information as may be required to properly process an unemployment compensation claim.

e. For the purposes of this section, "domestic service" means domestic service as an employee in a private home of the employer, such as service as a babysitter, nanny, health aide, private nurse, maid, caretaker, yard worker or similar domestic employee.

L.1999,c.94,s.2.

43:21-11.4. Establishment of system of annual filings

3. a. The Commissioner of Labor shall establish a system of annual filings to meet the alternative system requirements of paragraph (3) of subsection (a) of 42 U.S.C. s.1320b-7 on or before the 30th day after enactment of P.L.1999, c.94 (C.54A:9-17.2 et al.), and shall seek waiver from the United States Secretary of Labor in conformance with paragraph (3) of subsection (a) of 42 U.S.C. s.1320b-7.

b. Notwithstanding any other provisions of this act to the contrary, the powers of the commissioner pursuant to the provisions of subsection (g) of R.S.43:21-11 to require quarterly reports of wages paid are reserved to the commissioner, to be exercised after compliance with subsection a. of this section if necessary to maintain a State income and eligibility verification system in compliance with the requirements of paragraph (3) of subsection (a) of 42 U.S.C. s.1320b-7.

L.1999,c.94,s.3.

43:21-11.5. Information regarding New Jersey Supplemental Nutrition Assistance Program on Department of Labor and Workforce Development communication

1. The Department of Labor and Workforce Development shall make available on its website and emails concerning unemployment benefits a link to the New Jersey Supplemental Nutrition Assistance Program, as established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.).

L.2021, c.244.

43:21-11.6. Report to Legislature, public, unemployment compensation benefit claims, appeals, processing

1. The commissioner shall, not later than December 31, 2023 and each subsequent year, issue, provide to the Legislature, and make available to the public in a prominent location on the department's website, a report regarding the department's performance in providing timely and accurate processing of, and adjudicating appeals concerning, unemployment compensation benefit claims. The report shall include:

a. (1) The number of personnel in the department employed in the administration of the unemployment insurance system and the budgeted cost of salaries and benefits for those personnel;

(2) The number of personnel who are processing unemployment benefit claims, the number engaged in other functions of the system, and the budgeted cost of salaries and benefits for those personnel;

(3) What percentage of total division administrative costs is comprised of those categories of personnel costs;

b. Information regarding the appropriations for the system during the fiscal year in which the report is made and the preceding fiscal year, including:

(1) For both fiscal years, the amount appropriated in federal funds, the budget authority, the budget reserve, the amount expended, and the amount of each year's appropriation not expended;

(2) The anticipated expenditures for the remainder of the fiscal year in which the report is made; and

(3) The total unexpended moneys remaining from any previous appropriation; and

c. If an acceptable level of performance was not attained during the year, the level of performance was substantially below the national average, or it is determined that there are other significant problems in the administration of the system, the report shall provide an evaluation of the causes of the deficiencies and a plan to correct them. That plan shall include:

(1) Any increase in personnel needed to process claims and appeals of claims and make benefit payments expeditiously and accurately;

(2) Any measures needed to enforce notification and reporting requirements;

(3) Any measures needed to inform employers and employees of their responsibilities to facilitate the timely provision of benefits;

(4) Any improvements needed in data processing, telephone and other communications technology, staff training, and other administrative services and equipment;

(5) Any measures needed to improve service to claimants and beneficiaries, including implementing easy-to-use, user-friendly application processes, facilitating rapid response times to inquiries and applications, and providing easy access to personal assistance as needed; and

(6) Any other measures appropriate for a full modernization of the administration of all aspects of the unemployment insurance system.

The plan shall include all of the provisions of any applicable corrective action plan which is included in an Unemployment Insurance State Quality Service Plan approved by the U.S. Department of Labor. The plan shall, as needed, also provide for measures, in addition to those provided in those corrective action plans, to attain more rapid improvements in performance and provide for greater commitments of resources to attain its goals than the federal plan, including expenditures of funds held in reserve and other unexpended funds, and funding from non-federal

sources, including the Unemployment Compensation Auxiliary Fund. The commissioner shall include any proposals of the report for greater commitments of resources in the commissioner's budget requests for the fiscal year following the issuing of the report.

L.2023, c.42.

43:21-12. Employment service

(a) State employment service. The employment bureau of the New Jersey Department of Labor and its present personnel, including those employed by the New Jersey national re-employment service, is hereby transferred to the commission as a division thereof, which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An act to provide for the establishment of a national employment system and for co-operation with the States in the promotion of such system, and for other purposes," approved June sixth, one thousand nine hundred and thirty-three (48 Stat. 113; U.S.C. Title 29, sec. 49(c)), as amended. The said division shall be administered by a full-time salaried director, who shall be charged with the duty, subject to the supervision of the commission and the executive director, to co-operate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with section four of said act, and this State will observe and comply with the requirements thereof. The New Jersey State Employment Service Division is hereby designated and constituted the agency of this State for the purpose of said act. The executive director, with the approval of the commission, is empowered to appoint, subject to the provisions of Title 11, Civil Service, the director, other officers, and employees, subject to the provisions aforesaid, of the New Jersey State Employment Service on a nonpartisan merit basis from lists of eligible persons prepared by the Civil Service Commission and in accordance with regulations prescribed by the director of the United States Employment Service; provided, however, that present employees having civil service status shall retain full rights as provided in Title 11, Civil Service. The commission may co-operate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) Financing. All moneys received by this State under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the unemployment compensation administration fund, and said moneys are hereby made available to the New Jersey State Employment Service to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, commission is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State, or with any private, nonprofit

organization, and as a part of any such agreement the commission may accept moneys, services, or quarters as a contribution to the employment service account.

Amended by L.1939, c. 94, p. 201, s. 5.

43:21-12.1. Executed

43:21-12.2. Executed

43:21-12.3. Civil service, pension and other rights of employees not affected during period of service to Federal government

No civil service, pension or other rights, including rights to promotion and to increase in remuneration, of any individual whose services were made available to the Federal government under the act to which this act is supplementary, shall be impaired or prejudiced during the period in which any such individual shall have rendered services to the Federal government thereunder, but shall be preserved and shall remain intact as of the date of induction into and transfer to said Federal service; and in the event any such individual shall have been promoted, or shall have received any increase in remuneration, while in such Federal service, such individual, when remitted to State service, shall retain and enjoy such rights so accruing to him while in the Federal service; provided, the New Jersey Civil Service Commission shall find, upon an examination and survey of the law and procedures applied and used in determined and setting up such advance in position and remuneration, that the individual would have been entitled under State law and procedures to acquire, hold and enjoy such advance in position and remuneration against all other individuals interested or concerned.

L.1943, c. 171, p. 491, s. 1.

43:21-12.4. Commission may arrange with federal agencies for jobs for veterans; expenses

The Unemployment Compensation Commission is authorized to enter into arrangements or agreements with any administrator, agent, agency, board or body designated and established under any law or laws of the United States providing for the placement in jobs of honorably discharged veterans of World War II and for the payment to such veterans of benefits or readjustment allowances covering periods of unemployment, whereby the personnel, records and facilities of the commission shall be employed, under the direction and control of the commission, for implementing and carrying into effect such Federal law, or laws; provided, however, that all costs and expenses incurred as well as all funds to make payments of such benefits and readjustment allowances shall be provided by Federal grant, and not devolve upon the State of New Jersey.

L.1944, c. 232, p. 788, s. 1.

43:21-12.4a. Agreement with United States Secretary of Labor regarding payment of unemployment compensation to veterans

The Division of Employment Security is authorized to enter into an agreement with the United States Secretary of Labor under Title IV of the Veterans' Readjustment Assistance Act of one thousand nine hundred and fifty-two (Public Law 550, 82nd Congress, 66 Stat. 663), entitled "Unemployment Compensation for Veterans of Service On and After June 27, 1950," whereby the division, as agent of the United States, will, in accordance with the provisions of said Title, make payments of unemployment compensation to veterans as therein defined, and will otherwise co-operate with the Secretary of Labor and with other State agencies in making such payments; provided, however, that all costs and expenses incurred, as well as all funds to make payments of such unemployment compensation shall be provided by Federal funds and shall not devolve upon the State of New Jersey; and further provided , that subsection (f) of section 43:21-5 of the Revised Statutes shall be inapplicable with respect to such benefits so paid.

L.1953, c. 217, p. 1640, s. 1.

43:21-12.4b. Actions taken by Division of Employment Security ratified

All acts and actions heretofore taken by the Division of Employment Security or any of its representatives in co-operating with the Federal authorities in the payment of such benefits are approved, ratified and confirmed.

L.1953, c. 217, p. 1640, s. 2.

43:21-12.5. Civil service employees of Employment Service Division remitted to state service; survey of personnel, duties and compensation

The permanent civil service employees of the Employment Service Division whose services were made available to the Federal Government under the act to which this act is supplementary, who have been remitted to State service, shall be the subject of a survey by the Civil Service Commission which shall make a study of such personnel, their present duties and compensation for the purpose of arriving at such adjustments of salary, civil service and other classifications and duties as may be requisite in order to effectuate as nearly as may be an equalization of compensation for the performance of similar duties and the payment of salaries commensurate with the work performed.

L.1948, c. 68, p. 416, s. 1.

43:21-12.6. Adjustments of compensation

Adjustments of compensation after the allocation of positions under the new compensation plan resulting from the above classification survey shall be made as follows: The compensation of each employee then receiving a rate per year within the range prescribed for

the class in which his position falls shall be increased to the next higher increment rate as funds shall be available; the compensation of each employee then receiving less than the minimum rate per year for the class in which his position falls shall be increased in rate per year to the minimum for the class as funds shall be available. Any employee found to be then receiving more than the maximum rate per year for the class in which his position falls shall be reduced to the maximum rate of such class.

L.1948, c. 68, p. 416, s. 2.

43:21-12.7. Administration by Civil Service Commission

This act shall be administered by the Civil Service Commission in accordance with the provisions of section 11:5-1 of the Revised Statutes.

L.1948, c. 68, p. 417, s. 3.

43:21-12.8. Reconversion unemployment benefits for seamen; arrangements with federal officials

The Unemployment Compensation Commission is authorized to enter into arrangements or agreements with the Federal Security Administrator or with any administrator, agent, agency, board or body designated and established in and by Section 306 of the Act of Congress entitled "An act to amend the Social Security Act and the Internal Revenue Code, and for other purposes," being designated as Public Law 719, 79th Congress, approved August 10, 1946, providing for the payment of reconversion unemployment benefits for seamen, whereby the personnel, records and facilities of the commission shall be employed, under the direction and control of the commission, for implementing and carrying into effect said Section 306 of such Federal law, and whereby the New Jersey wage credits of any claimant during his base year may be supplemented by the wage credits accruing during the same base year to such claimant under the said Federal Act for the purpose of making a single payment of benefits to such claimant with respect to any compensable week upon the basis of the wage credits so combined; provided, however, that all costs and expenses incurred, as well as all funds to make payments of such reconversion unemployment benefits for seamen, shall be provided by Federal grant and not devolve upon the State of New Jersey; and further provided, that any arrangement or agreement so entered into shall provide that where New Jersey wage credits are insufficient in themselves to support benefit payments to any claimant under the New Jersey Unemployment Compensation Law, and are taped out with Federal credits, no benefits paid against the New Jersey wage credits so used will be paid out of the New Jersey benefit fund or be charged against the account of any New Jersey employer; and further provided, that subsection (f) of section 43:21-5 of the Revised Statutes shall be inapplicable with respect to such benefits so paid.

All acts and action heretofore taken by the Unemployment Compensation Commission or any of its representatives in cooperating with the Federal authorities in the payment of such benefits are approved, ratified and confirmed.

L.1948, c. 182, p. 926, s. 1.

43:21-13. Unemployment compensation administration fund

(a) Administration fund. There is hereby created in the State treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Division of Employment Security of the Department of Labor and Industry of the State of New Jersey. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this chapter (R.S. 43:21-1 et seq.), except that moneys requisitioned and deposited therein pursuant to paragraph 43:21-9(c)(2) of this Title shall remain part of the unemployment compensation fund and shall be used only in accordance with said paragraph. The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, or from any other source (excepting moneys provided for in subsection (g) of section 43:21-14 and subsections (a), (b), (c) and (e) of section 43:21-16) for the administration of this chapter (R.S. 43:21-1 et seq.); all moneys received from the United States of America, or any agency thereof, or from any other State, or agency thereof, as compensation for services or facilities supplied thereto; all moneys received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Unemployment Compensation Administration Fund, or by reason of damage to property, equipment or supplies purchased from moneys in such fund; and all proceeds realized from the sale or disposition of any such property, equipment or supplies which may no longer be necessary for the proper administration of this chapter (R.S. 43:21-1 et seq.). All moneys in this fund received from the United States of America, or any agency thereof, under Title III of the Social Security Act (42 U.S.C. 501 et seq.), as amended or the Wagner-Peyser Act, as amended, shall be expended solely for the purposes, and in the amounts, found necessary by the Secretary of Labor of the United States for the proper and efficient administration of this chapter (R.S. 43:21-1 et seq.). All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements provided by law for other special funds in the State treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the Division of Employment Security of the Department of Labor and Industry of the State of New Jersey for expenditure consistent with this chapter (R.S. 43:21-1 et seq.). The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the Division of Employment Security of the Department of Labor and Industry of the State of New Jersey and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 43:21-9 of this chapter (R.S. 43:21-1 et seq.) shall be paid from the moneys in the Unemployment Compensation Administration Fund.

(b) Reimbursement of fund. If any moneys in the Unemployment Compensation Administration Fund paid to this State under Title III of the Social Security Act, as amended, or the Wagner-Peyser Act, as amended, are found by the Secretary of Labor of the United States, because of any action or contingency, to have been lost or to have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor of the

United States for the proper administration of this chapter (R.S. 43:21-1 et seq.), it is the policy of this State that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this State to the Unemployment Compensation Administration Fund for expenditure as provided in subsection (a) of this section. Upon receipt of notice of such a finding by the Secretary of Labor of the United States, the Division of Employment Security of the Department of Labor and Industry of the State of New Jersey shall promptly report the amount required for such replacement to the Governor, and the Governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount.

Amended by L.1939, c. 94, p. 202, s. 6; L.1941, c. 225, p. 641, s. 1; L.1948, c. 79, p. 457, s. 2; L.1950, c. 225, p. 559, s. 1; L.1960, c. 28, p. 96, s. 3

43:21-14. Periodic contribution reports

(a) (1) In addition to such reports as may be required under the provisions of subsection (g) of R.S.43:21-11, every employer shall file with the controller periodic contribution reports on such forms and at such times as the controller shall prescribe, to disclose the employer's liability for contributions under the provisions of this chapter (R.S.43:21-1 et seq.), and at the time of filing each contribution report shall pay the contributions required by this chapter (R.S.43:21-1 et seq.), for the period covered by such report. The controller may require that such reports shall be under oath of the employer. Any employer who shall fail to file any report, required by the controller, on or before the last day for the filing thereof shall pay a penalty of $10.00 for each day of delinquency until and including the fifth day following such last day and for any period of delinquency after such fifth day, a penalty of $10.00 a day or 25% of the amount of the contributions due and payable by the employer for the period covered by the report, whichever is the lesser; if there be no liability for contributions for the period covered by any contribution report or in the case of any report other than a contribution report, the employer or employing unit shall pay a penalty of $10.00 a day for each day of delinquency in filing or $50.00, whichever is the lesser; provided, however, that when it is shown to the satisfaction of the controller that the failure to file any such report was not the result of fraud or an intentional disregard of this chapter (R.S.43:21-1 et seq.), or the regulations promulgated hereunder, the controller, in his discretion, may remit or abate any unpaid penalties heretofore or hereafter imposed under this section. On or before October 1 of each year, the controller shall submit to the Commissioner of Labor and Workforce Development a report covering the 12-month period ending on the preceding June 30, and showing the names and addresses of all employers for whom the controller remitted or abated any penalties, or ratified any remission or abatement of penalties, and the amount of such penalties with respect to each employer. Any employer who shall fail to pay the contributions due for any period, on or before the date they are required by the controller to be paid, shall pay interest on the amount thereof from such date until the date of payment thereof, at the rate of 1% a month through June 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981. Upon the written request of any employer or employing unit, filed with the controller on or before the due date of any report or contribution payment, the controller, for good cause shown, may grant, in writing, an extension of time for the filing of such report or the paying of such contribution, with interest at the applicable rate; provided no such

extension shall exceed 30 days and that no such extension shall postpone payment of any contribution for any period beyond the day preceding the last day for filing tax returns under Title IX of the federal Social Security Act for the year in which said period occurs.

(2) (A) For the calendar quarter commencing July 1, 1984 and each successive quarter thereafter, each employer shall file a report with the controller within 30 days after the end of each quarter in a form and manner prescribed by the controller, listing the name, social security number and wages paid to each employee and the number of base weeks (as defined in subsection (t) of R.S.43:21-19) worked by the employee during the calendar quarter. (B) Any employer who fails without reasonable cause to comply with the reporting requirements of this paragraph (2) shall be liable for a penalty in the following amount for each employee with respect to whom the employer is required to file a report but who is not included in the report or for whom the required information is not accurately reported for each employee required to be included, whether or not the employee is included:

(i) For the first failure for one quarter in any eight consecutive quarters, $5.00 for each employee;

(ii) For the second failure for any quarter in any eight consecutive quarters, $10.00 for each employee; and

(iii) For the third failure for any quarter in any eight consecutive quarters, and for any failure in any eight consecutive quarters, which failure is subsequent to the third failure, $25.00 for each employee.

(C) Information reported by employers as requested by this paragraph (2) shall be used by the Department of Labor and Workforce Development for the purpose of determining eligibility for benefits of individuals in accordance with the provisions of R.S.43:21-1 et seq. Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the Department of Labor and Workforce Development is hereby authorized to provide the Department of Human Services and the Higher Education Student Assistance Authority with information reported by employers as required by this paragraph (2). For each fiscal year, the Director of the Division of Budget and Accounting of the Department of the Treasury shall charge the appropriate account of the Department of Human Services and the Higher Education Student Assistance Authority in amounts sufficient to reimburse the Department of Labor and Workforce Development for the cost of providing information under this subparagraph (C).

(D) (Deleted by amendment, P.L.2015, c.135)

(b) The contributions, penalties, and interest due from any employer under the provisions of this chapter (R.S.43:21-1 et seq.), from the time they shall be due, shall be a personal debt of the employer to the State of New Jersey, recoverable in any court of competent jurisdiction in a civil action in the name of the State of New Jersey; provided, however, that except in the event of fraud, no employer shall be liable for contributions or penalties unless contribution reports

have been filed or assessments have been made in accordance with subsection (c) or (d) of this section before four years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), nor shall any employer be required to pay interest on any such contribution unless contribution reports were filed or assessments made within such four-year period; provided further that if such contribution reports were filed or assessments made within the four-year period, no civil action shall be instituted, nor shall any certificate be issued to the Clerk of the Superior Court under subsection (e) of this section, except in the event of fraud, after six years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later. Payments received from an employer on account of any debt incurred under the provisions of this chapter (R.S.43:21-1 et seq.) may be applied by the controller on account of the contribution liability of the employer and then to interest and penalties, and any balance remaining shall be recoverable by the controller from the employer. Upon application therefor, the controller shall furnish interested persons and entities certificates of indebtedness covering employers, employing units and others for contributions, penalties and interest, for each of which certificates the controller shall charge and collect a fee of $2.00 per name; no such certificate to be issued, however, for a fee of less than $10.00. All fees so collected shall be paid into the unemployment compensation administration fund.

(c) If any employer shall fail to make any report as required by the rules and regulations of the division pursuant to the provisions of this chapter (R.S.43:21-1 et seq.), the controller may make an estimate of the liability of such employer from any information it may obtain, and, according to such estimate so made, assess such employer for the contributions, penalties, and interest due the State from him, give notice of such assessment to the employer, and make demand upon him for payment.

(d) After a report is filed under the provisions of this chapter (R.S.43:21-1 et seq.) and the rules and regulations thereof, the controller shall cause the report to be examined and shall make such further audit and investigation as it may deem necessary, and if therefrom there shall be determined that there is a deficiency with respect to the payment of the contributions due from such employer, the controller shall assess the additional contributions, penalties, and interest due the State from such employer, give notice of such assessment to the employer, and make demand upon him for payment.

(e) As an additional remedy, the controller may issue to the Clerk of the Superior Court of New Jersey a certificate stating the amount of the employer's indebtedness under this chapter (R.S.43:21-1 et seq.) and describing the liability, and thereupon the clerk shall immediately enter upon his record of docketed judgments such certificate or an abstract thereof and duly index the same. Any such certificate or abstract, heretofore or hereafter docketed, from the time of docketing shall have the same force and effect as a judgment obtained in the Superior Court of New Jersey, and the controller shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of such a judgment in a civil

action upon contract in said court. Such debt, from the time of docketing thereof, shall be a lien on and bind the lands, tenements and hereditaments of the debtor.

The Clerk of the Superior Court shall be entitled to receive for docketing such certificate, $0.50, and for a certified transcript of such docket, $0.50. If the amount set forth in said certificate as a debt shall be modified or reversed upon review, as hereinafter provided, the Clerk of the Superior Court shall, when an order of modification or reversal is filed, enter in the margin of the docket opposite the entry of the judgment, the word "modified" or "reversed," as the case may be, and the date of such modification or reversal.

The employer, or any other party having an interest in the property upon which the debt is a lien, may deposit the amount claimed in the certificate with the Clerk of the Superior Court of New Jersey, together with an additional 10% of the amount thereof, or $100.00, whichever amount is the greater, to cover interest and the costs of court, or in lieu of depositing the amount in cash, may give a bond to the State of New Jersey in double the amount claimed in the certificate, and file the same with the Clerk of the Superior Court. Said bond shall have such surety and shall be approved in the manner required by the Rules Governing the Courts of the State of New Jersey.

After the deposit of said money or the filing of said bond, the employer, or any other party having an interest in the said property, may, after exhausting all administrative remedies, secure judicial review of the legality or validity of the indebtedness or the amount thereof, and the said deposit of cash shall be as security for, and the bond shall be conditioned to prosecute, the judicial review with effect.

Upon the deposit of said money or the filing of the said bond with the Clerk of the Superior Court, all proceedings on such judgment shall be stayed until the final determination of the cause, and the moneys so deposited shall be subject to the lien of the indebtedness and costs and interest thereon, and the lands, tenements, and hereditaments of said debtor shall forthwith be discharged from the lien of the State of New Jersey and no execution shall issue against the same by virtue of said judgment.

Notwithstanding the provisions of subsections (a) through (c) of this section, the Department of Labor and Workforce Development may, with the concurrence of the State Treasurer, when all reasonable efforts to collect amounts owed have been exhausted, or to avoid litigation, reduce any liability for contributions, penalties and interest, provided no portion of those amounts represents contributions made by an employee pursuant to subsection (d) of R.S.43:21-7.

(f) If, not later than two years after the calendar year in which any moneys were erroneously paid to or collected by the controller, whether such payments were voluntarily or involuntarily made or made under mistake of law or of fact, an employer, employing unit, or employee who has paid such moneys shall make application for an adjustment thereof, the said moneys shall, upon order of the controller, be either credited or refunded, without interest, from

the appropriate fund. For like cause and within the same period, credit or refund may be so made on the initiative of the controller.

(g) All interest and penalties collected pursuant to this section shall be paid into a special fund to be known as the unemployment compensation auxiliary fund; all moneys in this special fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury, and shall be expended, under legislative appropriation, for the purpose of aiding in defraying the cost of the administration of this chapter (R.S.43:21-1 et seq.); for the repayment of any interest bearing advances made from the federal unemployment account pursuant to the provisions of section 1202(b) of the Social Security Act, 42 U.S.C. s.1322; and for essential and necessary expenditures in connection with programs designed to stimulate employment, as determined by the Commissioner of Labor and Workforce Development, except that any moneys in this special fund shall be first applied to aiding in the defraying of necessary costs of the administration of this chapter (R.S.43:21-1 et seq.) as determined by the Commissioner of Labor and Workforce Development. The Treasurer of the State shall be ex officio the treasurer and custodian of this special fund and, subject to legislative appropriation, shall administer the fund in accordance with the directions of the controller. Any balances in this fund shall not lapse at any time, but shall be continuously available, subject to legislative appropriation, to the controller for expenditure. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation auxiliary fund, in an amount to be fixed by the division, the premiums for such bond to be paid from the moneys in the said special fund.

(h) All disputes under R.S.43:21-1 et seq. unless specifically indicated otherwise, shall be resolved in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(i) Notwithstanding any of the provisions of this section, or any other law, to the contrary, all functions, powers and duties of the controller and the Commissioner of Labor and Workforce Development relating to receiving reports, receiving billings, receiving correspondence, remittance processing, data entry and imaging required pursuant to this section shall be performed by the Division of Revenue in the Department of the Treasury.

Amended 1938, c.59; 1939, c.309; 1940, c.97; 1944, c.80; 1945, c.307; 1948, c.79, s.3; 1952, c.187, s.6; 1952, c.337; 1953, c.380; 1955, c.65; 1957, c.207; 1974, c.194; 1981, c.556, s.1; 1984, c.24, s.9; 1986, c.191; 1995, c.234, s.2; 1997, c.255, s.3; 2003, c.117, s.20; 2005, c.239, s.3; 2015, c.135.

43:21-14a. ZIP Code reporting

In addition to the information required to be reported pursuant to the provisions of subsection (2)(A) of R.S. 43:21-14, every employer shall, in accordance with regulations established by the Commissioner of Labor, report, on an annual basis, the ZIP Code of the

residence of each full-time employee and regularly employed part-time employee of the employer, and the ZIP Code of the location where the employee regularly works.

L. 1987, c. 450, s. 1; per s.4, expired April 19, 1993.

43:21-14b. Information to Transportation commissioner

The Commissioner of Labor shall transmit the information received from employers as provided in section 1 of this act to the Commissioner of Transportation, who shall utilize the information in developing plans and programs for traffic control, highway maintenance and construction, and mass transit.

L. 1987, c. 450, s. 2; per s.4, expired April 19, 1993.

43:21-14.1. Refund of contributions; claim

1. Any employee who is paid wages by two or more employers aggregating more than the amount of "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) shall be entitled to a refund of the amount of contributions deducted from such wages and paid to the Division of Employment Security in excess of the contribution which is determined pursuant to R.S.43:21-7(d)(1)(D) required on the amount of "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) except that no such refund shall be made unless the employee makes a claim, establishing his right thereto, within two years after the calendar year in which the wages are paid with respect to which refund of contribution is claimed. No interest shall be allowed or paid with respect to any such refund.

L.1944,c.81,s.1; amended 1947,c.35,s.3; 1967,c.30,s.6; 1971,c.346,s.9; 1974,c.86,s.6; 1996,c.28,s.17; 1996,c.30,s.8.

43:21-14.2. Termination of lien for contributions for certain years

The lien provided for by paragraph (b) of section 43:21-14 of the Revised Statutes as originally enacted, upon the property of any subject employer for contributions, penalties and interest due from such employer during the period from December twenty-second, one thousand nine hundred and thirty-six, to June eighteenth, one thousand nine hundred and forty, shall terminate one year from the effective date of this act and any property affected thereby shall thereupon be discharged of said lien unless prior to such termination date a judgment or a certificate of indebtedness, each including therein the amount of such contributions, penalties and interest, shall have been entered or docketed against such employer in the office of the Superior Court clerk pursuant to the provisions of the chapter to which this act is a supplement.

L.1950, c. 170, p. 367, s. 1.

43 :21-14.3. Unemployment compensation interest repayment fund; deposits, administration and disbursement; special assessment against employers; exceptions

a. The Unemployment Compensation Interest Repayment Fund is established in the Department of Labor and shall be used solely for the purpose of paying interest due on any advances made from the federal unemployment account under Title XII of the Social Security Act (42 U.S.C. s. 1321 et seq.). All moneys deposited in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury.

b. On or before June 30 of each year the Commissioner of Labor shall review the status of any interest bearing advances made from the federal unemployment account to determine the interest amount (if any) to be repaid to the United States Treasury by September 30 of that calendar year, pursuant to the provisions of section 1202(b) of the Social Security Act, 42 U.S.C. s. 1322. If it is determined that interest shall be paid to the United States Treasury, the Commissioner of Labor shall first determine whether there are sufficient moneys in the unemployment compensation auxiliary fund, as established in subsection (g) of R.S. 43:21-14, to repay the entire interest amount due on September 30 of that calendar year. If it is determined that there are sufficient moneys in the unemployment compensation auxiliary fund to repay the entire amount, no special assessment on employers shall be made. If, however, it is determined that there are insufficient moneys in the unemployment compensation auxiliary fund to repay the entire interest amount due on September 30 of that calendar year, a special assessment shall be made against all employers, except governmental entities or instrumentalities defined as employers under R.S. 43:21-19(h)(5) and nonprofit organizations defined as employers under R.S. 43:21-19(h)(6).

c. In the event that it shall be necessary to make a special assessment, the commissioner shall establish the ratio of the amount of interest determined under subsection b. of this section to 95% of the total employer contributions payable for unemployment insurance on taxable wages paid during the preceding calendar year by all employers subject to this interest assessment. This ratio shall be calculated to five significant figures and rounded upward to the next highest ten thousandth. The assessment against each employer shall be in an amount equal to its unemployment contributions payable on the total taxable wages it paid during the preceding calendar year multiplied by the ratio established herein but in no event shall any assessment be less than $5.00. This special assessment shall be mailed by the controller to all affected employers on or before July 31 and shall be due 30 days from that date. This assessment shall be collectible by the controller in the same manner as provided for employer contributions under chapter 21 of Title 43 of the Revised Statutes.

d. All moneys received by the controller under this special assessment shall be deposited in the Unemployment Compensation Interest Repayment Fund. After all known interest charges have been paid, any remaining moneys in the fund may be transferred to the unemployment compensation auxiliary fund at the discretion of the Commissioner of Labor.

L.1984, c. 24, s. 16, eff. Oct. 1, 1984.

43:21-14.4 Withholding of payments to vendors for certain delinquent payments; administrative fees

1. Upon a determination by the controller, made pursuant to the procedures provided by R.S.43:21-14 or R.S.43:21-16, that an employer has failed to pay any contribution required by R.S.43:21-7 to the unemployment compensation fund, the State disability benefits fund, or the Family Temporary Disability Leave Account of the State disability benefits fund, including any contribution which the employer is required to collect from his employees to pay into the funds, has not made the required payment after notification by the controller of the failure, and has not been approved by the controller for an extension of time in which to make the payment or for other deferral of payment, the controller shall notify the Director of the Division of Budget and Accounting in the Department of the Treasury of the failure. For the purposes of section 1 of P.L.1995, c.159 (C.54:49-19), the amount of assessment for contributions, penalties, and interest due shall be regarded as a State tax debt of the employer. If the employer is under contract to provide goods or services to the State or its agencies or instrumentalities, including the legislative and judicial branches of the State government, the division shall utilize the set-off procedures of that section to have payments withheld from the employer under the contract as needed to satisfy the indebtedness in the manner provided by that section, except that, in addition, a fine equal to 25% of the contributions owed shall also be withheld in addition to the amount of the indebtedness. The provisions of this section shall not apply to any employer that is under contract to provide goods or services to the State or its agencies or instrumentalities, including the legislative and judicial branches of State government, if the dollar amount of indebtedness is less than $300. In the case of a failure to pay contributions to the unemployment compensation fund, the delinquent amount of contributions shall be deposited into the unemployment compensation fund and, after the full amount of the delinquent contributions have been deposited in to the unemployment compensation fund, the fine, penalties, and interest due shall be deposited into the unemployment compensation auxiliary fund. In the case of a failure to pay contributions to the State disability benefits fund or the Family Temporary Disability Leave Account of the State disability benefits fund, the delinquent amount of contributions shall be deposited into the State disability benefits fund or the Family Temporary Disability Leave Account of that fund, as appropriate, and, after the full amount of the delinquent contributions have been deposited into the State disability benefits fund or the Family Temporary Disability Leave Account of that fund, the fine, penalties, and interest due shall be deposited into the administration account of the State disability benefits fund. The department shall use a portion of the fines to reimburse the Division of Budget and Accounting for expenses incurred by the Department of the Treasury in the implementation of this act.

L.2015, c.40, s.1.

43:21-15. Waiver of rights void

(a) Waiver of rights void. Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter shall be void. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's

contributions, required under this chapter from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of any individual in his employ to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) or be imprisoned for not more than six months, or both.

(b) Limitation of fees. No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the division or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the board of review or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the board of review. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or imprisoned for not more than six months, or both.

(c) No assignment of benefits; exemptions. Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or his dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

(d) Notwithstanding the provisions of subsection (c) of this section:

(1) an individual filing a new claim for unemployment compensation on or after January 1, 1997 shall, at the time of filing that claim, be advised in writing that:

(A) unemployment compensation is subject to federal income tax;

(B) requirements exist pertaining to estimated tax payments;

(C) the individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the Internal Revenue Code;

(D) the individual shall be permitted to change a previously elected withholding status.

(2) amounts deducted and withheld from unemployment compensation pursuant to this subsection (d) shall remain in the unemployment compensation fund until transferred to the federal taxing authority as a payment of income tax;

(3) the commissioner shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax;

(4) amounts shall be deducted and withheld pursuant to this subsection only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, food stamp over issuances or any other amounts required to be deducted and withheld under federal law.

Amended 1996,c.149.

43:21-16. Unemployment compensation offenses and penalties

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

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

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

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

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

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

(E) Any federal temporary extension of unemployment compensation;

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

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

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

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

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

(c) Any person who shall willfully violate any provision of this chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter (R.S.43:21-1 et seq.), and for which a penalty

is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of $50.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) (1) When it is determined by a representative or representatives designated by the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey that any person, by reason of the knowing, fraudulent nondisclosure or misrepresentation by him, or by anyone acting as his agent, of a material fact, has received any sum as benefits under this chapter (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, or while otherwise not entitled to receive such sum as benefits, such person, unless the director (with the concurrence of the controller) directs otherwise by regulation, shall be liable to repay those benefits in full. The person shall not be liable to repay all or any portion of the overpayment if the representative finds that the person received the overpayment of benefits because of errors or failures to provide information by the employer or errors by the division, and not because of an error, or knowing, fraudulent nondisclosure or misrepresentation, by the person. If the representative finds that errors made by the person were a cause of the overpayment together with errors of the division, or errors or failures to provide information by the employer, but the person did not make a knowing, fraudulent nondisclosure or misrepresentation, the representative shall determine a portion of the overpayment for which the person is liable taking into consideration possible financial hardship to the person, whether recovery would be against equity and good conscience, and how much the person's errors, compared to errors of the division or employer, contributed to the overpayment occurring, but the amount to which the person shall be liable shall not exceed 50 percent of the overpayment. The employer's account shall not be charged for the amount of an overpayment of benefits if the overpayment was caused by an error of the division and not by any error of the employer, but shall be charged if the overpayment was caused by an error or failure to provide information of the employer. The sum for which the person is found liable to repay shall be deducted from any future benefits payable to the individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by the individual to the division for the unemployment compensation fund, and such sum shall be collectible in the manner provided for by law, including, but not limited to, the filing of a certificate of debt with the Clerk of the Superior Court of New Jersey; provided, however, that, except in the event of fraud, no person shall be liable for any such refunds or deductions against future benefits unless so notified before four years have elapsed from the time the benefits in question were paid. Such person shall be promptly notified of the determination and the reasons therefor. The person shall be provided a written notification of any determination regarding the repayment of an overpayment and the opportunity to file an appeal of the determination within 20 calendar days after a confirmed receipt of a notice of the determination or 30 calendar days after the notice was mailed to the last known address of the person, and a recovery of an overpayment

shall not commence until the end of whichever is applicable of the 20- or 30-day periods and the resolution of any appeal made during those periods.

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

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

(B) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq., or any federal program administered by this State, or under the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by another state under an agreement with the United States Secretary of Labor, if the other state has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, and if the United States agrees, as provided in the reciprocal agreement with this State entered into under subsection (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 and overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset from benefits or allowances otherwise payable under a federal program administered by this State or another state under an agreement with the United States Secretary of Labor.

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

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

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

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

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

(h) An employing unit or any officer or agent of an employing unit who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to reduce benefit charges to the employing unit pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, shall be liable to a fine of $1,000, to be recovered in an action at law in the name

of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14. The fine when recovered shall be paid to the unemployment compensation auxiliary fund for the use of the fund. Each false statement or representation or failure to disclose a material fact, and each day of that failure or refusal shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in R.S.43:21-1 et seq.

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

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

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

Amended 1945, c.308, s.4; 1948, c.79, s.4; 1950, c.167, s.2; 1950, c.225, s.2; 1951, c.210; 1952, c.187, s.7; 1961, c.43, s.8; 1984, c.24, s.10; 1985, c.476; 1991, c.357; 1997, c.255, s.4; 2005, c.239, s.4; 2010, c.82, s.2; 2013, c.124; 2013, c.274, s.5; 2022, c.120, s.2.

43:21-17. Representation in court or administrative proceeding

(a) In any civil action to enforce the provisions of this chapter, the Commissioner of Labor and the State may be represented by any qualified attorney, who is a regular salaried employee of the Department of Labor or is designated by it for this purpose, or, at the commissioner's request, by the Attorney General.

(b) In any administrative proceeding before the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, the board of review or the appeal

tribunal, the claimant or the employer may appear pro se or employ an attorney or a nonattorney to represent him.

Amended by L.1984, c. 24, s. 11, eff. Oct. 1, 1984.

43:21-18. Nonliability of state

Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state, the commission nor any representative thereof shall be liable for any amount in excess of such sums.

43:21-19. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) "Employer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) (1) "Employment" means:

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

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

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

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

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

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

supervised, controlled or principally supported by a church or convention or association of churches;

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

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

(aa) as an elected official;

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

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

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

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

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

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

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

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971) and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of

1986 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's unemployment compensation law), if

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The limousine franchisee is incorporated;

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

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

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

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

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

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

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

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

(m) "Unemployment."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such

individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

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

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

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

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

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

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

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

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

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

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

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

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

(D) Is a public or other nonprofit institution.

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

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

Amended 1938, c.213; 1938, c.314; 1939, c.94, s.6A; 1940, c.247, s.3; 1941, c.374; 1941, c.385; 1942, c.2; 1945, c.73, s.3; 1946, c.37; 1946, c.278, s.1; 1947, c.35, s.4; 1948, c.318; 1950, c.304, s.1; 1951, c.212; 1952, c.187, s.8; 1953, c.218; 1955, c.203, s.3; 1956, c.65; 1961, c.43, s.9; 1962, c.49, s.1; 1963, c.66; 1964, c.111; 1967, c.30, s.7, 1967, c.30, title amended 1967, c.286, s.12; 1968, c.360, s.1; 1968, c.366, s.1; 1968, c.469, s.1; 1970, c.279; 1971, c.24; 1971, c.346, s.10; 1973, c.94; 1974, c.86, s.7; 1977, c.307, s.8; 1979, c.379; 1984, c.24, s.12; 1984, c.216, s.2; 1985, c.378; 1985, c.389; 1989, c.265; 1991, c.486, s.1; 1993, c.312; 1994, c.112, s.2; 1995, c.234, s.3; 1995, c.394, s.9; 2001, c.17, s.2; 2002, c.94, s.2; 2009, c.211; 2017, c.230; 2021, c.346; 2022, c.71, s.4.

43:21-19.1. Blank

43:21-19.2. Effective date and application of Act

This act shall take effect and become operative immediately, and shall apply to all benefits payable with respect to benefit years beginning on or after said date, and any benefits accruing to any individual on or after said date with respect to benefit years beginning before said date, shall not be recomputed under this act as to the total amount or weekly rate thereof, and shall be paid for either total or partial unemployment, in accordance with subsection (b) of section 43:21-3 of this chapter, without the necessity of serving any additional waiting period.

L.1940, c. 247, p. 951, s. 4. Amended by L.1941, c. 114, p. 258, s. 2.

43:21-19.3. Provisions dealing with exclusion of certain agents retroactive

Notwithstanding the provisions of this act as to its effective date in other respects, subsection (i)(7)(J) of section 43:21-19, dealing with exclusion of certain insurance agents and agents of investment companies, is to be retroactively applicable from and after, and effective as of, December twenty-third, one thousand nine hundred and forty-one.

L.1950, c. 304, p. 1039, s. 2.

43:21-19.4. Gratuities or tips; remuneration in lieu of

Whenever payments are made to workers pursuant to an agreement entered into by their employer providing for a service charge measured by

(a) a percentage of the amount received by the employer for the furnishing of hotel, restaurant or catering facilities or services,

(b) the number of persons receiving such facilities or services, or

(c) the number of workers providing such services or facilities

for the distribution among the workers in lieu of customary gratuities or tips from the persons who are to use or to receive the said facilities or services, the said payments to workers, when made, shall be deemed to be remuneration paid by the employer to the workers for all the purposes of the unemployment compensation law (R.S. 43:21-1 et seq.) as amended and supplemented.

L.1966, c. 116, s. 1, eff. Jan. 1, 1967.

43:21-19.5. Repealed by L.1971, c. 346 s. 11, eff. Jan 1, 1972

43:21-19.6. South Jersey Port Commission considered employer

With respect to service performed in the employ of the South Jersey Port Commission which is not excluded from the definition of "employment" by the provisions of Revised Statutes 43:21-19(i)(7)(D), as amended, the employing authority, the South Jersey Port Commission or its successors, shall be considered as an employer, as defined by Revised Statutes 43:21-19(h), and shall make all payments and perform all acts, with regard to employees performing such service, as may be required by the provisions of Title 43 of any other employer.

L.1968, c. 360, s. 2, eff. Jan. 1, 1969.

43:21-20. Repealed by L.1945, c. 308, p. 902, 5

43:21-20.1. Individuals employed part time; eligibility for benefits

1. Notwithstanding any other provision of R.S.43:21-1 et seq. to the contrary, no individual, who is otherwise eligible, shall be deemed unavailable for work or ineligible for benefits solely for the reason that the individual is available for, seeks, applies for, or accepts only part-time work, instead of full-time work, if the claim is based on part-time employment and the individual is actively seeking and is willing to accept work under essentially the same conditions as existed in connection with the employment from which the individual became eligible for benefits.

L.1952,c.282,s.1; amended 2003,c.107,s.6.

43:21-20.2. Effective date

This act shall take effect July first, one thousand nine hundred and fifty-two.

L.1952, c. 282, p. 968, s. 2.

43:21-20.3. Definitions relative to unemployment insurance benefits

1. For the purposes of this act:

"Affected unit" means a specified plant or other facility, department, shift or other definable unit which includes two or more employees to which an approved short-time benefits program applies.

"Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development, or any representative of the division responsible for approval or other division responsibilities regarding a shared work program.

"Health insurance and pension coverage" means employer-provided health benefits, and retirement benefits under a defined benefit plan, as defined in section 414(j) of the Internal Revenue Code (26 U.S.C. 414(j)), or employer contributions under a defined contribution plan, as defined in section 414(i) of the Internal Revenue Code (26 U.S.C. 414(i)), which are incidents of employment in addition to the cash remuneration earned.

"Shared work employer" means an employer who is providing a shared work program approved by the division pursuant to section 2 of this act.

"Shared work program" means a program submitted by an employer for approval by the division pursuant to section 2 of P.L.2011, c.154 (C.43:21-20.4) and approved by the division, under which the employer requests short-time benefits to employees in an affected unit of the employer to avert layoffs.

"Short-time benefits" means unemployment benefits payable to employees of an affected unit under an approved shared work program that are intended to be in lieu of layoffs and provided pursuant to sections 1 through 9 of this act, as distinguished from unemployment benefits otherwise payable under the New Jersey "unemployment compensation law," R.S. 43:21-1 et seq.

"Usual weekly hours of work" means the usual hours of work for an employee in the affected unit when that unit is operating on its regular basis, not to exceed forty hours and not including hours of overtime work.

L.2011, c.154, s.1; amended 2013, c.279, s.1.

43:21-20.4. Application to provide shared work program

2. An employer who has not less than 10 employees may apply to the division for approval to provide a shared work program, the purpose of which is to stabilize the employer's work force during a period of economic disruption by permitting the sharing of the work remaining after a reduction in total hours of work. Any subsidizing of seasonal employment during off season, or of temporary or intermittent employment on an ongoing basis, is contrary to the purpose of a shared work program approved pursuant to this act. The application for a shared work program shall be made according to procedures and on forms specified by the division and shall include whatever information the division requires. The division may approve the program for a period of not longer than one year and may, upon employer request, renew the approval of the program for additional periods, each period not to exceed one year. The division shall not approve an application unless the employer:

a. (1) Certifies to the division that the aggregate reduction in work hours is in lieu of layoffs; (2) provides an estimate of the number of employees who would have been laid off in the absence of the program; and (3) certifies that the employer will not hire additional employees while short-time benefits are being paid;

b. Certifies to the division that health insurance or pension coverage, paid time off, or other benefits, including retirement benefits under a defined benefit plan, as defined in section 414(j) of the Internal Revenue Code (26 U.S.C. s.414(j)), or employer contributions under a defined contribution plan, as defined in section 414(i) of the Internal Revenue Code (26 U.S.C. s.414(i)), will continue to be provided to any employee whose workweek is reduced under the program, that those benefits will continue to be provided to employees participating in the program under the same terms and conditions as though the workweek of the employee had not been reduced or to the same extent as other employees not participating in the program, except that employer contributions to a defined contribution plan, as defined in section 414(i) of the Internal Revenue Code (26 U.S.C. s.414(i)), may be reduced in proportion to the reduction of weekly hours, and certifies to the division that the employer will not make unreasonable revisions of workforce productivity standards;

c. Certifies to the division that any collective bargaining agent representing the employees has entered into a written agreement with the employer regarding the terms of the program, including terms regarding attendance in training programs while receiving short-time benefits, and provides a copy of the agreement to the division;

d. Provides, in the application, the effective date and duration of the program, a description of the affected unit or units covered by the program, including the number of employees in each unit, the percentage of employees in the affected unit covered by the program, identification of each individual employee in the affected unit by name, social security number, and the employer's unemployment tax account number and any other information required by the division to identify program participants;

e. Provides, in the application, a description of how the employees in the affected units will be notified of the employer's participation in the shared work program if the application is approved, including the means of notification for employees who are members of collective bargaining units and employees who are not members of a collective bargaining unit;

f. Identifies the usual weekly hours of work for the employees of the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the program;

g. Certifies that participation in the program and its implementation is consistent with the employer's obligations under all applicable federal and State laws; and

h. Agrees to provide the division with any reports or other information, including access to employer records, the division deems necessary to administer the shared work program and monitor compliance with all agreements and certifications required pursuant to this section.

The division shall approve or disapprove the program in writing not more than 60 days after the receipt of the application and promptly communicate the decision to the employer. A decision disapproving the application shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be permitted to submit another application for approval of a plan not earlier than 60 days from the date of disapproval.

L.2011, c.154, s.2; amended 2013, c.279, s.2.

43:21-20.5. Revocation of approval

3. a. The division, on its own initiative or upon request of the affected unit's employees, may revoke approval of an employer's application previously granted for any failure to comply with any agreement or certification required pursuant to section 2 of this act, or any other conduct or occurrences which the division determines to defeat the purpose, intent and effective operation of a shared work program. The notice of revocation shall be in writing and shall specify the reasons for the revocation and the date on which the revocation is effective.

b. An employer may request modifications of an approved shared work program by filing with the division a written request identifying the specific proposed modifications and explaining the need for the modifications. The division shall approve or disapprove the modifications within 30 days and promptly communicate to the employer the division's decision and the date on which the modification will take effect. The employer is not required to obtain division approval to make a plan modification which is not substantial, but is required to provide prompt, written notice of the modification to the division, which shall require the employer to request division approval of the modification if the division finds the modification to be substantial. The division may terminate the program if the employer fails to provide the notice required by this subsection.

L.2011, c.154, s.3; amended 2013, c.279, s.3.

43:21-20.6. Eligibility for short-time benefits

4. An individual who is employed by an employer with a shared work program approved by the division shall be eligible for short-time benefits during a week if:

a. (Deleted by amendment, P.L.2013, c.279)

b. The individual works for the employer at an affected unit less than the individual's usual weekly hours of work, and the employer has reduced the individual's weekly hours of work pursuant to a shared work program in effect during that week and approved by the division pursuant to section 2 of this act;

c. The percentage of the reduction of the individual's work hours below the individual's usual weekly hours of work is not less than 10% and not more than 60%, with a corresponding reduction of wages;

d. The individual would be eligible for unemployment benefits other than short-time benefits during the week, if the individual was entirely unemployed during that week and applied for unemployment benefits other than short-time benefits; and

e. During the week, the individual is able to work and is available for the individual's usual weekly hours of work with the shared work employer or is participating in a training program approved by the division, including division-approved employer-sponsored training, division-approved training funded under the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.) or the Workforce Development Partnership program established pursuant to section 4 of P.L.1992, c.43 (C.34:15D-4), or any other training approved by the division pursuant to subsection (c) of R.S.43:21-4.

If the individual complies with the requirements of subsection e. of this section, the individual shall not be subject to any other requirement of the "unemployment compensation law," R.S.43:21-1 et seq., to be available for work and actively seeking work.

L.2011, c.154, s.4; amended 2013, c.279, s.4.

43:21-20.7. Amount of short-time benefits paid

5. The amount of short-time benefits paid to an eligible individual shall, for any week, be equal to the individual's weekly benefit rate multiplied by the percentage of reduction of his wages resulting from reduced hours of work. The weekly benefit amount shall be rounded off to the nearest dollar. An individual shall not be paid short-time benefits for more than 52 weeks under a shared work program. Weeks of short-time benefits may be nonconsecutive. An individual shall not receive short-time benefits during any benefit week in which the individual receives any other unemployment benefits, with respect to the employment with the shared work employer.

Total unemployment benefits paid to an individual during any benefit year, including short-time benefits and all other unemployment benefits, shall not exceed the maximum amount to which the individual is entitled for all unemployment benefits other than short-time benefits.

The following provision shall apply to an individual who is employed by both a shared work employer and another employer during weeks covered by a shared work program:

a. If combined hours of work in a week for both employers result in a reduction of less than 10% of the usual weekly hours of work with the shared work employer, the individual shall not be entitled to benefits under the shared work program;

b. If combined hours of work in a week for both employers result in a reduction of 10% or more of the usual weekly hours of work with the shared work employer, the short-time benefit payable to the individual shall be reduced for that week and be determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by 10% or more of the individual's usual weekly hours of work;

c. If the individual worked a reduced percentage of the usual weekly hours of work for the shared work employer and is available for all of his usual hours of work with the shared work employer, and the individual did not work any hours for the other employer, either because of a lack of work with that employer or because the individual is excused from work with the other employer, the individual shall be eligible for short-time benefits for that week.

An individual who is not provided any work during a week by a shared work employer or any other employer and is otherwise eligible for unemployment benefits shall be eligible for the full amount of regular unemployment benefits to which the individual otherwise would be eligible. An individual who is not provided any work during a week by a shared work employer, but who works for another employer and is otherwise eligible for unemployment benefits shall be eligible for regular unemployment benefits for that week subject to the disqualifying income and other provisions applicable to claims for regular unemployment benefits.

An individual who has received all of the short-time benefits or a combination of all of the short-time benefits and regular unemployment benefits available in a benefit year shall be considered to be an exhaustee for the purposes of any extended benefits provided pursuant to the provisions of the "Extended Benefits Law," sections 5 through 11 of P.L.1970, c.324 (C.43:21-24.11 et seq.), and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.

L.2011, c.154, s.5; amended 2013, c.279, s.5.

43:21-20.8. Beginning, expiration of payment of benefits

6. A shared work program and payment of short-time benefits to individuals under the program shall go into effect on the date mutually agreed upon by the employer and the division. A shared work program shall expire on the date specified in the notice of approval, which shall be either the date at the end of the 12th full calendar month after its effective date or an earlier date mutually agreed upon by the employer and the division. The program shall also expire upon the date of any revocation of approval of the program by the division. An employer of an approved program may terminate the program at any time upon written notice to the division, and the division shall notify participating employees of the affected unit of the termination. If a shared work program expires or the employer terminates the program, the employer may, at any time after the expiration or termination date, submit a new application for division approval of another shared work program.

L.2011, c.154, s.6; amended 2013, c.279, s.6.

43:21-20.9. Manner of charging short-time benefits

7. Any short-time benefits paid to an individual shall be charged in the same manner as other unemployment benefits pursuant to the "unemployment compensation law," R.S.43:21-1 et seq.

L.2011, c.154, s.7; amended 2013, c.279, s.7.

43:21-20.10. Report to Legislature

8. The Commissioner of Labor and Workforce Development, three years after the effective date of this act, shall submit a report to the Legislature assessing the implementation of this act and its impact on the State Unemployment Compensation Fund, evaluating the effectiveness of shared work programs approved by the division pursuant to this act, and making any recommendations for appropriate legislative or administrative action necessary to further the purposes of this act.

L.2011, c.154, s.8.

43:21-20.11. Provisions in violation of federal law inoperative

9. If the United States Department of Labor finds any provision of this act to be in violation of federal law, that provision of this act shall be inoperative.

L.2011, c.154, s.9; amended 2013, c.279, s.8.

43:21-20.12. Short title

4. Sections 4 through 7 of this act shall be known and may be cited as the "Employee Job-Sharing Furlough Protection Act."

L.2020, c.57, s.4.

43:21-20.13. Actions of division

5. To facilitate the providing of the maximum possible benefits for employees and savings for employers in the State from the federal financing of unemployment benefits provided in connection with short-time compensation programs pursuant to section 2108 of the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136 and from federal financing of emergency increases in unemployment benefits under section 2104 of that act, the division shall, during the period from the effective date of this act until December 31, 2020, undertake the following actions:

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

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

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

b. Provide any eligible employer with guidance in making an application;

c. Permit an application for approval of a shared work program to be submitted to, and approved by, the division in advance of the date on which reduced hours of employment are to commence to permit payment of benefits under the program immediately upon that commencement;

d. Permit employers who have fully laid off employees to resume employing those employees on a partial basis in a manner consistent with the requirements of P.L.2011, c.154

(C.43:21-20.3 et seq.), and establish a shared work program to make short-time benefits available to those employees; and

e. Permit, upon the approval of a shared work program, of the payment of benefits retroactively back to the time that the shared work application was submitted and commenced in a manner consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3 et seq.).

L.2020, c.57, s.5.

43:21-20.14. Contributions to system, fund

6. A public employee enrolled in a State-administered retirement system or fund, and the employer of that employee, shall be required to make contributions to the system or fund during the period that the employee is participating in a shared work program pursuant to P.L.2011, c.154 (C.43:21-20.3 et seq.). The contributions shall be based on the base salary or compensation, as defined by the retirement system or fund, that would have been paid to the employee if the employee had not been participating in a shared work program. No deduction for the payment of such contributions shall be made from the unemployment compensation or short-time compensation benefits of the employee. The employee's service credit as a member of the system or fund shall include the period during which the employee participated in a shared work program. For all purposes under the retirement system or fund, the period during which the employee participated in a shared work program and the base salary or compensation upon which contributions were made during such period shall be recognized by the retirement system or fund. The seniority rights and health benefits coverage of an employee who participates in a shared work program shall continue and shall not be adversely affected by participation. The employer shall enter into a written agreement with any collective bargaining agent representing the employees regarding the terms of the program, including terms regarding attendance in training programs while receiving short-time benefits, and provide certification, and the copy, of the agreement to the division as required by P.L.2011, c.154 (C.43:21-20.3 et seq.). This section shall not be construed to conflict with any applicable provisions of federal law.

L.2020, c.57, s.6.

43:21-20.15. Report on all shared work programs on website

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

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

(1) The total number of participating employers and employees, the total amount of unemployment benefits paid to participants, the portion of those benefits that was pandemic unemployment compensation, the total wage compensation that was paid to participants during participation in the program, and the share, if any, of the benefit costs not paid or reimbursed by the federal government;

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

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

(4) The total reduction in payroll costs due to reduced hours of paid employment by participants.

c. The report shall provide, for each calendar year from 2012 through 2019, the total number of employers and employees participating in approved shared work programs and the total amount of unemployment benefits paid to participating employees.

L.2020, c.57, s.7.

43:21-21. Reciprocal benefit arrangements

(a) The commissioner is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commissioner finds will be fair and reasonable as to all affected interests and will not result in any loss to the fund.

(b) The commissioner is authorized to enter into arrangements with the appropriate agencies of other states or of the Federal Government, or both, (1) whereby remuneration, upon the basis of which an individual may become entitled to benefits under the Unemployment Compensation Law of another state or of the Federal Government, shall be deemed to be wages for the purposes of this chapter (R.S. 43:21-1 et seq.), and (2) whereby wages, on the basis of which an individual may become entitled to benefits under this chapter (R.S. 43:21-1 et seq.) shall be deemed to be remuneration on the basis of which benefits are payable under the Unemployment Compensation Law of another state or of the Federal Government. No such arrangement shall be entered into unless it contains provision for reimbursement to the fund for such portion of benefits paid under this chapter (R.S. 43:21-1 et seq.) on the basis of such

remuneration, and provision for reimbursement from the fund for that portion of benefits paid under such other law on the basis of such wages, as the commissioner finds will be fair and reasonable as to all affected interests. Subsection (f) of 43:21-5 of this chapter (R.S. 43:21-1 et seq.) shall be inapplicable to an individual who files a claim for benefits under any such arrangement. The commissioner shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under the Unemployment Compensation Law of New Jersey with his wages in employment covered under the Unemployment Compensation Laws of other states which are approved by the United States Secretary of Labor in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for (1) applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State Unemployment Compensation Laws, and (2) avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements paid from the fund pursuant to such arrangements shall be deemed to be benefits for the purposes of this chapter (R.S. 43:21-1 et seq.). The commissioner is hereby authorized to make to other state or Federal agencies, and to receive from such other state or Federal agencies, reimbursements from or to the fund in accordance with arrangements pursuant to this section.

(c) The commissioner is authorized to enter into reciprocal agreements with the appropriate agencies of other states covering services on vessels engaged in interstate or foreign commerce whereby such services performed for a single employer, under any contract of hire, partly within and partly without this State, shall be deemed to be performed in their entirety either within or without this State.

(d) The commissioner is authorized to enter into reciprocal arrangements with the appropriate and duly authorized agency of any other state or of the United States whereby (i) moneys due the commissioner for contributions, interest and penalties and paid to such agency shall be deemed to have been paid into the unemployment compensation fund of this State as of the date of payment to such agency and (ii) vice versa; provided, that such arrangements contain provisions for the reciprocal transfers of such moneys.

(e) The commissioner is authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's services is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business; provided, there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's Unemployment Compensation Law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state.

(f) To the extent permissible under the laws, treaties and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this chapter (R.S. 43:21-1 et seq.), and facilities and services provided under the Employment Security Law of any foreign government may be utilized for the taking of claims and payment of benefits under the Employment Security Law of this State or under a similar law of such foreign government.

Amended by L.1939, c. 94, p. 212, s. 7; L.1945, c. 73, p. 376, s. 4; L.1945, c. 308, p. 902, s. 6; L.1949, c. 213, p. 690, s. 1; L.1952, c. 189, p. 683, s. 1; L.1960, c. 90, p. 573, s. 1; L.1966, c. 122, s. 1, eff. June 17, 1966; L.1971, c. 346, s. 12.

43:21-22. Saving clause

The legislature reserves the right to amend or repeal all or any part of this chapter at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this chapter at any time.

43:21-23. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

43:21-24. Repealed by L.1971, c. 346 s. 15, eff. Jan. 1, 1972

43:21-24.1. Sale of surplus, obsolete or unsuitable property; disposition of proceeds

At the request of the Director of the Division of Employment Security, the Director of the Division of Purchase and Property may sell, either at public or private sale, or otherwise dispose of, property purchased or acquired with funds or grants of the United States of America or any agency or department thereof which have been or shall be deposited in the Unemployment Compensation Administration Fund, if the Director of the Division of Employment Security deems such property surplus, obsolete or no longer suitable for the purposes for which it was intended. The proceeds of any sale of surplus, obsolete or unsuitable property heretofore or hereafter made shall be deposited in the Unemployment Compensation Administration Fund.

L.1955, c. 56, p. 195, s. 1.

43:21-24.2. Contracts for payments under federal Temporary Unemployment Compensation Act of 1958

The Commissioner of Labor and Industry is hereby authorized to enter into an agreement with the Secretary of Labor of the United States on behalf of the United States, pursuant to the

Act of Congress of June 4, 1958, being the "Temporary Unemployment Compensation Act of 1958," under and by which the Division of Employment Security in the Department of Labor and Industry will make, as agent of the United States, payments of temporary unemployment compensation to individuals who have, after October 1, 1957, exhausted all rights under any unemployment compensation law of this State and who have no rights to unemployment compensation, with respect to any week of unemployment which begins after the date on which such agreement is entered into, on the basis provided in said Act of Congress, and otherwise to co-operate with the Secretary of Labor of the United States and with other State agencies in making payments of temporary unemployment compensation under said Act of Congress aforesaid; provided, however, that no provision for repayment or restoration to the Treasury of the United States of any amounts required to be so repaid or restored pursuant to said Act of Congress or any agreement entered into pursuant thereto and pursuant to this act, shall be, constitute or create any debt, obligation or liability of the State of New Jersey, or constitute the lending of its credit, to insure or otherwise secure any such repayment or restoration.

L.1958, c. 72, p. 508, s. 1.

43:21-24.3. Benefit payments not chargeable to employers' accounts

Temporary unemployment compensation benefit payments pursuant to an agreement entered into hereunder shall not be charged to any employer's account.

L.1958, c. 72, p. 509, s. 2.

43:21-24.4. Agreements with United States

The Director of the Division of Employment Security on behalf of the division is authorized to enter into agreements with the Secretary of Labor of the United States on behalf of the United States under which the division

(a) will make, as agent of the United States, payments of unemployment compensation to individuals who may be eligible therefor under any law of the United States, and will otherwise cooperate with the Secretary of Labor of the United States and with agencies of other states in making payments of unemployment compensation under any such laws; provided, however, that all costs incurred, all expenses paid and all such compensation benefits paid shall be paid or reimbursed by the United States and shall not devolve upon the State of New Jersey; or

(b) will receive reimbursement from the United States for unemployment compensation paid pursuant to any law of this State or of the United States; and the division shall perform such agreements.

L.1961, c. 6, p. 20, s. 1.

NEW JERSEY EXTENDED BENEFIT LAW

43:21-24.11. Definitions

5. For the purposes of the extended benefit program and as used in this act, unless the context clearly requires otherwise:

a. "Extended benefit period" means a period which

(1) Begins with the third week after a week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this State; and provided further, that no extended benefit period may become effective in this State prior to the effective date of this act.

b. (Deleted by amendment.)

c. (Deleted by amendment.)

d. There is a "state 'on' indicator" for this State for a week if:

(1) The division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the "unemployment compensation law" (R.S.43:21-1 et seq.):

(a) Equaled or exceeded 120% of the average of these rates for the corresponding 13-week period during each of the preceding 2 calendar years, and, for weeks beginning after September 25, 1982, equaled or exceeded 5%; or

(b) With respect to benefits for weeks of unemployment beginning after September 25, 1982, equaled or exceeded 6%; or

(2) With respect to any week of unemployment beginning after December 27, 2003, except for any week of unemployment which occurs during the time period referenced in paragraph (3) of this subsection d., the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 6.5%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years; or

(3) With respect to any week of unemployment beginning after March 31, 2011 and ending on or before the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided, as authorized by section 2005(a) of Pub.L. 111-5, the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 6.5%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during any one of the corresponding three-month periods ending in the three preceding calendar years.

e. There is a "state 'off' indicator" for this State for a week if:

(1) The division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, paragraph (1) of subsection d. was not satisfied; and

(2) With respect to any week of unemployment beginning after December 27, 2003 and before April 1, 2011 or after the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided, as authorized by section 2005(a) of Pub.L. 111-5, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published, paragraph (2) of subsection d. was not satisfied.

f. "Rate of insured unemployment," for purposes of subsections d. and e. means the percentage derived by dividing

(1) The average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the United States Secretary of Labor, by

(2) The average monthly covered employment for the specified period.

g. "Regular benefits" means benefits payable to an individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) or under any other State law (including benefits payable

to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) other than extended benefits.

h. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) payable to an individual under the provisions of this act for weeks of unemployment in his eligibility period.

i. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

j. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) Has received prior to the week, all of the regular benefits that were available to him under the "unemployment compensation law" (R.S.43:21-1 et seq.) or any other State law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. s.8501 et seq.) in his current benefit year that includes such week, provided, that for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him, although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(2) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(3) (a) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(b) has not received and is not seeking unemployment benefits under the Unemployment Compensation Law of Canada; but if he is seeking these benefits and the appropriate agency finally determines that he is not entitled to benefits under that law he is considered an exhaustee if the other provisions of this definition are met.

k. "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1986, 26 U.S.C. s.3304.

l. "High unemployment period" means:

(1) Any period beginning after December 27, 2003, except for any week of unemployment which occurs during the time period referenced in paragraph (2) of this subsection l., during which the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 8%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years: or

(2) Any period beginning after March 31, 2011, and ending before the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided, as authorized by section 2005(a) of Pub.L. 111-5, during which the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 8%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during any one of the corresponding three-month periods ending in the three preceding calendar years.

L.1970, c.324, s.5; amended 1977, c.151; 1977, c.307, s.9; 1982, c.144, s.1; 2005, c.123, s.3; 2005, c.249, s.2; 2011, c.51, s.1; 2011, c.206.

43:21-24.12. Effect of State law provisions relating to regular benefits on claims for, and the payment and charging of, extended benefits

6. Except when the result would be inconsistent with other provisions of the "Extended Benefits Law," as provided in the regulations of the division, the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.) which apply to claims for, and the payment and charging of, regular benefits shall apply to claims for, and the payment and charging of, extended benefits, provided, however, that no employer's account shall be charged for the payment of any extended benefits with respect to any weeks commencing prior to July 1, 1971; and provided further, that 50% of any extended benefits paid with respect to weeks commencing on or after July 1, 1971 shall be charged to the appropriate employers' accounts.

L.1970,c.324,s.6; amended 1994,c.59,s.1.

43:21-24.13. Eligibility requirements for extended benefits

7. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the division finds, that with respect to that week, the individual:

a. is an "exhaustee" as defined in paragraph j. of section 5 of P.L.1970, c.324 (C.43:21-24.11); and

b. has satisfied the requirements of this act for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

c. for any initial claim for extended benefits effective after September 25, 1982 and before June 28, 2020, has established entitlement for the individual's applicable benefit year based on the alternative earnings requirement specified in subsection (e) of R.S. 43:21-4, and was paid wages during the base year of the individual's applicable benefit year which equaled or exceeded 40 times the individual's weekly benefit rate; and

d. for any initial claim for extended benefits effective after June 27, 2020, has established entitlement for the individual's applicable benefit year based on the alternative earnings requirement specified in subsection (e) of R.S. 43:21-4 or was paid wages during the base year of the individual's applicable benefit year which equaled or exceeded 40 times the individual's weekly benefit rate.

L.1970, c.324, s.7; amended 1982, c.144, s.2; 2020, c.131.

43:21-24.14. Weekly extended benefit rate

The weekly extended benefit rate payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit rate payable to him during his applicable benefit year.

L.1970, c. 324, s. 8.

43:21-24.15. Total extended benefit amount

9. a. Except as provided in subsection b. of this section, the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the lesser of the following amounts:

(1) 50% of the total of regular benefits which were payable to him under the "unemployment compensation law" (R.S.43:21-1 et seq.) in his applicable benefit year; or

(2) Thirteen times his weekly benefit amount which was payable to him under the "unemployment compensation law" (R.S.43:21-1 et seq.) for a week of total unemployment in the applicable benefit year.

b. With respect to weeks beginning during a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to his applicable benefit year shall be the lesser of the following amounts:

(1) 80% of the total of regular benefits which were payable to the individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) during the applicable benefit year; or

(2) Twenty times the weekly benefit amount which was payable to the individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) for a week of total unemployment during the applicable benefit year.

c. Notwithstanding any other provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), if the benefit year of an adversely affected worker covered by a certification under subchapter A, chapter 2, Title II of the Trade Act of 1974, P.L.93-618, 19 U.S.C. s.2271 et seq. as amended, ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

L.1970,c.324,s.9; amended 1982, c.144, s.3; 2005, c.123, s.4.

43:21-24.16. Beginning and termination of extended benefit period

a. Whenever an extended benefit period is to become effective in this State as a result of a state "on" indicator, or an extended benefit period is to be terminated in this State as a result of a state "off" indicator, the division shall make an appropriate public announcement.

b. Computations required by the provisions of paragraph f. of section five shall be made by the division, in accordance with regulations prescribed by the United States Secretary of Labor.

L.1970, c. 324, s. 10. Amended by L.1982, c. 144, s. 4, eff. Sept. 24, 1982.

43:21-24.17. Short title

Sections 5 through 11 of this act shall be known and may be cited as the "Extended Benefits Law."

L.1970, c. 324, s. 11.

43:21-24.18. Cessation of extended benefits when paid under an interstate claim in a state where an extended benefit period is not in effect

a. Except as provided in paragraph b. of this section, an individual shall not be eligible for extended benefits for any week if:

(1) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and

(2) No extended benefit period is in effect for such week in such state.

b. Paragraph a. shall not apply with respect to the first 2 weeks for which extended benefits are payable (determined without regard to this section) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

L.1981, c. 90, s. 1, eff. March 30, 1981.

43:21-24.19. Ineligibility for benefits; failure to accept offer of, apply for or actively engage in seeking suitable work or dismissal for misconduct

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

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

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

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

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

(1) If the gross average weekly remuneration payable for the work exceeds the sum of: the individual's weekly extended benefit rate as determined under section 8 of P.L.1970, c. 324

(C. 43:21-24.14), plus the amount, if any, of supplemental unemployment benefits (as defined in Section 501(c)(17) of the Internal Revenue Code of 1954) payable to the individual for the respective week;

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

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

(b) The applicable state or local minimum wage;

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

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

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

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

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

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

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

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

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

g. An individual who has been disqualified for regular benefits under the provisions of subsection (b) or (c) of R.S. 43:21-5 will not meet the eligibility requirements for the payment of extended benefits unless the individual has had employment subsequent to the effective date of disqualification for regular benefits and has earned in employment remuneration equal to not less than four times the individual's weekly benefit rate.

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

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

L.1981, c. 90, s. 2, eff. March 30, 1981. Amended by L.1982, c. 144, s. 5, eff. Sept. 14, 1982.

43:21-24.20. Inapplicability of C.43:21-24.19

2. The provisions of section 2 of P.L.1981, c.90 (C.43:21-24.19) shall not apply to weeks of unemployment beginning after March 6, 1993 and before January 1, 1995.

L.1994,c.59,s.2.

43:21-24.21. Definitions for purposes of Emergency Unemployment Benefits Program

1. For the purposes of the Emergency Unemployment Benefits Program and as used in this act:

"Emergency unemployment benefits" means benefits financed entirely by the State and paid to exhaustees pursuant to this act.

"Emergency unemployment benefit period" means a period not within an extended benefit period which:

a. Begins on June 2, 1996, and

b. Ends upon the conclusion of the second week after the first week for which there is a State "on" indicator as defined in section 5 of P.L.1970, c.324 (C.43:21-24.11) or other federally-financed supplemental benefits program, or

c. If there is no such "on" indicator, ends with the occurrence of either of the following:

(1) The third week after the first week for which there is a State emergency unemployment benefits "off" indicator; or

(2) The calendar week after the calendar week in which total expenditures of emergency unemployment compensation fund Statewide first exceed $350 million.

There is a State emergency unemployment benefits "off" indicator for any week in which it is determined by the division based on data reported by the U.S. Bureau of Labor Statistics that, for the prior four calendar months, the average total unemployment rate (seasonally adjusted) in this State is less than 6.0 percent.

Notwithstanding any other provision of this subsection c., no emergency unemployment benefits shall be paid after December 1, 1996, except that emergency benefits shall be paid to individuals who established emergency unemployment claims prior to that date. No emergency unemployment benefits shall be paid to any individual after March 1, 1997.

"Eligibility period" of an exhaustee means the period consisting of the weeks in the exhaustee's benefit year which begin in an emergency unemployment benefit period and, if that benefit year ends in the emergency unemployment benefit period, any weeks thereafter which begin in the period.

"Exhaustee" means an individual who exhausted all of the regular benefits that were available to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable under the combined wage program), after December 2, 1995 and before June 2, 1996, or during any calendar week of the emergency unemployment benefit period. No individual who exhausted all of the available regular benefits prior to December 3, 1995 shall be eligible for emergency unemployment benefits. An individual whose benefit year has expired prior to the beginning of the emergency unemployment benefit period shall not be eligible for such benefits.

L.1996,c.30,s.1.

43:21-24.22. Provision of weekly emergency unemployment benefits

2. During an emergency unemployment benefit period exhaustees, who otherwise continue to meet the eligibility requirements for regular benefits pursuant to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq., and who are not eligible for any other unemployment benefits, including benefits provided for by any federal law extending benefits beyond those provided for as regular benefits or extended benefits, may receive weekly emergency unemployment benefits for weeks subsequent to June 2, 1996 in an amount equal to the weekly benefit amount of the individual's most recent regular unemployment benefit claim subject to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq. The maximum emergency unemployment benefits an individual may receive pursuant to this act is 50 percent of the regular unemployment benefits which were payable to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable under the combined wage program) in the individual's applicable benefit year.

L.1996,c.30,s.2.

43:21-24.23. Employer's account not charged; exceptions

3. No employer's account shall be charged for emergency unemployment benefits paid to an unemployed individual pursuant to this act, except for the account of an out-of-State employer who is liable for charges under the Combined Wage Program. However, nothing in this section shall be construed to relieve employers electing to make payments in lieu of contributions pursuant to section 3 or 4 of P.L.1971, c.346 (C.43:21-7.2 or C.43:21-7.3) from reimbursing the unemployment benefits paid to an unemployed individual pursuant to this act.

Emergency unemployment benefits paid to federal civilian employees shall be charged to the appropriate federal account. Emergency unemployment benefits paid to ex-service persons shall be charged to the unemployment compensation fund.

L.1996,c.30,s.3.

43:21-24.24. Conditions for payment

4. Emergency unemployment benefits may be paid pursuant to the provisions of this act only with respect to weeks not within an extended benefit period, and not within a period covered by any federal law allowing the filing of new claims extending benefits beyond those provided for as regular or extended benefits. If a federal extended benefits period triggers "on," maximum benefits payable to an individual under the federal extended benefits program or any federal supplemental benefits program shall be reduced by an amount equal to that received by the individual under the emergency unemployment benefits program.

L.1996,c.30,s.4.

43:21-24.25. Administrative actions to ensure proper payment of emergency unemployment benefits

5. Notwithstanding the provisions of any other law, the division shall use appropriate administrative means to insure that emergency unemployment benefits are paid only to individuals who meet the requirements of this act. These administrative actions may include, but shall not be limited to, the following procedure: the division shall match the claimant's social security number against available wage records to insure that no earnings were reported for that claimant by employers under R.S.43:21-14 for periods in which emergency unemployment benefits were paid. All necessary administrative costs related to implementation of this act shall be paid from contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b).

L.1996,c.30,s.5.

43:21-24.26. Definitions relative to Emergency Unemployment Benefits Program

7. For the purposes of the Emergency Unemployment Benefits Program and as used in sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30):

"Emergency unemployment benefits" means benefits financed entirely by the State and paid to exhaustees pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30).

"Emergency unemployment benefit period" means a period not within an extended benefit period, which:

a. Begins on December 30, 2001, and

b. Ends on March 9, 2002 or at the conclusion of the calendar week in which total expenditures of emergency unemployment benefits chargeable to the unemployment compensation fund Statewide first exceed $100 million, if the conclusion of that week occurs before March 9, 2002.

No emergency unemployment benefits shall be paid to any individual with respect to periods of unemployment after March 9, 2002.

"Eligibility period" of an exhaustee means the period consisting of the weeks in the exhaustee's benefit year which begin in an emergency unemployment benefit period and, if that benefit year ends in the emergency unemployment benefit period, any weeks thereafter which begin in the period.

"Exhaustee" means an individual who exhausted all of the regular benefits that were available to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable

under the combined wage program) after November 24, 2001 and before December 30, 2001, or during any calendar week of the emergency unemployment benefit period. No individual who exhausted all of the available regular benefits prior to November 25, 2001 shall be eligible for emergency unemployment benefits.

L.2002,c.13,s.7.

43:21-24.27. Emergency unemployment benefits

8. During an emergency unemployment benefit period, an exhaustee who otherwise continues to meet the eligibility requirements for regular benefits pursuant to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq., and who is not eligible for any other unemployment benefits, including benefits provided for by any federal law extending benefits beyond those provided for as regular benefits or extended benefits, may receive weekly emergency unemployment benefits for weeks subsequent to December 29, 2001 in an amount equal to the weekly benefit amount of the exhaustee's most recent regular unemployment benefit claim subject to the provisions of the "unemployment compensation law," R.S.43:21-1 et seq. The maximum emergency unemployment benefits an individual may receive pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30) is 10 times the weekly benefit amount that was payable to the individual pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., (including benefits payable to federal civilian employees and ex-service persons or payable under the combined wage program) in the individual's applicable benefit year.

L.2002,c.13,s.8.

43:21-24.28. Charging of employer's account for emergency unemployment benefits

9. No employer's account shall be charged for emergency unemployment benefits paid to an unemployed individual pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30), except for the account of an out-of-State employer who is liable for charges under the Combined Wage Program. However, nothing in this section shall be construed to relieve employers electing to make payments in lieu of contributions pursuant to section 3 or 4 of P.L.1971, c.346 (C.43:21-7.2 or C.43:21-7.3) from reimbursing the unemployment benefits paid to an unemployed individual pursuant to sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30).

Emergency unemployment benefits paid to federal civilian employees shall be charged to the appropriate federal account. Emergency unemployment benefits paid to ex-service persons shall be charged to the General Fund.

L.2002,c.13,s.9.

43:21-24.29. Payment of emergency unemployment benefits

10. Emergency unemployment benefits may be paid pursuant to the provisions of sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30) only with respect to weeks not within an extended benefit period, and not within a period covered by any federal law allowing the filing of new claims extending benefits beyond those provided for as regular or extended benefits.

L.2002,c.13,s.10.

43:21-24.30. Administrative actions to ensure payment to eligible individuals

11. The division shall use appropriate administrative means to insure that emergency unemployment benefits are paid only to individuals who meet the requirements of sections 7 through 11 of P.L.2002, c.13 (C.43:21-24.26 through C.43:21-24.30). These administrative actions may include, but shall not be limited to, matching the claimant's social security number against available wage records to insure that no earnings were reported for that claimant by employers under R.S.43:21-14 for periods in which emergency unemployment benefits were paid.

L.2002,c.13,s.11.

NEW JERSEY EMPLOYMENT AND WORKFORCE DEVELOPMENT ACT

43:21-57. Findings, declarations

1. The Legislature hereby finds and declares that:

a. During the 1980s, New Jersey employers reported serious difficulties in finding skilled workers for a wide range of jobs in key sectors of the State's economy, and, notwithstanding the current economic slowdown, a longterm shortage of skilled labor will continue in many parts of the State's economy during the 1990s and beyond;

b. In addition, many New Jersey businesses are also hindered by low levels of literacy and other basic skills among a significant minority of the workforce;

c. Basic workplace literacy and vocational skill levels must be raised if the industries and enterprises of this State are to be successful in an increasingly competitive global economy;

d. Because of a slowing rate of population growth, the retraining of the existing workforce will play a critical role in meeting the growing need for skilled labor;

e. The effectiveness of current programs to retrain displaced workers during the time that they receive unemployment benefits is hindered by the limited duration of those benefits, which often drives displaced workers into short-term retraining programs with limited skill enhancement or results in the programs' avoiding the selection of trainees who need more extensive training to succeed;

f. It would increase the effectiveness of programs which provide retraining to displaced workers if the unemployment benefit period could be extended in cases where the longer benefit period is necessary to provide needed in-depth education and training;

g. Such extended unemployment benefits in connection with job training and education would encourage displaced workers to make greater use of retraining opportunities, thus making productive use of periods of economic slowdown and helping to close the skilled labor shortage during the growth periods that follow;

h. New Jersey's Unemployment Compensation Fund, with its current balance of more than two billion dollars, is among the most solvent in the nation;

i. It is therefore an appropriate public purpose, beneficial to workers and employers and the longterm economic development of New Jersey, to use a limited amount of unemployment compensation funds to provide extended unemployment benefits as needed to enable displaced workers to obtain the high quality training and education required for success in occupations where there are demonstrated longterm shortages of skilled labor.

L.1992,c.47,s.1.

43:21-58. Definitions

2. As used in this act:

"Approved service provider" or "approved training provider" means a service provider which is on the State Eligible Training Provider List.

"Commission" means the State Employment and Training Commission.

"Employment and training services" means: counseling provided pursuant to section 3 of this act; occupational training; or remedial instruction.

"Labor Demand Occupation" means an occupation which:

a. The Center for Occupational Employment Information has, pursuant to subsection d. of section 27 of P.L.2005, c.354 (C.34:1A-86), determined is or will be, on a regional basis, subject to a significant excess of demand over supply for trained workers, based on a comparison of the total need or anticipated need for trained workers with the total number being trained; or

b. The Center for Occupational Employment Information, in conjunction with a Workforce Investment Board, has, pursuant to subsection d. of section 27 of P.L.2005, c.354 (C.34:1A-86), determined is or will be, in the region for which the board is responsible, subject to a significant excess of demand over supply for adequately trained workers, based on a comparison of total need or anticipated need for trained workers with the total number being trained.

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Remedial education" or "remedial instruction" means any literacy or other basic skills training or instruction which may not be directly related to a particular occupation but is needed to facilitate success in occupational training or work performance.

"Service provider," "training provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Vocational training" or "occupational training" means training or instruction which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

L.1992,c.47,s.2; amended 2005, c.354, s.30.

43:21-59. Counseling, Employability Development Plan

3. Counseling shall be made available by the Department of Labor and Workforce Development to each individual who meets the requirements indicated in subsections a. and b. of section 4 of this act. The department may provide the counseling or obtain the counseling from a service provider, if the service provider is different from and not affiliated with any service provider offering any employment and training services to the worker other than the counseling. The purpose of the counseling is to assist the individual in obtaining the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the individual with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The counseling shall include:

a. Testing and assessment of the individual's job skills and aptitudes, including the individual's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the individual unless information is provided regarding the individual's educational background and occupational or professional experience which clearly demonstrates that the individual's basic skill level meets the standards indicated in section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the individual is already participating in a remedial instruction program which meets those standards;

b. An evaluation by a qualified job counselor of:

(1) Whether the individual is eligible for the additional benefits indicated in section 5 of this act; and

(2) What remedial instruction, if any, is determined to be necessary for the individual to advance in his current occupation or succeed in any particular occupational training which the individual would undertake in connection with additional benefits indicated in section 4 of this act, provided that the remedial instruction shall be at a level not lower than that needed to meet the standards indicated in section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision of information to the individual regarding any of the labor demand occupations for which training meets the requirements of subsection e. of section 4 of this act in the claimant's case, including information about the wage levels in those occupations, the effectiveness of any particular provider of training for any of those occupations which the individual is considering using, including a consumer report card on service providers showing the long-term success of former trainees of the provider in obtaining permanent employment and increasing earnings over one or more time periods following the completion or other termination of training, including a period of two years following the completion or other termination of training;

d. The timely provision of information to the individual regarding the services and benefits available to the individual, and all actions required of the individual to obtain the services

and benefits, under the provisions of this act and employment and training programs provided or funded pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) and the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.). and regarding the tuition waivers available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and P.L.1983, c.470 (C.18A:64A-23.1 et seq.); and the timely provision to the individual of a written statement of the individual's rights and responsibilities with respect to programs for which the individual is eligible, which includes a full disclosure to the individual of his right to obtain the services most likely to enable the individual to obtain employment providing self-sufficiency and the individual's right not to be denied employment and training services for any of the reasons indicated in section 4 of P.L.1992, c.47 (C.43:21-60), including the individual's right not to be denied training services because the individual already has identifiable vocational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency;

e. Discussion with the counselor of the results of the testing and evaluation; and

f. The development of a written Employability Development Plan, consistent with the requirements of subsections e., f. and g. of section 4 of this act, for the individual describing any remedial instruction and the occupational training that the individual will undertake in connection with benefits provided pursuant to the provisions of this act.

All information regarding an individual applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the individual shall be confidential and shall not be released to an entity other than the individual, the counselor, the department, the commission or partners of the One-Stop system as necessary for them to provide training and employment services or other workforce investment services to the individual, unless the individual provides written permission to the department for the release of the information; or the information is used solely for program evaluation.

L.1992,c.47,s.3; amended 2001, c.152, s.14; 2005, c.354, s.31.

43:21-60. Requirements for provision of additional benefits

4. Except as provided in section 8 of this act, the additional benefits indicated in section 5 of this act shall be provided to any individual who:

a. Has received a notice of a permanent termination of employment by the individual's employer or has been laid off and is unlikely to return to his previous employment because work opportunities in the individual's job classification are impaired by a substantial reduction of employment at the worksite;

b. Is, at the time of the layoff or termination, eligible, pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., for unemployment benefits;

c. Enters into the counseling made available pursuant to section 3 of this act as soon as possible following notification by the Department of Labor and Workforce Development of its availability;

d. (1) Notifies the department of the individual's intention to enter into the instruction and training identified in the Employability Development Plan developed pursuant to section 3 of this act, not later than 60 days after the date of the individual's termination or layoff, not later than 30 days after the department provides notice to the individual pursuant to section 6 of this act or not later than 30 days after the Employability Development Plan is developed, whichever occurs last;

(2) Enters into the instruction and training identified in the Employability Development Plan as soon as possible after giving the notice required by paragraph (1) of this subsection d.; and

(3) Maintains satisfactory progress in the instruction and training;

e. Enrolls in occupational training which:

(1) Is training for a labor demand occupation;

(2) Is likely to facilitate a substantial enhancement of the individual's marketable skills and earning power;

(3) Is provided by an approved service provider; and

(4) Does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives additional benefits pursuant to the provisions of section 5 of this act;

f. Enrolls in occupational training, remedial instruction or a combination of both on a full-time basis; and

g. Reasonably can be expected to successfully complete the occupational training and any needed remedial instruction, either during or after the period of additional benefits.

If the requirements of this section are met, the division shall not deny an individual unemployment benefits pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., P.L.1970, c.324 (C.43:21-24.11 et seq.) or the additional benefits indicated in section 5 of this act for any of the following reasons: the training includes remedial instruction needed by the individual to succeed in the occupational component of the training; the individual has identifiable occupational skills but the training services are needed to enable the individual to develop skills necessary to attain at least the level of self-sufficiency; the training is part of a program under which the individual may obtain any college degree enhancing the individual's

marketable skills and earning power; the individual has previously received a training grant; the length of the training period under the program; or the lack of a prior guarantee of employment upon completion of the training. If the requirements of this section are met, the division shall regard a training program as approved for the purposes of paragraph (4) of subsection (c) of R.S.43:21-4.

L.1992,c.47,s.4; amended 2001, c.152, s.15; 2005, c.354, s.32.

43:21-61. Additional benefits provided during completion of remedial education, vocational training

5. Except as provided in section 8 of this act, each individual who meets the requirements of section 4 of this act, but has not completed the remedial education and vocational training at the end of the period during which he is entitled to receive unemployment benefits pursuant to the "unemployment compensation law" (R.S.43:21-1 et seq.), P.L.1970, c.324 (C.43:21-24.11 et seq.) and any federally-financed supplemental benefits program shall be entitled to receive a weekly benefit equal to his previous weekly unemployment compensation benefit for each additional week certified by the division as needed to complete the remedial education or vocational training up to a total of 26 additional weeks.

No additional benefits shall be paid pursuant to the provisions of this section for any week during which the individual receives training allowances or stipends pursuant to the provisions of this section for any week during which the individual receives training allowances or stipends pursuant to the provisions of any federal law or any other State law. As used in this section, "training allowances or stipends" means discretionary use, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as the costs of tuition, books and supplies.

No employer's account shall be charged for the payment of additional benefits pursuant to the provisions of this section.

L.1992, c.47, s.5.

43:21-62. Notice of services, benefits available, applications

6. a. The Department of Labor shall provide notice to any individual who is laid off or notified of a pending layoff of the services and benefits available to the individual under the provisions of this act and employment and training programs provided or funded pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) and the "Job Training Partnership Act," Pub.L. 97-300 (29 U.S.C. s.1501 et seq.) and of the tuition waivers available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and P.L.1983, c.470 (C.18A:64A-23.1 et seq.) and permit the individual to apply to receive the benefits, services or waivers upon any of the following occurrences:

(1) When the individual applies for unemployment compensation;

(2) When an individual who receives notification of a pending layoff is contacted by the department prior to the layoff by means of a response team or by other means; or

(3) Not later than 60 days after the effective date of this act, if the individual has already been laid off and is receiving unemployment benefits upon that effective date.

b. If an individual is given pre-notification of a permanent layoff and subsequently receives vocational training or remedial education provided by any employment and training program funded or established pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) or the "Job Training Partnership Act," Pub.L. 97-300 (29 U.S.C. s.1501 et seq.), the individual shall be permitted to commence the training or education prior to the termination of employment, except that this provision shall not apply to a federally-funded program if permitting the individual to commence the training or education prior to the termination of employment will result in a reduction of federal funding for the program.

L.1992,c.47,s.6.

43:21-63. Allocation of moneys for education, training

7. In using moneys provided as individual grants pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.), and in using moneys appropriated for any employment and training program funded or established pursuant to the "Job Training Partnership Act," Pub.L. 97-300 (29 U.S.C. s.1501 et seq.), the Department of Labor and each program shall, to the extent feasible and to the extent it has authority to do so, give priority to funding vocational training and remedial education for individuals who meet the requirements of section 4 of this act, to the extent that those individuals also fall within the target population of the respective program, except that moneys shall not be allocated in any case in a manner which is contrary to any other priorities imposed on the program by law or will result in a reduction of federal funds available to the State for the program.

L.1992,c.47,s.7.

43:21-64. Repealed

43:21-65. Rules, regulations

9. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to govern the proper conduct and operation of the program consistent with the provisions of this act.

L.1992,c.47,s.9.

43:21-66. Repealed by L.1995, c. 422 s. 10, eff. Jan. 10, 1996

43:21-67. Short title

1. This act shall be known and may be cited as the "Self-Employment Assistance and Entrepreneurial Training Act."

L.1995,c.394,s.1.

43:21-68. Findings, declarations relative to small business

2. The Legislature finds and declares that a significant percentage of new jobs in this country are created by small businesses and that approximately 12 percent of the persons employed in the United States are self-employed, mostly in small businesses. In the wake of recent corporate downsizing, it is imperative that ways are found to help unemployed individuals, including professional and technical employees, to re-enter the labor force. Experience in numerous other states and in certain urban areas of New Jersey has shown that "micro-lending," or carefully targeting small loans to individuals with well-developed, realistic business plans, has been successful in helping those individuals to establish small businesses and become self-employed entrepreneurs. This approach is particularly successful where the loan recipients are part of a peer group that provides support, advice and assistance, and helps to ensure loan repayments.

L.1995,c.394,s.2.

43:21-69. Definitions relative to self-employment assistance

3. As used in P.L.1995, c.394 (C.43:21-67 et al.):

"Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor.

"Full-time basis" with respect to the amount of time spent participating in self-employment assistance activities shall have the meaning contained in regulations adopted by the Commissioner of Labor.

"Peer group" means a group of not more than twenty participating individuals who provide mutual assistance and support for each other's efforts to establish businesses and become self-employed entrepreneurs.

"Reemployment services" means job search assistance and job placement services, including counseling, testing, assessment, job search workshops, job clubs, referrals to employers and providing occupational and labor market information.

"Regular benefits" means benefits payable to an individual under the "unemployment compensation law" (R.S.43:21-1 et seq.), including benefits payable to federal civilian employees and to ex-service members pursuant to 5 U.S.C. chapter 85, but not including additional benefits provided pursuant to P.L.1992, c.47 (C.43:21-57 et seq.) or extended benefits.

"Self-employment assistance activities" means activities, approved by the division, in which an individual participates for the purpose of establishing a business and becoming self-employed, including: activities in which the individual participates in connection with self-employment assistance services; and other activities in which the individual engages to establish the business, which may, at the discretion of the division, include participation in a peer group.

"Self-employment assistance allowance" means an allowance, payable in lieu of regular benefits and from the unemployment compensation fund, to an individual participating in self-employment assistance activities who meets the requirements of P.L.1995, c.394 (C.43:21-67 et al.).

"Self-employment assistance services" means services provided to an individual, including entrepreneurial training, business counseling, and technical assistance, to help the individual to develop a business plan, establish a business and become self-employed, including entrepreneurial training and technical assistance supported by training grants provided pursuant to subsection b. of section 6 of P.L.1992, c.43 (C.34:15D-6).

"Worker profiling system" means the worker profiling system established pursuant to section 2 of P.L.1992, c.46 (C.43:21-4.1).

"Workforce Development Partnership Program" means the program created pursuant to P.L.1992, c.43 (C.34:15D-1 et seq.).

L.1995,c.394,s.3.

43:21-70. Self-employment assistance allowance; conditions

4. a. Any unemployed individual who qualifies for regular benefits and is identified through the worker profiling system as likely to exhaust regular benefits may apply to the division for a self-employment assistance allowance. If the individual is selected to receive a self-employment assistance allowance, the Department of Labor may also provide the individual with any available self-employment assistance services it deems appropriate, including services available from the Workforce Development Partnership Program, or the department may refer the individual to any other private or public entity it deems appropriate to provide the services. The department shall provide the individual with appropriate information available to the department regarding possible sources of financing for entrepreneurial activities, including information obtained from the Department of Banking and information regarding suitable "micro-lending" programs.

b. The weekly self-employment assistance allowance payable pursuant to this section to an individual shall be equal to the weekly benefit amount for regular benefits. In no instance shall a self-employment assistance allowance and regular benefits be paid to an individual with respect to the same period. The sum of the allowance and regular benefits paid under P.L.1995, c.394 (C.43:21-67 et al.) with respect to any benefit year shall not exceed the maximum benefit amount established for regular benefits alone with respect to that benefit year. The allowance shall not be paid for any week in which the individual does not participate, on a full-time basis, in self-employment assistance activities authorized by the division.

c. A self-employment assistance allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits, except as otherwise provided in P.L.1995, c.394 (C.43:21-67 et al.).

d. The aggregate number of individuals receiving self-employment assistance allowances at any time shall not exceed one percent of the number of individuals receiving regular benefits. The Commissioner of Labor shall adopt regulations consistent with the provisions of P.L.1995, c.394 (C.43:21-67 et al.) to establish eligibility requirements and procedures for the selection of individuals to receive self-employment assistance allowances and self-employment assistance services.

e. Self-employment assistance allowances shall be charged to employers in the same manner as provided for the charging of regular benefits.

f. The provisions of this section shall apply to weeks beginning after the effective date of P.L.1995, c.394 (C.43:21-67 et al.) and after any plan required by the United States Department of Labor is approved by that department. The authority provided by this section shall terminate as of the end of the week preceding the date when federal law no longer authorizes the provisions of this section, unless that date is a Saturday in which case the authority shall terminate as of that date.

L.1995,c.394,s.4.

43:21-71. Rules, regulations

5. The Department of Labor shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of P.L.1995, c.394 (C.43:21-67 et al.).

L.1995,c.394,s.5.

SUPPLEMENTARY LEGISLATION
Department of Labor and Industry Act of 1948
Chapter 1A, Title 34, Revised Statutes, 1937 as amended

34:1A-1. Department of Labor and Industry established; "department" defined

There is hereby established in the Executive Branch of the State Government a principal department which shall be known as the Department of Labor and Industry.

As used in this act, unless the context clearly indicates otherwise, the word "department" means the Department of Labor and Industry established herein.

L.1948, c. 446, p. 1762, s. 1.

34:1A-1.1. Change of name of department of labor and industry to department of labor

On the effective date of this act the Department of Labor and Industry established pursuant to P.L.1948, c. 446 (C. 34 :1A-1 et seq.) shall be entitled and known as the Department of Labor and whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Department of Labor and Industry, the same shall mean and refer to the Department of Labor.

L.1981, c. 122, s. 29, eff. April 16, 1981.

34 :1A-1.2. Department of Labor and Workforce Development; reference

1. On and after the effective date of this 2004 amendatory and supplementary act, the Department of Labor shall be entitled and known as the Department of Labor and Workforce Development and whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Department of Labor, the same shall mean and refer to the Department of Labor and Workforce Development.

L.2004,c.39,s.1.

34:1A-1.3. Transfer of workforce development programs from DHS

2. a. To the extent not inconsistent with any federal law, and notwithstanding any other State law, all employment-directed and workforce development programs and activities of the Department of Human Services which are funded through the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, 42 U.S.C. s.601 et seq., and the federal Food Stamp Act of 1977, Pub.L.95-113, 7 U.S.C. s. 2011 et seq. are hereby transferred to the Department of Labor and Workforce Development.

b. The employment-directed and workforce development programs and activities which shall be transferred from the Department of Human Services to the Department of Labor and Workforce Development pursuant to this section and provided by the Department of Labor and Workforce Development shall include, but not be limited to:

(1) Career guidance;

(2) Labor market information;

(3) Employability assessment;

(4) Development of Employability Development Plans;

(5) Employment-directed case management;

(6) Subsidized and unsubsidized employment in the public and private sectors;

(7) Job search and readiness programs;

(8) Community work experience programs;

(9) Alternative work experience programs;

(10) Community service programs;

(11) On-the -job training;

(12) Vocational education and training;

(13) Employment-related education and job skill training;

(14) Basic skills and literacy training;

(15) Work-related educational enhancements;

(16) A proportionate share of employment and training related expenses;

(17) Referral and access to work support services, including transport and childcare services;

(18) Early employment initiative; and

(19) Career advancement vouchers.

c. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs and activities in the Department of Human Services are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

L.2004,c.39,s.2.

34:1A-1.4. New Jersey Youth Corps transferred

3. The New Jersey Youth Corps, established pursuant to P.L.1984, c.198 (C.9:25-1 et seq.), is hereby transferred to the Department of Labor and Workforce Development. To the extent not inconsistent with any federal law, and notwithstanding any other State law, the Department of Labor and Workforce Development is authorized to enhance, strengthen and expand the New Jersey Youth Corps program. The programmatic, administrative and support staff and equipment assigned to the New Jersey Youth Corps are transferred to the Department of Labor and Workforce Development, with all of their functions, powers and duties and the resources to maintain the programs and activities pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

L.2004,c.39,s.3.

34:1A-1.5. Certain powers, functions, duties of DOE transferred

4. a. Notwithstanding any other State law, all powers, functions and duties of the Department of Education with respect to the following employment-directed and workforce development programs and activities are hereby transferred to the Department of Labor and Workforce Development:

(1) The administration and provision of adult education and literacy activities as defined in 20 U.S.C. s.9202;

(2) Operational authority for the approval of private or proprietary trade, business or vocational schools or similar training institutions pursuant to section 2 of P.L.1966, c.13 (C.44:12-2); and

(3) Registration and approval of registered apprenticeship programs under a joint agreement negotiated with the Bureau of Apprenticeship and Training in the United States Department of Labor.

b. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs and activities in the Department of

Education are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

L.2004,c.39,s.4.

34:1A-1.6. Construction of act relative to Civil Service tenure, rights, protection

5. a. Nothing in this 2004 amendatory and supplementary act and no transfer carried out pursuant to this act shall be construed or permitted to deprive any person of any tenure rights or reduce or deny any right or protection provided him or her by Title 11A, Civil Service, of the New Jersey Statutes, or under any pension law or retirement system.

b. All staff who are hired to work at a One Stop Career Center and supported by any resources transferred to the Department of Labor and Workforce Development pursuant to section 2, 3 or 4 of this act, shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of this act.

c. Any staff member, including staff located at any One Stop Career Center, providing services to unemployment insurance claimants or services to employment service clients shall be hired and employed pursuant to Title 11A, Civil Service, of the New Jersey Statutes, if that staff member is supported by any funds provided to the State under the Wagner-Peyser Act (29 U.S.C. s.49 et seq.) or section 903 of the Social Security Act (42 U.S.C. s.1103), as amended.

d. For the purpose of this section, "One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State or a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities, and "qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

L.2004,c.39,s.5.

34:1A-1.7. Short title

1. This act shall be known as "The Domestic Violence and Workforce Development Initiative Act."

L.2005,c.309,s.1.

34:1A-1.8. Requirements for job training counselors for victims of domestic violence

2. Each counselor who provides counseling pursuant to section 4 of P.L.1992, c.48 (C.34:15B-38), section 7 of P.L.1992, c.43 (C.34:15D-7), or section 3 of P.L.1992, c.47 (C.43:21-59), and any other staff member of the Department of Labor and Workforce Development or of a One Stop Career Center as defined in subsection d. of section 5 of P.L.2004, c.39 (C.34:1A-1.6) who processes unemployment compensation claims and has direct, in person, contact with claimants or who provides counseling or employment services to claimants, shall:

a. Be trained to implement the provisions of this section applicable to the counselor or staff member and to understand and address employment, training, income security, safety and related issues facing individuals who are victims of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19);

b. Comply with standards adopted by the Commissioner of Labor and Workforce Development, in consultation with the Advisory Council on Domestic Violence created pursuant to P.L.1979, c.337 (C.30:14-1 et seq.), regarding the screening or self-screening of each individual receiving any of the indicated counseling or employment services or applying for unemployment compensation, to ascertain whether the individual is a victim of domestic violence;

c. For each individual who is or appears to be a victim of domestic violence, make referrals to services determined to be appropriate in the case of the individual, including, but not limited to, any appropriate referral to a designated domestic violence agency as defined in subsection (j) of R.S.43:21-5 or a community shelter for victims of domestic violence certified pursuant to standards and procedures established by P.L.1979, c.337 (C.30:14-1 et seq.), and disclose the rights that the individual may have to unemployment compensation pursuant to subsection (j) of R.S.43:21-5 , but shall not provide domestic violence counseling or be regarded as a Certified Domestic Violence Specialist;

d. Include in any Employability Development Plan developed for the individual appropriate accommodations for the individual's needs as a victim of domestic violence; and

e. Comply with all requirements regarding the confidentiality of the individual, including, as applicable, the requirements of section 4 of P.L.1992, c.48 (C.34:15B-38), section 7 of P.L.1992, c.43 (C.34:15D-7), section 3 of P.L.1992, c.47 (C.43:21-59) and the "Address Confidentiality Program Act," R.S.47:4-1 et seq.

The training conducted pursuant to subsection a. of this section shall be conducted by a Certified Domestic Violence Specialist or, if a Certified Domestic Violence Specialist is not available to conduct the training, by another person found by the Commissioner of Labor and Workforce Development, in consultation with the Commissioner of Community Affairs, to have equivalent qualifications and expertise regarding domestic violence issues, based on standards of qualification and expertise developed by the commissioner in consultation with the Advisory Council on Domestic Violence created pursuant to P.L.1979, c.337 (C.30:14-1 et seq.). For the

purposes of this section, "Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals.

L.2005,c.309,s.2.

34:1A-1.9. Rules, regulations

3. The Commissioner of Labor and Workforce Development shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.), and in consultation with the Advisory Council on Domestic Violence created pursuant to P.L.1979, c.337 (C.30:14-1 et seq.) and the Commissioner of Community Affairs, adopt rules and regulations to effectuate the purposes of section 2 of this act.

L.2005,c.309,s.3.

34:1A-1.10. Credentials Review Board established

25. There is established, in the Department of Labor and Workforce Development, the Credentials Review Board, for the purpose of directing the technical credentialing process for the workforce investment system and approving such credentials as it deems appropriate for issuance to individuals in connection with employment and training programs. The board shall include the following members or their designated representatives: the Commissioner of Education; the Staff Director of the Center for Occupational Employment Information; the Chairman of the Commission on Higher Education; the Director of the Division of Vocational Education; the Commissioner of Labor and Workforce Development; the Executive Director of the State Employment and Training Commission; a Workforce Investment Board director as designated by the commissioner; and a One-Stop Career Center operator as designated by the department.

L.2005,c.354,s.25.

34:1A-1.11. Definitions relative to suspension, revocation of certain employer licenses

1. As used in this act:

"Agency" means any agency, department, board or commission of this State, or of any political subdivision of this State, that issues a license for purposes of operating a business in this State.

"Commissioner" means the Commissioner of Labor and Workforce Development, and shall include any designee, authorized representative, or agent acting on behalf of the commissioner.

"License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this State, and includes, but is not limited to:

(1) A certificate of incorporation pursuant to the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq.;

(2) A certificate of authority pursuant to N.J.S.14A:13-1 et seq.;

(3) A statement of qualification or a statement of foreign qualification pursuant to the "Uniform Partnership Act (1996)," P.L.2000, c.161 (C.42:1A-1 et al.);

(4) A certificate of limited partnership or a certificate of authority pursuant to the "Uniform Limited Partnership Law (1976)," P.L.1983, c.489 (C.42:2A-1 et seq.);

(5) A certificate of formation or certified registration pursuant to the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.); and

(6) Any license, certificate, permit or registration pursuant to R.S.48:16-1 et seq., R.S.48:16-13 et seq.; the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et seq.; section 4 of P.L.2001, c.260 (C.34:8-70); P.L.1971, c.192 (C.34:8A-7 et seq.); section 12 of P.L.1975, c.217 (C.52:27D-130); section 14 of P.L.1981, c.1 (C.56:8-1.1); or "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.).

"State wage, benefit and tax laws" means:

(1) P.L.1965, c.173 (C.34:11-4.1 et seq.);

(2) The "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.);

(3) The "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.);

(4) The workers' compensation law, R.S.34:15-1 et seq.;

(5) The "unemployment compensation law," R.S.43:21-1 et seq.;

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

(7) P.L.2008, c.17 (C.43:21-39.1 et al.);

(8) The "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

(9) P.L.2018, c.10 (C.34:11D-1 et seq.).

L.2009, c.194, s.1; amended 2021, c.165, s.1

34:1A-1.12. Commissioner; actions relative to employer violations

2. a. (1) If the commissioner determines that an employer has violated any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or failed to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or violated any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner shall, as an alternative to, or in addition to, any other actions taken in the enforcement of those laws, notify the employer of the determination and have an audit of the employer and any successor firm of the employer conducted not more than 12 months after the determination.

(2) If the commissioner is notified pursuant to subsection g. of this section of a conviction of an employer, the commissioner shall, as an alternative to, or in addition to, any other actions taken in the enforcement of the laws violated by the employer, have an audit of the employer and any successor firm of the employer conducted not more than 12 months after receipt of the notification.

b. If, in an audit conducted pursuant to subsection a. of this section, the commissioner determines that the employer or any successor firm to the employer has continued in its failure to maintain or report records as required by those laws or continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, or if the commissioner is notified pursuant to subsection g. of this section of a conviction of the employer and the offense resulting in the conviction occurred subsequent to an audit conducted pursuant to subsection a. of this section, the commissioner:

(1) May, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue a written determination directing any appropriate agency to suspend any one or more licenses that are held by the employer or successor firm, for a period of time determined by the commissioner. In determining the length of a suspension, the commissioner shall consider any of the following factors which are relevant:

(a) The number of employees for which the employer or successor firm failed to maintain or report required records and pay required wages, benefits, taxes or other contributions or assessments;

(b) The total amount of wages, benefits, taxes or other contributions or assessments not paid by the employer or successor firm;

(c) Any other harm resulting from the violation;

(d) Whether the employer or successor firm made good faith efforts to comply with any applicable requirements;

(e) The duration of the violation;

(f) The role of the directors, officers or principals of the employer or successor firm in the violation;

(g) Any prior misconduct by the employer or successor firm; and

(h) Any other factors the commissioner considers relevant; and

(2) Shall conduct a subsequent audit or inspection of the employer or any successor firm of the employer not more than 12 months after the date of the commissioner's written determination.

c. If, in the subsequent audit or inspection conducted pursuant to subsection b. of this section, the commissioner determines that the employer or successor firm has continued in its failure to maintain or report records as required pursuant to State wage, benefit and tax laws, as defined in section 1 of this act, and continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, or if the commissioner is notified pursuant to subsection g. of this section of a conviction of the employer for an offense occurring after the audit conducted pursuant to subsection b. of this section, the commissioner, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall issue a written determination directing any appropriate agency to permanently revoke any one or more licenses that are held by the employer or any successor firm to the employer and that are necessary to operate the employer or successor firm.

d. Upon receipt of any written determination of the commissioner directing an agency to suspend or revoke a license pursuant to this section, and notwithstanding any other law, the agency shall immediately suspend or revoke the license.

e. In instances where an employee leasing company has entered into an employee leasing agreement with a client company pursuant to P.L.2001, c.260 (C.34:8-67 et seq.), any written determination by the commissioner directing agencies to suspend an employer license pursuant to subsection b. of this section, or revoke an employer license pursuant to subsection c. of this section, for a failure or continued failure to keep records regarding, and to pay, wages, benefits and taxes pursuant to State wage, benefit and tax laws, shall be for the suspension or revocation of the licenses of the client company and not the licenses of the employee leasing company if the commissioner determines that the failure or continued failure was caused by incomplete, inaccurate, misleading, or false information provided to the employee leasing company by the client company. Nothing in this subsection shall be construed as diminishing or limiting the authority or obligation of the commissioner to rescind the registration of an employee leasing company pursuant to the provisions of section 10 of P.L.2001, c.260 (C.34:8-76).

f. If, in the course of an audit or inspection conducted pursuant to this section, the commissioner discovers that an employee of the employer or of any successor firm of the employer has failed to provide compensation to the employee as required under any of the State

wage and hour laws as defined in R.S.34:11-57, then the commissioner shall initiate a wage claim on behalf of the employee pursuant to R.S.34:11-58.

g. Upon the conviction of an employer under subsection a. of section 10 of P.L.1999, c.90 (C.2C:40A-2), section 13 of P.L.2019, c.212 (C.34:11-58.6), subsection a. of section 10 of P.L.1965, c.173 (C.34:11-4.10), subsection a. of section 25 of P.L.1966, c.113 (C.34:11-56a24), or N.J.S.2C:20-2 if the property stolen consists of compensation the employer failed to provide to an employee under any State wage and hour law as defined in R.S.34:11-57, the prosecutor or the court shall notify the commissioner of the employer's conviction.

h. In the alternative to proceedings under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in accordance with the provisions of subsection b. of this section, and in addition to any other actions taken in the enforcement of the laws violated by any employer, the commissioner shall have the authority, to be exercised in the commissioner's sole discretion, to bring enforcement actions for any violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), in the Office of Administrative Law or in the Superior Court for the county in which the violation occurred. When the commissioner, including any of the commissioner's authorized representatives in the Office of the Attorney General, brings an action in the Office of Administrative Law or Superior Court which seeks relief on behalf of any individual for any of the above violations, communications between members of the Attorney General's office and that individual shall be privileged as would be a communication between an attorney and a client.

i. In any enforcement action brought under subsection h. of this section, the commissioner, including any of the commissioner's authorized representatives in the Office of the Attorney General, may initiate the action by making, signing, and filing a verified complaint against the employer. If the action is brought by the commissioner in Superior Court, a jury trial may be requested upon the application of any party. If the commissioner is a prevailing plaintiff in the action, any and all remedies available by law shall be available on behalf of any named or unnamed victims as if the claims were brought directly by the victims. In addition to any remedies sought on behalf of the named or unnamed victims, the commissioner shall be entitled to seek any fines, penalties or administrative assessments authorized by law, including but not limited to penalties for misclassification set forth in section 1 of P.L.2019, c.373 (C.34:1A-1.18). If the suit seeks relief for one or more unnamed members of a class, the commissioner shall have the discretion to settle the suit on the terms the commissioner deems appropriate. If the commissioner is a prevailing plaintiff, the court shall award reasonable attorney's fees and litigation and investigation costs.

j. At any time after the filing of any verified complaint under subsection i. of this section, or whenever it appears to the commissioner that an employer has engaged in, is engaging in, or is about to engage in, any violation of a State wage, benefit or tax law, including a violation of R.S.34:15-79 or any failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or has

violated any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner may proceed against the employer in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting the employer from continuing or engaging in the violation or doing any acts in furtherance of the violation, to compel compliance with any of the provisions of this Title, or to prevent violations or attempts to violate any of those provisions, or attempts to interfere with or impede the enforcement of those provisions or the exercise or performance of any power or duty under this Title. Prospective injunctive relief against an employer shall also be available as a remedy to the commissioner as a prevailing plaintiff in any enforcement action under subsection i. of this section.

L.2009, c.194, s.2; amended 2019, c.212, s.1; 2021, c.165, s.2.

34:1A-1.13. Presumption of successor firm

3. A rebuttable presumption that an employer has established a successor firm shall arise if the two parties share two or more of the following capacities or characteristics:

a. Performing similar work within the same geographical area;

b. Occupying the same premises;

c. Having the same telephone or fax number;

d. Having the same e-mail address or Internet website;

e. Employing substantially the same work force, administrative employees, or both;

f. Utilizing the same tools, equipment or facilities;

g. Employing or engaging the services of any person or persons involved in the direction or control of the other; or

h. Listing substantially the same work experience.

L.2009, c.194, s.3.

34:1A-1.14. Notification of employer responsibility relative to record maintenance

4. a. Each employer which is required to maintain and report records regarding wages, benefits, taxes and other contributions and assessments pursuant to State wage, benefit and tax laws, as defined in section 1 of this act, shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by regulation adopted by the commissioner, of the obligation of the employer to maintain and report those records. The employer shall also provide each employee a written copy of the notification not

later than 30 days after the form of the notification is issued, or, if the employee is hired after the issuance, at the time of the employee's hiring. In adopting the regulation regarding the notification requirement, the commissioner shall, to the greatest extent practicable, design the notification in a manner which coordinates or consolidates the notification with any other notifications required pursuant to State wage, benefit and tax laws, as defined in section 1 of this act. The notification shall also provide information on how an employee or the employee's authorized representative, may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible violations of the requirements of this act or any State wage, benefit and tax law, as defined in section 1 of this act, or may obtain information about any actual violation, including any audit undertaken pursuant to this act.

b. No employer shall discharge or in any other manner discriminate against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding any possible violation by the employer of the provisions of this act or any State wage, benefit and tax laws, as defined in section 1 of this act, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this act or those laws, or because the employee has testified or is about to testify in the proceeding.

c. Any employer who violates any provision of this section shall be guilty of a disorderly persons offense and shall, upon conviction, be fined not less than $100 nor more than $1,000. In the case of a discharge or other discriminatory action in violation of this section, the employer shall also be required to offer reinstatement in employment to the discharged employee and to correct any discriminatory action, and to pay to the employee all reasonable legal costs of the action, all wages and benefits lost as a result of the discharge or discriminatory action, plus punitive damages equal to two times the lost wages and benefits, under penalty of contempt proceedings for failure to comply with the requirement.

L.2009, c.194, s.4.

34:1A-1.15. Provision of information relative to certain employee leave and benefit rights

1. a. The Department of Labor and Workforce Development shall maintain on its Internet website a webpage developed by the department, in consultation with the Department of Law and Public Safety, of information regarding any rights provided by law to employees in New Jersey to receive benefits during family leave or disability, and any rights provided by law for employees to return to work after leave.

b. The information required pursuant to subsection a. of this section shall include, but not be limited to:

(1) information that an employee eligible to receive benefits for the purpose of caring for a child during the first 12 months after the child's birth, may be also eligible for temporary

disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) during pregnancy and recovery from childbirth for the period that a legally licensed practitioner specified under subsection (d) of section 15 of P.L.1948, c.110 (C.43:21-39) deems necessary, and that an employee eligible for temporary disability benefits in connection with pregnancy and recovery from childbirth may also be eligible for family leave benefits to care for the child after recovery from childbirth;

(2) information regarding an employee's rights to return to work pursuant to the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.), the "New Jersey Security and Financial Empowerment Act," P.L.2013, c.82 (C.34:11C-1 et seq.), and the federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C.s.2601 et seq.), including an explanation of the types of employers subject to each of those acts and an explanation of an employee's rights if the employer is not subject to those acts;

(3) links to texts of: the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.); the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.); P.L.2008, c.17 (C.43:21-39.1 et seq.); the "New Jersey Security and Financial Empowerment Act," P.L.2013, c.82 (C.34:11C-1 et seq.); and R.S.34:15-1 et seq.; and

(4) instructions for claiming the benefits provided to workers pursuant to each law indicated in paragraph (3) of this subsection and information on where employers and employees can make inquiries or request resources relevant to each of those laws.

34:1A-1.16. Definitions, publishing of violators of State wage, benefit, and tax laws

1. a. As used in this section:

"Commissioner" means the Commissioner of the Department of Labor and Workforce Development or the Commissioner's duly authorized representative.

"Contracting" means any arrangement giving rise to an obligation to supply any product or to perform any service for a public body, other than by virtue of State employment, or to supply any product to or perform any service for a private person where the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or services or the persons who may supply or perform the same.

"Department" means the Department of Labor and Workforce Development.

"Final order" means either a final administrative determination of the commissioner or other appropriate agency officer issued following adjudication of a matter as a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or where the department or other appropriate agency has made a finding regarding a violation of any State wage, benefit and tax laws or regarding the levying of a penalty pursuant to any State wage, benefit and tax laws, has notified the violator of the finding, and the violator has expressly waived

the right to a hearing by virtue of having failed to request a hearing within the appropriate time limit established by either law or rule.

"Person" means any natural person, company corporate officer or principal, firm, association, corporation, contractor, subcontractor or other entity engaged in contracting.

"Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey, and any instrumentality or agency for the State of New Jersey or of any of its political subdivisions.

"State wage, benefit and tax laws" has the same meaning as that term is defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

b. The department may post to a list on its website the name of any person found to be in violation of any State wage, benefit, or tax laws and against whom a final order has been issued by the commissioner or other appropriate agency officer for any violation of State wage, benefit and tax laws.

c. In the event that either the person satisfies the entirety of the outstanding liability ordered by the court or the commissioner; or a settlement has been reached and all payments have been made pursuant to the settlement, prior to the anticipated date for posting of the name on the department's website, the posting shall not occur. The department shall update the website on a monthly basis, no later than the fifth day of each month. The department shall remove the name of a person from the website within 15 days after the department determines that the person has satisfied the entirety of the outstanding liability ordered by the court, the commissioner or other agency head, or made all payments pursuant to the settlement for a violation of any State wage, benefit and tax laws.

d. A person placed on the list pursuant to subsection b. of this section shall be prohibited from contracting with any public body until the liability for violations of State wage, benefit, and tax laws have been resolved to the satisfaction of the commissioner.

e. The department shall provide notice to the person of its intent to post the name of the person on the department's website 15 business days prior to the posting. That notice shall include the following:

(1) The name, email address, and telephone number of a contact person at the department and description of the procedure for removal of the posting;

(2) The specific details concerning the violations and a copy of the unsatisfied court final judgment or final order for any violation of State wage, benefit and tax laws;

(3) Notification that the person shall be prohibited from contracting with a public body if the liability is not resolved; and

(4) Notification that the person can request a hearing in writing to the commissioner within 20 days of receipt of the notice of intent to place the person on the list.

f. A person who receives a notice of intent pursuant to subsection e. of this section shall have the right to request a hearing within 20 days. All hearings requested pursuant to this section shall be conducted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

g. The commissioner shall consider the following factors as material in each decision to place a person on the list pursuant to subsection b. of this section:

(1) The record of previous violations;

(2) Previous placement on the list by the commissioner;

(3) The frequency of violations by the person discovered in previous or still pending cases;

(4) The significance or scale of the violations;

(5) The existence of failure to pay;

(6) Failure to cooperate or respond to a request to produce records, forms, documents, or proof of payments;

(7) Submission of falsified or altered records, forms, documents, or proof of payment;

(8) Failure to provide goods or services; and

(9) Failure to comply with contract specifications.

L.2019, c.366, s.1.

34:1A-1.17. Entrance into place of business, employment; stop-work order

1. a. The Commissioner of Labor and Workforce Development and any agent of the commissioner, upon receipt of a complaint or through routine investigation for a violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), is authorized to enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with those laws, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take interrogatories and oral depositions.

b. The commissioner may issue subpoenas for the attendance of witnesses and the production of books and records. Any entity that fails to furnish information required to the commissioner or agent of the commissioner upon request, or who refuses to admit the commissioner or agent to the place of employment of the employer, or who hinders or delays the commissioner or agent in the performance of duties in the enforcement of this section, may be fined not less than $1,000 and shall be guilty of a disorderly persons offense. Each day of the failure to furnish the records to the commissioner or agent shall constitute a separate offense, and each day of refusal to admit, of hindering, or of delaying the commissioner or agent shall constitute a separate offense.

In addition to the foregoing fines, and in addition to or as an alternative to any criminal proceedings, if an entity fails to comply with any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the commissioner may apply to the Superior Court to compel obedience by proceedings for contempt, in the same manner as in a failure to comply with the requirements of a subpoena issued from the court or a refusal to testify in the court.

c. (1) If the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to subsection a. of this section, that an employer is in violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at one or more worksites or across all of the employer's worksites and places of business. The stop-work order may be issued only against the employer found to be in violation or non-compliance. The commissioner shall serve a notification of intent to issue a stop-work order on the employer at the place of business or, for a particular employer worksite, at that worksite at least seven days prior to the issuance of a stop-work order. The order shall be effective when served upon the employer at the place of business or, for a particular employer worksite, when served at that worksite. The order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any penalty deemed to be satisfactory to the commissioner, or after the commissioner determines, in a hearing held pursuant to paragraph (2) of this subsection, that the employer did not commit the act on which the order was based. The stop-work order shall be effective against any successor entity engaged in the same or equivalent trade or activity that has one or more of the same principals or officers as the corporation, partnership, limited liability company, or sole proprietorship against which the stop-work order was issued. The commissioner may assess a civil penalty of $5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order. A request for hearing shall not automatically stay the effect of the order.

(2) An employer who is subject to a stop-work order shall, within 72 hours of its receipt of the notification, have the right to appeal to the commissioner in writing for an opportunity to be heard and contest the stop-work order.

Within seven business days of receipt of the notification from the employer, the commissioner shall hold a hearing to allow the employer to contest the issuance of a stop-work order. The department and the employer may present evidence and make any arguments in support of their respective positions on the imposition of the misclassification penalty. If a hearing is not held within seven business days of receipt of the notification from the employer, an administrative law judge shall have the authority to release the stop-work order. The commissioner shall issue a written decision within five business days of the hearing either upholding or reversing the employer's stop-work order. The decision shall include the grounds for upholding or reversing the employer's stop-work order. If the employer disagrees with the written decision, the employer may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

If the employer does not request an appeal to the commissioner in writing, the stop-work order shall become a final order after the expiration of the 72-hour period. The authority to assess a civil penalty under paragraph (1) of this subsection shall be in addition to any misclassification penalty assessed under section 1 of P.L.2019, c.373 (C.34:1A-1.18) and all other enforcement provisions or assessments issued for the employer's violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.) The commissioner may compromise any civil penalty assessed under this section in an amount the commissioner determines to be appropriate.

Once the stop-work order becomes final, any employee affected by a stop-work order issued pursuant to this section shall be entitled to pay from the employer for the first ten days of work lost because of the stop-work. Upon request of any employee not paid wages, the commissioner can take assignment of the claim and bring any legal action necessary to collect all that is due.

(3) As an alternative to issuing a stop-work order in accordance with paragraph (1) of this subsection, if the commissioner determines, after an investigation pursuant to subsection a. of this section, that an employer is in violation of R.S.34:15-79, the commissioner may provide and transfer all details and materials related to the investigation under this section to the Director of the Division of Workers' Compensation for any enforcement of penalties or stop-work orders the director determines are appropriate.

d. For purposes of this section:

"Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver,

trustee, or successor of any of the same, employing any person in this State. For the purposes of this subsection the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation. In addition, any members of a partnership or limited liability company and any agents having the management of such partnership or limited liability company shall be deemed to be employers of the employees of the partnership or limited liability company.

"Employee" means any person suffered or permitted to work by an employer, except a person performing services for remuneration whose services satisfy the factors set forth in subparagraphs (A),(B), and (C) of R.S.43:21-19(i)(6).

"Employ" means to suffer or permit to work.

"State wage, benefit and tax laws" means "State wage, benefit and tax laws" as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

e. Nothing in this section shall preclude an employer from seeking injunctive relief from a court of competent jurisdiction if the employer can demonstrate that the stop-work order would be issued or has been issued in error.

L.2019, c.372, s.1; amended 2021, c.165, s.3.

34:1A-1.18. Violations concerning misclassification of employees; penalties

1. a. If the Commissioner of Labor and Workforce Development finds that a violation of a State wage, benefit and tax law has occurred and that the violation was in connection with failing to properly classify employees, the commissioner is, in addition to imposing any other remedies or penalties authorized by law, authorized to assess and collect:

(1) an administrative "misclassification penalty" up to a maximum of $250 per misclassified employee for a first violation and up to a maximum of $1,000 per misclassified employee for each subsequent violation; and

(2) a penalty to be provided for the misclassified worker of not more than 5 percent of the worker's gross earnings over the past twelve months from the employer who failed to properly classify them. The employer may be required to make these penalty payments to the commissioner to be held in a special account in trust for the worker or workers, or paid on order of the commissioner directly to the workers or workers affected.

When determining the amount of the administrative "misclassification penalty" imposed pursuant to paragraph (1) of this subsection, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative "misclassification penalty" shall be levied pursuant to this section unless the commissioner

provides the alleged violator with notification of the violation and of the amount of penalty, and provides the alleged violator an opportunity to request a hearing before the commissioner or his or her designee.

b. For violations of any State wage, benefit or tax law, other than the State unemployment and disability benefits laws, which occur in connection with the misclassification of one or more employees, the alleged violator may request a hearing within 15 days following receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that the violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. For violations subject to this subsection b., payment of the administrative "misclassification penalty" shall be due when the final order is issued or when the notice becomes the final order.

c. For violations of the State unemployment and disability benefits laws in connection with the misclassification of one or more employees, the alleged violator may request a hearing in the manner and within the time prescribed by those laws, and payment of the administrative "misclassification penalty" shall be due when assessment for contributions, penalties and interest are due pursuant to subsection (d) of R.S.43:21-14 or section 31 of P.L.1948, c.110 (C.43:21-55).

d. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the Commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

e. Any sum collected as an administrative "misclassification penalty" pursuant to paragraph (1) of subsection a. shall be applied toward enforcement and administration costs of the division within the Department of Labor and Workforce Development responsible for enforcement of the law violated by the employer. Nothing in this section shall prevent the commissioner from assessing interest, penalties, or other fees allowable by law.

f. For purposes of this section, "State wage, benefit and tax laws" means "State wage, benefit and tax laws" as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), and "State unemployment and disability benefits laws" mean the "unemployment compensation law," R.S.43:21-1 et seq., and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

L.2019, c.373, s.1.

34:1A-1.19. Post notices about misclassification

1. Post notices about misclassification. a. Each employer required to maintain and report records regarding wages, benefits, taxes and other contributions and assessments pursuant to State wage, benefit and tax laws, as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

(1) The prohibition against employers misclassifying employees;

(2) The standard delineated in paragraph (6) of subsection (i) of R.S.43:21-19 that is applied by the department to determine whether an individual is an employee or an independent contractor;

(3) The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;

(4) The remedies under New Jersey law to which workers affected by misclassification may be entitled; and

(5) Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

b. No employer shall discharge or in any other manner discriminate against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

c. An employer who violates any provision of this section shall be guilty of a disorderly persons offense and shall, upon conviction, be fined not less than $100 nor more than $1,000. In the case of a discharge or other discriminatory action in violation of this section, the employer shall also be required to offer reinstatement in employment to the discharged employee and to correct any discriminatory action, and to pay the employee all reasonable legal costs of the action, all wages and benefits lost as a result of the discharge or discriminatory action, plus punitive damages equal to two times the lost wages and benefits, under penalty of contempt proceedings for failure to comply with the requirement.

L.2019, c.375, s.1.

34:1A-1.20. Information regarding worker misclassification

2. Information regarding worker misclassification. The Department of Labor and Workforce Development shall maintain a webpage that contains information regarding:

(a) The prohibition against employers misclassifying employees;

(b) The standard delineated in paragraph (6) of subsection (i) of R.S.43:21-19 that is applied by the department to determine whether an individual is an employee or an independent contractor;

(c) The benefits and legal protections to which an employee is entitled under State wage, benefit and tax laws;

(d) The remedies under New Jersey law to which workers affected by misclassification may be entitled; and

(e) Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

L.2019, c.375, s.2.

34 :1A-1.21. Findings, declarations

1. The Legislature finds and declares that:

a. More than 19 million people in the United States work in state and local governments, and more than 570,000 people have public sector jobs in New Jersey, including 130,000 State government employees, employed in a wide variety of jobs and occupations, including accountants, corrections officers, mail clerks, chaplains, social workers, doctors, lawyers, teachers, and computer programmers;

b. People with disabilities can benefit from the experience of employment in State agencies, gaining skills and receiving benefits through both internships and employment in the public sector and the State can benefit from the contributions that they can make as State employees;

c. Nine states have instituted within their human resources agencies policies and programs that foster the inclusion of people with disabilities into state government jobs, including provisional appointments, alternative examination and interview processes, trial work periods, and special appointment lists;

d. As a leading employer, and as an employer providing many well-paid, quality jobs with ample paid time off and medical and pension benefits, the State of New Jersey can set an important example to other employers, especially private sector employers, by increasing its efforts to recruit and retain in employment individuals with intellectual and developmental disabilities; and

e. It is therefore appropriate to establish a Task Force to Promote the Employment by State Agencies of People with Disabilities for the purposes of studying the problem of unemployment and underemployment among individuals in New Jersey with disabilities, reviewing existing programs in this and other states, and private sector companies, to recruit and retain in employment individuals with intellectual and developmental disabilities, and assisting in the

identification and implementation of strategies to expand efforts of New Jersey State agencies to recruit and retain in employment individuals with disabilities, including by providing guidance and support to agencies and institutions of higher education.

L.2021, c.84, s.1.

34:1A-1.22. Task Force to Promote the Employment by State Agencies of People with Disabilities

2. a. There is established, in the Department of Labor and Workforce Development, the Task Force to Promote the Employment by State Agencies of People with Disabilities. The task force shall consist of 13 members, including one representative each for the Civil Service Commission, the Department of Education, the Department of Labor and Workforce Development, the State Treasurer, the Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and their Families, the State Council on Developmental Disabilities, the State Rehabilitation Council, and the John J. Heldrich Center for Workforce Development, who shall serve ex officio, and five members appointed by the Governor with the advice and consent of the Senate as follows: a member representing the Association for Choices in Community Supports and Employment Services (ACCSES New Jersey); a member representing The Arc of New Jersey; a representative of a community rehabilitation program, and two individuals who have a disability.

b. All appointments shall be made within 90 days after the effective date of this act. The appointed members of the task force shall serve for terms of three years. Vacancies in the membership of the appointed members of the task force shall be filled in the same manner as the original appointments.

c. Members of the task force shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties as members of the task force, within the limits of funds appropriated or otherwise made available to the task force for its purposes.

d. The task force shall organize as soon as possible after the appointments are made and select a chairperson from among its members. The task force shall meet at least quarterly, may hold meetings and hearings at places and times as it designates, and may meet at any other times at the call of the chairperson. No action shall be taken by the task force except by an affirmative vote of a majority of the voting members.

L.2021, c.84, s.2.

34:1A-1.23. Purpose of task force

3. a. The purpose of the task force is to study the problem of unemployment and underemployment among individuals with disabilities, review relevant, available programs within

the State of New Jersey for State and local government agencies to recruit, hire, and retain in employment individuals with intellectual and developmental disabilities, as well as similar programs in other states and private sector employers, and assist in the identification and implementation of strategies to expand efforts of New Jersey State and local government agencies to recruit, hire, and retain in employment individuals with disabilities.

b. The task force shall issue annual reports which offer a vision and provide viable recommendations on how the State can increase opportunities for employment for individuals with intellectual and developmental disabilities by expanding efforts of New Jersey State and local government agencies to promote the employment of such individuals by recruiting, hiring, and retaining them in employment, including by providing guidance and support to agencies and institutions of higher education.

c. The task force shall issue its first report to the Governor and Legislature not later than one year after the members of the task force are appointed. Each annual report shall be made available to the public by means including the posting of the report on the web sites of the State agencies represented on the task force.

L.2021, c.84, s.3.

34:1A-2. Commissioner of Labor and Industry; head of department; appointment; term; salary

The administrator and head of the department shall be a commissioner, who shall be known as the Commissioner of Labor and Industry, and who shall be a person qualified by training and experience to perform the duties of his office. The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the commissioner's successor. He shall receive such salary as shall be provided by law.

L.1948, c. 446, p. 1763, s. 2.

34:1A-3. Duties of Commissioner

The commissioner, as head of the department, shall:

(a) Administer the work of the department;

(b) Appoint and remove officers and other personnel employed within the department, subject to the provisions of Title 11 of the Revised Statutes, Civil Service, and other applicable statutes, except as herein otherwise specifically provided;

(c) Perform, exercise and discharge the functions, powers and duties of the department through such divisions as may be established by this act or otherwise by law;

(d) Organize the work of the department in such divisions, not inconsistent with the provisions of this act and in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation;

(e) Adopt, issue and promulgate, in the name of the department, such rules and regulations as may be authorized by law;

(f) Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the department, its officers and employees;

(g) Institute or cause to be instituted such legal proceedings or processes as may be necessary properly to enforce and give effect to any of his powers or duties;

(h) Make an annual report to the Governor and to the Legislature of the department's operations, and render such other reports as the Governor shall from time to time request or as may be required by law;

(i) Co-ordinate the activities of the department, and the several divisions and other agencies therein, in a manner designed to eliminate overlapping and duplicating functions;

(j) Integrate within the department, so far as practicable, all staff services of the department and of the several divisions and other agencies therein; and

(k) Perform such other functions as may be prescribed in this act or by any other law.

L.1948, c. 446, p. 1763, s. 3.

34:1A-3.1. Job training programs

8. The Department of Labor and Workforce Development shall establish job training programs for those who work in manufacturing and servicing of offshore wind energy equipment through Workforce Investment Boards, county colleges, and other appropriate institutions. The department shall develop training curricula in consultation with the equipment manufacturers.

L.2018, c.17, s.8.

34:1A-4. Delegation of powers by commissioner

The commissioner may delegate to subordinate officers or employees in the department such of his powers as he may deem desirable, to be exercised under his supervision and direction, and shall, by order, rule or regulation filed with the Secretary of State designate one or more officers or employees in the department who may act for him and on his behalf in the event of his absence or disability.

L.1948, c. 446, p. 1764, s. 4.

34:1A-5. Divisions in Department

There is hereby established in the Department of Labor and Industry a Division of Labor, a Division of Workmen's Compensation, and a Division of Employment Security.

L.1948, c. 446, p. 1764, s. 5.

34:1A-5.1. Reference to division of workmen's compensation to mean and refer to division of workers' compensation

Notwithstanding any other law to the contrary, the division heretofore referred to as the Division of Workmen's Compensation in the Department of Labor and Industry shall be known as the Division of Workers' Compensation, and whenever the term "Division of Workmen's Compensation" is used in any law or statute such term shall mean and refer to the Division of Workers' Compensation.

L.1975, c. 352, s. 1, eff. March 3, 1976.

34:1A-6. Powers and duties of existing Department of Labor, of Commissioner of Labor and of Unemployment Compensation Commission transferred

All of the functions, powers and duties of the existing Department of Labor, of the Commissioner of Labor, and of the respective bureaus and divisions therein, of the existing Unemployment Compensation Commission, and of the respective bureaus and divisions therein, and of the executive director of such commission are continued, but such functions, powers and duties are hereby transferred to the Department of Labor and Industry established hereunder.

L.1948, c. 446, p. 1764, s. 6.

34:1A-7. Division of Labor to perform duties transferred exclusive of those administered through workmen's compensation bureau and those performed under chapter fifteen of Title 34

All of the functions, powers and duties of the existing Department of Labor and of the respective bureaus and divisions therein and of the Commissioner of Labor herein transferred to the Department of Labor and Industry, exclusive of those of, or relating to, or administered through, the workmen's compensation bureau and those exercised or performed in the administration of the provisions of chapter fifteen of Title 34 of the Revised Statutes, and the acts amendatory and supplementary thereof, are hereby assigned to, and shall be exercised and performed through, the Division of Labor in the department.

L.1948, c. 446, p. 1765, s. 7.

34:1A-7.1. Orientation program to educate employers about wage and hour laws, etc.

27. The Division of Workplace Standards shall conduct an extensive orientation program to educate new and existing employers about wage and hour laws and, as appropriate, other laws pertaining to workplace standards. To implement the program, the division may foster cooperative efforts with any appropriate business organization, trade association, civic or community organization or educational institution.

L.1991,c.205,s.27.

34:1A-8. Director of Division of Labor

The Division of Labor shall be under the immediate supervision of a director, who shall be a person qualified by training and experience to direct the work of such division. The director of such division shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified. He shall receive such salary as shall be provided by law.

The director shall administer the work of such division under the direction and supervision of the commissioner, and shall perform such other functions of the department as the commissioner may prescribe.

L.1948, c. 446, p. 1765, s. 8.

34:1A-9. Bureau of migrant labor; transfer of functions, powers and duties to

There shall be within the Division of Labor, a Bureau of Migrant Labor.

The division of migrant labor of the existing Department of Labor and Industry, together with all of its functions, powers and duties is continued, but such division is transferred to and constituted the Bureau of Migrant Labor in the Division of Labor.

L.1948, c. 446, p. 1765, s. 9. Amended by L.1967, c. 91, s. 14, eff. June 7, 1967.

34:1A-10. Organization of existing Department of Labor continued; divisions constituted bureaus; deputy directors

Except as otherwise provided herein or as may be changed pursuant to authorization contained herein or in any other law, the organization of the existing Department of Labor is continued as the organization of the Division of Labor established hereunder; provided, however, that divisions in the Department of Labor shall hereafter be constituted bureaus in the Division of Labor established hereunder, and any person appointed, pursuant to law, as a deputy in such division shall hereafter be known and designated as a deputy director in such division.

L.1948, c. 446, p. 1766, s. 10.

34:1A-11. Division of Workmen's Compensation; powers and duties

All of the functions, powers and duties of the workmen's compensation bureau of the existing Department of Labor, and those exercised or performed by it or any of its officers or employees in the administration of the provisions of chapter fifteen of Title 34 of the Revised Statutes, and the acts amendatory and supplementary thereof, and all of the functions, powers and duties of the existing Department of Labor and of the Commissioner of Labor relating to or administered through such workmen's compensation bureau, and all of the functions, powers and duties of the director and secretary of such bureau, are hereby assigned to, and shall be exercised and performed through, the Division of Workmen's Compensation in the department.

L.1948, c. 446, p. 1766, s. 11.

34:1A-12. Division of Workmen's Compensation; officials and employees in Division; director; powers and duties

The Division of Workmen's Compensation shall consist of the Commissioner of Labor and Industry who shall act as chairman, a director who shall be appointed as hereinafter provided, judges of compensation appointed by the commissioner, and such referees and other employees as may, in the judgment of the commissioner, be necessary. Appointments of such judges of compensation, referees and other employees shall be made in accordance with the provisions of Title 11 of the Revised Statutes, Civil Service.

The Director of the Division of Workmen's Compensation shall be a person qualified by training and experience to direct the work of such division. He shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified. He shall receive such salary as shall be provided by law.

The Director of the Division of Workmen's Compensation shall, subject to the supervision and direction of the Commissioner of Labor and Industry:

(a) Be the administrative head of the division;

(b) Prescribe the organization of the division, and the duties of his subordinates and assistants, except as may otherwise be provided by law;

(c) Direct and supervise the activities of all members of the division;

(d) Make an annual report to the Commissioner of Labor and Industry of the work of the division, which report shall be published annually for general distribution at such reasonable charge, not exceeding cost, as the commissioner shall determine;

(e) Perform such other functions of the department as the commissioner may prescribe.

The Director of the Division of Workmen's Compensation shall also serve as secretary of such division, and may perform the duties of a judge of compensation.

L.1948, c. 446, p. 1766, s. 12. Amended by L.1950, c. 54, p. 95, s. 1; L.1960, c. 58, p. 487, s. 1.

34:1A-12.1. Director and each judge of compensation to be attorneys

The Director of the Division of Workmen's Compensation and each judge of compensation shall be an attorney-at-law of the State of New Jersey.

L.1952, c. 269, p. 921, s. 5. Amended by L.1960, c. 58, p. 488, s. 2.

34:1A-12.2. Referee, qualifications of

Any person hereafter appointed as a "referee," "referee, formal hearings," "supervising referee," or "supervising referee, formal hearings" shall be an attorney-at-law of the State of New Jersey, except that a referee or a referee, formal hearings who, on July 1, 1966, had been a referee or a referee, formal hearings for a period of not less than 5 years may be appointed as a "referee," "referee, formal hearings," or as a "supervising referee" or "supervising referee, formal hearings," notwithstanding that he is not such an attorney-at-law.

L.1952, c. 269, p. 921, s. 6. Amended by L.1960, c. 57, p. 486, s. 1; L.1967, c. 128, s. 1, eff. June 22, 1967.

34:1A-12.3. Continuation of deputy directors as judges of compensation

All persons heretofore appointed and serving as deputy directors of compensation shall continue in such appointments, as heretofore, with the title of judge of compensation.

L.1960, c. 58, p. 488, s. 3.

34:1A-12.4. Director of Division of Worker's Compensation; duties

4. The Director of the Division of Worker's Compensation shall:

a. cause copies of the voter registration forms furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be prominently displayed at each public office of the division and to be made readily available to each individual who, when applying for benefits under R.S.43:21-19 et seq., may wish, on a voluntary basis, to register to vote. An employee of the division shall provide the applicant with any assistance necessary in completing the form; shall inform the applicant that the applicant may leave the completed form with the employee; and, if

the applicant chooses to leave the form, shall accept the completed form, stamp or otherwise mark it with the date on which it was so received, and forward it to the Secretary of State;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to every office of the division which distributes application forms for benefits administered by the division;

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of the division which distributes application forms for benefits administered by the division which is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4); and

d. provide for the collection of completed voter registration forms by any employee of the division who is employed in any office which distributes application forms for benefits administered by the division, and for the transmittal of the forms to the Secretary of State.

L.1991,c.318,s.4; amended 1994,c.182,s.19.

34:1A-13. Organization of existing workmen's compensation bureau continued

Except as otherwise provided herein or as may be changed pursuant to authorization contained herein or in any other law, the organization of the workmen's compensation bureau of the existing Department of Labor is continued as the organization of the Division of Workmen's Compensation established hereunder.

L.1948, c. 446, p. 1767, s. 13.

34:1A-14. Powers and duties of the Unemployment Compensation Commission assigned to Division of Employment Security

All of the functions, powers and duties of the Unemployment Compensation Commission, of the respective bureaus and divisions therein, and of the executive director of such commission, are hereby assigned to, and shall be exercised and performed through, the Division of Employment Security in the Department of Labor and Industry established hereunder.

L.1948, c. 446, p. 1768, s. 14.

34:1A-15. Director of division of Employment Security

The division of Employment Security shall be under the immediate supervision of a director who shall be a person qualified by training and experience to direct the work of such division. The director of such division shall be appointed by the Governor, with the advice and consent of the Senate and shall serve during the term of office of the Governor appointing him

and until the director's successor is appointed and has qualified. He shall receive such salary as shall be provided by law.

The director shall administer the work of such division under the direction and supervision of the commissioner, and shall perform such other functions of the department as the commissioner may prescribe.

L.1948, c. 446, p. 1768, s. 15.

34:1A-15.1. Director of Division of Employment Services; duties

5. The Director of the Division of Employment Services shall:

a. cause copies of the voter registration forms furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be prominently displayed at each public office of the division and to be made readily available to each individual who, when applying for services administered by the division, may wish, on a voluntary basis, to register to vote. An employee of the division shall inquire of every applicant for such services whether the applicant, if not already registered to vote from the place of his or her present residence, wishes to be so registered and shall inform the applicant that whether or not the applicant chooses to register will not affect the applicant's eligibility for those services. The employee shall provide the applicant with any assistance necessary in completing the form; shall inform the applicant that the applicant may leave the completed form with the employee; and, if the applicant chooses to leave the form, shall accept the completed form, stamp or otherwise mark it with the date on which it was so received, and forward it to the Secretary of State;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to every office of the division which receives applications for services administered by the division;

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of the division that receives applications for services administered by the division which is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4); and

d. provide for the collection of completed voter registration forms by any employee of the division who is employed in any office which receives applications for services administered by the division, and for the transmittal of the forms to the Secretary of State.

L.1991,c.318,s.5.

34:1A-15.2. Director of the Division of Unemployment and Temporary Disability Insurance; duties

6. The Director of the Division of Unemployment and Temporary Disability Insurance shall:

a. cause copies of the voter registration forms furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be prominently displayed at each public office of the division and to be made readily available to each individual who, when applying for benefits administered by the division, may wish, on a voluntary basis, to register to vote. An employee of the division shall inquire of every applicant for such services whether the applicant, if not already registered to vote from the place of his or her present residence, wishes to be so registered and shall inform the applicant that whether or not the applicant chooses to register will not affect the applicant's eligibility for those benefits. The employee shall provide the applicant with any assistance necessary in completing the form; shall inform the applicant that the applicant may leave the completed form with the employee; and, if the applicant chooses to leave the form, shall accept the completed form, stamp or otherwise mark it with the date on which it was so received, and forward it to the Secretary of State;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to every office of the division which receives applications for services administered by the division;

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of the division that receives applications for services administered by the division which is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4); and

d. provide for the collection of completed voter registration forms by any employee of the division who is employed in any office which receives applications for services administered by the division, and for the transmittal of the forms to the Secretary of State.

L.1991,c.318,s.6.

34:1A-17. Powers and duties of Employment Security Council

The Employment Security Council shall:

(a) Consult and advise with the Commissioner of Labor or his designated representative with respect to the administration and operation of the unemployment compensation law and the temporary disability benefits law;

(b) Review the operation and effect of the unemployment compensation law and the temporary disability benefits law in their several parts, and to that end hold hearings with respect thereto as it may deem necessary or desirable; and

(c) Report to the Governor and the Legislature annually and at such other times as it may deem in the public interest with respect to its findings and conclusions.

The commissioner shall, insofar as practicable, consult the council on all matters of major policies and procedures involved in or connected with the administration of the unemployment compensation law and the temporary disability benefits law and he shall inform the council of the action taken in connection with such matters.

The council shall have access to all files and records of the division and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions.

L.1948, c. 446, p. 1769, s. 17. Amended by L.1984, c. 24, s. 14, eff. Oct. 1, 1984.

34:1A-18. Advisory Council on Disability Benefits in Division of Employment Security; powers

There shall also be within the Division of Employment Security the Advisory Council on Disability Benefits, as established by and constituted under the Temporary Disability Benefits Law, except that, in keeping with the purposes and provisions of this act, the council shall aid, consult with and advise the Commissioner of Labor and Industry and the Director of the Division of Employment Security. The council shall have access to all files and records of the division relating to the administration of the Temporary Disability Benefits Law, and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions.

L.1948, c. 446, p. 1770, s. 18.

34:1A-19. Board of Review in Division of Employment Security

There shall be within the Division of Employment Security a Board of Review consisting of three members, who shall act as a final appeals board in cases of benefit disputes, including appeals from determinations with respect to demands by the deputy for refunds of benefits under section 43:21-16(d) of the Revised Statutes, and who shall supervise the work of local appeal tribunals which may be organized pursuant to the unemployment compensation law. The members of the Board of Review shall be appointed by the director of the Division of Employment Security, subject to the approval of the commissioner, pursuant to the provisions of Title 11 of the Revised Statutes, Civil Service. The first board constituted under this act shall consist of the members of the Board of Review constituted pursuant to section 43:21-10 of the Revised Statutes in office on the effective date of this act. No member of the Board of Review shall participate in any case in which he is an interested party.

L.1948, c. 446, p. 1770, s. 19.

34:1A-20. Appeal tribunals; membership; compensation; disqualification for interest; alternates; disputed benefit claims

To hear and decide disputed benefit claims, including appeals from determinations with respect to demands by the deputy for refunds of benefits under section 43:21-16(d) of the Revised Statutes, the director of the Division of Employment Security, with the approval of the Commissioner of Labor and Industry, shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members shall serve at the pleasure of the commissioner and be paid a fee of not more than twenty dollars ($20.00) per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the division in any case in which he is an interested party. The director of the Division of Employment Security may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

Disputed claims for benefits under approved private plans established in accordance with the Temporary Disability Benefits Law shall be heard, reviewed, and determined as provided in section 26(a) of that act.

L.1948, c. 446, p. 1771, s. 20.

34:1A-21. Organization of existing Unemployment Compensation Commission continued; divisions constituted bureaus

Except as otherwise provided herein or as may be changed pursuant to authorization contained herein or in any other law, the organization of the existing Unemployment Compensation Commission is continued as the organization of the Division of Employment Security established hereunder; provided, however, that any division required by law in the Unemployment Compensation Commission shall hereafter be constituted a bureau in the Division of Employment Security established hereunder.

L.1948, c. 446, p. 1771, s. 21.

34:1A-23. New Jersey State Board of Mediation transferred to Department of Labor and Industry; removal of members

The New Jersey State Board of Mediation of the existing Department of Labor and all of its functions, powers and duties are hereby transferred to the Department of Labor and Industry established hereunder. Such board shall continue to have all of the powers and shall exercise all of the functions and duties vested in, or imposed upon, it by law. This act shall not affect the terms of office of the present members of such board. Such board shall continue to be constituted

as provided by existing law. Any member of such board may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

L.1948, c. 446, p. 1772, s. 23.

34:1A-24. Directors of divisions; unclassified service of civil service; removal; vacancies

The director of each division in the Department of Labor and Industry shall be in the unclassified service of the civil service of the State. Any such director may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

Any vacancy occurring in the office of director of any division in the department shall be filled in the same manner as the original appointment.

L.1948, c. 446, p. 1772, s. 24.

34:1A-25. Appropriations transferred

All appropriations and other moneys available to become available to any department, commission, board, office or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any office or agency designated, continued or constituted therein, are hereby transferred to the Department of Labor and Industry established hereunder, and shall be available for the objects and purposes for which appropriated subject to any terms, restrictions, limitations or other requirements imposed by State or Federal law.

L.1948, c. 446, p. 1772, s. 25.

34:1A-26. Employees; transfer

Such employees of any department, commission, board, office or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any office or agency designated, continued or constituted therein, as the Commissioner of Labor and Industry may determine are needed for the proper performance of the functions and duties imposed upon the Department of Labor and Industry, or such office or agency therein, are hereby transferred to the department, office or agency to which such functions, powers and duties have been herein assigned or transferred.

L.1948, c. 446, p. 1773, s. 26.

34:1A-27. Civil service, pension and retirement rights not affected

Nothing in this act shall be construed to deprive any person holding any office or position not abolished pursuant to the provisions of this act, of any tenure rights or of any right or

protection provided him by Title 11 of the Revised Statutes, Civil Service. Nothing in this act shall be construed to deprive any person of any right or protection provided him under any pension law or retirement system.

L.1948, c. 446, p. 1773, s. 27.

34:1A-28. Files, books, records and property transferred

All files, books, papers, records, equipment and other property of any department, commission, board, office or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any officer or agency designated, continued or constituted hereunder, shall upon the effective date of this act be transferred to the department, officer or agency to which such assignment or transfer has been made hereunder.

L.1948, c. 446, p. 1773, s. 28.

34:1A-29. Orders, rules and regulations continued

This act shall not affect the orders, rules and regulations heretofore made or promulgated by any department, commission, board, officer or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any officer or agency designated, continued or constituted hereunder; but such orders, rules and regulations shall continue with full force and effect until amended or repealed pursuant to law.

L.1948, c. 446, p. 1773, s. 29.

34:1A-30. Pending actions or proceedings; orders or recommendations not affected

This act shall not affect actions or proceedings, civil or criminal, brought by or against any department, commission, board, officer or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any officer or agency designated, continued or constituted hereunder, and pending on the effective date of this act, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the department, officer or agency to which such assignment or transfer has been made hereunder, as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or recommendation made by, or other matters or proceedings before, any department, commission, board, officer or agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Labor and Industry or to any officer or agency designated, continued or constituted hereunder, and all such matters or proceedings pending before such department, commission, board, officer or other agency on the effective date of this act shall be continued by the department, officer or agency to which such assignment or transfer has been made hereunder, as if the foregoing provisions had not taken effect.

L.1948, c. 446, p. 1774, s. 30.

34:1A-31. Commissions and offices abolished

The Unemployment Compensation Commission, the office of executive director of the Unemployment Compensation Commission, the office of director of the New Jersey State Employment Service Division of the Unemployment Compensation Commission and the office of commissioner of labor are hereby abolished.

The term of office of the present commissioner of labor shall expire on the effective date of this act.

L.1948, c. 446, p. 1774, s. 31.

34:1A-32. Definition of terms referred to in laws, contracts or documents

Subject to the provisions of this act:

Whenever the term "Commissioner of Labor" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Commissioner of Labor and Industry designated as the head of the Department of Labor and Industry established hereunder.

Whenever the term "Unemployment Compensation Commission" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Commissioner of Labor and Industry designated as the head of the Department of Labor and Industry established hereunder.

Whenever the term "Department of Labor" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Labor established hereunder.

Whenever the term "deputy commissioner of labor" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to a deputy director in the Division of Labor established hereunder.

Whenever the term "deputy commissioner of workmen's compensation" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to a deputy director of workmen's compensation in the Division of Workmen's Compensation established hereunder.

Whenever the term "inspector of the department of labor" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to an inspector of the Division of Labor established hereunder.

Whenever the term "workmen's compensation bureau" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Workmen's Compensation established hereunder.

Whenever the term "secretary of the workmen's compensation bureau" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the secretary of the Division of Workmen's Compensation established hereunder.

Whenever the term "division of migrant labor in the department of labor" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Bureau of Migrant Labor in the Division of Labor established hereunder.

Whenever the term "Executive Director of the Unemployment Compensation Commission" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the director of the Division of Employment Security established hereunder.

Whenever the term "New Jersey State Employment Service Division" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the New Jersey State Employment Service Bureau in the Division of Employment Security established hereunder.

Whenever the term "board of review" occurs or any reference is made thereto in the unemployment compensation law, the same shall be deemed to mean or refer to the Board of Review in the Division of Employment Security established hereunder.

Whenever the term "appeal tribunal" occurs or any reference is made thereto in the unemployment compensation law, the same shall be deemed to mean or refer to an appeal tribunal in the Division of Employment Security established hereunder.

L.1948, c. 446, p. 1775, s. 32.

34:1A-33. Repeal

All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistency, hereby repealed.

L.1948, c. 446, p. 1776, s. 33.

34:1A-34. Short title

This act shall be known as, and may be cited as the "Department of Labor and Industry Act of 1948."

L.1948, c. 446, p. 1776, s. 34 .

34:1A-35. Effective date

This act shall take effect on the first day of January, one thousand nine hundred and forty-nine, except that any appointment, and any confirmation or approval of any appointment, permitted by this act may be made prior to such date.

L.1948, c. 446, p. 1777, s. 35.

34:1A-36. State Apprenticeship Council

The Governor shall appoint, with the advice and consent of the Senate, a State Apprenticeship Council in the Division of Labor in the Department of Labor and Industry, composed of three representatives each from employer and employee organizations respectively and one representative of the general public, who shall be the chairman. The council by majority vote may designate one of its members, other than the chairman, as vice-chairman to act in the absence or disability of the chairman. Each member shall be appointed for a term of three years. Each member shall hold office until his successor is appointed and has qualified, and any vacancy shall be filled by appointment for the unexpired portion of the term. The Commissioner of Education and the Commissioner of Labor and Industry shall ex officio be members of such council without vote. The members of the council shall receive no compensation for their services.

The council may: (a) establish suggested standards for apprenticeship agreements in conformity with the provisions of this act; (b) adopt such rules and regulations as may be necessary to carry out the intent and purposes of this act; (c) compile such data as may be deemed necessary to determine trends of employment opportunity in various trades; (d) terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement; (e) perform such other duties as may be necessary to give full effect to the provisions of this act.

The council shall annually make a report to the Commissioner of Labor and Industry of its activities and findings.

L.1953, c. 198, p. 1501, s. 1.

34:1A-37. Personnel

The Commissioner of Labor and Industry shall appoint a person to be in charge of apprentice training in the Division of Labor in the Department of Labor and Industry. The Commissioner of Labor and Industry is authorized to appoint such clerical, technical, and professional assistants and may also designate such available personnel as shall be necessary to effectuate the purposes of this act. The personnel appointed under this act, shall receive annual compensations in accordance with their respective positions as classified by the Civil Service Commission and within the ranges established therefor and within the limits of available appropriations.

The person in charge of apprentice training shall further the purposes of this act, and his duties shall include (a) encouragement and promotion of the making of such apprenticeship agreements as may conform to the standards established by or in accordance with this act; (b) settlements of differences arising out of apprenticeship agreements when such differences cannot be adjusted locally or in accordance with established trade procedure; (c) supervision of the execution of agreements and maintenance of standards; (d) acting as secretary of the council and of State joint apprenticeship committees; (e) registration of such apprenticeship agreements as the council shall authorize as conforming to the standards herein; (f) keeping a record of apprenticeship agreements and upon performance thereof issuing certificates of completion of apprenticeship; (g) co-operation with other State apprenticeship councils and the Federal Committee on Apprenticeship in promoting and maintaining bona fide apprenticeships.

L.1953, c. 198, p. 1502, s. 2.

34:1A-38. Related and supplemental instruction

Related and supplemental instruction for apprentices, co-ordination of instruction with job experience, and the selection of teachers and co-ordinators for such instruction shall be the responsibility of State and local vocational education boards.

In accordance with statutory provisions, the State Department of Education shall be responsible for and provide related training as required by apprenticeship programs set up under this act. The State Apprenticeship Council may accept other related instruction facilities where vocational education related instruction facilities are not available or where registered apprenticeship programs designate other facilities for related instruction.

L.1953, c. 198, p. 1503, s. 3.

34:1A-39. Local, regional and State joint apprenticeship committees

Local and State joint apprenticeship committees may be approved, in any trade or group of trades, in trade areas or regions of the State by the council, whenever the apprentice training needs of such trade or group of trades or such areas or regions justify such establishment. Such local, regional or State joint apprenticeship committees shall be composed of an equal number of employer and employee representatives chosen from names submitted by the respective local or State employer and employee organizations in such trade or group of trades and also such additional members representing local boards of education or other educational agencies as may be deemed advisable. In a trade or group of trades in which there is no bona fide employer or employee organization, the joint committee shall be composed of persons known to represent the interests of employers and of employees respectively, or a State joint apprenticeship committee may be approved as, or the council may act itself as, the joint committee in such trade or group of trades. Subject to a review by the council and in accordance with the standards established by the council, such committees may devise standards for apprenticeship agreements and give such aid as may be necessary in their operation, in their respective trades and localities.

L.1953, c. 198, p. 1503, s. 4.

34:1A-40. Standards for apprenticeship agreements

Standards for apprenticeship agreements may be as follows:

(1) A statement of the trade or craft to be taught and the required hours for completion of apprenticeship which shall be not less than four thousand hours of reasonably continuous employment.

(2) A statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process.

(3) A statement of the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than one hundred forty-four hours per year.

(4) A statement that apprentices shall be not less than sixteen years of age.

(5) A statement of the progressively increasing scale of wages to be paid the apprentice.

(6) Provision for a period of probation during which the apprenticeship council, or the person in charge of apprenticeship when authorized by the council, shall be directed to terminate an apprenticeship agreement at the request in writing of any party thereto. After the probationary period the apprenticeship council, or the person in charge of apprenticeship, when authorized by the council, shall be empowered to terminate the registration of an apprentice upon agreement of the parties.

(7) Provision that the services of the person in charge and the apprenticeship council may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where such differences cannot be adjusted locally or in accordance with the established trade procedure.

(8) Provision that if an employer is unable to fulfill his obligation under the apprenticeship agreement he may transfer such obligation to another employer.

(9) Such additional standards as may be prescribed in accordance with the provisions of this act.

L.1953, c. 198, p. 1504, s. 5.

34:1A-41. Apprenticeship agreements

For the purposes of this act an apprenticeship agreement shall be deemed to be:

(1) An individual written agreement between an employer and an apprentice, or (2) a written agreement between an employer or an association of employers, and an organization of employees describing conditions of employment for apprentices, or (3) a written statement describing conditions of employment for apprentices in a plant where there is no bona fide employee organization.

L.1953, c. 198, p. 1505, s. 6.

34:1A-42. Limitation

The provisions of this act shall apply to a person, firm, corporation or craft only after such person, firm, corporation or craft has voluntarily elected to conform with its provisions.

L.1953, c. 198, p. 1505, s. 7.

34:1A-43. Separability

If any provision of this act or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

L.1953, c. 198, p. 1505, s. 8.

34:1A-44. Effective date

This act shall take effect July first, one thousand nine hundred and fifty-three.

L.1953, c. 198, p. 1505, s. 9.

34:1A-45. Short title

This act shall be known and may be cited as the "Division of Travel and Tourism Act."

L.1977, c. 225, s. 1.

34:1A-46. Legislative findings and declarations

2. The Legislature hereby finds and declares that:

a. Increased revenues for this State and more employment opportunities for its citizens will result from the proper promotion throughout the United States and the world of the many tourist attractions which New Jersey has to offer to vacationers and travelers.

b. Such proper promotion--and the desired expansion of tourism in New Jersey--will be enhanced by the formulation of a master plan for the development of the tourist industry throughout New Jersey.

c. It is an objective of State programs, agencies, and resources to provide an optimum of satisfaction and high-quality service to visitors, to protect the natural beauty of New Jersey, and to sustain, promote, and expand the economic health of the tourist industry in a manner and to the extent compatible with such goals.

d. Because of the crucial importance tourism plays in New Jersey's economy, the Department of State is therefore charged with the mandate to increase tourism through promotional, informational, educational, and developmental programs. These initiatives are to be designed to support a State policy of maintaining and increasing New Jersey's standing as a premier national and international travel destination. To implement this policy, the Department of State shall create advertisements for use on television, radio, the Internet and in print, to promote the State's diverse appeal to prospective national and international vacationers and travelers as part of its advertising, public relations, and marketing campaign. In addition, as required pursuant to section 9 of P.L.1977, c.225 (C.34:1A-53), the Division of Travel and Tourism shall annually review the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52) by the director of the division with the assistance of the New Jersey Tourism Policy Council, and submit a report to the Governor and Legislature containing an evaluation of the preceding year's activities and developments in tourism and the revisions recommended in the master plan.

e. In the advancement and promotion of New Jersey's tourism industry, it is necessary to require that the division report semiannually to the Governor and the Legislature on the efforts of the division to promote tourism in New Jersey and on the expenditure of funds allocated to tourism advertising and promotion from hotel and motel occupancy fees pursuant to section 2 of P.L.2003, c.114 (C.54:32D-2). As tourism may be particularly sensitive to changing economic conditions, a frequent review of the State's tourism planning and activities may necessitate revisions in the State's tourism policy to further encourage tourism promotion and to otherwise meet the challenges of implementing this policy.

L.1977, c.225, s.2; amended 2005, c.378, s.1; 2007, c.253, s.1.

34:1A-47. Definitions

3. As used in this act, unless a different meaning appears from the context:

"Council" means the New Jersey Tourism Policy Council.

"Department" means the Department of State.

"Director" means the Director of the Division of Travel and Tourism.

"Division" means the Division of Travel and Tourism in the Department of State.

"Elected local official" means the county executive of any county wherein that office is established, a member of the governing body of a county, or a mayor or member of the governing body of a municipality.

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

L.1977, c.225, s.3; amended 1991, c.280, s.1; 2005, c.378, s.2; 2007, c.253, s.2.

34:1A-48. Division of Travel and Tourism; establishment; director; appointment

4. There is hereby established in the Department of State the Division of Travel and Tourism. The division shall be under the supervision of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor after consultation with the council and with the advice and consent of the Senate. The director shall serve during the term of office of the Governor appointing the director and until the director's successor is appointed and qualified. The director shall receive such salary as shall be provided by law and shall devote the director's entire time and attention to the duties of the director's office and shall not, while in office, engage in any other gainful pursuit. The Governor may remove the director from office for cause, upon notice and opportunity to be heard.

L.1977, c.225, s.4; amended 2005, c.378, s.3; 2007, c.253, s.3.

34:1A-48.1. Division of Travel and Tourism transferred to the Department of State

4. a. All the functions, powers, and duties of the Division of Travel and Tourism in the New Jersey Commerce, Economic Growth and Tourism Commission are transferred to the Department of State.

b. All appropriations and other moneys available and to become available to the division are hereby continued in the Department of State and shall be available for the objects and purposes for which such moneys are appropriated subject to any terms, restrictions, limitations, or other requirements imposed by State or federal law.

c. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Travel and Tourism

in the New Jersey Commerce, Economic Growth and Tourism Commission, the same shall mean and refer to the Division of Travel and Tourism in the Department of State.

L.2007, c.253, s.4.

34:1A-49. Transfer of functions, power and duties of office of tourism and promotion to division of travel and tourism

All the functions, powers, and duties of the Office of Tourism and Promotion in the Division of Economic Development in the Department of Labor and Industry are transferred to the Division of Travel and Tourism established hereunder.

L.1977, c. 225, s. 5.

34:1A-50. Transfer made in accordance with State Agency Transfer Act

The transfer directed by this act shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c. 375 (C. 52:14D-1 et seq.).

L.1977, c. 225, s. 6.

34:1A-51. New Jersey Tourism Policy Council

7. a. There is created in the division the New Jersey Tourism Policy Council which shall consist of 23 members:

(1) Two members of the Senate, who shall serve as ex officio, non-voting members to be appointed by the President thereof, not more than one of whom shall be of the same political party, and two members of the General Assembly, who shall serve as ex officio, non-voting members to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party;

(2) Nine public members, who shall be residents of this State, not more than five of whom shall be of the same political party, who shall be appointed by the Governor with the advice and consent of the Senate, who shall include persons who by experience or training represent the areas of the tourist industry as follows:

One representative of the lodging sector;

One representative of the food service sector;

One representative of the eco-tourism sector;

One representative of the cultural arts sector;

One representative of the convention and visitor bureaus or tour/receptive services sectors;

One representative of the entertainment or amusement sector;

One representative of the outdoor recreation sector;

One representative of the historical community; and

One representative of a Statewide travel and tourism association representing the various sectors of the tourism industry;

(3) The Secretary of State, who shall serve ex officio as a voting member and chair of the council;

(4) Six elected local officials, not more than three of whom shall be of the same political party, who shall be appointed by the Governor with the advice and consent of the Senate, and of whom one shall be a resident of Cape May or Cumberland County, one shall be a resident of Atlantic County, one shall be a resident of Burlington, Camden, Gloucester, Mercer or Salem County, one shall be a resident of Monmouth or Ocean County, one shall be a resident of Bergen, Essex, Hudson, Middlesex, Passaic or Union County, and one shall be a resident of Hunterdon, Morris, Somerset, Sussex or Warren County; and

(5) The executive directors of the New Jersey Sports and Exposition Authority, the Casino Reinvestment Development Authority, and the Atlantic City Convention Center Authority, or their designees, all of whom shall serve ex officio and as voting members.

b. (1) The public members of the council shall be appointed to three-year terms, except that public members initially appointed on or after the effective date of P.L.2005, c.378, representing the lodging, food service, and eco-tourism sectors shall be appointed to a two-year term, and public members representing the cultural arts and outdoor recreation sectors and the historical community shall be appointed to a one-year term. Public members shall serve until their successors are appointed and qualified. Vacancies occurring other than by expiration of term shall be filled for the unexpired term only.

(2) The term of appointment, as a member of the council, of an elected local official appointed pursuant to paragraph 4 of subsection a. of this section shall be the same as the term of office, as an elected local official, that the person is serving at the time of such appointment. In the event that a member of the council appointed pursuant to that paragraph no longer serves as an elected local official, the term of appointment for that member shall cease and the Governor may, with the advice and consent of the Senate, appoint a replacement to serve for the remainder of the unexpired term. In the case of a person who, at the time of such appointment, serves as an elected local official in two different offices, the term of the person's appointment to the council shall be measured by the longer of the terms as an elected local official. Nothing in

this paragraph shall preclude the reappointment as an elected local official member of the council of a person whose term of office as such elected local official has expired, but who has been reelected to succeed himself in the same local office.

c. (Deleted by amendment, P.L.1991, c.280).

d. (Deleted by amendment, P.L.1991, c.280).

e. The members of the council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as members.

f. (Deleted by amendment, P.L.1991, c.280).

g. The council shall meet at the call of the chair and not less than once every month.

h. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Tourism Advisory Council, the same shall mean and refer to the New Jersey Tourism Policy Council in the Division of Travel and Tourism.

L.1977, c.225, s.7; amended 1991, c.280, ss.2,3; 1997, c.10; 2001, c.255; 2005, c.378, s.4; 2007, c.253, s.5.

34:1A-52. Master plan; contents

The director, upon consultation with the council, shall develop a 10-year master plan for the growth of tourism for presentation to the Governor and the Legislature no later than February 1, 1979.

The plan shall include, but not be limited to, consideration of the following:

a. New Jersey's need for additional job opportunities and for tax revenues;

b. The optimum distribution of the tourist industry throughout the State and the effect of such industry on the environment;

c. The upgrading and improvement of the facilities and services available to tourists in New Jersey;

d. The development of tourist destination areas attractive in appearance, manageable in terms of densities, and with wholesome recreational opportunities;

e. The protection and preservation of shoreline areas;

f. The providing of access to shoreline areas for tourists and the assurance of the rights of residents to the use of public beaches and public beach access areas, surfing and fishing sites, hiking trails, and other recreational sites and scenic areas;

g. The reconstruction, maintenance, and preservation of sites which have been important in New Jersey history and American history;

h. The promotion of various cultural and ethnic holidays, observances, and festivities and of understanding by visitors and residents of the social and cultural contributions of all ethnic groups and people residing in New Jersey; and

i. The desirability and the feasibility of creating a Department of Tourism.

L.1977, c. 225, s. 8.

34:1A-52.1. New Jersey Governor's Cup Hydrofest Series; designated

1. The Sunset Lake Hydrofest in Wildwood Crest, New Jersey, is designated as the New Jersey Governor's Cup Hydrofest Series.

L.2009, JR4, s.1.

34:1A-52.2. Designation of trophy, commendation

2. An appropriate perpetual trophy or commendation, to be provided by the governing body of the event, shall be designated as the New Jersey Governor's Cup of the Sunset Lake Hydrofest in Wildwood Crest, New Jersey.

L.2009, JR4, s.2.

34:1A-52.3. Annual award

3. Every year, the Governor, or the designee thereof, shall award the New Jersey Governor's Cup to the winner of the Sunset Lake Hydrofest.

L.2009, JR4, s.3.

34:1A-53. Powers and duties of division

9. In the pursuance and promotion of a State policy on tourism, the division, at the direction of the Secretary of State, shall:

a. Provide and promote adequate opportunities for county and municipal participation, federal agency participation, and private citizens' involvement in the decision-making process of tourism planning and policy formulation;

b. Encourage all State, county, and municipal governmental and private agencies to do their utmost to assure the personal safety of residents and tourists both within and without tourist destination areas;

c. Take whatever administrative, litigable, and legislative steps as are necessary to minimize the problems of tourists in not receiving contracted services, including transportation, tours, hotels;

d. Attempt to reconcile and balance the activities and accommodations of the tourist with the daily pursuits and lifestyles of the residents;

e. Develop an understanding among all citizens of the role of tourism in New Jersey, both in terms of its economic and social importance and the problems it presents, through appropriate formal and informal learning experiences;

f. Cooperate with the Department of Education to promote throughout the educational system of New Jersey an awareness of New Jersey history and culture;

g. Ensure that the growth of the tourist industry is consistent with the attainment of economic, social, physical, and environmental objectives in any State plan and county plans that are adopted;

h. Continuously monitor and evaluate the social costs of growth of the tourist industry against the social benefits;

i. Emphasize in the State's tourism promotional efforts the high quality of the State's natural and cultural features;

j. Promote the tourist industry through such activities as Visitors Bureaus and similar county and municipal agencies, and assure that the tourist industry contributes its fair share of the cost of such promotion;

k. Request and receive from any department, division, board, bureau, commission, or other agency of the State, or any political subdivision or public authority thereof, such assistance and data as may be necessary to enable the division to carry out its responsibilities under this act;

l. In consultation with the council, review annually and, if necessary, revise or update the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52), and submit a report to the Governor and the Legislature containing an evaluation of the preceding year's activities and developments in tourism and the revisions recommended in the master plan;

m. At the direction of the council, operate the division's Travel and Tourism Cooperative Marketing Campaign Program; and

n. Establish and operate the division's Travel and Tourism Advertising and Promotion Program.

L.1977, c.225, s.9; amended 2005, c.378, s.6; 2007, c.253, s.6.

34:1A-53.1. Reports required from division

8. In addition to the powers and duties of the division as provided in section 9 of P.L.1977, c.225 (C.34:1A-53), the division shall submit a report no later than January 31 and July 31 of every year on the tourism marketing campaigns of the division and the expenditure of funds appropriated to the division for tourism promotion to the Governor, the President of the Senate, the Speaker of the General Assembly, the Senate Wagering, Tourism and Historic Preservation Committee and the Assembly Tourism and Gaming Committee, or their successors. The report shall include, but not be limited to, the following information:

a. A description of the efforts of the division to promote New Jersey tourism in the six-month period ending on December 31 and June 30 preceding the respective dates on which the report is due. The report shall list: (1) the type of each promotion made, including but not limited to, promotions in the form of print, radio, Internet or television advertisements, tourism information or reference guides, tourism event calendars or the attendance by employees of the division at conferences relevant to tourism promotion, (2) the content of each such advertisement, guide, calendar or other promotional aid made, or conference attended, (3) the dates and locations where tourism advertisements were shown, when such guides, calendars or other promotional aids were made available, or when such conferences took place, and (4) the aggregate amount of money expended on each advertisement, guide, calendar, promotional aid or conference listed;

b. A list of entities that received, in the six-month period ending on December 31 and June 30 preceding the respective dates on which the report is due, State matching funds under the division's Travel and Tourism Cooperative Marketing Campaign Program and the division's Advertising and Promotion Program, the amount of funds each entity received from either program, and the amount of each of the recipient entity's expenditures made from the funds of either program; and

c. A general description of the potential tourism promotion efforts the division is considering for the six-month period beginning on January 1 and July 1 preceding the respective dates on which the report is due. Such description shall be distributed to the members of the council. A member of the public may receive a copy of such description upon request.

The report shall identify whether or not each of the efforts to promote tourism listed in the report is consistent with the provisions of the 10-year master plan developed pursuant to

section 8 of P.L.1977, c.225 (C.34:1A-52), identify the relevant provisions of the master plan with which the effort to promote tourism is consistent or inconsistent, and provide an explanation of the consistency or inconsistency.

L.2005, c.378, s.8; amended 2007, c.253, s.7.

34:1A-53.2. Statewide 9/11 Memorial Registry

1. a. The Director of the Division of Travel and Tourism in the Department of State shall establish a Statewide 9/11 Memorial Registry. The registry shall provide the location and condition of all 9/11 memorials in the State owned, operated, or maintained by a governmental entity. The division may seek the assistance and cooperation of the Adjutant General, the Commissioner of Environmental Protection, and local government officials and entities.

b. The Director of the Division of Travel and Tourism shall publish the 9/11 Memorial Registry on the division's Internet website. The information on the website shall be searchable and available as a list and as an interactive map, and shall:

(1) specify the location of each 9/11 memorial included on the 9/11 Memorial Registry and provide driving directions from the north, south, east, and west, as well as directions by public transit where applicable;

(2) display photographs of each memorial; and

(3) provide contact information for the owner or operator of each memorial, including the telephone number and Internet website address of the memorial.

c. The director shall ensure that the Internet website is updated whenever a governmental entity establishes a new 9/11 memorial. The division shall accept information or changes to the website from the Adjutant General, the Commissioner of Environmental Protection, and local government officials and entities.

d. The division shall accept submissions from the public recommending, for inclusion on the 9/11 Memorial Registry, 9/11 memorials not owned, operated, or maintained by a governmental entity through an electronic submission form made available by the division on its Internet website. The division may include 9/11 memorials not owned, operated, or maintained by a governmental entity on the 9/11 Memorial Registry as it deems appropriate.

L.2017, c.216, s.1.

34:1A-53.3. Publication of information on farm-to-table restaurants on Division of Travel and Tourism website

1. a. The Division of Travel and Tourism shall publish on its Internet website, and update as appropriate, information on farm-to-table restaurants in the State by region, including the name, address, and other pertinent information for each restaurant which the division determines would be of interest for the purposes of educating the public about local sources for fresh, healthy foods and options to support restaurants that use locally grown and produced food products. For the purposes of this subsection, "region" means north, south, or central New Jersey as designated by the division.

b. The division shall establish a process by which farm-to-table restaurants may register for posting on the website, including the criteria to be met for designation as a "farm-to-table restaurant," and shall promote the program on its website and to restaurants around the State to ensure as much participation as possible.

L.2018, c.154, s.1.

34:1A-54. Duties of council

10. The council shall:

a. Aid the division in the formulation and updating of the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52) and the annual review thereof;

b. Consider all matters referred to it by the Secretary of State;

c. Make recommendations to the division on any matter relating to tourism and the tourist industry in New Jersey and to those objectives and responsibilities specified in sections 8 and 9 of P.L.1977, c.225 (C.34:1A-52 and C.34:1A-53);

d. Direct the division to review the spending of funds by the regional tourism councils and provide comments and recommendations to such councils on the spending of funds when appropriate;

e. Direct the division to encourage the development of local marketing organizations, including but not limited to destination marketing organizations and convention and visitor bureaus;

f. Direct the division to ensure that a recipient of funding by the Department of State for tourism promotion is in compliance with all terms of the funding agreement, and that the recipient's promotional message is consistent with the promotional message for the State established by the Secretary of State;

g. Direct the division on the operation of the division's Travel and Tourism Cooperative Marketing Campaign Program;

h. Commission the New Jersey Center for Hospitality and Tourism at Richard Stockton College of New Jersey to conduct an annual survey and analysis of New Jersey's tourism industry for the purpose of providing data to improve the effectiveness of tourism promotion. The council shall direct the division to make the survey and analysis results available to tourism groups throughout the State. In a year during which the New Jersey Center for Hospitality and Tourism is unable or unavailable to conduct the survey and analysis, the council shall choose another entity to conduct the survey and analysis for that year; and

i. Perform other duties as assigned by the Secretary of State.

L.1977, c.225, s.10; amended 2005, c.378, s.7; 2007, c.253, s.8.

34:1A-55. Severability

If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

L.1977, c. 225, s. 11.

34:1A-56. Repealer

All acts and parts of acts inconsistent with this act are, to the extent of such inconsistency, superseded and repealed.

L.1977, c. 225, s. 12.

34:1A-69.1. Immunity from liability for injury caused by product or invention fostered or advanced by L.1977, c. 429

The State, its offices, departments, divisions, bureaus, boards, commissions and agencies, including the Office for Promoting Technical Innovation, as well as the employees thereof, shall not be liable in tort, contract, or implied warranty for any injury caused by a product or invention, or its development that in any way was fostered or advanced pursuant to the provisions of P.L.1977, c. 429.

L.1981, c. 53, s. 3, eff. March 2, 1981.

34:1A-69.2. Nonliability for debts, claims, obligations or judgments incurred by or asserted against party to agreements under L.1977, c. 429

The State, its offices, departments, divisions, bureaus, boards, commissions, and agencies, including the Office for Promoting Technical Innovation, as well as the employees thereof, shall not be liable for any debts, claims, obligations or judgments incurred by or asserted against a party to agreements entered into pursuant to this act.

L.1981, c. 53, s. 4, eff. March 2, 1981.

34:1A-69.3. Short title

This act shall be known and may be cited as the "New Products, New Jobs Act of 1980."

L.1981, c. 53, s. 5, eff. March 2, 1981.

34:1A-70. Legislative findings and declarations

The Legislature hereby finds and declares that it is not in the public interest for any citizens of this State to be unemployed solely because of an inability to reach a place of potential employment. Lack of transportation to job sites in New Jersey is a barrier to employment for many people as evidenced by a Department of Labor and Industry study in June of 1977 indicating that 23% of unemployed workers surveyed could not be placed in jobs principally because they could not reach one or more specific places of employment. This problem will be compounded to a greater degree in the future as employers continue to relocate outside of urban centers, thus becoming relatively more inaccessible to inner city workers who lack transportation.

L.1978, c. 41, s. 1.

34:1A-71. Short title

This act shall be known and may be cited as the "Jobs Transportation Demonstration Act of 1978."

L.1978, c. 41, s. 2.

34:1A-72. Demonstration projects to transport persons to job sites, interviews and training; funding

The Commissioner of the Department of Labor and Industry is hereby authorized to develop and administer a program to provide funds for demonstration projects to transport persons to job sites, job interviews, and job training to which persons would otherwise have no available transportation. Such projects may be authorized on an intra- or inter-county basis, or at the State level, as the commissioner deems feasible and desirable.

L.1978, c. 41, s. 3.

34:1A-73. Standards for allocation of funds

The commissioner shall establish standards for the allocation of funds pursuant to this act which standards shall:

a. Be responsive to areas of high unemployment;

b. Guarantee that each applicant for a grant receive funds sufficient to operate at least one demonstration vehicle; and

c. Reflect optimal service-delivery regions, be they intra- or inter-county in nature.

L.1978, c. 41, s. 4.

34:1A-74. Authorized intra-state services

Demonstration projects funded under this act shall be limited to three basic intra-State services as follows:

a. Transporting persons from employment service centers, or other centralized sites to employment interviews;

b. Transporting persons to places of employment for a maximum period of 10 weeks during which time said persons shall attempt to arrange for their own transportation; provided, however, that the commissioner may provide flexible standards for extending the 10-week limitation in cases of need; and

c. Transporting unemployed workers to job training programs.

L.1978, c. 41, s. 5.

34:1A-75. Rules and regulations

The commissioner shall promulgate rules and regulations deemed necessary and proper to administer the act.

L.1978, c. 41, s. 6.

34:1A-85. Definitions relative to State's workforce investment system

26. As used in sections 26 through 29 of P.L.2005, c.354 (C.34:1A-85 through C.34:1A-88):

"Career cluster" means any of the career clusters and related educational programs as defined in the Perkins Act and the federal Department of Education's career cluster taxonomy.

"Center for Occupational Employment Information" or "center" means the Center for Occupational Employment Information established pursuant to section 27 of P.L.2005, c.354 (C.34:1A-86).

"Career pathway" means any of the career pathways and related educational programs as defined in the Perkins Act and the federal Department of Education's career cluster taxonomy.

"Federal job training funds" means any moneys expended pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.) or any other federal law to obtain employment and training services or other employment-directed and workforce development programs and activities, including employment and training services as defined in section 1 of P.L.1992, c.48, (C.34:15B-35) and employment-directed and workforce development programs and activities as described in sections 2 and 4 of P.L.2004, c.39 (C.34:1A-1.3 and 34 :1A-1.5).

"Occupational license" means a license, registration or certificate which, when issued by an authorized entity of government or recognized industry, enables an individual to work within a recognized occupation in the State of New Jersey.

"Perkins Act" means the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub.L.105-332 (20 U.S.C. s.2301 et seq.).

"Qualifying agency" means any executive agency of State government, including, but not limited to, the Departments of Community Affairs, Education, Environmental Protection, Health and Senior Services, Human Services, Labor and Workforce Development, Law and Public Safety, Military and Veterans' Affairs and the Commission on Higher Education. A qualifying agency may include any additional agency of State government, which oversees the operation of, or collects or disseminates information from any qualifying school, or issues an occupational license.

"Qualifying school" means, except as provided below, a government unit, person, association, firm, corporation, private organization, or any entity doing business or maintaining facilities within the State, whether operating for profit or not for profit which:

(1) Offers or maintains a course of instruction or instructional program utilized to prepare individuals for future education or the workplace, including instruction in literacy or basic skills, or provides supplemental instruction in recognized occupational skills, pre-employment skills or literacy skills;

(2) Offers instruction by any method including, but not limited to, classroom, shop, laboratory experience, correspondence, Internet and other distance learning media, or any combination thereof;

(3) Offers instruction to the general public or in conjunction with New Jersey's workforce investment system; or,

(4) Charges tuition or other fees or costs, or receives public funding for the delivery of any of the above types of instruction.

"Qualifying school" shall not mean:

(1) Colleges and universities licensed by the Commission on Higher Education or other schools, institutions and entities which are otherwise regulated and approved pursuant to any other law or rule making process of this State;

(2) Employers offering instruction to their employees directly or through a contract instructor, where there is no cost to the employee and no profit to the employer; or

(3) Schools offering instruction for the purpose of self-enrichment, avocational, cultural, or recreational in nature.

"Regional" means a geographic configuration used to aggregate information as designated by the Center for Occupational Employment Information.

"Service provider," "training provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"State Employment and Training Commission" or "commission" means the "State Employment and Training Commission" created pursuant to section 5 of P.L.1989, c.293 (C.34:15C-2).

"State job training funds" means any moneys expended from the Workforce Development Partnership Fund created pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), the Supplemental Workforce Fund for Basic Skills established pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21) or any other source of State moneys to obtain employment and training services or other employment-directed and workforce development programs and activities, including employment and training services as defined in section 3 of P.L.1992, c.43 (C.34:15D-3) and employment-directed and workforce development programs and activities as described in sections 2 and 4 of P.L.2004, c.39 (C.34:1A-1.3 and 34 :1A-1.5).

"Student outcome information" means information pertaining to individual enrollment, participation, and completion in any education or training program designed to provide workforce skills or provide supplemental education or training in a recognized occupation. This information shall include, but not be limited to, the participant's Social Security number, gender, date of birth, date of enrollment, any date of completion, date of termination, date of start in a job, date of

application for a license, licensing examination result, date of issue of a license, any credential issued, and other information as specified by the commission or the center. For any individual who does not have a Social Security number, the qualifying agency may substitute an alternate method of identification. However, at the time of start into employment the alternate code shall be cross-referenced with the individual's valid Social Security number.

L.2005,c.354,s.26.

34:1A-86. Center for Occupational Employment Information

27. There is established in the Department of Labor and Workforce Development, the Center for Occupational Employment Information, which shall:

a. Serve as the entity designated to carry out the State level career information activities prescribed in the Perkins Act. In accordance with that act, the center shall, in cooperation with the New Jersey Department of Education and the Commission on Higher Education:

(1) Provide support for career guidance and academic counseling programs designed to promote improved career and education decision-making by individuals, especially in areas of career information delivery and use;

(2) Make information and planning resources that relate educational preparation to career goals and expectations available, on the Internet to the extent possible, to students, parents, teachers, administrators, counselors, job-seekers, workers and other clients of the workforce investment system, including the consumer report card on the effectiveness of qualified schools and other approved training providers placed on the State Eligible Training Provider List provided pursuant to subsection f. of this section and required to be made available pursuant to section 13 of P.L.2005, c.354 (C.34:15C-10.1), section 4 of P.L.1992, c.48 (C.34:15B-38), section 7 of P.L.1992, c.43 (C.34:15D-7) and section 3 of P.L.1992, c.47 (C.43:21-59);

(3) Equip workforce investment system professionals, including teachers, administrators, and counselors, with the knowledge and skills needed to assist clients of the workforce investment system, including students and parents, with career exploration, educational opportunities and education financing;

(4) Assist appropriate State entities in tailoring career-related educational resources and training for use by such entities;

(5) Improve coordination and communication among administrators and planners of programs included in the State's workforce investment system to ensure non-duplication of efforts and the appropriate use of shared information and data; and

(6) Provide ongoing means for clients of the workforce investment system, including students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements.

b. Design and implement a comprehensive workforce information system to meet the needs for the planning and operation of all public and private training and job placement programs, which is responsive to the economic demands of the employer community and education and training needs of the State and of Workforce Investment Board areas within the State, as recommended by the commission and designated by the Commissioner of Labor and Workforce Development. In doing so, the center shall insure that the information:

(1) Is delivered in a user friendly, timely and easily understood manner;

(2) Pays special attention to the particular needs of each Workforce Investment Board and is consistent with the labor market of each Workforce Investment Board; and

(3) Is delivered, to the extent possible, on the Internet in a format designed to meet the needs of all user groups.

c. Use the occupational employment information system to implement an electronic career information delivery system, which shall provide students, parents, counselors and other career decision makers with accurate, timely and locally relevant information on the careers available in the New Jersey labor market.

d. Analyze, not less than once every two years and on a regional basis, the relationship between the projected need for trained individuals in each of the career clusters and each of the career pathways, and the total number of individuals being trained in the skills or skill sets needed to work in each of the clusters and pathways. Based on this relationship, the center shall designate as a labor demand occupation any occupation that is in a cluster or pathway for which the number of individuals needed significantly exceeds, or shall exceed, the number being trained, and may designate as a labor demand occupation an occupation for which the center determines that the number of individuals needed significantly exceeds, or will exceed, the number being trained, even if that is not the case for the entire career cluster or pathway to which the occupation belongs. In cases where a Workforce Investment Board established pursuant to section 18 of P.L.1989, c.293 (C.34:15C-15) submits information to the center that there is or is likely to be, in the region for which the board is responsible, a significant excess of demand over supply of adequately trained workers for an occupation, the center may conduct a survey of the need or anticipated need in that region for trained workers in that occupation and, whether or not it conducts that survey, shall, in conjunction with the board, determine whether to designate the occupation to be a labor demand occupation in that region. The center may utilize survey data obtained by other agencies or from other sources to fulfill its responsibilities under this subsection.

e. Assist the commission in preparing the New Jersey Unified Workforce Investment Plan pursuant to section 10 of P.L.1989, c.293 (C.34:15C-7) by providing information requested by the commission.

f. Compile information provided to the department by training providers on the State Eligible Training Provider List pursuant to sections 14 and 29 of P.L.2005, c.354 (C.34:15C-10.2 and C.34:1A-88) into a consumer report card on the effectiveness of qualified schools and other approved training providers. The consumer report card shall include, at a minimum, the following information compiled annually: the number of enrollees; the completion rate; placement in employment information, including the names of employers where placements are made; licensing information; examination results; enrollee demographic information; and information showing the long-term success of former trainees of each provider and school in obtaining permanent employment and increasing earnings over one or more time periods following the completion or other termination of training, including a period of two years following the completion or other termination of training.

g. Ensure that the data needed to produce a consumer report card, pursuant to subsection f. of this section, is submitted by the training providers and qualified schools to the department in a timely manner and, for those training providers and qualified schools that do not submit the data in a timely manner, implement and enforce a process to revoke or suspend the entity from the State Eligible Training Provider List, pursuant to section 14 of P.L.2005, c.354 (C.34:15C-10.2).

L.2005, c.354, s.27; amended 2013, c.208, s.1.

34:1A-87. Steering committee to manage center

28. The center shall be managed by a Steering Committee comprised of the Commissioners of Community Affairs, Education, Health and Senior Services, Human Services, and Labor and Workforce Development; the Executive Directors of the Commission on Higher Education, the State Employment and Training Commission; the Executive Director of the New Jersey Commerce Commission; the Director of the Division of Vocational Rehabilitation Services; a director or member of a Workforce Investment Board as designated by the Executive Director of the State Employment and Training Commission; and a One-Stop Career Center operator as designated by the Commissioner of Labor and Workforce Development. The committee shall set policy for the operation of the center and shall have the authority to increase membership of the committee, as it deems necessary, to carry out the purposes of sections 27 through 29 of P.L.2005, c.354 (C.34:1A-86 through C.34:1A-88).

L.2005, c.354, s.28; amended 2007, c.253, s.12.

34:1A-88. Authority to access files, records

29. a. The Center for Occupational Employment Information and the State Employment and Training Commission are authorized to access the files and records of other State agencies which administer or distribute State job training funds or federal job training funds or issue any license necessary for an individual to work in a specific occupation. Student outcomes and licensing information, including individual Social Security numbers, shall be reported to the commission through the center by:

(1) Each qualifying agency;

(2) Each qualifying school; and

(3) Each training provider receiving State job training funds or federal job training funds, including a provider which is not a qualifying school.

The entities required to report that information shall include, but not be limited to, all post-secondary institutions engaged in any form of workforce preparation or adult literacy education and training.

b. The information required by this section shall be provided annually, or on any other mutually agreed schedule, to the center by December 31st, for the preceding 12-month period ending June 30th.

c. The information reported or accessed pursuant to subsection a. of this section may be used by the commission and the center for:

(1) The development and analysis of information on the demand for trained workers in any of the recognized career clusters, career pathways or occupations at the State and local area level as required or permitted by subsection d. of section 27 of P.L.2005, c.354 (C.34:1A-86).

(2) Establishing standards for training and job placement;

(3) Evaluating the effectiveness of programs, services and service providers under the State's workforce investment system and providing information regarding those evaluations, including the collection of information used to help produce a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings;

(4) Assisting in determining which training providers to place on the State Eligible Training Provider List;

(5) Assisting State agencies in preparing reports to federal grantor agencies; and

(6) Any other purpose deemed necessary for the accomplishment of the mission of the center as determined by the center's steering committee or any federal funding agency.

d. Information reported to the center by a qualifying agency or school or other training provider shall not be utilized for any purpose other than the governmental purposes authorized in subsection c. of this section. The center shall only use aggregate statistical summaries of individual data in assessing or evaluating any program at a qualifying school or other training provider. The commission and the center shall adopt standards and procedures to prevent any State agency from publishing, disclosing or releasing information which could identify any individual and shall not publish, disclose or otherwise release information which could identify any individual, except to an agency of government requiring such information in the performance of its statutory duties. Any executive agency of State government precluded by law from sharing information on specific individuals may provide student outcome and licensing information through statistical summary or other forms which prevent the identification of specific individuals.

e. The commission, the center, each qualifying agency, and any entity which reports student outcome or licensing information to a qualifying agency, shall comply with all pertinent State and federal laws regarding the privacy of students and other participants in employment and training programs, including but not limited to, the Privacy Act of 1974, Pub.L.93-579 (5 U.S.C. s.552 and 20 U.S.C. s.1232g) and shall provide all disclosures to the students and participants required by those laws.

L.2005,c.354,s.29.

Ch. 48, L. 1980 (S.285), WAGE REPORTING ACT

1. This act shall be known and may be cited as the "Wage Reporting Act."

2. The Director of the Division of Taxation in the Department of the Treasury shall design, develop and implement a reporting system for the purpose of receiving, maintaining and processing information required to be submitted by employers as specified in this act for the purpose of verifying eligibility for and entitlement to amounts of public assistance benefits, locating absent parents and, in appropriate cases, establishing support obligations and identifying fraud and abuse in connection with the unemployment insurance benefits system.

3. The Director of the Division of Public Welfare in the Department of Human Services shall, within 30 days after the end of each quarter, provide the Division of Taxation, in the Department of the Treasury with a list in a form and manner prescribed by the Director of the Division of Taxation, which shall contain the name and social security number of every person in receipt of public assistance through the Division of Public Welfare or through any county welfare board at any time during the quarter and an appropriate list of names and social security numbers for locating absent parents and, in appropriate cases, for establishing support obligations.

4. The Director of the Division of Unemployment and Disability Insurance in the Department of Labor and Industry shall, within 30 days after the end of each quarter, provide the Director of the Division of Taxation with a list, in a form and manner prescribed by the Director of the Division of Taxation, which shall contain the name and social security number of every person in receipt of unemployment compensation through the Division of Unemployment and Disability Insurance at any time during the quarter.

5. The Director of the Division of Taxation shall compare such lists with a list of all persons reported as having been employed during the preceding 3 months by employers in conformity with the requirements of section 7 of this act.

6. Upon making such comparison, the Director of the Division of Taxation shall provide to the Directors of the Divisions of Public Welfare and Unemployment and Disability Insurance the name, social security number and employer's name and address, of each person whose social security number appears on any list provided by either division and on the list of persons who were employed during the preceding 3 months. The respective divisions shall investigate and, if appropriate, take action against said person.

7. Every employer required to deduct and withhold tax pursuant to the "New Jersey Gross Income Tax Act" (N.J.S. 54A:1-1 et seq.) shall, for each calendar quarter commencing 4 months after enactment of this act, submit a report to the Director of the Division of Taxation, within 30 days after the end of such quarter, in the form and manner prescribed by the Director consistent with applicable Federal requirements or limitations, of the name and social security number of each

employee who resides or is employed in this State, and any employer identification number which the employer is required to include on a withholding tax return filed pursuant to said act.

8. Any employer who fails without reasonable cause to comply with the reporting requirements of this act shall be liable for a penalty in the following amount for each employee with respect to whom the employer is required to file a report but who is not included in such report or for whom the required information is not accurately reported, for each employee required to be included, whether or not the employee is included:

(1) For the first failure for one quarter in any eight consecutive quarters, up to $1.00 for each such employee;

(2) For the second failure for any quarter in any eight consecutive quarters, up to $5.00 for each such employee; and

(3) For the third failure for any quarter in any eight consecutive quarters, and for any failure in any eight consecutive quarters which failure is subsequent to the third failure, up to $25.00 for each such employee.

9. Notwithstanding the provisions of R.S.54:50-8 and R.S.54:50-9, the Division of Taxation or its employees may make only those disclosures to officers or employees of the Division of Public Welfare in the Department of Human Services, county welfare boards and the Division of Unemployment and Disability Insurance in the Department of Labor and Industry required to implement the provisions of this act; provided, however, that no disclosure may be made to any receiving agency herein with respect to Federal tax information obtained directly from the Internal Revenue Service pursuant to agreement except with the consent of the Internal Revenue Service.

10. No officer, employee or authorized representative of any agency authorized to receive information pursuant to this act shall disclose any personally identifiable information obtained or maintained pursuant to this act provided, however, that an officer or employee of the Division of Unemployment and Disability Insurance in the Department of Labor and Industry, the Division of Public Welfare in the Department of Human Services, or a county welfare board is authorized to disclose to any employer any information reported by the employer, including any information relating to the correctness of an employee's social security number, or to disclose to any employee any information reported which relates to the employee; and any officer or employee of the Division of Taxation is authorized to disclose to any employer, being notified of a determination of failure to comply with this act, any information concerning the employer's report or failure to report; provided, however, the Division of Taxation may utilize data reported pursuant to this act for purposes of verifying compliance with any tax imposed pursuant to Title 54 of the Revised Statutes and Title 54A of the New Jersey Statutes.

A person who intentionally violates the provisions of this section commits a crime of the fourth degree.

11. The Director of the Division of Taxation shall promulgate rules and regulations for the purpose of carrying out the provisions of this act.

12. Based on information received from the Directors of the Divisions of Unemployment and Disability Insurance and Public Welfare, the Director of the Division of Taxation shall submit to the Governor and the Legislature no later than April 1, in each year beginning with 1981 and ending with 1984, a detailed report relating to the cost effectiveness of the "Wage Reporting Act" and any legislative recommendation pertaining thereto.

15. This act shall take effect immediately, provided, however, that the first quarterly report to be filed shall be for the quarter next commencing at least four months from the effective date of this act. This act shall expire September 1, 1984, but the reporting provisions of sections 3, 4, and 7 of this act shall expire July 31, 1984.

CH. 417, l. 1981,
GARNISHMENT OF UNEMPLOYMENT INSURANCE BENEFITS

2. Every order of a court for alimony, maintenance or child support payments shall include a written notice to the payer stating that the order may be enforced by an income execution upon the commissions, earnings, salaries, wages and other current or future income due from the payer's employer or successor employers and upon the unemployment compensation benefits due the payer and against debts, income, trust funds, profits or income from any other source due the payer.

CH. 453, l. 1981,
GROSS INCOME TAX CREDIT FOR EXCESS CONTRIBUTIONS

2. a. Any employee who is a taxpayer and entitled, pursuant to the provisions of R.S.43:21-7(d)(3) or section 1 of P.L. 1944, c.81 (C. 43:21-14.1), to a refund of contributions deducted during a tax year from his wages shall, in lieu of such refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in such manner as the Director of the Division of Taxation may by regulation provide. In any case in which the amount, or any portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax liability, the amount of such new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N.J.S. 54A:9-7.

b. On the first day of each month, or at such other time as the director shall determine, the director shall forward to the Division of Unemployment and Temporary Disability Insurance a statement of the total amount of credits actually allowed pursuant to subsection a. of this section during the preceding month or period covered by the statement. Such statement shall indicate the totals of credits allowed on claims and shall be accompanied by such documents as the director and the Director of the Division of Unemployment and Disability Insurance shall prescribe. Moneys

reimbursed by the Division of Unemployment and Temporary Disability Insurance to the director shall be treated as taxes collected under the provisions of this Title.

3. Upon receipt from the director of a statement of the total amount of State income tax credits allowed on claims, the Division of Unemployment and Temporary Disability Insurance shall within 5 days reimburse to the director from the respective funds sums equal to the amounts so allowed. No interest shall be paid with respect to the sums reimbursed.

CH. 144, l. 1982,
DEDUCTION OF CHILD SUPPORT OBLIGATIONS

7. a. An individual filing a new claim for unemployment compensation with an effective date on or after October 1, 1982 shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under paragraph g. If any individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the division shall notify the State or local child support enforcement agency enforcing this obligation that the individual has been determined to be eligible for unemployment compensation.

b. The division shall deduct and withhold from any unemployment compensation to an individual that owes child support obligations as defined under paragraph g., (1) the amount specified by the individual to the division to be deducted and withheld under this section, or: p. (2) the amount (if any) determined pursuant to an agreement submitted to the division under Section 454(20)(B)(i) of the Social Security Act, P.L. 97-35, 42 U.S.C. 654, by the State or local child support enforcement agency, or

(3) any amount otherwise required to be so deducted and withheld from unemployment compensation pursuant to legal process (as that term is defined by the Commissioner of Labor in regulations, which definition shall be identical to the definition of legal process in Section 462(e) of the Social Security Act, P.L. 95-30, Title V, 42 U.S.C. 662) properly served upon the division.

c. Any amount deducted and withheld under paragraph b. shall be paid by the division to the appropriate State or local child support enforcement agency.

d. Any amount deducted and withheld under paragraph b. shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State or local child support enforcement agency in satisfaction of the individual's child support obligations.

e. For purposes of paragraphs a. through d., the term "unemployment compensation" means any compensation payable under the Unemployment Compensation Law (R.S.43:21-1 et seq.) (including amounts payable by the division pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).

f. This section applies only if appropriate arrangements have been made for reimbursement by the State or local child support enforcement agency for the administrative costs incurred by the division under this section which are attributable to child support obligations being enforced by the State or local child support enforcement agency.

g. The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act, P.L. 97-35, 42 U.S.C. 654, which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

h. The term "State or local child support enforcement agency" as used in these provisions means any agency of a State or a political subdivision thereof operating pursuant to a plan described in paragraph g.

CH. 24, l. 1984,
UNEMPLOYMENT COMPENSATION INTEREST REPAYMENT FUND

16. a. The Unemployment Compensation Interest Repayment Fund is established in the Department of Labor and shall be used solely for the purpose of paying interest due on any advances made from the federal unemployment account under Title XII of the Social Security Act (42 U.S.C. 1321 et seq.). All moneys deposited on this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury.

b. On or before June 30 of each year the Commissioner of Labor shall review the status of any interest bearing advances made from the federal unemployment account to determine the interest amount (if any) to be repaid to the United States Treasury by September 30 of that calendar year, pursuant to the provisions of section 1202(b) of the Social Security Act, U.S.C. 1322. If it is determined that interest shall be paid to the United States Treasury, the Commissioner of Labor shall first determine whether there are sufficient moneys in the unemployment compensation auxiliary fund, as established in subsection (g) of R.S.43:21-14, to repay the entire interest amount due on September 30 of that calendar year. If it is determined that there are sufficient moneys in the unemployment compensation auxiliary fund to repay the entire amount, no special assessment on employers shall be made. If, however, it is determined that there are insufficient moneys in the unemployment compensation auxiliary fund to repay the entire interest amount due on September 30 of that calendar year, a special assessment shall be made against all employers, except governmental entities or instrumentalities defined as employers under R. S. 43:21-19 (h)(5) and nonprofit organizations defined as employers under R.S.43:21-19(h)(6).

c. In the event that it shall be necessary to make a special assessment, the commissioner shall establish the ratio of the amount of interest determined under subsection b. of this section to 95% of the total employer contributions payable for unemployment insurance on taxable wages paid during the preceding calendar year by all employers subject to this interest assessment. This ratio shall be calculated to five significant figures and rounded upward to the next highest ten thousandth.

The assessment against each employer shall be in an amount equal to its unemployment contributions payable on the total taxable wages it paid during the preceding calendar year multiplied by the ratio established herein but in no event shall any assessment be less than $5.00. This special assessment shall be mailed by the controller to all affected employers on or before July 31 and shall be due 30 days from that date. This assessment shall be collectible by the controller in the same manner as provided for employer contributions under chapter 21 of Title 43 of the Revised Statutes.

d. All moneys received by the controller under this special assessment shall be deposited in the Unemployment Compensation Interest Repayment Fund. After all known interest charges have been paid, any remaining moneys in the fund may be transferred to the unemployment compensation auxiliary fund at the discretion of the Commissioner of Labor.

CH. 508, L. 1986, AGRICULTURAL WORKER LEGISLATION

1. (New section) The Legislature finds and determines that:

a. Agriculture is now and has traditionally been an essential part of the State's economic base, and it is the public policy of this State to ensure the survival of this sector of the economy, particularly in the face of encroaching industrial and commercial development and increasing urbanization; and

b. The continuing survival of New Jersey agriculture is dependent upon a steady and reliable supply of labor; and

c. The complexity of the problem of the compensation of agricultural laborers, which has been heightened by the increasing urbanization and industrial development in this State, needs to be studied by the Legislature in order to determine what remedial actions it may be necessary to take; and

d. It is the intention of the Legislature that the problems of the New Jersey agricultural workers be addressed without sacrificing the basic principles of the recently enacted unemployment compensation reform law (P.L. 1984, c. 24), which was a product of cooperation between business and labor; and

e. The following are valid public purposes and are not regarded by the Legislature as sacrificing the basic principles of the unemployment compensation reform law:

(1) Creating a commission to study the hiring, employment and compensation of agricultural labor in this State, to report its findings thereon, and to propose solutions to the Legislature; and

(2) Enacting temporary measures to assist certain agricultural workers to maintain eligibility for unemployment compensation benefits during the time that the commission conducts its study.

Sections 2 and 3 incorporated into Unemployment Compensation Law text.

4. (New section) There is created a commission to be known as the "Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey," which shall consist of 13 members. Two members of the commission shall be members of the Senate, to be appointed by the President thereof, not more than one of whom shall be of the same political party, and two members shall be members of the General Assembly, to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party. In addition, the Governor shall appoint six public members, three of whom shall represent business, including one representative of agricultural business; and three of whom shall represent labor, including one representative of agricultural labor. The Commissioner of Labor, the Commissioner of Commerce and Economic Development, and the State Secretary of Agriculture shall be members of the commission ex officio. All members of the commission shall serve without compensation. Members who are legislators shall serve only as long as they hold the legislative seat they held at the time of the appointment. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

5. (New section) It shall be the duty of the commission to inquire into the hiring, employment and compensation of agricultural labor in this State and make such legislative proposals to the Legislature as it may deem necessary. In making its inquiries and formulating its proposals, the commission shall take into consideration, as it deems appropriate, recommendations of the "Commission to Study the Employment and Compensation of Agricultural Labor in New Jersey" submitted to the President of the Senate and the Speaker of the General Assembly pursuant to Assembly Concurrent Resolution No. 151 of 1984. In addition to its other duties, the commission shall specifically address the following issues: a range of possible changes in unemployment compensation eligibility standards to make them the same for farmers as for other employers; a range of possible changes in the minimum wage level; extension of the time and one-half overtime pay requirements to agriculture; enforcement of the requirement that payments-in-kind be reported as taxable wages; the establishment of an eligibility threshold for farm workers at a fixed percentage of the threshold for other employees; and the establishment of a separate unemployment insurance fund for farm workers or for other seasonal employees.

6. (New section) The commission shall organize within 15 days after the appointment of its members. The commission shall elect a chairman from among its members and the chairman shall appoint a secretary who need not be a member of the commission.

7. (New section) The commission may hold public hearings and shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for this

purpose, and to employ counsel and such stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise available to it for that purpose.

8. (New section) The commission shall report its findings and recommendations, which shall include draft legislation if the commission recommends that legislation is necessary, to the Governor, the President of the Senate and the Speaker of the General Assembly no later than January 31, 1987.

9. (New section) The Department of Labor shall take any actions as the commissioner deems necessary to improve the administration of the unemployment compensation program as it concerns agricultural workers. The actions shall include, but not be limited to, the following:

a. Strengthening the enforcement of the provisions of subsections (a) and (c) of R.S.43:21-5 concerning the disqualification of applicants for benefits as the provisions apply to agricultural workers;

b. Making bilingual forms available for all Spanish speaking agricultural workers applying for or receiving benefits; and

c. Implementing procedures to accelerate the processing of the unemployment compensation claims of agricultural workers, including workers who live outside of the State.

10. (New section) The Department of Labor is directed to gather information needed by the "Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey," created pursuant to section 4 of this act, for the conduct of its inquiry and the formulation of its proposals, and to provide the information to the commission not later then July 31, 1986. Information requirements shall be delineated by the commission, taking into consideration, as it deems appropriate, the research recommendations of the "Commission to Study the Employment and Compensation of Agricultural Labor in New Jersey" submitted to the President of the Senate and the Speaker of the General Assembly pursuant to Assembly Concurrent Resolution No. 151 of 1984. This information shall be sufficient to make reasonable estimates of:

a. The total number of agricultural workers in the State; and

b. The number of agricultural workers participating in the unemployment compensation program.

11. This act shall take effect immediately, except for sections 4, 5, 6, 7, 8 and 10 of this act which shall take effect on January 31, 1986. Sections 4, 5, 6, 7, 8 and 10 of this act shall expire on January 31, 1987.