

[Third Reprint]

**ASSEMBLY, No. 3975**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED MAY 17, 2018

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblywoman Murphy, Assemblyman Benson, Assemblywoman McKnight, Assemblymen Johnson, Conaway, Verrelli, Assemblywomen Vainieri Huttle, Lampitt, Jasey, Assemblyman DeAngelo, Assemblywoman Lopez, Assemblyman McKeon and Senator Greenstein**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the Senate on January 31, 2019.

(Sponsorship Updated As Of: 2/1/2019)

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

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

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

11 3. As used in this act:

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

14 (1) under 18 years of age; or

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 18, 2018.

<sup>2</sup>Assembly floor amendments adopted October 29, 2018.

<sup>3</sup>Senate floor amendments adopted January 31, 2019.

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

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

14 (3) With respect to ~~any~~ the period of time ~~after~~ from the  
15 1,095th day following the effective date of ~~this act~~ P.L.1989,  
16 c.261 (C.34:11B-1 et seq.) through ~~June 30, 2019~~ <sup>2</sup>June 30, 2019 <sup>3</sup>December  
17 31, 2018 <sup>2</sup>June 30, 2019 <sup>3</sup>, employs 50 or more employees for each  
18 working day during each of 20 or more calendar workweeks in the  
19 then current or immediately preceding calendar year; ~~and~~

20 (4) With respect to any period of time <sup>2</sup>on or <sup>2</sup>after <sup>2</sup>June 30,  
21 2019 <sup>3</sup>January 1, 2019 <sup>2</sup>June 30, 2019 <sup>3</sup>, employs 30 or more  
22 employees for each working day during each of 20 or more calendar  
23 workweeks in the then current or immediately preceding calendar  
24 year.

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

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

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

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

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

43 (2) the placement of a child <sup>1</sup>into foster care <sup>1</sup> with the employee  
44 <sup>1</sup>or <sup>1</sup> in connection with adoption of such child by the employee; or

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

1 j. "Family member" means a child, parent, parent-in-law,  
2 sibling, grandparent, grandchild, spouse, <sup>1</sup>domestic partner,<sup>1</sup> or one  
3 partner in a civil union couple, or any other individual related by  
4 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
5 employee shows to have a<sup>1</sup> close association with the employee  
6 <sup>1</sup>which<sup>1</sup> is the equivalent of a family relationship.

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

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

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

15 (2) continuing medical treatment or continuing supervision by a  
16 health care provider.

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

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

23

24 <sup>2</sup>2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to  
25 read as follows:

26 4. An employee of an employer in this State subject to the  
27 provisions of this act shall be entitled to a family leave of 12 weeks  
28 in any 24-month period upon advance notice to the employer in the  
29 manner specified by the provisions of sections 11 and 12 of  
30 P.L.2008, c.17 (C.43:21-39.2 and 43:21-39.3), unless the employer  
31 denies family leave to the employee pursuant to subsection h. of  
32 this section.

33 a. In the case of a family member who has a serious health  
34 condition, the leave may be taken intermittently when medically  
35 necessary, **【if:**

36 (1) The total time within which the leave is taken does not  
37 exceed a 12-month period for each serious health condition episode;

38 (2) The employee provides the employer with prior notice of the  
39 leave in a manner which is reasonable and practicable; and

40 (3) The employee makes a reasonable effort to schedule the  
41 leave so as not to disrupt unduly the operations of the employer **】** in  
42 the manner specified by the provisions of section 11 of P.L.2008,  
43 c.17 (C.43:21-39.2).

44 b. In the case of the foster care placement, birth or adoption of  
45 a healthy child, the leave may be taken intermittently **【if agreed to**  
46 **by the employer and the employee】** in the manner specified by the

1 provisions of paragraph (2) of subsection a. of section 12 of  
2 P.L.2008, c.17 (C.43:21-39.3).

3 c. Leave taken because of the birth or placement for adoption  
4 of a child may commence at any time within a year after the date of  
5 the foster care placement, birth or placement for adoption.

6 d. Family leave required by this act may be paid, unpaid, or a  
7 combination of paid and unpaid leave. If an employer provides paid  
8 family leave for fewer than 12 workweeks, the additional weeks of  
9 leave added to attain the 12-workweek total required by this act  
10 may be unpaid.

11 e. An employer may require that any period of family leave be  
12 supported by certification issued by a duly licensed health care  
13 provider or any other health care provider determined by the  
14 director to be capable of providing adequate certification.

15 (1) Where the certification is for the serious health condition of  
16 a family member of the employee, the certification shall be  
17 sufficient if it states: (a) the date on which the serious health  
18 condition commenced; (b) the probable duration of the condition;  
19 and (c) the medical facts within the provider's knowledge regarding  
20 the condition;

21 (2) Where the certification is for the birth or placement of the  
22 child, the certification need only state the date of birth or date of  
23 placement, whichever is appropriate.

24 In any case in which the employer has reason to doubt the  
25 validity of the certification provided pursuant to paragraph (1) of  
26 this subsection, the employer may require, at its own expense, that  
27 an employee obtain an opinion regarding the serious health  
28 condition from a second health care provider designated or  
29 approved, but not employed on a regular basis, by the employer. If  
30 the second opinion differs from the certification provided pursuant  
31 to paragraph (1) of this subsection, the employer may require, at its  
32 own expense, that the employee obtain the opinion of a third health  
33 care provider designated or approved jointly by the employer and  
34 the employee concerning the serious health condition. The opinion  
35 of the third health care provider shall be considered to be final and  
36 shall be binding on the employer and the employee.

37 f. In any case in which the necessity for leave under this act is  
38 foreseeable, based upon placement of a child into foster care an  
39 expected birth or placement of the child for adoption, the employee  
40 shall provide the employer with prior notice of the expected birth or  
41 placement of the child for adoption <sup>3</sup>or foster care<sup>3</sup> in **[a]** the  
42 manner [which is reasonable and practicable] specified by the  
43 provisions of section 11 of P.L.2008, c.17 (C.43:21-39.2).

44 g. No employee shall, during any period of leave taken  
45 pursuant to this section, perform services on a full-time basis for  
46 any person for whom the employee did not provide those services  
47 immediately prior to commencement of the leave.

48 h. An employer may deny family leave to the employee if:

1 (1) The employee is a salaried employee who is among the  
2 highest paid 5% of the employer's employees or the seven highest  
3 paid employees of the employer, whichever is greater;

4 (2) The denial is necessary to prevent substantial and grievous  
5 economic injury to the employer's operations; and

6 (3) The employer notifies the employee of its intent to deny the  
7 leave at the time the employer determines that the denial is  
8 necessary.

9 i. In any case in which the leave has already commenced at the  
10 time of the notification pursuant to paragraph (3) of subsection h. of  
11 this section, the employee shall return to work within 10 working  
12 days of the date of notification.<sup>2</sup>

13 (cf: P.L.1989, c.261, s.4)

14  
15 <sup>2</sup>~~12.~~ <sup>3.</sup><sup>2</sup> Section 5 of P.L.1989, c.261 (C.34:11B-5) is  
16 amended to read as follows:

17 5. An employee shall be entitled, at the option of the employee,  
18 to take this leave on a reduced leave schedule, except that:

19 a. The employee shall not be entitled to a reduced leave  
20 schedule for a period exceeding ~~24~~ 12 consecutive ~~weeks~~  
21 months for any one period of leave; and

22 b. ~~The employee shall not be entitled to take the leave on a~~  
23 ~~reduced leave schedule without an agreement between the employer~~  
24 ~~and employee, if~~ If the leave is taken upon the foster care  
25 placement, birth or adoption of a healthy child, the leave may be  
26 taken on an intermittent basis in the manner specified by the  
27 provisions of paragraph (2) of subsection a. of section 12 of  
28 P.L.2008, c.17 (C.43:21-39.3).

29 The employee shall make a reasonable effort to schedule reduced  
30 leave so as not to disrupt unduly the operations of the employer and  
31 the employee shall provide the employer with prior notice of the  
32 care, medical treatment, or continuing supervision by a health care  
33 provider necessary due to a serious health condition of a family  
34 member, in a manner which is reasonable and practicable. <sup>2</sup>~~Leave~~  
35 ~~taken on a reduced leave schedule shall not result in a reduction of~~  
36 ~~the total amount of leave to which an employee is entitled.~~<sup>1</sup><sup>2</sup>

37 (cf: P.L.1989, c.261, s.5)

38  
39 <sup>1</sup>~~2.~~ <sup>2</sup>~~3.~~ <sup>1</sup>~~4.~~ <sup>2</sup> Section 3 of P.L.2013, c.82 (C.34:11C-3) is  
40 amended to read as follows:

41 3. a. Any employee of an employer in the State who was a  
42 victim of an incident of domestic violence as defined in section 3 of  
43 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as  
44 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose  
45 parent-in-law, sibling, grandparent, grandchild, child, parent,  
46 spouse, domestic partner, or civil union partner individual, or any  
47 other individual related by blood to the employee, and any other

1 individual <sup>1</sup>**【whose】** that the employee shows to have a <sup>1</sup> close  
2 association with the employee <sup>1</sup>which <sup>1</sup> is the equivalent of a family  
3 relationship, was a victim shall be entitled to unpaid leave of no  
4 more than 20 days in one 12-month period, to be used in the 12-  
5 month period next following any incident of domestic violence or  
6 any sexually violent offense as provided in this section. For  
7 purposes of this section, each incident of domestic violence or any  
8 sexually violent offense shall constitute a separate offense for  
9 which an employee is entitled to unpaid leave, provided that the  
10 employee has not exhausted the allotted 20 days for the 12-month  
11 period. The unpaid leave may be taken intermittently in intervals of  
12 no less than one day, as needed for the purpose of engaging in any  
13 of the following activities as they relate to the incident of domestic  
14 violence or sexually violent offense:

15 (1) seeking medical attention for, or recovering from, physical  
16 or psychological injuries caused by domestic or sexual violence to  
17 the employee or the employee's parent-in-law, sibling, grandparent,  
18 grandchild, child, parent, spouse, domestic partner, or civil union  
19 partner individual, or any other individual related by blood to the  
20 employee, and any other individual <sup>1</sup>**【whose】** that the employee  
21 shows to have a <sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the  
22 equivalent of a family relationship;

23 (2) obtaining services from a victim services organization for  
24 the employee or the employee's parent-in-law, sibling, grandparent,  
25 grandchild, child, parent, spouse, domestic partner, or civil union  
26 partner individual, or any other individual related by blood to the  
27 employee, and any other individual <sup>1</sup>**【whose】** that the employee  
28 shows to have a <sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the  
29 equivalent;

30 (3) obtaining psychological or other counseling for the  
31 employee or the employee's parent-in-law, sibling, grandparent,  
32 grandchild, child, parent, spouse, domestic partner, or civil union  
33 partner individual, or any other individual related by blood to the  
34 employee, and any other individual <sup>1</sup>**【whose】** that the employee  
35 shows to have a <sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the  
36 equivalent of a family relationship;

37 (4) participating in safety planning, temporarily or permanently  
38 relocating, or taking other actions to increase the safety of the  
39 employee or the employee's parent-in-law, sibling, grandparent,  
40 grandchild, child, parent, spouse, domestic partner, or civil union  
41 partner individual, or any other individual related by blood to the  
42 employee, and any other individual <sup>1</sup>**【whose】** that the employee  
43 shows to have a <sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the  
44 equivalent of a family relationship, from future domestic or sexual  
45 violence or to ensure economic security;

46 (5) seeking legal assistance or remedies to ensure the health and  
47 safety of the employee or the employee's parent-in-law, sibling,

1 grandparent, grandchild, child, parent, spouse, domestic partner, or  
2 civil union partner, individual, or any other individual related by  
3 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
4 employee shows to have a <sup>1</sup> close association with the employee  
5 'which' is the equivalent of a family relationship, including  
6 preparing for, or participating in, any civil or criminal legal  
7 proceeding related to or derived from domestic or sexual violence;  
8 or

9 (6) attending, participating in, or preparing for a criminal or  
10 civil court proceeding relating to an incident of domestic or sexual  
11 violence of which the employee or the employee's parent-in-law,  
12 sibling, grandparent, grandchild, child, parent, spouse, domestic  
13 partner, or civil union partner, or any other individual related by  
14 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
15 employee shows to have a <sup>1</sup> close association with the employee  
16 'which' is the equivalent of a family relationship, was a victim.

17 An eligible employee may elect**【,** or an employer may require  
18 the employee,**】** to use any of the accrued paid vacation leave,  
19 personal leave, or medical or sick leave of the employee, or any  
20 family temporary disability leave benefits provided pursuant to  
21 section 3 of P.L.1948, c.110 (C.43:21-27), during any part of the  
22 20-day period of unpaid leave provided under this subsection. In  
23 such case, any paid leave provided by the employer, and accrued  
24 pursuant to established policies of the employer, or family  
25 temporary disability leave benefits, shall run concurrently with the  
26 unpaid leave provided under this subsection and, accordingly, the  
27 employee shall receive pay pursuant to the employer's applicable  
28 paid leave policy, or family temporary disability leave benefits,  
29 during the period of otherwise unpaid leave. If an employee  
30 requests leave for a reason covered by both this subsection and the  
31 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
32 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
33 U.S.C. s.2601 et seq.), the leave shall count simultaneously against  
34 the employee's entitlement under each respective law.

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

41 b. Prior to taking the leave provided for in this section, an  
42 employee shall, if the necessity for the leave is foreseeable, provide  
43 the employer with written notice of the need for the leave<sup>2</sup>, unless  
44 an emergency or other unforeseen circumstances precludes prior  
45 notice<sup>2</sup>. The notice shall be provided to the employer as far in  
46 advance as is reasonable and practical under the circumstances.



1 c. Nothing contained in this act shall be construed to prohibit  
2 an employer from requiring that a period of leave provided pursuant  
3 to this section be supported by the employee with documentation of  
4 the domestic violence or sexually violent offense which is the basis  
5 for the leave. If the employer requires the documentation, the  
6 employee shall be regarded as having provided sufficient  
7 documentation if the employee provides one or more of the  
8 following:

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

11 (2) a letter or other written documentation from the county or  
12 municipal prosecutor documenting the domestic violence or  
13 sexually violent offense;

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

16 (4) medical documentation of the domestic violence or sexually  
17 violent offense;

18 (5) certification from a certified Domestic Violence Specialist or  
19 the director of a designated domestic violence agency or Rape  
20 Crisis Center, that the employee or employee's parent-in-law,  
21 sibling, grandparent, grandchild, child, parent, spouse, domestic  
22 partner, or civil union partner, or any other individual related by  
23 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
24 employee shows to have a<sup>1</sup> close association with the employee  
25 <sup>1</sup>which <sup>1</sup> is the equivalent of a family relationship, is a victim of  
26 domestic violence or a sexually violent offense; or

27 (6) other documentation or certification of the domestic violence  
28 or sexually violent offense provided by a social worker, member of  
29 the clergy, shelter worker, or other professional who has assisted  
30 the employee or employee's parent-in-law, sibling, grandparent,  
31 grandchild, child, parent, spouse, domestic partner, or civil union  
32 partner, or any other individual related by blood to the employee,  
33 and any other individual <sup>1</sup>**【whose】** that the employee shows to have  
34 a<sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the equivalent of  
35 a family relationship, in dealing with the domestic violence or  
36 sexually violent offenses.

37 For the purposes of this subsection:

38 "Certified Domestic Violence Specialist" means a person who  
39 has fulfilled the requirements of certification as a Domestic  
40 Violence Specialist established by the New Jersey Association of  
41 Domestic Violence Professionals; and "designated domestic  
42 violence agency" means a county-wide organization with a primary  
43 purpose to provide services to victims of domestic violence, and  
44 which provides services that conform to the core domestic violence  
45 services profile as defined by the Division of Child Protection and  
46 Permanency in the Department of Children and Families and is

1 under contract with the division for the express purpose of  
2 providing the services.

3 "Rape Crisis Center" means an office, institution, or center  
4 offering assistance to victims of sexual offenses through crisis  
5 intervention, medical and legal information, and follow-up  
6 counseling.

7 d. An employer shall display conspicuous notice of its  
8 employees' rights and obligations pursuant to the provisions of this  
9 act, in such form and in such manner as the Commissioner of Labor  
10 and Workforce Development shall prescribe, and use other  
11 appropriate means to keep its employees so informed.

12 e. No provision of this act shall be construed as requiring or  
13 permitting an employer to reduce employment benefits provided by  
14 the employer or required by a collective bargaining agreement  
15 which are in excess of those required by this act. Nor shall any  
16 provision of this act be construed to prohibit the negotiation and  
17 provision through collective bargaining agreements of leave  
18 policies or benefit programs which provide benefits in excess of  
19 those required by this act. This provision shall apply irrespective of  
20 the date that a collective bargaining agreement takes effect.

21 Nothing contained in this act shall be construed as permitting an  
22 employer to:

23 (1) rescind or reduce any employment benefit accrued prior to  
24 the date on which the leave taken pursuant to this act commenced;  
25 or

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

30 f. All information provided to an employer pursuant to  
31 subsection c. of this section, and any information regarding a leave  
32 taken pursuant to this section and any failure of an employee to  
33 return to work, shall be retained in the strictest confidentiality,  
34 unless the disclosure is voluntarily authorized in writing by the  
35 employee or is required by a federal or State law, rule, or  
36 regulation.

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

38

39 <sup>25</sup>. R.S.43:21-4 is amended to read as follows:

40 43:21-4. Benefit eligibility conditions. An unemployed  
41 individual shall be eligible to receive benefits with respect to any  
42 week eligible only if:

43 (a) The individual has filed a claim at an unemployment  
44 insurance claims office and thereafter continues to report at an  
45 employment service office or unemployment insurance claims  
46 office, as directed by the division in accordance with such  
47 regulations as the division may prescribe, except that the division  
48 may, by regulation, waive or alter either or both of the requirements

1 of this subsection as to individuals attached to regular jobs, and as  
2 to such other types of cases or situations with respect to which the  
3 division finds that compliance with such requirements would be  
4 oppressive, or would be inconsistent with the purpose of this act;  
5 provided that no such regulation shall conflict with subsection (a) of  
6 R.S.43:21-3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (D) For the purpose of this paragraph (4), "labor demand  
19 occupation" means an occupation for which there is or is likely to  
20 be an excess of demand over supply for adequately trained workers,  
21 including, but not limited to, an occupation designated as a labor  
22 demand occupation by the Center for Occupational Employment  
23 Information pursuant to the provisions of subsection d. of section  
24 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

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

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

1 (8) Any individual who is determined to be likely to exhaust  
2 regular benefits and need reemployment services based on  
3 information obtained by the worker profiling system shall not be  
4 eligible to receive benefits if the individual fails to participate in  
5 available reemployment services to which the individual is referred  
6 by the division or in similar services, unless the division determines  
7 that:

8 (A) The individual has completed the reemployment services; or  
9 (B) There is justifiable cause for the failure to participate, which  
10 shall include participation in employment and training, self-  
11 employment assistance activities or other activities authorized by  
12 the division to assist reemployment or enhance the marketable skills  
13 and earning power of the individual and which shall include any  
14 other circumstance indicated pursuant to this section in which an  
15 individual is not required to be available for and actively seeking  
16 work to receive benefits.

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

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

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

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

33 (d) With respect to any benefit year commencing before January  
34 1, 2002, the individual has been totally or partially unemployed for  
35 a waiting period of one week in the benefit year which includes that  
36 week. When benefits become payable with respect to the third  
37 consecutive week next following the waiting period, the individual  
38 shall be eligible to receive benefits as appropriate with respect to  
39 the waiting period. No week shall be counted as a week of  
40 unemployment for the purposes of this subsection:

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

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

- 1 (3) Unless the individual fulfills the requirements of subsections  
2 (a) and (c) of this section;
- 3 (4) If with respect thereto, claimant was disqualified for benefits  
4 in accordance with the provisions of subsection (d) of R.S.43:21-5.  
5 The waiting period provided by this subsection shall not apply to  
6 benefit years commencing on or after January 1, 2002. An  
7 individual whose total benefit amount was reduced by the  
8 application of the waiting period to a claim which occurred on or  
9 after January 1, 2002 and before the effective date of P.L.2002,  
10 c.13, shall be permitted to file a claim for the additional benefits  
11 attributable to the waiting period in the form and manner prescribed  
12 by the division, but not later than the 180th day following the  
13 effective date of P.L.2002, c.13 unless the division determines that  
14 there is good cause for a later filing.
- 15 (e) (1) (Deleted by amendment, P.L.2001, c.17).  
16 (2) (Deleted by amendment, P.L.2008, c.17).  
17 (3) (Deleted by amendment, P.L.2008, c.17).  
18 (4) With respect to benefit years commencing on or after  
19 January 7, 2001, except as otherwise provided in paragraph (5) of  
20 this subsection, the individual has, during his base year as defined  
21 in subsection (c) of R.S.43:21-19:
- 22 (A) Established at least 20 base weeks as defined in paragraphs  
23 (2) and (3) of subsection (t) of R.S.43:21-19; or  
24 (B) If the individual has not met the requirements of  
25 subparagraph (A) of this paragraph (4), earned remuneration not  
26 less than an amount 1,000 times the minimum wage in effect  
27 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
28 1 of the calendar year preceding the calendar year in which the  
29 benefit year commences, which amount shall be adjusted to the next  
30 higher multiple of \$100 if not already a multiple thereof.
- 31 (5) With respect to benefit years commencing on or after  
32 January 7, 2001, notwithstanding the provisions of paragraph (4) of  
33 this subsection, an unemployed individual claiming benefits on the  
34 basis of service performed in the production and harvesting of  
35 agricultural crops shall, subject to the limitations of subsection (i)  
36 of R.S.43:21-19, be eligible to receive benefits if during his base  
37 year, as defined in subsection (c) of R.S.43:21-19, the individual:
- 38 (A) Has established at least 20 base weeks as defined in  
39 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or  
40 (B) Has earned remuneration not less than an amount 1,000  
41 times the minimum wage in effect pursuant to section 5 of  
42 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year  
43 preceding the calendar year in which the benefit year commences,  
44 which amount shall be adjusted to the next higher multiple of \$100  
45 if not already a multiple thereof; or  
46 (C) Has performed at least 770 hours of service in the  
47 production and harvesting of agricultural crops.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

44 (4) With respect to any services described in paragraphs (1) and  
45 (2) above, benefits shall not be paid as specified in paragraphs (1),  
46 (2), and (3) above to any individual who performed those services  
47 in an educational institution while in the employ of an educational  
48 service agency, and for this purpose the term "educational service

1 agency" means a governmental agency or governmental entity  
2 which is established and operated exclusively for the purpose of  
3 providing those services to one or more educational institutions.

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

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

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

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

39 (j) Notwithstanding any other provision of this chapter, the  
40 director may, to the extent that it may be deemed efficient and  
41 economical, provide for consolidated administration by one or more  
42 representatives or deputies of claims made pursuant to subsection  
43 (f) of this section with those made pursuant to Article III (State  
44 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110  
45 (C.43:21-25 et al.).<sup>2</sup>  
46 (cf: P.L.2011, c.154, s.11)

47

48 <sup>1</sup>[3.] <sup>2</sup>[4.1] 6.<sup>2</sup> R.S.43:21-7 is amended to read as follows:

1       43:21-7. Employers other than governmental entities, whose  
2 benefit financing provisions are set forth in section 4 of P.L.1971,  
3 c.346 (C.43:21-7.3), and those nonprofit organizations liable for  
4 payment in lieu of contributions on the basis set forth in section 3 of  
5 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the  
6 unemployment compensation fund, contributions as set forth in  
7 subsections (a), (b) and (c) hereof, and the provisions of subsections  
8 (d) and (e) shall be applicable to all employers, consistent with the  
9 provisions of the "unemployment compensation law" and the  
10 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
11 et al.).

12       (a) Payment.

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

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

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

27       (1) For the calendar year 1947, and each calendar year  
28 thereafter,  $2\frac{7}{10}\%$  of wages paid by him during each such calendar  
29 year, except as otherwise prescribed by subsection (c) of this  
30 section.

31       (2) The "wages" of any individual, with respect to any one  
32 employer, as the term is used in this subsection (b) and in  
33 subsections (c), (d) and (e) of this section 7, shall include the first  
34 \$4,800.00 paid during calendar year 1975, for services performed  
35 either within or without this State; provided that no contribution  
36 shall be required by this State with respect to services performed in  
37 another state if such other state imposes contribution liability with  
38 respect thereto. If an employer (hereinafter referred to as a  
39 successor employer) during any calendar year acquires substantially  
40 all the property used in a trade or business of another employer  
41 (hereinafter referred to as a predecessor), or used in a separate unit  
42 of a trade or business of a predecessor, and immediately after the  
43 acquisition employs in his trade or business an individual who  
44 immediately prior to the acquisition was employed in the trade or  
45 business of such predecessors, then, for the purpose of determining  
46 whether the successor employer has paid wages with respect to  
47 employment equal to the first \$4,800.00 paid during calendar year  
48 1975, any wages paid to such individual by such predecessor during

1 such calendar year and prior to such acquisition shall be considered  
2 as having been paid by such successor employer.

3 (3) For calendar years beginning on and after January 1, 1976,  
4 the "wages" of any individual, as defined in the preceding  
5 paragraph (2) of this subsection (b), shall be established and  
6 promulgated by the Commissioner of Labor and Workforce  
7 Development on or before September 1 of the preceding year and,  
8 except as provided in paragraph (4) of this subsection (b), shall be,  
9 28 times the Statewide average weekly remuneration paid to  
10 workers by employers, as determined under R.S.43:21-3(c), raised  
11 to the next higher multiple of \$100.00 if not already a multiple  
12 thereof, provided that if the amount of wages so determined for a  
13 calendar year is less than the amount similarly determined for the  
14 preceding year, the greater amount will be used; provided, further,  
15 that if the amount of such wages so determined does not equal or  
16 exceed the amount of wages as defined in subsection (b) of section  
17 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),  
18 the wages as determined in this paragraph in any calendar year shall  
19 be raised to equal the amount established under the "Federal  
20 Unemployment Tax Act," chapter 23 of the Internal Revenue Code  
21 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

22 (4) For calendar years beginning on and after January 1,  
23 <sup>2</sup>[2019,] <sup>2</sup>2020,<sup>2</sup> the "wages" of any individual, as defined in the  
24 preceding paragraph (2) of this subsection (b) for purposes of  
25 contributions of workers to the <sup>2</sup>State disability benefits fund,  
26 including the<sup>2</sup> "Family Temporary Disability Leave Account" <sup>2</sup>[and  
27 the "Pregnancy Temporary Disability Account" of the State  
28 disability benefits fund]<sup>2</sup> pursuant to subsection (d) of this section,  
29 shall be established and promulgated by the Commissioner of Labor  
30 and Workforce Development on or before September 1 of the  
31 preceding year and shall be <sup>2</sup>[52] <sup>2</sup>107<sup>2</sup> times the Statewide average  
32 weekly remuneration paid to workers by employers, as determined  
33 under R.S.43:21-3(c), raised to the next higher multiple of \$100.00  
34 if not already a multiple thereof, provided that if the amount of  
35 wages so determined for a calendar year is less than the amount  
36 similarly determined for the preceding year, the greater amount will  
37 be used.

38 (c) Future rates based on benefit experience.

39 (1) A separate account for each employer shall be maintained  
40 and this shall be credited with all the contributions which he has  
41 paid on his own behalf on or before January 31 of any calendar year  
42 with respect to employment occurring in the preceding calendar  
43 year; provided, however, that if January 31 of any calendar year  
44 falls on a Saturday or Sunday, an employer's account shall be  
45 credited as of January 31 of such calendar year with all the  
46 contributions which he has paid on or before the next succeeding  
47 day which is not a Saturday or Sunday. But nothing in this chapter

1 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
2 individuals in his service prior claims or rights to the amounts paid  
3 by him into the fund either on his own behalf or on behalf of such  
4 individuals. Benefits paid with respect to benefit years commencing  
5 on and after January 1, 1953, to any individual on or before  
6 December 31 of any calendar year with respect to unemployment in  
7 such calendar year and in preceding calendar years shall be charged  
8 against the account or accounts of the employer or employers in  
9 whose employment such individual established base weeks  
10 constituting the basis of such benefits, except that, with respect to  
11 benefit years commencing after January 4, 1998, an employer's  
12 account shall not be charged for benefits paid to a claimant if the  
13 claimant's employment by that employer was ended in any way  
14 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
15 R.S.43:21-5, would have disqualified the claimant for benefits if the  
16 claimant had applied for benefits at the time when that employment  
17 ended. Benefits paid under a given benefit determination shall be  
18 charged against the account of the employer to whom such  
19 determination relates. When each benefit payment is made,  
20 notification shall be promptly provided to each employer included  
21 in the unemployment insurance monetary calculation of benefits.  
22 Such notification shall identify the employer against whose account  
23 the amount of such payment is being charged, shall show at least  
24 the name and social security account number of the claimant and  
25 shall specify the period of unemployment to which said benefit  
26 payment applies.

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

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

36 (3) No employer's rate shall be lower than 5.4% unless  
37 assignment of such lower rate is consistent with the conditions  
38 applicable to additional credit allowance for such year under section  
39 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.  
40 s.3303(a)(1)), any other provision of this section to the contrary  
41 notwithstanding.

42 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2  
43 8/10%, except as otherwise provided in the following provisions.  
44 No employer's rate for the 12 months commencing July 1 of any  
45 calendar year shall be other than 2 8/10%, unless as of the  
46 preceding January 31 such employer shall have paid contributions  
47 with respect to wages paid in each of the three calendar years  
48 immediately preceding such year, in which case such employer's

1 rate for the 12 months commencing July 1 of any calendar year  
2 shall be determined on the basis of his record up to the beginning of  
3 such calendar year. If, at the beginning of such calendar year, the  
4 total of all his contributions, paid on his own behalf, for all past  
5 years exceeds the total benefits charged to his account for all such  
6 years, his contribution rate shall be:

7 (1)  $2\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
8 5%, of his average annual payroll (as defined in paragraph (2),  
9 subsection (a) of R.S.43:21-19);

10 (2)  $2\frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less  
11 than 6%, of his average annual payroll;

12 (3)  $1\frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
13 than 7%, of his average annual payroll;

14 (4)  $1\frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
15 than 8%, of his average annual payroll;

16 (5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
17 than 9%, of his average annual payroll;

18 (6) 1%, if such excess equals or exceeds 9%, but is less than  
19 10%, of his average annual payroll;

20 (7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less  
21 than 11%, of his average annual payroll;

22 (8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his  
23 average annual payroll.

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

28 (1) 4%, if such excess is less than 10% of his average annual  
29 payroll;

30 (2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less  
31 than 20%, of his average annual payroll;

32 (3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his  
33 average annual payroll.

34 (C) Specially assigned rates.

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

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

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

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

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

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

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

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

47 (B) If on March 31 of any calendar year the balance in the  
48 unemployment trust fund equals or exceeds 10% but is less than 12

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

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

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

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

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

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

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

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

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

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



EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio <sup>1</sup>					
Employer Reserve Ratio <sup>2</sup>	3.50% and Over A	3.00% to 3.49% B	2.5% to 2.99% C	2.0% to 2.49% D	1.99% and Under E
Positive Reserve Ratio:					
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

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>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

1 computed under subparagraph (E) of this paragraph (5), shall be  
2 increased by a factor of 10% computed to the nearest multiple of  
3 1/10% if not already a multiple thereof.

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

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

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

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

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

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

1 (J) On or after July 1, 2001, notwithstanding any other  
2 provisions of this paragraph (5), the contribution rate for each  
3 employer liable to pay contributions, as computed under  
4 subparagraph (E) of this paragraph (5), shall be decreased by  
5 0.0175%, except that, during any experience rating year starting on  
6 or after July 1, 2001, in which the fund reserve ratio is equal to or  
7 greater than 3.5%, there shall be no decrease pursuant to this  
8 subparagraph (J) in the contribution of any employer who has a  
9 deficit reserve ratio of negative 35.00% or under. The amount of the  
10 reduction in the employer contributions stipulated by this  
11 subparagraph (J) shall be in addition to the amount of the reduction  
12 in the employer contributions stipulated by subparagraphs (G) and  
13 (H) of this paragraph (5), except that the rate of contribution of an  
14 employer who has a deficit reserve ratio of negative 35.0% or under  
15 shall not be reduced pursuant to this subparagraph (J) to less than  
16 5.4% and the rate of contribution of any other employer shall not be  
17 reduced to less than 0.0%.

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

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

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

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

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

45 (N) Notwithstanding any other provision of this paragraph (5)  
46 and notwithstanding the actual fund reserve ratio, the contribution  
47 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
2 2013, the rates set by column "E" of the table in that subparagraph.

3 (6) Additional contributions.

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

30 (7) Transfers.

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

1 employment experience of the predecessor is not indicative of the  
2 future employment experience of the successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 Each worker shall, starting on January 1, 1996 and ending March  
43 31, 1996, contribute to the unemployment compensation fund  
44 0.60% of wages paid with respect to the worker's employment with  
45 a governmental employer electing or required to pay contributions  
46 or nongovernmental employer, including a nonprofit organization  
47 which is an employer as defined under paragraph (6) of subsection  
48 (h) of R.S.43:21-19, regardless of whether that nonprofit

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

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

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

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



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

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

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

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

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

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

6 (G) (i) **【**Each worker shall, starting on July 1, 1994 and ending  
7 on December 31, 2011, contribute to the State disability benefits  
8 fund an amount equal to 0.50% of wages paid with respect to the  
9 worker's employment with a government employer electing or  
10 required to pay contributions to the State disability benefits fund or  
11 nongovernmental employer, including a nonprofit organization  
12 which is an employer as defined under paragraph (6) of subsection  
13 (h) of R.S.43:21-19, unless the employer is covered by an approved  
14 private disability plan or is exempt from the provisions of the  
15 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
16 et al.) under section 7 of that law (C.43:21-31) or any other  
17 provision of that law.**】** Each worker, with respect to the worker's  
18 employment with a government employer electing or required to  
19 pay contributions to the State disability benefits fund or  
20 nongovernmental employer, including a nonprofit organization  
21 which is an employer as defined under paragraph (6) of subsection  
22 (h) of R.S.43:21-19, unless the employer is covered by an approved  
23 private disability plan or is exempt from the provisions of the  
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
25 et al.) under section 7 of that law (C.43:21-31) or any other  
26 provision of that law, shall, for calendar year 2012 and each  
27 subsequent calendar year, make contributions to the State disability  
28 benefits fund at the annual rate of contribution necessary to obtain a  
29 total amount of contributions, which, when added to employer  
30 contributions made to the State disability benefits fund pursuant to  
31 subsection (e) of this section, is, for calendar years prior to calendar  
32 year 2018, equal to 120% of the benefits paid for periods of  
33 disability, excluding periods of family temporary disability, during  
34 the immediately preceding calendar year plus an amount equal to  
35 100% of the cost of administration of the payment of those benefits  
36 during the immediately preceding calendar year, less the amount of  
37 net assets remaining in the State disability benefits fund, excluding  
38 net assets remaining in the "Family Temporary Disability Leave  
39 Account" of that fund, as of December 31 of the immediately  
40 preceding year, and is, for calendar year 2018 **【**and subsequent  
41 calendar years**】** <sup>2</sup>and year 2019<sup>2</sup>, equal to 120% of the benefits paid  
42 for periods of disability, excluding periods of family temporary  
43 disability, during the last preceding full fiscal year plus an amount  
44 equal to 100% of the cost of administration of the payment of those  
45 benefits during the last preceding full fiscal year, less the amount of  
46 net assets anticipated to be remaining in the "Family Temporary  
47 Disability Leave Account" of that fund, as of December 31 of the  
48 immediately preceding calendar year, and is, for each of calendar

1 years <sup>2</sup>[2019] 2020<sup>2</sup> and <sup>2</sup>[2020] 2021<sup>2</sup> , equal to 120% of the  
2 benefits which the department anticipates will be paid for periods of  
3 disability, excluding periods of family temporary disability <sup>2</sup>[and  
4 pregnancy temporary disability]<sup>2</sup>, during the respective calendar  
5 year plus an amount equal to 100% of the cost of administration of  
6 the payment of those benefits which the department anticipates  
7 during the respective calendar year, less the amount of net assets  
8 anticipated to be remaining in <sup>1</sup>the State disability benefits fund,  
9 excluding net assets remaining in<sup>1</sup> the "Family Temporary  
10 Disability Leave Account" of that fund, as of December 31 of the  
11 immediately preceding calendar year, and is, for calendar year  
12 <sup>2</sup>[2021] 2022<sup>2</sup> and any subsequent calendar year, equal to 120% of  
13 the benefits paid for periods of disability, excluding periods of  
14 family temporary disability <sup>2</sup>[and pregnancy temporary  
15 disability]<sup>2</sup>, during the last preceding full fiscal year plus an  
16 amount equal to 100% of the cost of administration of the payment  
17 of those benefits during the last preceding full fiscal year, less the  
18 amount of net assets anticipated to be remaining in <sup>2</sup>the State  
19 disability benefits fund, excluding net assets remaining in<sup>2</sup> the  
20 "Family Temporary Disability Leave Account" <sup>2</sup>[and the  
21 "Pregnancy Temporary Disability Leave Account"]<sup>2</sup> of that fund,  
22 as of December 31 of the immediately preceding calendar year.  
23 <sup>2</sup>All increases in the cost of benefits for periods of disability caused  
24 by the increases in the weekly benefit rate commencing July 1,  
25 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall  
26 be funded by contributions made by workers pursuant to this  
27 paragraph (i) and none of those increases shall be funded by  
28 employer contributions.<sup>2</sup> The estimated rates for the next calendar  
29 year shall be made available on the department's website no later  
30 than 60 days after the end of the last preceding full fiscal year. The  
31 rates of employer contributions determined pursuant to subsection  
32 (e) of this section for any year shall be determined prior to the  
33 determination of the rate of employee contributions pursuant to this  
34 subparagraph (i) and any consideration of employee contributions in  
35 determining employer rates for any year shall be based on amounts  
36 of employee contributions made prior to the year to which the rate  
37 of employee contributions applies and shall not be based on any  
38 projection or estimate of the amount of employee contributions for  
39 the year to which that rate applies.

40 (ii) Each worker shall contribute to the State disability benefits  
41 fund, in addition to any amount contributed pursuant to  
42 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
43 during calendar year 2009, 0.09%, and during calendar year 2010  
44 0.12%, of wages paid with respect to the worker's employment with  
45 any covered employer, including a governmental employer which is  
46 an employer as defined under R.S.43:21-19(h)(5), unless the  
47 employer is covered by an approved private disability plan for

1 benefits during periods of family temporary disability leave. The  
2 contributions made pursuant to this subparagraph (ii) to the State  
3 disability benefits fund shall be deposited into an account of that  
4 fund reserved for the payment of benefits during periods of family  
5 temporary disability leave as defined in section 3 of the "Temporary  
6 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
7 administration of those payments and shall not be used for any other  
8 purpose. This account shall be known as the "Family Temporary  
9 Disability Leave Account." For calendar year 2011 and each  
10 subsequent calendar year until 2018, the annual rate of contribution  
11 to be paid by workers pursuant to this subparagraph (ii) shall be, for  
12 calendar years prior to calendar year 2018, the rate necessary to  
13 obtain a total amount of contributions equal to 125% of the benefits  
14 paid for periods of family temporary disability leave during the  
15 immediately preceding calendar year plus an amount equal to 100%  
16 of the cost of administration of the payment of those benefits during  
17 the immediately preceding calendar year, less the amount of net  
18 assets remaining in the account as of December 31 of the  
19 immediately preceding year, and shall be, for calendar year 2018  
20 **[and subsequent calendar years]** <sup>2</sup>and calendar year 2019<sup>2</sup>, the rate  
21 necessary to obtain a total amount of contributions equal to 125% of  
22 the benefits paid for periods of family temporary disability leave  
23 during the last preceding full fiscal year plus an amount equal to  
24 100% of the cost of administration of the payment of those benefits  
25 during the last preceding full fiscal year, less the amount of net  
26 assets anticipated to be remaining in the account as of December 31  
27 of the immediately preceding calendar year. For each of calendar  
28 years <sup>2</sup>**[2019]** 2020<sup>2</sup> and <sup>2</sup>**[2020]** 2021<sup>2</sup>, the annual rate of  
29 contribution to be paid by workers pursuant to this subparagraph (ii)  
30 shall be the rate necessary to obtain a total amount of contributions  
31 equal to 125% of the benefits which the department anticipates will  
32 be paid for periods of family temporary disability leave during the  
33 respective calendar year plus an amount equal to 100% of the cost  
34 of administration of the payment of those benefits which the  
35 department anticipates during the respective calendar year, less the  
36 amount of net assets remaining in the account as of December 31 of  
37 the immediately preceding calendar year. For <sup>2</sup>**[2021]** 2022<sup>2</sup> and  
38 any subsequent calendar year, the annual rate of contribution to be  
39 paid by workers pursuant to this subparagraph (ii) shall be the rate  
40 necessary to obtain a total amount of contributions equal to 125% of  
41 the benefits which were paid for periods of family temporary  
42 disability leave during the last preceding full fiscal year plus an  
43 amount equal to 100% of the cost of administration of the payment  
44 of those benefits during the last preceding full fiscal year, less the  
45 amount of net assets remaining in the account as of December 31 of  
46 the immediately preceding calendar year. All increases in the cost  
47 of benefits for periods of family temporary disability leave caused  
48 by the increases in the weekly benefit rate commencing July 1,

1 <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to section 16 of P.L.1948, c.110 (C.43:21-  
2 40) and increases in the maximum duration of benefits commencing  
3 July 1, <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to sections 14 and 15 of P.L.1948,  
4 c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions  
5 made by workers pursuant to this paragraph (ii) and none of those  
6 increases shall be funded by employer contributions. The estimated  
7 rates for the next calendar year shall be made available on the  
8 department's website no later than 60 days after the end of the last  
9 preceding full fiscal year. Necessary administrative costs shall  
10 include the cost of an outreach program to inform employees of the  
11 availability of the benefits and the cost of issuing the reports  
12 required or permitted pursuant to section 13 of P.L.2008, c.17  
13 (C.43:21-39.4). No monies, other than the funds in the "Family  
14 Temporary Disability Leave Account," shall be used for the  
15 payment of benefits during periods of family temporary disability  
16 leave or for the administration of those payments, with the sole  
17 exception that, during calendar years 2008 and 2009, a total amount  
18 not exceeding \$25 million may be transferred to that account from  
19 the revenues received in the State disability benefits fund pursuant  
20 to subparagraph (i) of this paragraph (1)(G) and be expended for  
21 those payments and their administration, including the  
22 administration of the collection of contributions made pursuant to  
23 this subparagraph (ii) and any other necessary administrative costs.  
24 Any amount transferred to the account pursuant to this  
25 subparagraph (ii) shall be repaid during a period beginning not later  
26 than January 1, 2011 and ending not later than December 31, 2015.  
27 No monies, other than the funds in the "Family Temporary  
28 Disability Leave Account," shall be used under any circumstances  
29 after December 31, 2009, for the payment of benefits during periods  
30 of family temporary disability leave or for the administration of  
31 those payments, including for the administration of the collection of  
32 contributions made pursuant to this subparagraph (ii).

33 <sup>2</sup>[(iii) Each worker, with respect to the worker's employment  
34 with a government employer electing or required to pay  
35 contributions to the State disability benefits fund or  
36 nongovernmental employer, including a nonprofit organization  
37 which is an employer as defined under paragraph (6) of subsection  
38 (h) of R.S.43:21-19, unless the employer is covered by an approved  
39 private disability plan or is exempt from the provisions of the  
40 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
41 et al.) under section 7 of that law (C.43:21-31) or any other  
42 provision of that law, shall make contributions to the State  
43 disability benefits fund, in addition to any amount contributed  
44 pursuant to subparagraph (i) of this paragraph (1)(G), for the  
45 purpose of funding the provision of pregnancy temporary disability  
46 benefits. The contributions made pursuant to this subparagraph (iii)  
47 to the State disability benefits fund shall be deposited into an  
48 account of that fund reserved for the payment of benefits during

1 periods of pregnancy temporary disability and for the  
2 administration of those payments and shall not be used for any other  
3 purpose. This account shall be known as the "Pregnancy  
4 Temporary Disability Account." For each of calendar years 2019  
5 and 2020, the annual rate of contribution to be paid by workers  
6 pursuant to this subparagraph (iii) shall be the rate necessary to  
7 obtain a total amount of contributions, which, when added to the  
8 portion of employer contributions made to the State disability  
9 benefits fund pursuant to subsection (e) of this section which is  
10 allocated to benefits for periods of pregnancy temporary disability,  
11 is equal to 120% of the benefits which the department anticipates  
12 will be paid for periods of pregnancy temporary disability during  
13 the respective calendar year plus an amount equal to 100% of the  
14 cost of administration of the payment of those benefits which the  
15 department anticipates during the respective calendar year, less the  
16 amount of net assets remaining in the account as of December 31 of  
17 the immediately preceding calendar year. For calendar year 2021  
18 and any subsequent calendar year, the annual rate of contribution to  
19 be paid by workers pursuant to this subparagraph (iii) shall be the  
20 rate necessary to obtain a total amount of contributions, which,  
21 when added to the portion of employer contributions made to the  
22 State disability benefits fund pursuant to subsection (e) of this  
23 section which is allocated to benefits for a period of pregnancy  
24 temporary disability, is equal to 120% of the benefits which were  
25 paid for periods of pregnancy temporary disability during the last  
26 preceding full fiscal year plus an amount equal to 100% of the cost  
27 of administration of the payment of those benefits during the last  
28 preceding full fiscal year, less the amount of net assets remaining in  
29 the account as of December 31 of the immediately preceding  
30 calendar year. The estimated rates for the next calendar year shall  
31 be made available on the department's website no later than 60 days  
32 after the end of the last preceding full fiscal year. No monies, other  
33 than the funds in the "Pregnancy Temporary Disability Leave  
34 Account" contributed by workers, and the portion of employer  
35 contributions to the State disability benefits fund which the  
36 department determines is allocated to benefits for periods of  
37 pregnancy temporary disability, shall be used for the payment of  
38 benefits during periods of pregnancy temporary disability or for the  
39 administration of those payments, including for the administration  
40 of the collection of contributions made pursuant to this  
41 subparagraph (iii). The department shall base its determination of  
42 what portion of employer contributions to the State disability  
43 benefits fund is allocated to benefits for periods of pregnancy  
44 temporary disability on the percentage that the total amount of  
45 benefits for periods of pregnancy temporary disability benefits  
46 would represent of the total amount of all disability benefits if the  
47 increases in the weekly benefit rate for benefits for periods of  
48 pregnancy temporary disability commencing July 1, 2019 pursuant

1 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.  
2 All increases in the cost of benefits for periods of pregnancy  
3 temporary disability caused by increases in the weekly benefit rate  
4 for those benefits commencing July 1, 2019 pursuant to section 16  
5 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions  
6 made by workers pursuant to this paragraph (iii) and none of those  
7 increases shall be funded by employer contributions.

8 For the purposes of this section, periods of "pregnancy  
9 temporary disability" means periods of disability due to pregnancy  
10 or recovery from childbirth.]<sup>2</sup>

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

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

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

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

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

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

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

18 (3) (A) If an employee receives wages from more than one  
19 employer during any calendar year, and either the sum of his  
20 contributions deposited in and credited to the State disability  
21 benefits fund plus the amount of his contributions, if any, required  
22 towards the costs of benefits under one or more approved private  
23 plans under the provisions of section 9 of the "Temporary Disability  
24 Benefits Law" (C.43:21-33) and deducted from his wages, or the  
25 sum of such latter contributions, if the employee is covered during  
26 such calendar year only by two or more private plans, exceeds an  
27 amount equal to 1/2 of 1% of the "wages" determined in accordance  
28 with the provisions of R.S.43:21-7(b)(3) during the calendar years  
29 beginning on or after January 1, 1976 or, during calendar year 2012  
30 or any subsequent calendar year, the total amount of his  
31 contributions for the year exceeds the amount set by the annual rate  
32 of contribution determined by the Commissioner of Labor and  
33 Workforce Development pursuant to subparagraph (i) <sup>2</sup>[and, during  
34 calendar year 2019 and subsequent calendar years, subparagraph  
35 (iii).]<sup>2</sup> of paragraph (1)(G) of this subsection (d), the employee  
36 shall be entitled to a refund of the excess if he makes a claim to the  
37 controller within two years after the end of the calendar year in  
38 which the wages are received with respect to which the refund is  
39 claimed and establishes his right to such refund. Such refund shall  
40 be made by the controller from the State disability benefits fund. No  
41 interest shall be allowed or paid with respect to any such refund.  
42 The controller shall, in accordance with prescribed regulations,  
43 determine the portion of the aggregate amount of such refunds made  
44 during any calendar year which is applicable to private plans for  
45 which deductions were made under section 9 of the "Temporary  
46 Disability Benefits Law" (C.43:21-33) such determination to be  
47 based upon the ratio of the amount of such wages exempt from  
48 contributions to such fund, as provided in subparagraph (B) of

1 paragraph (1) of this subsection with respect to coverage under  
2 private plans, to the total wages so exempt plus the amount of such  
3 wages subject to contributions to the disability benefits fund, as  
4 provided in subparagraph (G) of paragraph (1) of this subsection.  
5 The controller shall, in accordance with prescribed regulations,  
6 prorate the amount so determined among the applicable private  
7 plans in the proportion that the wages covered by each plan bear to  
8 the total private plan wages involved in such refunds, and shall  
9 assess against and recover from the employer, or the insurer if the  
10 insurer has indemnified the employer with respect thereto, the  
11 amount so prorated. The provisions of R.S.43:21-14 with respect to  
12 collection of employer contributions shall apply to such  
13 assessments. The amount so recovered by the controller shall be  
14 paid into the State disability benefits fund.

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



1 accordance with prescribed regulations, prorate the amount so  
2 determined among the applicable private plans in the proportion  
3 that the wages covered by each plan bear to the total private plan  
4 wages involved in such refunds, and shall assess against and  
5 recover from the employer, or the insurer if the insurer has  
6 indemnified the employer with respect thereto, the prorated amount.  
7 The provisions of R.S.43:21-14 with respect to collection of  
8 employer contributions shall apply to such assessments. The  
9 amount so recovered by the controller shall be paid into the "Family  
10 Temporary Disability Leave Account" of the State disability  
11 benefits fund.

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

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

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

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

39 (1) Except as hereinafter provided, each employer shall, in  
40 addition to the contributions required by subsections (a), (b), and  
41 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
42 employer to workers with respect to employment unless he is not a  
43 covered employer as defined in subsection (a) of section 3 of the  
44 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
45 the rate for the State of New Jersey shall be 1/10 of 1% for the  
46 calendar year 1980 and for the first six months of 1981. Prior to  
47 July 1, 1981 and prior to July 1 each year thereafter, the controller  
48 shall review the experience accumulated in the account of the State

1 of New Jersey and establish a rate for the next following fiscal year  
2 which, in combination with worker contributions, will produce  
3 sufficient revenue to keep the account in balance; except that the  
4 rate so established shall not be less than 1/10 of 1%. Such  
5 contributions shall become due and be paid by the employer to the  
6 controller for the State disability benefits fund as established by  
7 law, in accordance with such regulations as may be prescribed, and  
8 shall not be deducted, in whole or in part, from the remuneration of  
9 individuals in his employ. In the payment of any contributions, a  
10 fractional part of a cent shall be disregarded unless it amounts to  
11 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

43 (C) The controller may prescribe regulations for the  
44 establishment, maintenance, and dissolution of joint accounts by  
45 two or more employers, and shall, in accordance with such  
46 regulations and upon application by two or more employers to  
47 establish such an account, or to merge their several individual

1 accounts in a joint account, maintain such joint account as if it  
2 constituted a single employer's account.

3 (D) Prior to July 1 of each calendar year, the controller shall  
4 make a preliminary determination of the rate of contribution for the  
5 12 months commencing on such July 1 for each employer subject to  
6 the contribution requirements of this subsection (e).

7 (1) Such preliminary rate shall be  $\frac{1}{2}$  of 1% unless on the  
8 preceding January 31 of such year such employer shall have been a  
9 covered employer who has paid contributions to the State disability  
10 benefits fund with respect to employment in the three calendar  
11 years immediately preceding such year.

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

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

19 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
20  $1\frac{1}{4}$ % but is less than  $1\frac{1}{2}$ % of his average annual payroll;

21 (iii)  $\frac{1}{10}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{2}$   
22 % of his average annual payroll.

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

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

33 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
34 1% of his average annual payroll;

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

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

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

41 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
42 1% of his average annual payroll.

43 (5) Determination of the preliminary rate as specified in  
44 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
45 to the condition that it shall in no event be decreased by more than  
46  $\frac{1}{10}$  of 1% of wages or increased by more than  $\frac{2}{10}$  of 1% of  
47 wages from the preliminary rate determined for the preceding year

1 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever  
2 shall have been applicable.

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

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

21 (i) If the percentage determined in accordance with  
22 subparagraph (E)(1) of this paragraph equals or exceeds  $1\frac{1}{4}\%$ , the  
23 final employer rates shall be the preliminary rates determined as  
24 provided in subparagraph (D) hereof, except that if the employer's  
25 preliminary rate is determined as provided in subparagraph (D)(2)  
26 or subparagraph (D)(3) hereof, the final employer rate shall be the  
27 preliminary employer rate decreased by such percentage of excess  
28 taken to the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate  
29 be less than  $\frac{1}{10}$  of 1%.

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

34 (iii) If the percentage determined in accordance with  
35 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
36 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
37 preliminary employer rates determined as provided in subparagraph  
38 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
39 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
40 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
41 employer whose preliminary rate is determined as provided in  
42 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
43 employer whose preliminary rate is determined as provided in  
44 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
45  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
46 determined as provided in subparagraph (D)(4) hereof.

47 (iv) If the amount of the State disability benefits fund determined  
48 as provided in subparagraph (E)(1) of this paragraph is equal to or

1 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case  
2 of an employer whose preliminary rate is determined as provided in  
3 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer  
4 whose preliminary rate is determined as provided in subparagraph  
5 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
6 employer whose preliminary rate is determined as provided in  
7 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
8 law or any determination made by the controller with respect to any  
9 12-month period commencing on July 1, 1970, the final rates for all  
10 employers for the period beginning January 1, 1971, shall be as set  
11 forth herein.

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

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

19 (ii) No worker paid any contributions to the State disability  
20 benefits fund pursuant to paragraph (1)(G)(ii) <sup>2</sup>or paragraph  
21 (1)(G)(iii)<sup>2</sup> of subsection (d) of this section; **[and]**

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

26 (iv) The total amount of benefits paid for periods of  
27 <sup>2</sup>[pregnancy temporary]<sup>2</sup> disability were not subject to the  
28 increases in the weekly benefit rate for those benefits commencing  
29 July 1, <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to section 16 of P.L.1948, c.110  
30 (C.43:21-40).

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

32

33 <sup>1</sup>**[4.]** <sup>2</sup>**[5.1]** 7.<sup>2</sup> Section 2 of P.L.1948, c.110 (C.43:21-26) is  
34 amended to read as follows:

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

38 The public policy of this State, already established, is to protect  
39 employees against the suffering and hardship generally caused by  
40 involuntary unemployment. But the "unemployment compensation  
41 law" provides benefit payments to replace wage loss caused by  
42 involuntary unemployment only so long as an individual is "able to  
43 work, and is available for work," and fails to provide any protection  
44 against wage loss suffered because of inability to perform the duties  
45 of a job interrupted by nonoccupational illness, injury, or other  
46 disability of the individual or of members of the individual's family.  
47 Nor is there any other comprehensive and systematic provision for

1 the protection of working people against loss of earnings due to a  
2 nonoccupational sickness, accident, or other disability.

3 The prevalence and incidence of nonoccupational sickness,  
4 accident, and other disability among employed people is greatest  
5 among the lower income groups, who either cannot or will not  
6 voluntarily provide out of their own resources against the hazard of  
7 an earnings loss caused by nonoccupational sickness, accident, or  
8 other disability. Disabling sickness or accident occurs throughout  
9 the working population at one time or another, and approximately  
10 fifteen per centum (15%) of the number of people at work may be  
11 expected to suffer disabling illness of more than one week each  
12 year.

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

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

42 The foregoing facts and considerations require that there be a  
43 uniform minimum program providing in a systematic manner for  
44 the payment of reasonable benefits to replace partially such  
45 earnings loss and to meet the continuing need for benefits where an  
46 individual becomes disabled during unemployment or needs to care  
47 for family members incapable of self-care. In order to maintain  
48 consumer purchasing power, relieve the serious menace to health,

1 morals and welfare of the people caused by insecurity and the loss  
2 of earnings, to reduce the necessity for public relief of needy  
3 persons, to increase workplace productivity and alleviate the  
4 enormous and growing stress on working families of balancing the  
5 demands of work and family needs, and in the interest of the health,  
6 welfare and security of the people of this State, such a system,  
7 enacted under the police power, is hereby established, requiring the  
8 payment of reasonable cash benefits to eligible individuals who are  
9 subject to accident or illness which is not compensable under the  
10 worker's compensation law or who need to care for family members  
11 incapable of self-care.

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

38 Since the enactment of the "Temporary Disability Benefits Law,"  
39 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated  
40 State temporary disability benefits plan, or "State plan," has proven  
41 to be highly efficient and cost effective in providing temporary  
42 disability benefits to New Jersey workers. The State plan  
43 guarantees the availability of coverage for all employers, regardless  
44 of experience, with low overhead costs and a rapid processing of  
45 claims and appeals by knowledgeable, impartial public employees.  
46 Consequently, the percentage of all employers using the State plan  
47 increased from 64% in 1952 to 98% in 2006, while the percentage  
48 of employees covered by the State plan increased from 28% to 83%.

1 A publicly-operated, nonprofit State plan is therefore indispensable  
2 to achieving the goals of the "Temporary Disability Benefits Law,"  
3 P.L.1948, c.110 (C.43:21-25 et al.).  
4 (cf: P.L.2008, c.17, s.1)

5  
6 <sup>1</sup>[5.] <sup>2</sup>[6.] Section 3 of P.L.1948, c.110 (C.43:21-27) is  
7 amended to read as follows:

8 3. As used in this act, unless the context clearly requires  
9 otherwise:

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

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

42 (2) Any governmental entity or instrumentality which is an  
43 employer under R.S.43:21-19(h)(5) may, with respect to the provision  
44 of benefits during an employee's own disability pursuant to P.L.1948,  
45 c.110 (C.43:21-25 et al.), elect to become a "covered employer" under  
46 this subsection beginning with the date on which its coverage under  
47 R.S.43:21-19(h)(5) begins or as of January 1 of any year thereafter by  
48 filing written notice of such election with the division within at least



1 30 days of the effective date. Such election shall remain in effect for at  
2 least two full calendar years and may be terminated as of January 1 of  
3 any year thereafter by filing with the division a written notice of  
4 termination at least 30 days prior to the termination date.

5 (b) (1) "Covered individual" means, with respect to whether an  
6 individual is eligible for benefits during an individual's own disability  
7 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any person who is in  
8 employment, as defined in the "unemployment compensation law"  
9 (R.S.43:21-1 et seq.), for which the individual is entitled to  
10 remuneration from a covered employer, or who has been out of such  
11 employment for less than two weeks, except that a "covered  
12 individual" who is employed by the State of New Jersey, including  
13 Rutgers, The State University or the New Jersey Institute of  
14 Technology, or by any governmental entity or instrumentality which  
15 elects to become a "covered employer" pursuant to this amendatory  
16 act<sup>1</sup> prior to July 1, 2019<sup>1</sup> shall not be eligible to receive any  
17 benefits under the "Temporary Disability Benefits Law" until such  
18 individual has exhausted all sick leave accumulated as an employee in  
19 the classified service of the State or accumulated under terms and  
20 conditions similar to classified employees or accumulated under the  
21 terms and conditions pursuant to the laws of this State or as the result  
22 of a negotiated contract with any governmental entity or  
23 instrumentality which elects to become a "covered employer"<sup>1</sup>; and,  
24 after June 30, 2019 may be required, prior to receiving any benefits  
25 under the "Temporary Disability Benefits Law," to use up to two  
26 weeks of sick leave accumulated as an employee in the classified  
27 service of the State or accumulated under terms and conditions similar  
28 to classified employees or accumulated under the terms and conditions  
29 pursuant to the laws of this State or as the result of a negotiated  
30 contract with any governmental entity or instrumentality which elects  
31 to become a "covered employer", except that the individual shall not  
32 be required to use the individual's last week's worth of accumulated  
33 sick time before receiving the benefits.<sup>1</sup>

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

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

46 (c) "Division" or "commission" means the Division of Temporary  
47 Disability Insurance of the Department of Labor and Workforce  
48 Development, and any transaction or exercise of authority by the

1 director of the division shall be deemed to be performed by the  
2 division.

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

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

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

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

12 (1) The entire period of time during which the covered individual  
13 is continuously and totally unable to perform the duties of the covered  
14 individual's employment because of the covered individual's own  
15 disability, except that two periods of disability due to the same or  
16 related cause or condition and separated by a period of not more than  
17 14 days shall be considered as one continuous period of disability;  
18 provided the individual has earned wages during such 14-day period  
19 with the employer who was the individual's last employer immediately  
20 preceding the first period of disability; and

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

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

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

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

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

30 (4) "Base week" with respect to periods of disability commencing  
31 on or after January 1, 2001, means any calendar week of a covered  
32 individual's base year during which the covered individual earned in  
33 employment from a covered employer remuneration not less than an  
34 amount 20 times the minimum wage in effect pursuant to section 5 of  
35 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year  
36 preceding the calendar year in which the benefit year commences,  
37 which amount shall be adjusted to the next higher multiple of \$1.00 if  
38 not already a multiple thereof, except that if in any calendar week an  
39 individual subject to this paragraph is in employment with more than  
40 one employer, the covered individual may in that calendar week  
41 establish a base week with respect to each of the employers from  
42 whom the covered individual earns remuneration equal to not less than  
43 the amount defined in this paragraph during that week.

44 (5) In the case of an individual who is laid off or furloughed by an  
45 employer curtailing operations because of a state of emergency  
46 declared after October 22, 2012, any week in which the individual is  
47 separated from employment due to that layoff or furlough, up to a  
48 maximum of 13 weeks, shall be regarded as a week which is a "base

1 week" for the purpose of determining whether the individual becomes  
2 eligible for benefits pursuant to subsection (d) or (e) of section 17 of  
3 P.L.1948, c.110 (C.43:21-41), but shall not be regarded as a base week  
4 when calculating the "average weekly wage" pursuant to subsection (j)  
5 of this section.

6 (j) (1) "Average weekly wage" means the amount derived by  
7 dividing a covered individual's total wages earned from the  
8 individual's most recent covered employer during the base weeks in  
9 the eight calendar weeks immediately preceding the calendar week in  
10 which a period of disability commenced, by the number of such base  
11 weeks.

12 (2) If the computation in paragraph (1) of this subsection (j) yields  
13 a result which is less than the individual's average weekly earnings in  
14 employment with all covered employers during the base weeks in such  
15 eight calendar weeks, then the average weekly wage shall be computed  
16 on the basis of earnings from all covered employers during the base  
17 weeks in the eight calendar weeks immediately preceding the week in  
18 which the period of disability commenced.

19 (3) For periods of disability commencing on or after July 1, 2009,  
20 if the computations in paragraphs (1) and (2) of this subsection (j) both  
21 yield a result which is less than the individual's average weekly  
22 earnings in employment with all covered employers during the base  
23 weeks in the 26 calendar weeks immediately preceding the week in  
24 which the period of disability commenced, then the average weekly  
25 wage shall, upon a written request to the department by the individual  
26 on a form provided by the department, be computed by the department  
27 on the basis of earnings from all covered employers of the individual  
28 during the base weeks in those 26 calendar weeks, and, in the case of a  
29 claim for benefits from a private plan, that computation of the average  
30 weekly wage shall be provided by the department to the individual and  
31 the individual's employer.

32 When determining the "average weekly wage" with respect to a  
33 period of family temporary disability leave for an individual who has a  
34 period of family temporary disability immediately after the individual  
35 has a period of disability for the individual's own disability, the period  
36 of disability is deemed to have commenced at the beginning of the  
37 period of disability for the individual's own disability, not the period of  
38 family temporary disability.

39 (k) "Child" means a biological, adopted, or foster child, stepchild  
40 or legal ward of a covered individual, child of a domestic partner of  
41 the covered individual, or child of a civil union partner of the covered  
42 individual, parent, **【**who is less than 19 years of age or is 19 years of  
43 age or older but incapable of self-care because of mental or physical  
44 impairment**】** including a child who becomes the child of a parent  
45 pursuant to a valid written agreement between the parent and a  
46 gestational carrier.

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

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

3 (n) "Family member" means a sibling, grandparent, grandchild,  
4 child, spouse, domestic partner, civil union partner, parent-in-law, or  
5 parent of a covered individual, or any other individual related by blood  
6 to the employee, and any other individual <sup>1</sup>**【whose】** that the employee  
7 shows to have a<sup>1</sup> close association with the employee <sup>1</sup>which<sup>1</sup> is the  
8 equivalent of a family relationship.

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

11 (1) participate in the providing of care, as defined in the "Family  
12 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
13 adopted pursuant to that act, for a family member of the individual  
14 made necessary by a serious health condition of the family member;  
15 **【or】**

16 (2) be with a child during the first 12 months after the child's birth,  
17 if the individual, or the domestic partner or civil union partner of the  
18 individual, is a biological parent of the child, or is a parent of the child  
19 pursuant to a valid gestational carrier agreement, or the first 12 months  
20 after the placement of the child for adoption or as a foster child with  
21 the individual; or

22 (3) engage in activities for which unpaid leave may be taken  
23 pursuant to section 3 of the "New Jersey Security and Financial  
24 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the individual's  
25 own behalf, if the individual is a victim of an incident of domestic  
26 violence a sexually violent offense, or to assist a family member of the  
27 individual who has been a victim of an incident of domestic violence a  
28 sexually violent offense, provided that any time taken by an individual  
29 who has been a victim of an incident of domestic violence a sexually  
30 violent offense for which the individual receives benefits for a  
31 disability caused by the violence or offense shall be regarded as a  
32 period of disability of the individual and not as a period of family  
33 temporary disability leave.

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

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

42 (q) "Parent of a covered individual" means a biological parent,  
43 foster parent, adoptive parent, or stepparent of the covered individual  
44 or a person who was a legal guardian of the covered individual when  
45 the covered individual was a child, or who became the parent of the  
46 child pursuant to a valid written agreement between the parent and a  
47 gestational carrier.

1 (r) "Placement for adoption" means the time when a covered  
2 individual adopts a child or becomes responsible for a child pending  
3 adoption by the covered individual.

4 (s) "Serious health condition" means an illness, injury, impairment  
5 or physical or mental condition which requires: inpatient care in a  
6 hospital, hospice, or residential medical care facility; or continuing  
7 medical treatment or continuing supervision by a health care provider.

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

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

17 (cf: P.L.2013, c.221, s.3)]<sup>2</sup>

18

19 <sup>1</sup>[6.] <sup>2</sup>[7.1] Section 11 of P.L.1948, c.110 (C.43:21-35) is  
20 amended to read as follows:

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

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

40 (c) The division may, after notice and hearing, withdraw its  
41 approval of any approved private plan if it finds that there is danger  
42 that the benefits accrued or to accrue will not be paid, that the  
43 security for such payment is insufficient, or for other good cause  
44 shown. No employer, and no union or association representing  
45 employees, shall so administer or apply the provisions of an  
46 approved private plan as to derive any profit therefrom. The  
47 division may withdraw its approval from any private plan which is  
48 administered or applied in violation of this provision.

1 (d) No termination of an approved private plan shall affect the  
2 payment of benefits, in accordance with the provisions of the plan,  
3 to employees whose period of disability commenced prior to the  
4 date of termination. Employees who have ceased to be covered by  
5 an approved private plan because of its termination shall, subject to  
6 the limitations and restrictions of this act, become eligible forthwith  
7 for benefits from the State Disability Benefits Fund for a period of  
8 disability commencing after such cessation, and contributions with  
9 respect to their wages shall immediately become payable as  
10 otherwise provided by law. Any withdrawal of approval of a  
11 private plan pursuant to this section shall be reviewable by writ of  
12 certiorari or by such other procedure as may be provided by law.  
13 With respect to a period of family temporary disability leave  
14 immediately after the individual has a period of disability during the  
15 individual's own disability, the period of disability is deemed, for  
16 the purposes of determining whether the period of disability  
17 commenced prior to the date of the termination, to have commenced  
18 at the beginning of the period of disability during the individual's  
19 own disability, not the period of family temporary disability leave.

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

1 benefits for employees during their own disabilities may require the  
2 employees to contribute to the plan at a rate not exceeding the  
3 amount the individuals would pay pursuant to R.S.43:21-  
4 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing  
5 a private plan only for benefits for employees during periods of  
6 family temporary disability may require the individuals covered by  
7 the private plan to contribute an amount not exceeding the amount  
8 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an  
9 employer providing a private plan both for benefits for employees  
10 during their own disabilities and for benefits during periods of  
11 family temporary disability may require the employees to contribute  
12 to the plan an amount not exceeding the amount the individuals  
13 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-  
14 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the  
15 proposed modification shall be given by the employer to the  
16 division and to the individuals covered under the plan.

17 (cf: P.L.2011, c.88, s.2) **J**<sup>2</sup>

18

19 <sup>2</sup>8. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to  
20 read as follows:

21 3. As used in this act, unless the context clearly requires  
22 otherwise:

23 (a) (1) "Covered employer" means, with respect to whether an  
24 employer is required to provide benefits during an employee's own  
25 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
26 individual or type of organization, including any partnership,  
27 association, trust, estate, joint-stock company, insurance company  
28 or corporation, whether domestic or foreign, or the receiver, trustee  
29 in bankruptcy, trustee or successor thereof, or the legal  
30 representative of a deceased person, who is an employer subject to  
31 the "unemployment compensation law" (R.S.43:21-1 et seq.),  
32 except the State, its political subdivisions, and any instrumentality  
33 of the State unless such governmental entity elects to become a  
34 covered employer pursuant to paragraph (2) of this subsection (a);  
35 provided, however, that commencing with the effective date of this  
36 act, the State of New Jersey, including Rutgers, The State  
37 University and the New Jersey Institute of Technology, shall be  
38 deemed a covered employer, as defined herein.

39 "Covered employer" means, after June 30, 2009, with respect to  
40 whether the employer is an employer whose employees are eligible  
41 for benefits during periods of family temporary disability leave  
42 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December  
43 31, 2008, whether employees of the employer are required to make  
44 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual  
45 or type of organization, including any partnership, association,  
46 trust, estate, joint-stock company, insurance company or domestic  
47 or foreign corporation, or the receiver, trustee in bankruptcy, trustee  
48 or successor thereof, or the legal representative of a deceased

1 person, who is an employer subject to the "unemployment  
2 compensation law" (R.S.43:21-1 et seq.), including any  
3 governmental entity or instrumentality which is an employer under  
4 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or  
5 instrumentality has not elected to be a covered employer pursuant to  
6 paragraph (2) of this subsection (a).

7 (2) Any governmental entity or instrumentality which is an  
8 employer under R.S.43:21-19(h)(5) may, with respect to the  
9 provision of benefits during an employee's own disability pursuant  
10 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered  
11 employer" under this subsection beginning with the date on which  
12 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of  
13 any year thereafter by filing written notice of such election with the  
14 division within at least 30 days of the effective date. Such election  
15 shall remain in effect for at least two full calendar years and may be  
16 terminated as of January 1 of any year thereafter by filing with the  
17 division a written notice of termination at least 30 days prior to the  
18 termination date.

19 (b) (1) "Covered individual" means, with respect to whether an  
20 individual is eligible for benefits during an individual's own  
21 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
22 person who is in employment, as defined in the "unemployment  
23 compensation law" (R.S.43:21-1 et seq.), for which the individual is  
24 entitled to remuneration from a covered employer, or who has been  
25 out of such employment for less than two weeks, except that a  
26 "covered individual" who is employed by the State of New Jersey,  
27 including Rutgers, The State University or the New Jersey Institute  
28 of Technology, or by any governmental entity or instrumentality  
29 which elects to become a "covered employer" pursuant to **[this**  
30 **amendatory act]** P.L.1948, c.110 (C.43:21-25 et al.) prior to July  
31 1, 2019 shall not be eligible to receive any benefits under the  
32 "Temporary Disability Benefits Law" until such individual has  
33 exhausted all sick leave accumulated as an employee in the  
34 classified service of the State or accumulated under terms and  
35 conditions similar to classified employees or accumulated under the  
36 terms and conditions pursuant to the laws of this State or as the  
37 result of a negotiated contract with any governmental entity or  
38 instrumentality which elects to become a "covered employer" ; and,  
39 after June 30, 2019 may be required, prior to receiving any benefits  
40 under the "Temporary Disability Benefits Law," to use up to two  
41 weeks of sick leave accumulated as an employee in the classified  
42 service of the State or accumulated under terms and conditions  
43 similar to classified employees or accumulated under the terms and  
44 conditions pursuant to the laws of this State or as the result of a  
45 negotiated contract with any governmental entity or instrumentality  
46 which elects to become a "covered employer," except that the  
47 individual shall not be required to use the individual's last week's  
48 worth of accumulated sick time before receiving the benefits.



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

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

14 (c) "Division" or "commission" means the Division of  
15 Unemployment and Temporary Disability Insurance of the  
16 Department of Labor and Workforce Development, and any  
17 transaction or exercise of authority by the director of the division  
18 shall be deemed to be performed by the division.

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

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

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

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

28 (1) The entire period of time during which the covered  
29 individual is continuously and totally unable to perform the duties  
30 of the covered individual's employment because of the covered  
31 individual's own disability, except that two periods of disability due  
32 to the same or related cause or condition and separated by a period  
33 of not more than 14 days shall be considered as one continuous  
34 period of disability; provided the individual has earned wages  
35 during such 14-day period with the employer who was the  
36 individual's last employer immediately preceding the first period of  
37 disability; and

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

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

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

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

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

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

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

26 (j) (1) "Average weekly wage" means , with respect to the  
27 payment of benefits commencing before <sup>3</sup>[January 1, 2019] the  
28 effective date of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill)<sup>3</sup> , the amount derived by dividing a covered  
30 individual's total wages earned from the individual's most recent  
31 covered employer during the base weeks in the eight calendar  
32 weeks immediately preceding the calendar week in which a period  
33 of disability commenced, [or in which the individual submits a  
34 claim for the benefits pursuant to subsection h. of section 10 of  
35 P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of  
36 section 25 of P.L.1948, c.110 (C.43:21-49),] by the number of such  
37 base weeks , and, with respect to the payment of benefits  
38 commencing on or after <sup>3</sup>[January 1, 2019] the effective date of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>3</sup> , the  
40 amount derived by dividing a covered individual's total wages  
41 earned from the individual's most recent covered employer during  
42 the base weeks in the base year immediately preceding the calendar  
43 week in which a period of disability commenced, or in which the  
44 individual submits a claim for the benefits pursuant to subsection h.  
45 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of  
46 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the  
47 number of base weeks.

1       (2) 【If】 With respect to the payment of benefits commencing  
2 before <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. )  
3 (pending before the Legislature as this bill)<sup>3</sup>, if the computation in  
4 paragraph (1) of this subsection (j) yields a result which is less than  
5 the individual's average weekly earnings in employment with all  
6 covered employers during the base weeks in such eight calendar  
7 weeks, then the average weekly wage shall be computed on the  
8 basis of earnings from all covered employers during the base weeks  
9 in the eight calendar weeks immediately preceding the week in  
10 which the period of disability commenced 【, or in which the  
11 individual submits a claim for the benefits pursuant to subsection h.  
12 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of  
13 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49)】, and,  
14 with respect to the payment of benefits commencing on or after  
15 <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill)<sup>3</sup>, if the computation in paragraph  
17 (1) of this subsection (j) yields a result which is less than the  
18 individual's average weekly earnings in employment with all  
19 covered employers during the base weeks in the base year, then the  
20 average weekly wage shall be computed on the basis of earnings  
21 from all covered employers during the base weeks in the base year  
22 immediately preceding the week in which the period of disability  
23 commences, or in which the individual submits a claim for the  
24 benefits pursuant to subsection h. of section 10 of P.L.2008, c.17  
25 (C.43:21-39.1) or paragraph (3) of subsection (a) of section 25 of  
26 P.L.1948, c.110 (C.43:21-49).

27       (3) For periods of disability commencing on or after July 1,  
28 2009 and before <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c.  
29 (C. ) (pending before the Legislature as this bill)<sup>3</sup>, if the  
30 computations in paragraphs (1) and (2) of this subsection (j) both  
31 yield a result which is less than the individual's average weekly  
32 earnings in employment with all covered employers during the base  
33 weeks in the 26 calendar weeks immediately preceding the week in  
34 which the period of disability commenced, 【or in which the  
35 individual submits a claim for the benefits pursuant to subsection h.  
36 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of  
37 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49),】 then  
38 the average weekly wage shall, upon a written request to the  
39 department by the individual on a form provided by the department,  
40 be computed by the department on the basis of earnings from all  
41 covered employers of the individual during the base weeks in those  
42 26 calendar weeks, and, in the case of a claim for benefits from a  
43 private plan, that computation of the average weekly wage shall be  
44 provided by the department to the individual and the individual's  
45 employer.

46       When determining the "average weekly wage" with respect to a  
47 period of family temporary disability leave for an individual who

1 has a period of family temporary disability immediately after the  
2 individual has a period of disability for the individual's own  
3 disability, the period of disability is deemed to have commenced at  
4 the beginning of the period of disability for the individual's own  
5 disability, not the period of family temporary disability.

6 (k) "Child" means a biological, adopted, or foster child,  
7 stepchild or legal ward of a covered individual, child of a domestic  
8 partner of the covered individual, or child of a civil union partner of  
9 the covered individual, **[**who is less than 19 years of age or is 19  
10 years of age or older but incapable of self-care because of mental or  
11 physical impairment**]** including a child who becomes the child of a  
12 parent pursuant to a valid written agreement between the parent and  
13 a gestational carrier.

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

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

18 (n) "Family member" means a sibling, grandparent, grandchild,  
19 child, spouse, domestic partner, civil union partner, parent-in-law,  
20 or parent of a covered individual, or any other individual related by  
21 blood to the employee, and any other individual that the employee  
22 shows to have a close association with the employee which is the  
23 equivalent of a family relationship.

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

26 (1) participate in the providing of care, as defined in the "Family  
27 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
28 adopted pursuant to that act, for a family member of the individual  
29 made necessary by a serious health condition of the family member;  
30 **[or]**

31 (2) be with a child during the first 12 months after the child's  
32 birth, if the individual, or the domestic partner or civil union partner  
33 of the individual, is a biological parent of the child, or is a parent of  
34 the child pursuant to a valid gestational carrier agreement, or the  
35 first 12 months after the placement of the child for adoption or as a  
36 foster child with the individual; or

37 (3) engage in activities for which unpaid leave may be taken  
38 pursuant to section 3 of the "New Jersey Security and Financial  
39 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the  
40 individual's own behalf, if the individual is a victim of an incident  
41 of domestic violence a sexually violent offense, or to assist a family  
42 member of the individual who has been a victim of an incident of  
43 domestic violence a sexually violent offense, provided that any time  
44 taken by an individual who has been a victim of an incident of  
45 domestic violence a sexually violent offense for which the  
46 individual receives benefits for a disability caused by the violence  
47 or offense shall be regarded as a period of disability of the  
48 individual and not as a period of family temporary disability leave.

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

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

9 (q) "Parent of a covered individual" means a biological parent,  
10 foster parent, adoptive parent, or stepparent of the covered  
11 individual or a person who was a legal guardian of the covered  
12 individual when the covered individual was a child, or who became  
13 the parent of the covered individual pursuant to a valid written  
14 agreement between the parent and a gestational carrier.

15 (r) "Placement for adoption" means the time when a covered  
16 individual adopts a child or becomes responsible for a child pending  
17 adoption by the covered individual.

18 (s) "Serious health condition" means an illness, injury,  
19 impairment or physical or mental condition which requires:  
20 inpatient care in a hospital, hospice, or residential medical care  
21 facility; or continuing medical treatment or continuing supervision  
22 by a health care provider.

23 (t) "12-month period" means, with respect to an individual who  
24 establishes a valid claim for disability benefits during a period of  
25 family temporary disability leave, the 365 consecutive days that  
26 begin with the first day that the individual first establishes the  
27 claim.

28 (u) "State of emergency" means a natural or man-made disaster  
29 or emergency for which a state of emergency has been declared by  
30 the President of the United States or the Governor, or for which a  
31 state of emergency has been declared by a municipal emergency  
32 management coordinator.

33 (v) "Base year" with respect to benefit years commencing on or  
34 after <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. )  
35 (pending before the Legislature as this bill)<sup>3</sup>, means the first four of  
36 the last five completed calendar quarters immediately preceding the  
37 period of disability, except that, if the individual does not have  
38 sufficient qualifying weeks or wages in the individual's base year to  
39 qualify for benefits, the individual shall have the option of  
40 designating that the individual's base year shall be the "alternative  
41 base year," which means the last four completed calendar quarters  
42 immediately preceding the period of disability; and except that if  
43 the individual also does not have sufficient qualifying weeks or  
44 wages in the last four completed calendar quarters immediately  
45 preceding the period of disability, "alternative base year" means the  
46 last three completed calendar quarters immediately preceding the  
47 individual's benefit year and, of the calendar quarter in which the  
48 period of disability commences, the portion of the quarter which

1 occurs before the commencing the period of disability. The  
2 division shall inform the individual of the individual's options  
3 under this subsection. If information regarding weeks and wages  
4 for the calendar quarter or quarters immediately preceding the  
5 period of disability is not available to the division from the regular  
6 quarterly reports of wage information and the division is not able to  
7 obtain the information using other means pursuant to State or  
8 federal law, the division may base the determination of eligibility  
9 for benefits on the affidavit of an individual with respect to weeks  
10 and wages for that calendar quarter. The individual shall furnish  
11 payroll documentation, if available, in support of the affidavit. A  
12 determination of benefits based on an alternative base year shall be  
13 adjusted when the quarterly report of wage information from the  
14 employer is received if that information causes a change in the  
15 determination.<sup>2</sup>

16 (cf: P.L.2018, c.128, s.1)

17

18 <sup>2</sup>9. Section 8 of P.L.1948, c.110 (C.43:21-32) is amended to  
19 read as follows:

20 8. Establishment of private plans. Any covered employer may  
21 establish a private plan for the payment of disability benefits in lieu  
22 of the benefits of the State plan hereinafter established. Benefits  
23 under such a private plan may be provided by a contract of  
24 insurance issued by an insurer duly authorized and admitted to do  
25 business in this State, or by an agreement between the employer and  
26 a union or association representing his employees, or by a specific  
27 undertaking by the employer as a self-insurer. Subject to the  
28 insurance laws of this State, such a contract of insurance may be  
29 between the insurer and the employer; or may be between the  
30 insurer and two or more employers, acting for the purpose through a  
31 nominee, designee or trustee; or may be between the insurer and the  
32 union or association with which the employer has an agreement  
33 with respect thereto. Each such private plan shall be submitted in  
34 detail to the Division of Employment Security and shall be  
35 approved by the division, to take effect as of the first day of the  
36 calendar quarter next following, or as of an earlier date if requested  
37 by the employer and approved by the Division of Employment  
38 Security, if it finds that:

39 (a) all of the employees of the employer are to be covered under  
40 the provisions of such plan with respect to any disability  
41 commencing after the effective date of such plan, except as  
42 otherwise provided in this section; and

43 (b) eligibility requirements for benefits are no more restrictive  
44 than as provided in this act for benefits payable by the State plan;  
45 and

46 (c) the weekly benefits payable under such plan for any week of  
47 disability are at least equal to the weekly benefit amount payable by  
48 the State plan, taking into consideration any coverage with respect

1 to concurrent employment by another employer, and the total  
2 number of weeks of disability for which benefits are payable under  
3 such plan is at least equal to the total number of weeks for which  
4 benefits would have been payable by the State plan; and

5 (d) no greater amount is required to be paid by employees  
6 toward the cost of benefits than that prescribed by law as the  
7 amount of worker contribution to the State disability benefits fund  
8 for covered individuals under the State plan; and

9 (e) coverage is continued under the plan while an employee  
10 remains a covered individual as defined in section three of this act,  
11 but not after the employee may become employed by another  
12 employer following termination of employment to which the plan  
13 relates;

14 (f) if the employees are subject to the provisions of a collective  
15 bargaining agreement, a majority of the employees to be covered by  
16 the plan have or shall have agreed to the plan prior to the effective  
17 date thereof, if employees are required to contribute to the cost of  
18 the private plan and the collective bargaining agreement does not  
19 expressly waive the employees' right to a majority election as a  
20 condition for the private plan, as provided in section **[nine]** 9 of  
21 P.L.1948, c.110 (C.43:21-33).

22 Subject to the approval of the Division of Employment Security,  
23 any such private plan may exclude a class or classes of employees,  
24 except a class or classes determined by the age, sex or race of the  
25 employees, or by the wages paid such employees, the exclusion of  
26 which, in the opinion of the division, will result in a substantial  
27 selection of risk adverse to the State plan. Covered individuals so  
28 excluded shall be covered by the State plan and subject to the  
29 employee contribution required by law to be paid into the State  
30 disability benefits fund.

31 Notice, in a form approved by the director, of the benefits  
32 provided by the private plan shall be furnished to the covered  
33 employees by the employer by a conspicuous and continuing  
34 posting at the place of employment, and by personal notice to each  
35 employee at the time of the establishment of the private plan, at any  
36 subsequent time of hire, and within three business days of when the  
37 employer knows or should know that the employee may have a need  
38 for disability benefits or family temporary disability benefits. This  
39 notice shall reflect current rates, eligibility requirements, benefit  
40 entitlements, and rights of the employees under a private plan  
41 pursuant to the provisions of P.L.1948, c.110 (C.43:21-25 et seq.),  
42 including appeal rights to the division, and shall include contact  
43 information for the private plan and instructions as to how to file  
44 for benefits with the private plan.

45 The division shall permit any application for approval by the  
46 division of a private plan to be submitted to the division by means  
47 of electronic communication, and permit the use of an electronic  
48 signature for any signature required in the application, as the term

1 electronic signature is defined in section 2 of P.L.2001, c.116,  
2 (C.12A:12-2).<sup>2</sup>

3 (cf: P.L.1953, c.426, s.1)

4

5 <sup>2</sup>10. Section 9 of P.L.1948, c.110 (C.43:21-33) is amended to  
6 read as follows:

7 9. Election of employees; deduction of contributions. If  
8 employees who are subject to the provisions of a collective  
9 bargaining agreement are to be required to contribute toward the  
10 cost of benefits under a private plan, such plan shall not become  
11 effective unless prior to the effective date a majority of the  
12 employees in the class or classes to be covered thereby have agreed  
13 thereto by written election, unless the collective bargaining  
14 agreement expressly waives the employees' right to a majority  
15 election as a condition for the private plan. In the case of  
16 employees not subject to a collective bargaining agreement, no  
17 employee consent or written election is required for the withdrawal  
18 from the State plan or the establishment of a private plan. [In such  
19 event] Whether or not an election is required, the employer may  
20 during the continuance of the approved private plan collect the  
21 required contributions thereto by deduction from the wages paid to  
22 covered individuals under such plan, which deduction may be  
23 combined with that deduction required by Revised Statutes, section  
24 43:21-7(d)(1) if reasonable notice is given covered individuals  
25 concerning such combined deduction by the employer; provided,  
26 that if any employer fails to deduct the contributions of any of his  
27 employees at the time their wages are paid, or fails to make a  
28 deduction therefor at the time wages are paid for the next  
29 succeeding payroll period, he may not thereafter collect a  
30 contribution with respect to such wages previously paid. Written  
31 elections held pursuant to this section may conducted by electronic  
32 communications evidenced by the electronic signature of the  
33 employee, as the term electronic signature is defined in section 2 of  
34 P.L.2001, c.116, (C.12A:12-2), but shall not be conducted in a  
35 manner inconsistent with any applicable terms of a collective  
36 bargaining agreement.

37 A covered individual shall not be entitled to any benefits from  
38 the State disability benefits fund with respect to any period of  
39 disability commencing while he is covered under an approved  
40 private plan.<sup>2</sup>

41 (cf: P.L.1950, c.173, s.3)

42

43 <sup>1</sup>[7.] <sup>2</sup>[8.1] <sup>11.</sup><sup>2</sup> Section 14 of P.L.1948, c.110 (C.43:21-38) is  
44 amended to read as follows:

45 14. With respect to any period of disability for an individual's  
46 own disability commencing on or after January 1, 1953, disability  
47 benefits, not in excess of an individual's maximum benefits, shall be



1 payable with respect to disability which commences while a person  
2 is a covered individual under the Temporary Disability Benefits  
3 Law, and shall be payable with respect to the eighth consecutive  
4 day of such disability and each day thereafter that such period of  
5 disability continues; and if benefits shall be payable for three  
6 consecutive weeks with respect to any period of disability  
7 commencing on or after January 1, 1968, then benefits shall also be  
8 payable with respect to the first seven days thereof. With respect to  
9 any period of family temporary disability leave commencing on or  
10 after July 1, 2009 and while an individual is a covered individual,  
11 family temporary disability benefits, not in excess of the  
12 individual's maximum benefits, shall be payable with respect to the  
13 first day of leave taken after the first one-week period following the  
14 commencement of the period of family temporary disability leave  
15 and each subsequent day of leave during that period of family  
16 temporary disability leave; and if benefits become payable on any  
17 day after the first three weeks in which leave is taken, then benefits  
18 shall also be payable with respect to any leave taken during the first  
19 one-week period in which leave is taken. <sup>1</sup>With respect to any  
20 period of family temporary disability leave commencing on or after  
21 July 1, 2019 and while an individual is a covered individual, family  
22 temporary disability benefits, not in excess of the individual's  
23 maximum benefits, shall be payable with respect to the first day of  
24 leave taken upon the commencement of the period of family  
25 temporary disability leave and each subsequent day of leave during  
26 that period of family temporary disability leave.<sup>1</sup> The maximum  
27 total benefits payable to any eligible individual for any period of  
28 disability of the individual commencing on or after January 1, 1968,  
29 shall be either 26 times his weekly benefit amount or 1/3 of his total  
30 wages in his base year, whichever is the lesser; provided that such  
31 maximum amount shall be computed in the next lower multiple of  
32 \$1.00 if not already a multiple thereof. The maximum total benefits  
33 payable to any eligible individual for any period of family  
34 temporary disability leave commencing on or after July 1, 2009 and  
35 before July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, shall be six times the individual's  
36 weekly benefit amount or 1/3 of his total wages in his base year,  
37 whichever is the lesser; provided that the maximum amount shall be  
38 computed in the next lower multiple of \$1.00, if not already a  
39 multiple thereof. The maximum total benefits payable to any  
40 eligible individual for any period of family temporary disability  
41 leave commencing on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, shall be  
42 twelve times the individual's weekly benefit amount; provided that  
43 the maximum amount shall be computed in the next lower multiple  
44 of \$1.00, if not already a multiple thereof.  
45 (cf: P.L.2008, c.17, s.5)

1 <sup>1</sup>[8.] <sup>2</sup>[9.1] 12.<sup>2</sup> Section 15 of P.L.1948, c.110 (C.43:21-39) is  
2 amended to read as follows:

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

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

9 (1) if benefits shall be payable for three consecutive weeks with  
10 respect to any period of <sup>2</sup>[<sup>1</sup>the individual's own<sup>1</sup>]<sup>2</sup> disability, then  
11 benefits shall also be payable with respect to the first seven days  
12 thereof; <sup>2</sup>and<sup>2</sup>

13 (2) <sup>2</sup>[in the case of intermittent leave in a single period of  
14 family temporary disability leave taken to provide care for a family  
15 member of the individual with a serious health condition, benefits  
16 shall be payable with respect to the first day of leave taken <sup>1</sup>[after  
17 the first one-week period following] upon<sup>1</sup> the commencement of  
18 the period of family temporary disability leave and each subsequent  
19 day of leave during that period of family temporary disability leave;  
20 and if benefits become payable on any day after the first three  
21 weeks in which leave is taken, then benefits shall also be payable  
22 with respect to any leave taken during the first one-week period in  
23 which leave is taken; and] (Deleted by amendment, P.L. , c. )  
24 (pending before the Legislature, as this bill)<sup>2</sup>;

25 (3) in the case of an individual taking family temporary  
26 disability leave <sup>1</sup>[immediately after the individual has a period of  
27 disability for the individual's own disability]<sup>1</sup>, there shall be no  
28 waiting period <sup>1</sup>[between the period of the individual's own  
29 disability and the period of family temporary disability]<sup>1</sup>;

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

32 (2) for more than six weeks with respect to any one period of  
33 family temporary disability leave commencing before July 1,  
34 <sup>2</sup>[2019] 2020<sup>2</sup> and more than 12 weeks if the period of leave  
35 commences on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, or for more than 42  
36 days with respect to any one period of family temporary disability  
37 leave commencing before July 1, <sup>2</sup>[2019] 2020<sup>2</sup> and more than  
38 <sup>2</sup>[84] <sup>3</sup>[52<sup>2</sup>] 56<sup>3</sup> days if the period of leave commences on or after  
39 July 1, <sup>2</sup>[2019, in the case of leave] 2020, and is<sup>2</sup> taken on an  
40 intermittent basis <sup>2</sup>[to provide care for a family member of the  
41 individual with a serious health condition]<sup>2</sup> ; and

42 (3) for more than six weeks of family temporary disability leave  
43 during any 12-month period commencing before July 1, <sup>2</sup>[2019]  
44 2020<sup>2</sup> and more than 12 weeks for any 12-month period  
45 commencing on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, or for more than 42  
46 days of family temporary disability leave taken during any 12-

1 month period commencing before July 1, <sup>2</sup>[2019] 2020<sup>2</sup> and more  
2 than <sup>2</sup>[84] <sup>3</sup>[52<sup>2</sup>] 56<sup>3</sup> days if the period of leave commences on or  
3 after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, on an intermittent basis <sup>2</sup>[to provide  
4 care for a family member of the individual with a serious health  
5 condition]<sup>2</sup>, including family temporary disability leave taken  
6 pursuant to R.S.43:21-4(f)(2) while unemployed;

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

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

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

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

33 (g) for any period during which the claimant performs any work  
34 for remuneration or profit<sup>1</sup>, except that, in a case of a claim for  
35 benefits for a period family temporary disability on or after July 1,  
36 2020 in which the covered individual has more than one employer,  
37 the individual shall have the option of claiming benefits for leave  
38 taken from one employer, based on wages paid by that employer, on  
39 the condition that the individual does not, during the period for  
40 which the benefits are paid, increase the amount of employment  
41 time with any other employer<sup>1</sup>;

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

45 (i) for any period during which a covered individual would be  
46 disqualified for unemployment compensation benefits under

1 subsection (d) of R.S.43:21-5, unless the disability commenced  
2 prior to such disqualification;

3 <sup>2</sup>(j) for any period during which the claimant receives any paid  
4 sick leave, vacation time or other leave at full pay from the  
5 employer of the individual;<sup>2</sup>

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

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

10

11 <sup>1</sup>~~9.~~ <sup>2</sup>~~10.~~<sup>1</sup> Section 10 of P.L.2008, c.17 (C.43:21-39.1) is  
12 amended to read as follows:

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

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

21 c. The employer of an individual may, notwithstanding any other  
22 provision of law, including the provisions of N.J.S.18A:30-1 et seq.,  
23 permit ~~or require~~ the individual, during a period of family temporary  
24 disability leave, to use any paid sick leave, vacation time or other leave  
25 at full pay made available by the employer before the individual ~~is~~  
26 ~~eligible for~~ uses disability benefits for family temporary disability  
27 leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.)~~], except that the~~  
28 employer may not require the individual to use more than two weeks  
29 worth of leave at full pay~~].~~ ~~【The employer may also have the total~~  
30 number of days worth of disability benefits paid pursuant to P.L.2008,  
31 c.17 (C.43:21-39.1 et al.) to the individual during a period of family  
32 temporary disability leave reduced by the number of days of leave at  
33 full pay paid by the employer to the individual during that period.~~】~~

34 <sup>1</sup>~~【If the employer】~~<sup>1</sup> ~~【requires】~~ <sup>1</sup>~~【permits~~ the individual to use leave at  
35 full pay, the employee shall also be permitted to take that fully-paid  
36 leave during the waiting period required pursuant to subsection (a) of  
37 section 15 of P.L.1948, c.110 (C.43:21-39).~~】~~<sup>1</sup> Nothing in P.L.2008,  
38 c.17 (C.43:21-39.1 et al.) shall be construed as nullifying any  
39 provision of an existing collective bargaining agreement or employer  
40 policy, or preventing any new provision of a collective bargaining  
41 agreement or employer policy, which provides employees more  
42 generous leave or gives employees greater rights to select which kind  
43 of leave is used or select the order in which the different kinds of leave  
44 are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be  
45 construed as preventing an employer from providing more generous  
46 benefits than are provided under P.L.2008, c.17 (C.43:21-39.1 et al.)  
47 or providing benefits which supplement the benefits provided under

1 P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all of the employer's  
2 employees.

3 d. An individual who is entitled to leave under the provisions of  
4 the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
5 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
6 U.S.C. s.2601 et seq.), shall take any benefits provided for family  
7 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et  
8 al.) concurrently with leave taken pursuant to the "Family Leave Act,"  
9 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and  
10 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).  
11 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to  
12 grant an employee any entitlement to be restored by the employer to  
13 employment held by the employee prior to taking family temporary  
14 disability leave or any right to take action against an employer who  
15 refuses to restore the employee to employment after the leave.  
16 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to  
17 increase, reduce or otherwise modify any entitlement of an employee  
18 to return to employment or right of the employee to take action under  
19 the provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-  
20 1 et seq.) <sup>1</sup>or the federal "Family and Medical Leave Act of 1993,"  
21 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)<sup>1</sup>. If an employee receives  
22 benefits for family temporary disability leave pursuant to P.L.2008,  
23 c.17 (C.43:21-39.1 et al.) with respect to employment with an  
24 employer who is not an employer as defined in the "Family Leave  
25 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and that employer fails or  
26 refuses to restore the employee to employment after the period of  
27 family temporary disability leave, that failure or refusal shall not be a  
28 wrongful discharge in violation of a clear mandate of public policy,  
29 and the employee shall not have a cause of action against that  
30 employer, in tort, or for breach of an implied provision of the  
31 employment agreement, or under common law, for that failure or  
32 refusal.

33 e. An employee taking family temporary disability leave or an  
34 employer from whom the employee is taking the leave shall have the  
35 same right to appeal a determination of a benefit for the family  
36 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1 et  
37 al.) as an employee or employer has to appeal a determination of a  
38 benefit for the disability of the employee under the "Temporary  
39 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and any  
40 regulations adopted pursuant to the "Temporary Disability Benefits  
41 Law," P.L.1948, c.110 (C.43:21-25 et al.).

42 f. In the event of a period of family temporary disability leave of  
43 any individual covered under the State plan, the employer shall, not  
44 later than the ninth day of the period of family temporary disability  
45 leave, including any waiting period or time in which the employer  
46 provides sick leave, vacation or other fully paid leave, issue to the  
47 individual and to the division printed notices on division forms  
48 containing the name, address and Social Security number of the

1 individual, such wage information as the division may require to  
2 determine the individual's eligibility for benefits, including any sick  
3 pay, vacation or other fully paid time off provided by the employer  
4 during the period of family temporary disability leave, and the name,  
5 address, and division identity number of the employer. Not later than  
6 30 days after the commencement of the period of family temporary  
7 disability leave for which the notice is furnished by the employer, the  
8 individual shall furnish to the division a notice and claim for family  
9 temporary disability leave benefits. Upon the submission of the  
10 notices by the employer and the individual, the division may issue  
11 benefit payments. In the case of family temporary disability leave  
12 taken to care for a family member with a serious health condition, the  
13 benefits may be paid for periods not exceeding three weeks pending  
14 the receipt of the certification required pursuant to subsection b. of  
15 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish notice  
16 and certification in the manner above provided shall not invalidate or  
17 reduce any claim if it shall be shown to the satisfaction of the division  
18 not to have been reasonably possible to furnish the notice and  
19 certification and that the notice and certification was furnished as soon  
20 as reasonably possible.

21 g. Each covered employer shall conspicuously post notification,  
22 in a place or places accessible to all employees in each of the  
23 employer's workplaces, in a form issued by regulation promulgated by  
24 the commissioner, of each covered employee's rights regarding  
25 benefits payable pursuant to this section. The employer shall also  
26 provide each employee of the employer with a written copy of the  
27 notification: (1) not later than 30 days after the form of the notification  
28 is issued by regulation; (2) at the time of the employee's hiring, if the  
29 employee is hired after the issuance; (3) whenever the employee  
30 notifies the employer that the employee is taking time off for  
31 circumstances under which the employee is eligible for benefits  
32 pursuant to this section; and (4) at any time, upon the first request of  
33 the employee.

34 (cf: P.L.2008, c.17, s.10)]<sup>2</sup>

35

36 <sup>2</sup>13. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to  
37 read as follows:

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

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

47 c. The employer of an individual may, notwithstanding any  
48 other provision of law, including the provisions of N.J.S.18A:30-1

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

29 d. An individual who is entitled to leave under the provisions  
30 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or  
31 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3  
32 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for  
33 family temporary disability leave pursuant to P.L.2008, c.17  
34 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the  
35 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
36 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
37 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et  
38 al.) shall be construed to grant an employee any entitlement to be  
39 restored by the employer to employment held by the employee prior  
40 to taking family temporary disability leave or any right to take  
41 action against an employer who refuses to restore the employee to  
42 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-  
43 39.1 et al.) shall be construed to increase, reduce or otherwise  
44 modify any entitlement of an employee to return to employment or  
45 right of the employee to take action under the provisions of the  
46 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) **【**or the  
47 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29

1 U.S.C. s.2601 et seq.)】 . If an employee receives benefits for  
2 family temporary disability leave pursuant to P.L.2008, c.17  
3 (C.43:21-39.1 et al.) with respect to employment with an employer  
4 who is not an employer as defined in the "Family Leave Act,"  
5 P.L.1989, c.261 (C.34:11B-1 et seq.) and that employer fails or  
6 refuses to restore the employee to employment after the period of  
7 family temporary disability leave, that failure or refusal shall not be  
8 a wrongful discharge in violation of a clear mandate of public  
9 policy, and the employee shall not have a cause of action against  
10 that employer, in tort, or for breach of an implied provision of the  
11 employment agreement, or under common law, for that failure or  
12 refusal.

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

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



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

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

21 h. With respect to any period of family temporary disability  
22 leave commencing on or after **January 1, 2018,** October 4, 2019  
23 if an individual knows in advance when the period will commence,  
24 the individual may notify the employer of the anticipated period of  
25 family temporary disability leave and submit to the division a claim  
26 for benefits for that period, which shall include a statement of when  
27 the period will commence and any certification required pursuant to  
28 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2), prior  
29 to, but not more than 60 days prior to, the date that the period will  
30 commence. The division shall process that claim immediately and,  
31 upon finding that the claim is valid, shall pay the benefit upon the  
32 commencement of the period of family temporary disability leave  
33 **for after any applicable one week waiting period** , except that if  
34 division receives the claim less than 30 days before the  
35 commencement of the period, the division shall make the payment  
36 not more than 30 days after the receipt of the claim. The periods of  
37 family temporary disability leave to which the provisions of this  
38 subsection apply shall include, but not be limited to, any of the  
39 following if the commencement date of the leave is known in  
40 advance: periods of leave for care of a child of the individual after  
41 adoption , the placement of a child into foster care, or childbirth,  
42 including childbirth under a valid agreement between the individual  
43 and a gestational carrier; periods of leave for scheduled medical  
44 procedures, treatments, or appointments for a family member of the  
45 individual; and periods of leave for scheduled ongoing care of a  
46 family member of the individual. If the individual did not establish  
47 enough base weeks or have enough total earnings during the **52**  
48 weeks **base year** preceding the week the individual submits the

1 claim, the division shall notify the individual that the individual  
2 may file the claim again upon or after the commencement of the  
3 period of family temporary disability leave and the division shall  
4 then reconsider the individual's eligibility for benefits based on the  
5 **[52 weeks]** base year preceding the week in which the period of  
6 family temporary disability leave commences.<sup>2</sup>

7 (cf: P.L.2018, c.128, s.2)

8

9 <sup>2</sup>14. Section 11 of P.L.2008, c.17 (C.43:21-39.2) is amended to  
10 read as follows:

11 11. a. In the case of a family member who has a serious health  
12 condition, the benefits for family temporary disability leave may be  
13 taken intermittently when medically necessary, if: the total time  
14 within which the leave is taken does not exceed 12 months; the  
15 covered individual provides the employer with a copy of the  
16 certification required pursuant to subsection b. of this section; the  
17 covered individual provides the employer with prior notice of the  
18 leave not less than 15 days before the first day on which benefits  
19 are paid for the intermittent leave, unless an emergency or other  
20 unforeseen circumstance precludes prior notice; and the covered  
21 individual makes a reasonable effort to schedule the leave so as not  
22 to unduly disrupt the operations of the employer and, if possible,  
23 provide the employer, prior to the commencement of intermittent  
24 leave, with a regular schedule of the days or days of the week on  
25 which the intermittent leave will be taken. In the case of family  
26 temporary disability leave benefits to care for a family member with  
27 a serious health condition which are taken on a continuous, non-  
28 intermittent basis, the covered individual shall: provide the  
29 employer with prior notice of the leave in a reasonable and  
30 practicable manner, unless an emergency or other unforeseen  
31 circumstance precludes prior notice; provide a copy of the  
32 certification required pursuant to subsection b. of this section; make  
33 a reasonable effort to schedule the leave so as not to unduly disrupt  
34 the operations of the employer.

35 b. Any period of family temporary disability leave for the  
36 serious health condition of a family member of the covered  
37 individual shall be supported by certification provided by a health  
38 care provider. The certification shall be sufficient if it states:

39 (1) The date, if known, on which the serious health condition  
40 commenced;

41 (2) The probable duration of the condition;

42 (3) The medical facts within the knowledge of the provider of  
43 the certification regarding the condition;

44 (4) A statement that the serious health condition warrants the  
45 participation of the covered individual in providing health care, as  
46 provided in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
47 et seq.) and regulations adopted pursuant to that act;

1 (5) An estimate of the amount of time that the covered  
2 individual is needed for participation in the care of the family  
3 member;

4 (6) If the leave is intermittent, a statement of the medical  
5 necessity for the intermittent leave and the expected duration of the  
6 intermittent leave; and

7 (7) If the leave is intermittent and for planned medical  
8 treatment, the dates of the treatment.

9 c. A covered individual claiming benefits to provide care for a  
10 family member with a serious health condition under the State plan  
11 or during unemployment shall, if requested by the division, have the  
12 family member submit to an examination by a health care provider  
13 designated by the division. The examinations shall not be more  
14 frequent than once a week, shall be made without cost to the  
15 claimant and shall be held at a reasonable time and place. Refusal  
16 of the family member to submit to an examination requested  
17 pursuant to this subsection shall disqualify the claimant from all  
18 benefits for the period in question, except from benefits already  
19 paid.

20 d. Any period of family temporary disability leave to engage in  
21 activities for which unpaid leave may be taken pursuant to section 3  
22 of the "New Jersey Security and Financial Empowerment Act,"  
23 P.L.2013, c.82 (C.34:11C-3), on the individual's own behalf, if the  
24 individual is a victim of an incident of domestic violence or a  
25 sexually violent offense, or to assist a family member of the  
26 individual who has been a victim of an incident of domestic  
27 violence or a sexually violent offense, shall, if requested by the  
28 division, be supported with certification provided to the division  
29 which meets the standards regarding sufficient documentation  
30 specified by subsection c. of section 3 of P.L.2013, c.82 (C.34:11C-  
31 3), whether or not the employer of the individual requires that  
32 documentation. Prior to taking the leave provided for in this  
33 subsection, an employee shall, if the necessity for the leave is  
34 foreseeable, and unless an emergency or other unforeseen  
35 circumstances precludes prior notice, provide the employer with  
36 written notice of the need for the leave, which shall be provided to  
37 the employer as far in advance as is reasonable and practical under  
38 the circumstances.<sup>2</sup>

39 (cf: P.L.2008, c.17, s.11)

40

41 <sup>1</sup> ~~10.~~ <sup>2</sup> ~~11.~~ <sup>1</sup> ~~15.~~ <sup>2</sup> Section 12 of P.L.2008, c.17 (C.43:21-39.3)  
42 is amended to read as follows:

43 12. a. (1) All of the disability benefits paid to a covered  
44 individual during a period of family temporary disability leave with  
45 respect to any one birth<sup>1</sup>, placement in foster care,<sup>1</sup> or adoption shall  
46 be for a single continuous period of time **【**, except that the employer of  
47 the covered individual may permit the covered individual to receive

1 the disability benefits] or during non-consecutive weeks [in a manner  
2 mutually agreed to by the employer and the covered individual and] or  
3 days on an intermittent basis pursuant to paragraph (2) of this  
4 subsection, which shall be disclosed to the division by the employer.

5 (2) In the case of intermittent benefits for family temporary  
6 disability leave with respect to a birth<sup>1</sup>, placement in foster care,<sup>1</sup> or  
7 adoption, the covered individual shall provide the employer with prior  
8 notice of the leave not less than 15 days before the first day on which  
9 benefits are paid for the intermittent leave, unless an emergency or  
10 other unforeseen circumstance precludes prior notice; and the covered  
11 individual makes a reasonable effort to schedule the leave so as not to  
12 unduly disrupt the operations of the employer and, if possible, provide  
13 the employer, prior to the commencement of intermittent leave, with a  
14 regular schedule of the days or days of the week on which the  
15 intermittent leave will be taken.

16 b. **[The]** In the case of single continuous benefits for family  
17 temporary disability leave with respect to birth<sup>1</sup>, placement in foster  
18 care,<sup>1</sup> or adoption, the covered individual shall provide the employer  
19 with prior notice of the [period of family temporary disability] leave  
20 **[with respect to birth or adoption]** not less than 30 days before the  
21 leave commences, unless it commences while the individual is  
22 receiving unemployment benefits, in which case the covered  
23 individual shall notify the division. The amount of benefits shall be  
24 reduced by two weeks worth of benefits if the individual does not  
25 provide notice to an employer as required by this subsection b., unless  
26 the time of the leave is unforeseeable or the time of the leave changes  
27 for unforeseeable reasons.

28 c. Family temporary disability leave taken because of the birth or  
29 placement 'in foster care or' for adoption of a child may be taken at  
30 any time within a year after the date of the birth or placement 'in  
31 foster care or' for adoption.

32 (cf: P.L.2008, c.17, s.12)

33

34 <sup>1</sup>**[11.]** <sup>2</sup>**[12.]**<sup>1</sup> Section 13 of P.L.2008, c.17 (C.43:21-39.4) is  
35 amended to read as follows:

36 13. a. The Commissioner of Labor and Workforce Development  
37 shall issue and make available to the public, not later than December  
38 31, 2010, and each subsequent year, annual reports providing data on  
39 temporary disability benefits, including separate data for claims  
40 involving pregnancy and childbirth, and family temporary disability  
41 benefits, including separate data for each of the following categories of  
42 claims: care of newborn children; care of newly adopted children; care  
43 of sick children; care of sick spouses, and care of other sick family  
44 members. The reports shall include, for each category of claims, the  
45 number of workers receiving the benefits, the amount of benefits paid,  
46 the average duration of benefits, the average weekly benefit, and, in  
47 the case of family temporary disability benefits, any reported amount

1 of sick leave, vacation or other fully paid time which resulted in  
2 reduced benefit duration. The report shall provide data by gender and  
3 by any other demographic factors determined to be relevant by the  
4 commissioner. The reports shall also provide, for all temporary  
5 disability benefits and for all family temporary disability benefits, the  
6 total costs of benefits and the total cost of administration, the portion  
7 of benefits for claims during unemployment, and the total revenues  
8 from: employer assessments, where applicable; employee assessments;  
9 and other sources. For each of the reports issued not later than  
10 December 31 of 2019 and each subsequent year, the report shall also  
11 provide<sup>1</sup>]: the number of claims for bonding, and care for family  
12 members, broken down by relationship; demographic information:  
13 income, age, gender, ethnicity, occupation, full or part-time  
14 employment status; what portion of the leave is taken on an  
15 intermittent basis; the percentage of bonding leave applicants who  
16 report providing their employer with 50 or more days of notice of  
17 leave-taking; for all claims, the percentage of employers who reported  
18 that the employee will have additional paid time off with the source  
19 being the difference between their regular weekly wages and the  
20 maximum benefit provided under P.L.2008, c.17 (C.43:21-39.1 et al.);  
21 and]<sup>1</sup> the amount and rate of contributions, with the amount of the tax  
22 base, made by employers for each of the following: benefits for  
23 periods of pregnancy temporary disability, and benefits for periods of  
24 all other disability, and the amount and rate of contributions, with the  
25 amount of the tax base, made by workers for each of the following:  
26 benefits for periods of pregnancy temporary disability, benefits for  
27 periods of all other disability, and benefits for periods of temporary  
28 disability leave.

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

36 (1) Employees and their families, including surveys and  
37 evaluations of: what portion of the total number of employees taking  
38 leave would not have taken leave, or would have taken less leave,  
39 without the availability of benefits; what portion of employees return  
40 to work after receiving benefits and what portion are not permitted to  
41 return to work; and what portion of employees who are eligible for  
42 benefits do not claim or receive them and why they do not;

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

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

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

6 (cf: P.L.2008, c.17, s.13).<sup>2</sup>

7  
8 <sup>2</sup>16. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to  
9 read as follows:

10 13. a. (1). The Commissioner of Labor and Workforce  
11 Development shall issue and make available to the public, not later  
12 than December 31, 2010, and each subsequent year, annual reports  
13 providing data on temporary disability benefits, and, for each  
14 annual report issued not later than December 31 of 2019 and each  
15 subsequent year, all of the data required by this paragraph (1) as  
16 amended by P.L.2018, c.123, including separate data for claims  
17 involving pregnancy and childbirth, and family temporary disability  
18 benefits, including separate data for each of the following  
19 categories of claims: care of newborn children; care of newly  
20 adopted children; care of sick children; care of sick spouses, and  
21 care of other sick family members. The reports shall include, for  
22 each category of claims, the occupations of the workers receiving  
23 the benefits, the regular weekly wages earned by the workers  
24 receiving the benefits, the number of workers receiving the benefits,  
25 the number of workers receiving the benefits that work full-time,  
26 the number of workers receiving the benefits that work part-time,  
27 the number of workers receiving the benefits that belong to a labor  
28 union or employee organization, the number of employers  
29 employing each worker in the worker's base year, the amount of  
30 benefits paid, the average duration of benefits, the average weekly  
31 benefit, the county in which the employer is located, whether the  
32 employer is private or a governmental entity, the employer size  
33 based on whether the employer employs less than 30 workers or  
34 employs 30 or more workers, and, in the case of family temporary  
35 disability benefits, any reported amount of sick leave, vacation or  
36 other fully paid time which resulted in reduced benefit duration, and  
37 the number of workers claiming intermittent benefits. The report  
38 shall provide data by: gender; race, ethnicity or national origin;  
39 level of educational attainment; and by any other demographic  
40 factors determined to be relevant by the commissioner. The reports  
41 shall also provide, for all temporary disability benefits and for all  
42 family temporary disability benefits, the number of workers  
43 claiming both temporary disability benefits and family temporary  
44 disability benefits in the same calendar year, the total costs of  
45 benefits and the total cost of administration, the portion of benefits  
46 for claims during unemployment, and the total revenues from:  
47 employer assessments, where applicable; employee assessments;  
48 and other sources.

1       (2) For each of the reports issued not later than December 31 of  
2 2019 and each subsequent year, the report shall also provide the  
3 amount and rate of contributions, with the amount of the tax base,  
4 made by employers, including, separately, the amounts paid by  
5 employers with private plans, for benefits for periods of disability  
6 and periods of family disability leave, and the amount and rate of  
7 contributions, with the amount of the tax base, made by workers,  
8 and benefits paid to workers, including, separately, benefits paid to,  
9 and contributions paid by, workers in private plans, for each of the  
10 following: benefits for periods of disability, and benefits for periods  
11 of family temporary disability leave. The portion of the report  
12 regarding private plans shall include: the number of claims  
13 received, the number of claims accepted, the amount of benefits  
14 paid, the number of workers covered, the administrative costs, and,  
15 in the case of private plans in which insurance companies assume  
16 the liability for benefits, in addition to the foregoing, premiums  
17 earned, dividends to policy holders, benefit losses, and expenses  
18 incurred, and in the case of private plans in which insurance  
19 companies do not assume the liability for benefits, the amount  
20 contributed by workers.

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

28       (1) Employees and their families, including surveys and  
29 evaluations of: what portion of the total number of employees  
30 taking leave would not have taken leave, or would have taken less  
31 leave, without the availability of benefits; what portion of  
32 employees return to work after receiving benefits and what portion  
33 are not permitted to return to work; and what portion of employees  
34 who are eligible for benefits do not claim or receive them and why  
35 they do not;

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

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

42       c. The total amount of any expenses which the commissioner  
43 determines are necessary to carry out his duties pursuant to this  
44 section shall be charged to the Family Temporary Disability Leave  
45 Account of the State disability benefits fund, except that the amount  
46 shall in no case exceed \$150,000 during any fiscal year.<sup>2</sup>

47 (cf: P.L.2018, c.123, s.1)

1       <sup>1</sup>[12.] <sup>2</sup>[13.1] 17.<sup>2</sup> Section 16 of P.L.1948, c.110 (C.43:21-40)  
2 is amended to read as follows:

3       16. [With respect to periods of disability commencing on or  
4 after July 1, 1961, an individual's weekly benefit amount shall be  
5 determined and computed by the division on the same basis as the  
6 weekly benefit rate is determined and computed pursuant to  
7 subsection (c) of R.S. 43:21-3, except that for] a. For periods of  
8 disability commencing on or after October 1, 1984, an individual's  
9 weekly benefit rate shall be two-thirds of his average weekly wage,  
10 subject to a maximum of 53% of the Statewide average weekly  
11 remuneration paid to workers by employers, as determined under  
12 subsection (c) of R.S. 43:21-3[; provided, however, that such],  
13 except as provided in subsection b. of this section.

14       b. For periods of disability <sup>2</sup>[in cases of pregnancy or recovery  
15 from childbirth]<sup>2</sup> commencing on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>,  
16 and for periods of family temporary disability leave commencing on  
17 or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, an individual's weekly benefit rate  
18 shall be <sup>2</sup>[90%] 85%<sup>2</sup> of the individual's average weekly wage,  
19 subject to a maximum of <sup>2</sup>[100%] 70%<sup>2</sup> of the Statewide average  
20 weekly remuneration paid to workers by employers.

21       c. Each individual's benefit rate shall be computed to the next  
22 lower multiple of \$1.00 if not already a multiple thereof. The  
23 amount of benefits for each day of disability for which benefits are  
24 payable shall be one-seventh of the corresponding weekly benefit  
25 amount; provided that the total benefits for a fractional part of a  
26 week shall be computed to the next lower multiple of \$1.00 if not  
27 already a multiple thereof.

28       <sup>2</sup>d. For any week beginning on or after the effective date of  
29 P.L. , c. (pending before the Legislature as Senate bill, No.  
30 844(1R)), with respect to a period of disability of an individual who  
31 is otherwise eligible for benefits but only able to return to work on a  
32 reduced basis while recovering from the disability, the individual, if  
33 permitted by the employer to return to work on the reduced basis,  
34 shall be paid an amount of benefits with respect to that week such  
35 that the sum of the wages and those benefits paid to the individual,  
36 rounded to the next lower multiple of \$1.00, will equal the weekly  
37 benefit amount the individual would have been paid if totally  
38 unable to perform the duties of employment due to disability,  
39 provided that:

40       (1) The individual must have been totally unable to perform the  
41 duties of employment due to disability and receiving full benefits  
42 for at least seven consecutive days prior to claiming partial benefits  
43 under this subsection;

44       (2) The maximum duration of partial benefits paid pursuant to  
45 this subsection is eight weeks, unless the division, after a review of  
46 medical documentation from a qualified healthcare provider,



1 approves in writing an extension beyond eight weeks, but in no case  
 2 shall the duration be extended to more than 12 weeks; and

3 (3) If the individual is able to return to work on a reduced basis  
 4 but the employer is unable or otherwise chooses not to permit the  
 5 individual to do so, the individual will continue to be eligible for  
 6 benefits until the individual is fully recovered from the disability  
 7 and able to perform the duties of employment, but nothing in this  
 8 subsection shall be construed as increasing the total number of  
 9 weeks of disability benefits for which the individual is eligible.

10 For the purposes of this section, “qualified healthcare provider”  
 11 means a legally licensed physician, dentist, podiatrist, chiropractor,  
 12 certified nurse midwife, advanced practice nurse or public health  
 13 nurse designated by the division.<sup>2</sup>

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

15

16 <sup>2</sup>18. Section 17 of P. L.1948, c.110 (C.43:21-41) is amended to  
 17 read as follows:

18 17. (a) (Deleted by amendment, P.L.1975, c.355.)

19 (b) (Deleted by amendment, P.L.2001, c.17).

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

21 (d) (1) (Deleted by amendment, P.L.2008, c.17).

22 (2) With respect to periods of disability commencing on or after  
 23 January 1, 2001 and before <sup>3</sup>**January 1, 2019** the effective date of  
 24 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>3</sup>, no  
 25 individual shall be entitled to benefits under this act unless the  
 26 individual has, within the 52 calendar weeks preceding the week in  
 27 which the individual's period of disability commenced, **or** within  
 28 the 52 weeks preceding the week in which the individual submits a  
 29 claim for benefits pursuant to subsection h. of section 10 of  
 30 P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of  
 31 section 25 of P.L.1948, c.110 (C.43:21-49), established at least 20  
 32 base weeks or earned not less than 1,000 times the minimum wage  
 33 in effect pursuant to section 5 of **[P.L.1996]** P.L.1966, c.113  
 34 (C.34:11-56a4) on October 1 of the calendar year preceding the  
 35 calendar year in which the disability commences, which amount  
 36 shall be adjusted to the next higher multiple of \$100.00, if not  
 37 already a multiple thereof.

38 (3) With respect to periods of disability commencing on or after  
 39 <sup>3</sup>**October 4, 2019** the effective date of P.L. , c. (C. )  
 40 (pending before the Legislature as this bill)<sup>3</sup>, no individual shall be  
 41 entitled to benefits under this act unless the individual has, within  
 42 the base year preceding the week in which the individual's period of  
 43 disability commenced, or within the base year preceding the week  
 44 in which the individual submits a claim for benefits pursuant to  
 45 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or  
 46 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110  
 47 (C.43:21-49), established at least 20 base weeks or earned not less

1 than 1,000 times the minimum wage in effect pursuant to section 5  
2 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar  
3 year preceding the calendar year in which the disability commences,  
4 which amount shall be adjusted to the next higher multiple of  
5 \$100.00, if not already a multiple thereof.

6 If an individual who submits a claim for benefits pursuant to  
7 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or  
8 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110  
9 (C.43:21-49) did not establish enough base weeks or have enough  
10 total earnings during the **【52 weeks】** base year preceding the week  
11 the individual submits the claim, the division shall notify the  
12 individual that the individual may file the claim again upon or after  
13 the commencement of the period of disability or family temporary  
14 disability leave and the division shall then reconsider the  
15 individual's eligibility for benefits based on the **【52 weeks】** base  
16 year preceding the week in which the period of disability or family  
17 temporary disability leave commences.

18 (e) With respect to a period of family temporary disability leave  
19 for an individual who has a period of family temporary disability  
20 immediately after the individual has a period of disability for the  
21 individual's own disability, the period of disability is deemed, for  
22 the purposes of specifying the time of the 52-week period or base  
23 year in which base weeks or earnings are required to be established  
24 for benefit eligibility pursuant to this subsection (e), to have  
25 commenced at the beginning of the period of disability for the  
26 individual's own disability, not the period of family temporary  
27 disability.<sup>2</sup>

28 (cf: P.L.2018, c.128, s.3)

29

30 <sup>2</sup>**【15.】** 19.<sup>2</sup> Section 22 of P.L.1948, c.110 (C.43:21-46) is  
31 amended to read as follows:

32 22. State disability benefits fund. (a) The State disability benefits  
33 fund, hereinafter referred to as the fund, is hereby established. The  
34 fund shall remain in the custody of the State Treasurer, and to the  
35 extent of its cash requirements shall be deposited in authorized public  
36 depositories in the State of New Jersey. There shall be deposited in  
37 and credited to the fund the amount of worker and employer  
38 contributions provided under subparagraph (G) of paragraph (1) of  
39 subsection (d) of R.S.43:21-7 and subsection (e) of R.S.43:21-7, less  
40 refunds authorized by the chapter (R.S.43:21-1 et seq.) to which this  
41 act is a supplement, and the entire amount of interest and earnings  
42 from investments of the fund, and all assessments, fines and penalties  
43 collected under this act. The fund shall be held in trust for the payment  
44 of disability benefits pursuant to this act, for the payment of benefits  
45 pursuant to subsection (f) of R.S.43:21-4, and for the payment of any  
46 authorized refunds of contributions. All warrants for the payment of  
47 benefits shall be issued by and bear only the signature of the Director  
48 of the Division of Unemployment and Temporary Disability Insurance

1 or his duly authorized agent for that purpose. All other moneys  
2 withdrawn from the fund shall be upon warrant signed by the State  
3 Treasurer and countersigned by the Director of the Division of  
4 Unemployment and Temporary Disability Insurance of the Department  
5 of Labor of the State of New Jersey. The Treasurer shall maintain  
6 books, records and accounts for the fund, appoint personnel and fix  
7 their compensation within the limits of available appropriations. The  
8 expenses of the Treasurer in administering the fund and its accounts  
9 shall be charged against the administration account, as hereinafter  
10 established. A separate account, to be known as the administration  
11 account, shall be maintained in the fund, and there shall be credited to  
12 such account an amount determined to be sufficient for proper  
13 administration, not to exceed, however, 1/10 of 1% of the wages with  
14 respect to which current contributions are payable into the fund  
15 pursuant to paragraph (3), but not paragraph (4), of subsection (a) of  
16 R.S.43:21-7, and the entire amount of any assessments against covered  
17 employers, as hereinafter provided, for costs of administration prorated  
18 among approved private plans. The costs of administration of this act,  
19 including R.S.43:21-4(f), shall be charged to the administration  
20 account.

21 (b) A further separate account, to be known as the unemployment  
22 disability account, shall be maintained in the fund. Such account shall  
23 be charged with all benefit payments under R.S.43:21-4(f).

24 Prior to July 1 of each calendar year, the Division of  
25 Unemployment and Temporary Disability Insurance of the Department  
26 of Labor of the State of New Jersey shall determine the average rate of  
27 interest and other earnings on all investments of the State disability  
28 benefits fund for the preceding calendar year. An amount equal to the  
29 sum of the amounts withdrawn from the unemployment trust fund  
30 pursuant to section 23 hereof multiplied by such average rate shall be  
31 determined by the division and credited to the unemployment  
32 disability account as of the end of the preceding calendar year.

33 If the unemployment disability account shall show an accumulated  
34 deficit in excess of \$200,000.00 at the end of any calendar year after  
35 interest and other earnings have been credited as provided  
36 hereinabove, the division shall determine the ratio of such deficit to the  
37 total of all taxable wages paid during the preceding calendar year, and  
38 shall make an assessment against all employers in an amount equal to  
39 the taxable wages paid by them during such preceding calendar year to  
40 employees, multiplied by such ratio, but in no event shall any such  
41 assessment exceed 1/10 or 1% of such wages; provided, however, that  
42 the assessment made against the State (including Rutgers, The State  
43 University and the New Jersey Institute of Technology) shall not  
44 exceed the sum of all benefits paid under the provisions of R.S.43:21-  
45 4(f) as the result of employment with the State. Such amounts shall be  
46 collectible by the division in the same manner as provided for the  
47 collection of employee contributions under this chapter (R.S.43:21-1 et  
48 seq.). In making this assessment, the division shall furnish to each

1 affected employer a brief summary of the determination thereof. The  
2 amount of such assessments collected by the division shall be credited  
3 to the unemployment disability account.

4 As used in this section, "taxable wages" shall mean wages with  
5 respect to which employer contributions have been paid or are payable  
6 pursuant to subsections (a), (b) and (c) of R.S.43:21-7.

7 (c) A board of trustees, consisting of the State Treasurer, the  
8 Secretary of State, the Commissioner of Labor and Industry, the  
9 director of the division, and the State Comptroller, is hereby created.  
10 The board shall invest and reinvest all moneys in the fund in excess of  
11 its cash requirements, and such investments shall be made in  
12 obligations legal for savings banks; provided, however, that the  
13 provisions of this subsection shall in all respects be subject to the  
14 provisions of P.L.1950, c.270 (C.52:18A-79 et seq.).

15 (d) There is hereby appropriated, to be paid out of the fund, such  
16 amounts as may from time to time be required for the payment of  
17 disability benefits, and such amounts as may be required each year, as  
18 contained in the annual appropriation act, for the administration of this  
19 act, including R.S.43:21-4(f).<sup>1</sup>

20 (cf: P.L.2012, c.45, s.126)

21

22 <sup>2</sup>20. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to  
23 read as follows:

24 25. (a) (1) Every employer shall post, in prominent locations,  
25 notices to employees in the form provided by the division of  
26 whether the employer is permitted or required to participate in a  
27 temporary disability benefits program pursuant to the "Temporary  
28 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and  
29 whether the employer does or does not participate. For employers  
30 who participate in a temporary disability benefits program, the  
31 notice shall also describe the temporary disability benefits available  
32 to the employees and prominently disclose that pregnancy is  
33 regarded by law as a disability and that pregnant employees are  
34 regarded as disabled and entitled to temporary disability benefits to  
35 the same extent as other disabled employees. Upon the request of  
36 an employer, the division shall, without charge, provide the  
37 employer with a copy of each applicable notice, suitable for  
38 reproduction by the employer. Each employer participating in the  
39 State plan or a private plan shall give a printed copy of benefit  
40 instructions to any disabled employee as soon as the employer  
41 becomes aware of the disability.

42 (2) In addition, in the event of the disability of any individual  
43 covered under the State plan, the employer shall, not later than the  
44 ninth day of disability, or not later than the ninth day after the  
45 individual notifies the employer of an anticipated period of  
46 disability pursuant to paragraph (3) of this section, whichever  
47 comes first, issue to the individual and to the division printed  
48 notices on division forms containing the name, address and Social

1 Security number of the individual, such wage information as the  
2 division may require to determine the individual's eligibility for  
3 benefits, and the name, address, and division identity number of the  
4 employer. Not later than 30 days after the commencement of the  
5 period of disability for which such notice is furnished, the  
6 individual shall furnish to the division a notice and claim for  
7 disability benefits under the State plan or for disability during  
8 unemployment. Upon the submission of such notices by the  
9 employer and the individual, and the commencement of the  
10 compensable portion of the disability leave pursuant to the  
11 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
12 et seq.), the division may issue benefit payments for periods not  
13 exceeding three weeks pending the receipt of medical proof. When  
14 requested by the division, such notice and proof shall include  
15 certification of total disability by the attending physician, or a  
16 record of hospital confinement. Failure to furnish notice and proof  
17 within the time or in the manner above provided shall not invalidate  
18 or reduce any claim if it shall be shown to the satisfaction of the  
19 division not to have been reasonably possible to furnish such notice  
20 and proof and that such notice and proof was furnished as soon as  
21 reasonably possible.

22 (3) With respect to any period of disability commencing on or  
23 after <sup>3</sup>~~January 1~~ October 4<sup>3</sup>, ~~2018,~~ 2019<sup>3,3</sup> if an individual  
24 knows in advance when the period will commence, the individual  
25 may notify the employer of the anticipated period of disability and  
26 submit to the division a claim for benefits for that period, which  
27 shall include a statement of when the period will commence and  
28 any certification requested by the division pursuant to this section,  
29 prior to, but not more than 60 days prior to, the date on which the  
30 period will commence. The division shall process that claim  
31 immediately and, upon a finding that the claim is valid, shall pay  
32 the benefit upon the commencement of the period ~~or after any~~  
33 ~~applicable one week waiting period~~, except that if the division  
34 receives the claim less than 30 days before the commencement of  
35 the period, the division shall make the payment not more than 30  
36 days after the receipt of the claim. The periods of disability leave  
37 to which the provisions of this paragraph apply shall include, but  
38 not be limited to, any of the following if the commencement date of  
39 the leave is known in advance: disability related to pregnancy or  
40 childbirth; disability related to scheduled medical procedures,  
41 treatments, or appointments for the individual; and disability related  
42 to scheduled ongoing care of the individual. If an individual did not  
43 establish enough base weeks or have enough total earnings during  
44 the ~~52 weeks~~ base year preceding the week the individual submits  
45 the claim for benefits, the division shall notify the individual that  
46 the individual may file the claim again upon or after the  
47 commencement of the period of disability and the division shall  
48 then reconsider the individual's eligibility for benefits based on the

1 **[52 weeks]** base year preceding the week in which the period of  
2 disability commences.

3 (b) A person claiming benefits under the State plan or for  
4 disability during unemployment shall, when requested by the  
5 division, submit at intervals, but not more often than once a week,  
6 to an examination by a legally licensed physician, dentist,  
7 podiatrist, chiropractor, certified nurse midwife, advanced practice  
8 nurse or public health nurse designated by the division. In all cases  
9 of physical examination of a claimant, the examination shall be  
10 made by a designee of the division, who shall be the same sex as the  
11 claimant if so requested by the claimant. All such examinations by  
12 physicians, dentists, podiatrists, chiropractors, certified nurse  
13 midwives or nurses designated by the division shall be without cost  
14 to the claimant and shall be held at a reasonable time and place.  
15 Refusal to submit to such a requested examination shall disqualify  
16 the claimant from all benefits for the period of disability in  
17 question, except as to benefits already paid.

18 (c) All medical records of the division, except to the extent  
19 necessary for the proper administration of this act, shall be  
20 confidential and shall not be published or be open to public  
21 inspection (other than to public employees in the performance of  
22 their public duties) in any manner revealing the identity of the  
23 claimant, or the nature or cause of disability nor admissible in  
24 evidence in any action or special proceeding other than one arising  
25 under this act.<sup>2</sup>

26 (cf: P.L.2018, c.128, s.4)

27

28 <sup>1</sup>**[13.]** <sup>2</sup>**[14.1]** 21.<sup>2</sup> (New section) a. The division shall  
29 implement disability insurance goals for the timely determination  
30 and <sup>2</sup>prompt<sup>2</sup> payment of temporary disability benefits and family  
31 temporary disability benefits under the State plan, as follows:

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

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

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

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

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

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

3 (a) not less than 80 percent of the original benefit  
4 determinations shall be completed within seven days after the  
5 commencement of the period of family temporary disability leave,  
6 or the receipt of the benefit claims by the division, whichever is  
7 later;

8 (b) not less than 85 percent of the original benefit  
9 determinations shall be completed within 14 days after the  
10 commencement of the period of family temporary disability leave,  
11 or the receipt of the benefit claims by the division, whichever is  
12 later;

13 (c) not less than 90 percent of the original benefit  
14 determinations shall be completed within 21 days after the  
15 commencement of the period of family temporary disability leave,  
16 or the receipt of the benefit claims by the division, whichever is  
17 later; and

18 (d) not less than 95 percent of the original benefit  
19 determinations shall be completed within 28 days after the  
20 commencement of the period of family temporary disability leave,  
21 or the receipt of the benefit claims by the division, whichever is  
22 later.

23 b. The commissioner shall, not later than September 30 of 2019  
24 and each subsequent year, issue, provide to the Legislature, and  
25 make available to the public on the department's webpage, a report  
26 regarding division efforts in the preceding calendar year to attain  
27 the disability insurance goals set pursuant to this section for  
28 temporary disability benefits, and a report regarding those efforts  
29 for family temporary disability benefits. Each report shall include:

30 (1) the total number of claims and the number and percentage of  
31 original determinations completed within each number of days  
32 specified in the goals set pursuant to this section, and the number  
33 and percentage of original determinations completed within the  
34 following number of days after the receipt of the benefit claims or  
35 the commencement of disability or family temporary disability,  
36 whichever is later: 35 days, 42 days, 49 days and 56 days, and the  
37 number and percentage of original determinations completed more  
38 than 56 days after the receipt of the claims or the commencement of  
39 disability or family temporary disability and the average number of  
40 days to make the determinations for the claims that took more than  
41 56 days;

42 (2) the number and percentage of claims received with  
43 insufficient information, what portion of those claims were because  
44 of failure of claimants to provide sufficient information, what  
45 portion of those claims were because of failures of medical  
46 providers of claimants to provide sufficient information, and what  
47 portion of those claims were because of failures of employers to  
48 provide sufficient information;

1 (3) the number and percentage of claims for which  
2 determinations were delayed because of employer failure to make  
3 the notifications or disclosures to employees and the division within  
4 the amount of time required by subsection (a) of section 25 of  
5 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of  
6 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received  
7 related to employer noncompliance with those requirements, and  
8 the number of employers which have been, because of the failures,  
9 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to  
10 pay fines or penalties to the division or added amounts to claimants,  
11 the total amount of payments to the division, and the total amount  
12 of payments to claimants;

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

23 (5) if any of the disability insurance goals set pursuant to this  
24 section were not attained during the year, <sup>2</sup>or it is determined that  
25 there are other significant problems in the administration of the  
26 disability insurance system,<sup>2</sup> the report shall provide an evaluation  
27 of the causes of the deficiencies and a plan to correct them and that  
28 plan shall include:

29 (a) any increase in personnel needed to process claims <sup>2</sup>and  
30 make benefit payments expeditiously and accurately<sup>2</sup>;

31 (b) any measures needed to enforce notification and reporting  
32 requirements;

33 (c) any measures needed to inform employers and employees of  
34 their responsibilities to facilitate the timely provision of benefits;  
35 <sup>2</sup>**[and]**<sup>2</sup>

36 (d) any improvements needed in data processing<sup>2</sup>, telephone and  
37 other communications technology, staff training,<sup>2</sup> and other  
38 administrative services and equipment<sup>2</sup>;

39 (e) any measures needed to improve service to claimants and  
40 beneficiaries, including implementing easy-to-use, user-friendly  
41 application processes, facilitating rapid response times to inquiries  
42 and applications, and providing easy access to assistance; and

43 (f) any other measures appropriate for a full modernization of  
44 the administration of all aspects of the disability insurance system<sup>2</sup>.

45 The plan shall specify any added costs entailed in implementing  
46 the plan, which shall be regarded as costs of administration of  
47 family temporary disability benefits, and shall specify the amount



1 of any resulting increase in the estimate made pursuant to  
2 R.S.43:21-7(d)(1)(G)(i), <sup>2</sup>and<sup>2</sup> (ii), <sup>2</sup>[and (iii)]<sup>2</sup> of the amount  
3 needed to provide 100 percent of the cost of administration of  
4 family temporary disability benefits.

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

11 c. (1) The division shall, during each <sup>2</sup>[calendar] fiscal<sup>2</sup> year  
12 <sup>2</sup>[beginning with] commencing on or after July 1,<sup>2</sup> 2019, allocate  
13 not less than \$1,200,000 to disseminate information about the rights  
14 and responsibilities of employers and employees regarding  
15 temporary disability benefits and family temporary disability  
16 benefits by means of programs of educational outreach in  
17 communities and workplaces. Of that <sup>2</sup>annual<sup>2</sup> allocation, not less  
18 than \$600,000 shall be used by the division to enter into contracts  
19 with community-based organizations to disseminate information to  
20 workers regarding temporary disability benefits and family  
21 temporary disability benefits. That allocation shall be regarded as a  
22 cost of administration of temporary disability and family temporary  
23 disability benefits and be charged to the administration account of  
24 the State disability benefit fund. Of the costs charged to the  
25 administration account of the State disability benefit fund pursuant  
26 to this subsection, the percentage which is charged to the Family  
27 Temporary Disability Leave Account shall be equal to the  
28 percentage that family temporary disability benefits represents of all  
29 temporary disability benefits paid from the State disability benefits  
30 fund during the preceding calendar year. The allocation made  
31 pursuant to this subsection, including any adjustments in the  
32 allocation specified in the plan provided pursuant to paragraph (2)  
33 of this subsection, shall not result in the total amount credited to  
34 administrative costs exceeding the maximum amount permitted  
35 pursuant to subsection (a) of section 22 of P.L.1948, c.110  
36 (C.43:21-46).

37 (2) The commissioner shall, not later than September 30 of  
38 <sup>2</sup>[2019] 2020<sup>2</sup> and September 30 of each subsequent year, issue,  
39 provide to the Legislature, and make available to the public on the  
40 department's webpage, a report regarding efforts made during the  
41 preceding calendar year by the division and by community-based  
42 organizations to disseminate information about the rights and  
43 responsibilities of employers and employees regarding temporary  
44 disability and family temporary disability benefits. Each report  
45 shall include, for that preceding calendar year:

46 (a) an accounting of all funds allocated pursuant to this  
47 subsection and all expenditures made from those funds by the

1 division and each community-based organization entering into  
2 contracts with the division pursuant to this subsection, and  
3 estimates of the number of employers and the number of workers to  
4 which the information was disseminated;

5 (b) an estimate of the number of workers who were eligible for  
6 temporary disability and family temporary disability benefits and  
7 what percentage of those workers received those benefits, including  
8 an assessment of whatever progress was made to increase that  
9 percentage; and

10 (c) a plan to increase the percentage of workers who are aware  
11 of the benefits which specifies the amounts to be allocated to the  
12 division and community-based organizations for the purposes of  
13 this subsection during the subsequent calendar year, provided that  
14 the amounts specified shall not be less than or more than the  
15 minimum and maximum amounts indicated in paragraph (1) of this  
16 subsection.

17

18 <sup>22</sup>. (New section) a. Notwithstanding the provisions of any  
19 other law to the contrary, a contract for technical and support  
20 services and equipment to increase the ability of the Department of  
21 Labor and Workforce Development to adapt and increase the  
22 functionality and dependability of the administrative system of the  
23 State plan for temporary disability and family temporary disability  
24 leave, provide accurate and timely reporting, increase customer  
25 accessibility, and implement timely payment of temporary disability  
26 and family temporary disability benefits in accordance with section  
27 21 of P.L. , c. (C. ) (pending before the Legislature as this  
28 bill) may be procured in the most expeditious means possible and in  
29 the manner provided by this section.

30 b. The Division of Purchase and Property in the Department of  
31 the Treasury may procure, without the need for advertisement in  
32 accordance with subsection (b), (c), (d) and (e) of P.L.1954, c.48  
33 (C.52:34-12), but through the solicitation of proposals from at least  
34 three vendors, qualified vendors for technical and support services  
35 and, to the extent necessary, equipment based upon price and other  
36 factors. The Director of the Division of Purchase and Property shall  
37 award the contract(s) to the vendor whose proposal is most  
38 advantageous to the State, price and other factors considered.

39 c. Notwithstanding the provisions of any other law to the  
40 contrary, for the purpose of expediting the procurements, the  
41 following provisions shall apply as modifications to law or  
42 regulation that may interfere with the expedited award of contracts  
43 for the above services:

44 (1) the timeframes for challenging the specifications and award  
45 shall be modified as determined by the division;

46 (2) in lieu of advertising in accordance with section 7 of  
47 P.L.1954, c. 48 (C.52:34-12), the Division of Purchase and Property  
48 shall solicit proposals as set forth in paragraph (b) above and post

1 the request for proposals for the above services and equipment and  
2 any addenda thereto on its website;

3 (3) the period of time that the State Comptroller has to review  
4 the request for proposals for these procurements for compliance  
5 with applicable public contracting laws, rules and regulations,  
6 pursuant to section 10 of P.L.2007, c.52 (C.52:15C-10), shall be 10  
7 business days or less if practicable, as determined by the State  
8 Comptroller;

9 (4) the timeframes for submission under section 4 of P.L.2012,  
10 c.25 (C.52:32-58) and section 1 of P.L.1977, c.33 (C.52:25-24.2)  
11 shall be extended to prior to the issuance of a Notice of Intent to  
12 Award;

13 (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)  
14 shall not apply to technical and support services under this section  
15 provided by a vendor using a “24/7 follow-the-sun model,” as long  
16 as the contractor is able to provide such services in the United  
17 States during the business day; and

18 (6) notwithstanding the provision of subparagraph (f) of  
19 subsection a. of section 7 of P.L.1954, c.48 (C.52:34-12), the  
20 Division shall negotiate the final terms and conditions of the  
21 contract, including price and may, as part of those negotiations,  
22 disclose to any bidder, the prices included in another bidder’s  
23 proposal.<sup>2</sup>

24  
25 <sup>1</sup>[14.] <sup>2</sup>[16.1] 23.<sup>2</sup> Section 31 of P.L.1948, c.110 (C.43:21-55)  
26 is amended to read as follows:

27 31. Penalties. (a) Whoever makes a false statement or  
28 representation knowing it to be false or knowingly fails to disclose  
29 a material fact, and each such false statement or representation or  
30 failure to disclose a material fact shall constitute a separate offense,  
31 to obtain or increase any disability benefit under the State plan or  
32 an approved private plan, or for a disability during unemployment,  
33 including any benefit during a period of family temporary disability  
34 leave, either for himself or for any other person, shall be liable for a  
35 fine of \$250 to be paid to the division. Upon refusal to pay such  
36 fine, the same shall be recovered in a civil action by the division in  
37 the name of the State of New Jersey. If in any case liability for the  
38 payment of a fine as aforesaid shall be determined, any person who  
39 shall have received any benefits hereunder by reason of the making  
40 of such false statements or representations or failure to disclose a  
41 material fact, shall not be entitled to any benefits under this act for  
42 any disability occurring prior to the time he shall have discharged  
43 his liability hereunder to pay such fine.

44 (b) Any employer or any officer or agent of any employer or  
45 any other person who makes a false statement or representation  
46 knowing it to be false or knowingly fails to disclose a material fact,  
47 to prevent or reduce the benefits to any person entitled thereto, or to  
48 avoid becoming or remaining subject hereto or to avoid or reduce

1 any contribution or other payment required from an employer under  
 2 this act, or who willfully fails or refuses to make any such  
 3 contributions or other payment or to furnish any reports required  
 4 hereunder or to produce or permit the inspection or copying of  
 5 records as required hereunder, or who fails to provide any  
 6 notification or disclosure to the division or the employee required  
 7 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or  
 8 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at  
 9 the time and in the manner required by those sections, including  
 10 disclosure of the information the division requires for the  
 11 processing of a claim, shall be liable for a fine of \$250 to be paid to  
 12 the division<sup>2</sup> **[**, and, if a failure of an employer to provide the  
 13 notification or disclosure to the division or the employee results in a  
 14 delay in the payment of benefits, the employer shall also be liable  
 15 for an added amount, to be paid to the claimant, equal to the  
 16 benefits due from the time that the employer was required to  
 17 provide the notification or disclosure until the time that the benefit  
 18 payments commenced<sup>2</sup> **]**. Upon refusal to pay such fine <sup>2</sup>**[**or added  
 19 payments to a claimant<sup>2</sup> **]**, the same shall be recovered in a civil  
 20 action by the division in the name of the State of New Jersey.

21 (c) Any person who shall willfully violate any provision hereof  
 22 or any rule or regulation made hereunder, for which a fine is neither  
 23 prescribed herein nor provided by any other applicable statute, shall  
 24 be liable to a fine of \$500 to be paid to the division. Upon the  
 25 refusal to pay such fine, the same shall be recovered in a civil  
 26 action by the division in the name of the State of New Jersey.

27 (d) Any person, employing unit, employer or entity violating  
 28 any of the provisions of the above subsections with intent to  
 29 defraud the division shall in addition to the penalties hereinbefore  
 30 described, be liable for each offense upon conviction before the  
 31 Superior Court or any municipal court for a fine not to exceed  
 32 \$1,000 or by imprisonment for a term not to exceed ninety days, or  
 33 both, at the discretion of the court. The fine upon conviction shall  
 34 be payable to the State disability benefits fund of the division. Any  
 35 penalties imposed by this subsection shall be in addition to those  
 36 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

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

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

42

43 <sup>1</sup>**[**15. <sup>2</sup>**[**17.1 <sup>24</sup>.<sup>2</sup> (New section) a. An employer shall not  
 44 discharge, harass, threaten, or otherwise discriminate or retaliate  
 45 against an employee with respect to the compensation, terms,  
 46 conditions, or privileges of employment on the basis that the  
 47 employee requested or took any temporary disability benefits  
 48 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family temporary

1 disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et  
2 al.), <sup>2</sup>**[provided]** including retaliation by refusing to restore the  
3 employee following a period of leave, except<sup>2</sup> that, pursuant to  
4 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or  
5 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or  
6 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as  
7 increasing, reducing or otherwise modifying any entitlement  
8 provided to a worker by the provisions of the "Family Leave Act,"  
9 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment  
10 by the employer after a period of family temporary disability leave.

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

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

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

21 (3) reinstatement of the employee to the same position or to a  
22 position equivalent to that which the employee held prior to  
23 unlawful discharge or retaliatory action;

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

25 (5) compensation for any lost wages, benefits and other  
26 remuneration; and

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

28

29 <sup>3</sup>25. Section 2 of P.L.1997, c.318 (C.43:21-55.1), is amended to  
30 read as follows:

31 2. (a) If it is determined by the division that an individual for  
32 any reason has received, under the State plan, an approved private  
33 plan or for a disability during unemployment, any sum of disability  
34 benefits, including benefits during a period of family temporary  
35 disability leave, to which the individual was not entitled, the  
36 individual shall, except as provided in subsection (b) of this section,  
37 be liable to repay the sum in full. Except as provided in subsection  
38 (b) of this section, the sum that the individual is liable to repay shall  
39 be deducted from future benefits payable to the individual under  
40 P.L.1948, c.110 (C.43:21-25 et al.) or subsection (f) of R.S.43:21-4,  
41 or shall be repaid by the individual to the division, the employer or  
42 the insurer, and that sum shall be collectible in the manner provided  
43 for by law, including, but not limited to, the filing of a certificate of  
44 debt with the Clerk of the Superior Court of New Jersey; except that  
45 no individual who does not knowingly misrepresent or withhold any  
46 material fact to obtain benefits shall be liable for any repayments or  
47 deductions against future benefits unless notified before four years  
48 have elapsed from the time the benefits in question were paid. The

1 division shall promptly notify the individual by mail of the  
2 determination and the reasons for the determination. Unless the  
3 individual files an appeal of the determination within 20 calendar  
4 days following the receipt of the notice, or, within 24 days after the  
5 notice was mailed to the individual's last known address, the  
6 determination shall be final.

7 (b) If the individual received the overpayment of benefits  
8 because of error made by the division, the employer or the  
9 physician, and if the individual did not knowingly misrepresent or  
10 withhold any material fact to obtain the benefits, the following  
11 limits shall apply:

12 (1) The amount withheld from any subsequent benefit check  
13 shall be an amount not greater than 50% of the amount of the check;  
14 and

15 (2) ~~Any~~ repayments of the overpayments by the  
16 individual or the estate of the individual ~~shall~~ may be waived  
17 ~~if~~, but all repayments of overpayments shall be waived in cases in  
18 which the individual is deceased or permanently disabled.

19 Any demand for repayment from an individual pursuant to this  
20 subsection shall include an explanation of the provisions of this  
21 subsection.<sup>3</sup>

22 (cf: P.L.2008, c.17, s.9)

23  
24 <sup>1</sup>~~[16.]~~ <sup>2</sup>~~[18.]~~ <sup>3</sup>~~[25.]~~ 26.<sup>3</sup> This act shall take effect <sup>3</sup>~~[on]~~<sup>3</sup>  
25 <sup>1</sup>~~[the first day of the third month next following enactment]~~ <sup>3</sup>~~[on~~  
26 January 1, 2019, except that the commissioner] <sup>3</sup> <sup>2</sup>~~[shall have power~~  
27 immediately to promulgate rules and regulations as may be  
28 necessary to carry out the provisions of this act, and do such other  
29 things as may be necessary to implement the provisions] <sup>3</sup>~~[may~~  
30 take any anticipatory administrative action in advance as shall be  
31 necessary for implementation<sup>2</sup> of this act<sup>1</sup> immediately upon  
32 enactment<sup>3</sup>.