

[Third Reprint]

ASSEMBLY, No. 3975

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 17, 2018

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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:

¹Assembly ABU committee amendments adopted June 18, 2018.

²Assembly floor amendments adopted October 29, 2018.

³Senate 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 ²[June 30, 2019] ³[December
17 31, 2018²] June 30, 2019³ , 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 ²on or² after ²[June 30,
21 2019] ³[January 1, 2019²] June 30, 2019³ , 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 ¹into foster care¹ with the employee
44 ¹or¹ 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, ¹domestic partner,¹ or one
3 partner in a civil union couple, or any other individual related by
4 blood to the employee, and any other individual ¹【whose】 that the
5 employee shows to have a¹ close association with the employee
6 ¹which¹ 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 ²2. 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 ³or foster care³ 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.²

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

14
15 ²~~12.~~ ^{3.}² 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. ²~~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.~~¹²

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

38
39 ¹~~2.~~ ²~~3.~~ ¹^{4.}² 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 ¹**【whose】** that the employee shows to have a¹ close
2 association with the employee ¹which¹ 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 ¹**【whose】** that the employee
21 shows to have a¹ close association with the employee ¹which¹ 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 ¹**【whose】** that the employee
28 shows to have a¹ close association with the employee ¹which¹ 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 ¹**【whose】** that the employee
35 shows to have a¹ close association with the employee ¹which¹ 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 ¹**【whose】** that the employee
43 shows to have a¹ close association with the employee ¹which¹ 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 ¹**【whose】** that the
4 employee shows to have a ¹ 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 ¹**【whose】** that the
15 employee shows to have a ¹ 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 leave², unless
44 an emergency or other unforeseen circumstances precludes prior
45 notice². 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 ¹**【whose】** that the
24 employee shows to have a¹ close association with the employee
25 ¹which ¹ 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 ¹**【whose】** that the employee shows to have
34 a¹ close association with the employee ¹which ¹ 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 ²⁵. 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.).²
46 (cf: P.L.2011, c.154, s.11)

47

48 ¹[3.] ²[4.1] 6.² 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 ²[2019,] ²2020,² 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 ²State disability benefits fund,
26 including the² "Family Temporary Disability Leave Account" ²[and
27 the "Pregnancy Temporary Disability Account" of the State
28 disability benefits fund]² 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 ²[52] ²107² 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 ¹					
Employer Reserve Ratio ²	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

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

²Employer 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**】** ²and year 2019², 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 ²[2019] 2020² and ²[2020] 2021² , 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 ²[and
4 pregnancy temporary disability]², 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 ¹the State disability benefits fund,
9 excluding net assets remaining in¹ 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 ²[2021] 2022² and any subsequent calendar year, equal to 120% of
13 the benefits paid for periods of disability, excluding periods of
14 family temporary disability ²[and pregnancy temporary
15 disability]², 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 ²the State
19 disability benefits fund, excluding net assets remaining in² the
20 "Family Temporary Disability Leave Account" ²[and the
21 "Pregnancy Temporary Disability Leave Account"]² of that fund,
22 as of December 31 of the immediately preceding calendar year.
23 ²All 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.² 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]** ²and calendar year 2019², 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 ²**[2019]** 2020² and ²**[2020]** 2021², 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 ²**[2021]** 2022² 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 ²[2019] 2020² 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, ²[2019] 2020² 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 ²[(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.】²

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) ²and, during
34 calendar year 2019 and subsequent calendar years, subparagraph
35 (iii).】² 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
22 $\frac{1}{2}$ % 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) ²or paragraph
 21 (1)(G)(iii)² 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 ²[pregnancy temporary]² disability were not subject to the
 28 increases in the weekly benefit rate for those benefits commencing
 29 July 1, ²[2019] 2020² 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 ¹**[4.]** ²**[5.1]** ^{7.}² 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 ¹[5.] ²[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 act¹ prior to July 1, 2019¹ 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"¹; 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.¹

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 ¹**【whose】** that the employee
7 shows to have a ¹ close association with the employee ¹which ¹ 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)]²

18
19 ¹[6.] ²[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**²

18

19 ²8. 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 ³【January 1, 2019】 the
28 effective date of P.L. , c. (C.) (pending before the
29 Legislature as this bill)³ , 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 ³【January 1, 2019】 the effective date of
39 P.L. , c. (C.) (pending before the Legislature as this bill)³ , 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 ³【January 1, 2019】 the effective date of P.L. , c. (C.)
3 (pending before the Legislature as this bill)³, 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 ³【January 1, 2019】 the effective date of P.L. , c. (C.) (pending
16 before the Legislature as this bill)³, 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 ³【January 1, 2019】 the effective date of P.L. , c.
29 (C.) (pending before the Legislature as this bill)³, 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 ³【January 1, 2019】 the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill)³, 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.²

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

17

18 ²9. 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).²

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

4

5 ²10. 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.²

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

42

43 ¹[7.] ²[8.1] ^{11.}² 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. ¹With 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.¹ 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, ²[2019] 2020², 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, ²[2019] 2020², 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 ¹[8.] ²[9.1] 12.² 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 ²[¹the individual's own¹]² disability, then
11 benefits shall also be payable with respect to the first seven days
12 thereof; ²and²

13 (2) ²[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 ¹[after
17 the first one-week period following] upon¹ 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)²;

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

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 ²[2019] 2020² and more than 12 weeks if the period of leave
35 commences on or after July 1, ²[2019] 2020², or for more than 42
36 days with respect to any one period of family temporary disability
37 leave commencing before July 1, ²[2019] 2020² and more than
38 ²[84] ³[52²] 56³ days if the period of leave commences on or after
39 July 1, ²[2019, in the case of leave] 2020, and is² taken on an
40 intermittent basis ²[to provide care for a family member of the
41 individual with a serious health condition]² ; and

42 (3) for more than six weeks of family temporary disability leave
43 during any 12-month period commencing before July 1, ²[2019]
44 2020² and more than 12 weeks for any 12-month period
45 commencing on or after July 1, ²[2019] 2020², or for more than 42
46 days of family temporary disability leave taken during any 12-

1 month period commencing before July 1, ²[2019] 2020² and more
2 than ²[84] ³[52²] 56³ days if the period of leave commences on or
3 after July 1, ²[2019] 2020², on an intermittent basis ²[to provide
4 care for a family member of the individual with a serious health
5 condition]², 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 profit¹, 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 employer¹;

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 ²(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;²

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 ¹~~9.~~ ²~~10.~~¹ 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 ¹~~【If the employer】~~¹ ~~【requires】~~ ¹~~【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).~~】~~¹ 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.) ¹["or the federal "Family and Medical Leave Act of 1993,"
21 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)"]¹. 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)]²

35

36 ²13. 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.²

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

8

9 ²14. 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.²

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

40

41 ¹ ~~10.~~ ² ~~11.~~ ¹ ~~15.~~ ² 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 birth¹, placement in foster care,¹ 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 birth¹, placement in foster care,¹ 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 birth¹, placement in foster
18 care,¹ 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 ¹**[11.]** ²**[12.]** 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 provide¹]: 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]¹ 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).²

7
8 ²16. 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.²

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

1 ¹[12.] ²[13.1] 17.² 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 ²[in cases of pregnancy or recovery
15 from childbirth]² commencing on or after July 1, ²[2019] 2020²,
16 and for periods of family temporary disability leave commencing on
17 or after July 1, ²[2019] 2020², an individual's weekly benefit rate
18 shall be ²[90%] 85%² of the individual's average weekly wage,
19 subject to a maximum of ²[100%] 70%² 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 ²d. 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.²

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

15

16 ²18. 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 ³**January 1, 2019** the effective date of
 24 P.L. , c. (C.) (pending before the Legislature as this bill)³, 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 ³**October 4, 2019** the effective date of P.L. , c. (C.)
 40 (pending before the Legislature as this bill)³, 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.²

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

29

30 ²**【15.】** 19.² 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).¹

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

21

22 ²20. 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 ³~~January 1~~ October 4³, ~~2018,~~ 2019^{3,3} 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.²

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

27

28 ¹**[13.]** ²**[14.1]** 21.² (New section) a. The division shall
29 implement disability insurance goals for the timely determination
30 and ²prompt² 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, ²or it is determined that
25 there are other significant problems in the administration of the
26 disability insurance system,² 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 ²and
30 make benefit payments expeditiously and accurately²;

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 ²**[and]**²

36 (d) any improvements needed in data processing², telephone and
37 other communications technology, staff training,² and other
38 administrative services and equipment²;

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 system².

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), ²and² (ii), ²[and (iii)]² 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 ²[calendar] fiscal² year
12 ²[beginning with] commencing on or after July 1,² 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 ²annual² 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 ²[2019] 2020² 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 ²². (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.²

24
25 ¹[14.] ²[16.1] 23.² 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 division² **[**, 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]². Upon refusal to pay such fine ²**[**or added
 19 payments to a claimant]², 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 ¹**[**15.] ²**[**17.1] ²⁴.² (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.), ²**[provided]** including retaliation by refusing to restore the
3 employee following a period of leave, except² 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

29 ³25. 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.³

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

23
24 ¹~~[16.]~~ ²~~[18.]~~ ³~~[25.]~~ 26.³ This act shall take effect ³~~[on]~~³
25 ¹~~[the first day of the third month next following enactment]~~ ³~~[on~~
26 January 1, 2019, except that the commissioner] ³ ²~~[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] ³~~[may~~
30 take any anticipatory administrative action in advance as shall be
31 necessary for implementation² of this act¹ immediately upon
32 enactment³.