

ASSEMBLY, No. 1174

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

SYNOPSIS

Provides benefits for family temporary disability leave.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT providing benefits for family temporary disability leave
2 and revising parts of the statutory law.

3

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

6

7 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to read
8 as follows:

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

12 The public policy of this State, already established, is to protect
13 employees against the suffering and hardship generally caused by
14 involuntary unemployment. But the **[unemployment compensation**
15 **law]** "unemployment compensation law" provides benefit payments
16 to replace wage loss caused by involuntary unemployment only so
17 long as an individual is "able to work, and is available for work,"
18 and fails to provide any protection against wage loss suffered
19 because of inability to perform the duties of a job interrupted by
20 nonoccupational illness, injury, or other disability of the individual
21 or of members of the individual's family. Nor is there any other
22 comprehensive and systematic provision for the protection of
23 working people against loss of earnings due to a nonoccupational
24 sickness [or], accident, or other disability.

25 The prevalence and incidence of nonoccupational sickness
26 **[and], accident, and other disability** among employed people is
27 greatest among the lower income groups, who either cannot or will
28 not voluntarily provide out of their own resources against the
29 hazard of an earnings loss caused by nonoccupational sickness
30 **[or],** accident, or other disability. Disabling sickness or accident
31 occurs throughout the working population at one time or another,
32 and approximately fifteen per centum (15%) of the number of
33 people at work may be expected to suffer disabling illness of more
34 than one week each year.

35 It **[has been]** was found, prior to the enactment of the
36 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
37 et seq.), that then existing voluntary plans for the payment of cash
38 sickness benefits **[cover]** covered less than one-half of the number
39 of working people of this State who **[are now]** were covered by the
40 **[unemployment compensation law,]** "unemployment compensation
41 law," and that even **[this]** that degree of voluntary protection
42 **[affords]** afforded uneven, unequal and sometimes uncertain
43 protection among the various voluntary benefit programs. While
44 the enactment of that law has provided stable protection for New

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

Matter underlined thus is new matter.

1 Jersey's disabled workers, very few workers are protected from
2 income losses caused by the need to take time off from work to care
3 for family members who are incapable of self-care, including
4 newborn and newly-adopted children. The growing portion of
5 middle-income families in which all adult family members work,
6 largely due to economic necessity, points to the desperate need for
7 replacement income when a working family member must take time
8 to care for family members who are unable to take care of
9 themselves. Moreover, the United States is the only industrialized
10 nation in the world which does not have a mandatory workplace-
11 based program for such income support. It is therefore desirable
12 and necessary to fill the gap in existing provisions for protection
13 against the loss of earnings caused by involuntary unemployment,
14 by extending such protection to meet the hazard of earnings loss
15 due to inability to work caused by nonoccupational sickness [or
16 accident], accidents, or other disabilities of workers and members
17 of their families.

18 The foregoing facts and considerations require that there be a
19 uniform minimum program providing in a systematic manner for
20 the payment of reasonable benefits to replace partially such
21 earnings loss and to meet the continuing need for benefits where an
22 individual becomes disabled during unemployment or needs to care
23 for family members incapable of self-care. In order to maintain
24 consumer purchasing power, relieve the serious menace to health,
25 morals and welfare of the people caused by insecurity and the loss
26 of earnings, to reduce the necessity for public relief of needy
27 persons, to alleviate the enormous and growing stress on working
28 families of balancing the demands of work and family needs, and in
29 the interest of the health, welfare and security of the people of this
30 State, such a system, enacted under the police power, is hereby
31 established, requiring the payment of reasonable cash benefits to
32 eligible individuals **[suffering]** who are subject to accident or
33 illness which is not compensable under the workmen's
34 compensation law or who need to care for family members
35 incapable of self-care.

36 Since the enactment of the "Temporary Disability Benefits Law,"
37 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
38 State temporary disability benefits plan, or "State plan," has proven
39 to be highly efficient and cost effective in providing temporary
40 disability benefits to New Jersey workers. The State plan
41 guarantees the availability of coverage for all employers, regardless
42 of experience, with low overhead costs and a rapid processing of
43 claims and appeals by knowledgeable, impartial public employees.
44 Consequently, the percentage of all employers using the State plan
45 increased from 64% in 1952 to 99% in 2004, while the percentage
46 of employees covered by the State plan increased from 28% to 80%.
47 It is therefore found that a publicly-operated, nonprofit State plan is

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1 indispensable to achieving the goals of the "Temporary Disability
2 Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).
3 (cf.: P.L.1948, c.110, s.2)

4
5 2. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read
6 as follows:

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

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

28 "Covered employer" means, after June 30, 2007 with respect to
29 whether an employer is required to provide benefits during an
30 employee's period of family temporary disability leave pursuant to
31 P.L.1948, c. 110 (C.43:21-25 et seq.), any individual or type of
32 organization, including any partnership, association, trust, estate,
33 joint stock company, insurance company or corporation, whether
34 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
35 successor thereof, or the legal representative of a deceased person,
36 who is an employer subject to the "unemployment compensation
37 law" (R.S.43:21-1 et seq.). except that any employer which is not a
38 governmental entity and has nine or fewer employees is not a
39 "covered employer" if that employer elects not to be a covered
40 employer pursuant to paragraph (3) of this subsection a.

41 (2) Any governmental entity or instrumentality which is an
42 employer under R.S. 43:21-19(h)(5) may, with respect to the
43 provision of benefits during an employee's own disability pursuant
44 to P.L. 1948, c.110 (C.43:21-25 et seq.), elect to become a "covered
45 employer" under this subsection beginning with the date on which
46 its coverage under subsection 19(h)(5) begins or as of January 1 of
47 any year thereafter by filing written notice of such election with the
48 division within at least 30 days of the effective date. Such election

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

5 (3) Any employer, which is not a governmental entity or
6 instrumentality under paragraph (5) of subsection (h) of R.S.43:21-
7 19, and which has nine or fewer employees, may with respect to the
8 provision of benefits during the family temporary disability leave of
9 an employee pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), elect
10 to not be a "covered employer" under this subsection beginning on
11 July 1, 2007 or as of January 1 of any year thereafter by filing
12 written notice with the division at least 30 days prior to that date.
13 The election may be terminated as of January 1 of any year
14 thereafter by filing a written notice of termination with the division
15 at least 30 days prior to the termination date.

16 (b) (1) "Covered individual" means, with respect to whether an
17 individual is eligible for benefits during an individual's own
18 disability pursuant to P.L. 1948, c.110 (C.43:21-25 et seq.), any
19 person who is in employment, as defined in the chapter to which
20 this act is a supplement, for which the individual is entitled to
21 remuneration from a covered employer, or who has been out of such
22 employment for less than two weeks[. However], except that a
23 "covered individual" who is employed by the State of New Jersey,
24 including Rutgers, The State University, the University of Medicine
25 and Dentistry of New Jersey and the New Jersey Institute of
26 Technology, or by any governmental entity or instrumentality
27 which elects to become a "covered employer" pursuant to this
28 amendatory act, shall not be eligible to receive any benefits under
29 the "Temporary Disability Benefits Law" until such individual has
30 exhausted all sick leave accumulated as an employee in the
31 classified service of the State or accumulated under terms and
32 conditions similar to classified employees or accumulated under the
33 terms and conditions pursuant to the laws of this State or as the
34 result of a negotiated contract with any governmental entity or
35 instrumentality which elects to become a "covered employer."

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

41 (2) "Covered individual" means, with respect to whether an
42 employer is required to provide benefits during an employee's
43 period of family temporary disability leave pursuant to P.L. 1948,
44 c.110 (C.43:21-25 et seq.), any individual who is in employment, as
45 defined in the chapter to which this act is a supplement, for which
46 the individual is entitled to remuneration from a covered employer,
47 or who has been out of that employment for less than two weeks.

48 (c) "Division" or "commission" means the Division of

1 Unemployment and Temporary Disability Insurance of the
2 Department of Labor and Workforce Development, and any
3 transaction or exercise of authority by the director of the division
4 shall be deemed to be performed by the division.

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

7 (e) "Disability" shall mean such disability as is compensable
8 under section 5 of this act.

9 (f) "Disability benefits" shall mean any cash payments which
10 are payable to a covered individual for all or part of a period of
11 disability pursuant to this act.

12 (g) "Period of disability" with respect to any covered individual
13 shall mean **[the]**;

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

24 (2) On or after July 1, 2007, the entire period of family
25 temporary disability leave taken from employment by the covered
26 individual.

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

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

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

33 (3) "Base week" with respect to periods of disability
34 commencing on or after October 1, 1985 and before January 1,
35 2001, means any calendar week during which **[an]** a covered
36 individual earned in employment from a covered employer
37 remuneration equal to not less than 20% of the Statewide average
38 weekly remuneration as determined under subsection (c) of
39 R.S.43:21-3, which shall be adjusted to the next higher multiple of
40 \$1.00 if not already a multiple thereof.

41 (4) "Base week" means, with respect to periods of disability
42 other than periods of family temporary disability commencing on or
43 after January 1, 2001, **[means]** and with respect to periods of
44 family temporary disability leave commencing on or after July 1,
45 2007, any calendar week of **[an]** a covered individual's base year
46 during which the individual earned in employment from a covered
47 employer remuneration not less than an amount 20 times the

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

11 (j) "Average weekly wage" means the amount derived by
12 dividing a covered individual's total wages earned from the
13 individual's most recent covered employer during the base weeks in
14 the eight calendar weeks immediately preceding the calendar week
15 in which disability commenced, by the number of such base weeks.
16 If this computation yields a result which is less than the individual's
17 average weekly earnings in employment, as defined in the chapter
18 to which this act is a supplement, with all covered employers during
19 the base weeks in such eight calendar weeks, then the average
20 weekly wage shall be computed on the basis of earnings from all
21 covered employers during the eight base weeks immediately
22 preceding the week in which the disability commenced.

23 (k) "Child" means a biological, adopted, or foster child stepchild
24 or legal ward of a covered individual who is less than 19 years of
25 age or is 19 years of age or older but incapable of self-care because
26 of mental or physical impairment.

27 (l) "Family member" means a child, spouse or parent of a
28 covered individual:

29 (m) "Family temporary disability leave" means leave taken by a
30 covered individual from work with an employer to (1) provide care
31 for a family member of the individual made necessary by a serious
32 health condition of the family member; or (2) be with a child during
33 the first 12 months after the child's birth, if the individual is a
34 biological parent of the child, or the first 12 months after the
35 placement of the child for adoption with the individual. "Family
36 temporary disability leave" includes any portion of the period of
37 leave during which the individual is provided full pay by the
38 employer, but does not include any period of time in which a
39 covered individual is paid benefits pursuant to P.L.1948, c.110
40 (C.43:21-25 et seq.) because the individual is unable to perform the
41 duties of the individual's employment due to the individual's own
42 disability.

43 (n) "Parent of covered individual" means a biological parent,
44 foster parent, adoptive parent, or stepparent of the covered
45 individual or person who was a legal guardian of the covered
46 individual when the covered individual was a child.

47 (o) "Placement for adoption" means the time when a covered
48 individual adopts a child or becomes responsible for a child pending

1 adoption by the covered individual.

2 (p) “Serious health condition” means an illness, injury, or
3 physical or mental condition which requires; inpatient care in a
4 hospital, hospice, or residential medical care facility; or continuing
5 medical treatment or continuing supervision by a legally licensed
6 physician, dentist, optometrist, podiatrist, practicing psychologist,
7 or chiropractor.

8 (cf: P.L.2001, c.17, s.3)

9

10 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read
11 as follows:

12 5. Compensable disability. **[Disability]** (a) In the case of the
13 disability of a covered individual, disability shall be compensable
14 subject to the limitations of this act**[, where a]** if the disability is
15 the result of the covered individual **[suffers any]** suffering an
16 accident or sickness not arising out of and in the course of the
17 individual's employment or if so arising not compensable under the
18 workers' compensation law **[(Title 34 of the Revised Statutes)]**
19 R.S.34:15-1 et seq., and resulting in the individual's total inability
20 to perform the duties of employment.

21 (b) In the case of an individual taking family temporary
22 disability leave, the leave shall be compensable subject to the
23 limitations of this act.

24 (cf: P.L.2001, c.17, s.3)

25

26 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
27 read as follows:

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

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

1 (c) The division may, after notice and hearing, withdraw its
2 approval of any approved private plan if it finds that there is danger
3 that the benefits accrued or to accrue will not be paid, that the
4 security for such payment is insufficient, or for other good cause
5 shown. No employer, and no union or association representing
6 employees, shall so administer or apply the provisions of an
7 approved private plan as to derive any profit therefrom. The
8 division may withdraw its approval from any private plan which is
9 administered or applied in violation of this provision.

10 (d) No termination of an approved private plan shall affect the
11 payment of benefits, in accordance with the provisions of the plan,
12 to **[disabled]** employees whose period of disability commenced
13 prior to the date of termination. Employees who have ceased to be
14 covered by an approved private plan because of its termination
15 shall, subject to the limitations and restrictions of this act, become
16 eligible forthwith for benefits from the State Disability Benefits
17 Fund for a period of disability commencing after such cessation,
18 and contributions with respect to their wages shall immediately
19 become payable as otherwise provided by law. Any withdrawal of
20 approval of a private plan pursuant to this section shall be
21 reviewable by writ of certiorari or by such other procedure as may
22 be provided by law.

23 (e) Anything in this act to the contrary notwithstanding, a
24 covered employer who, under an approved private plan, is
25 providing benefits at least equal to those required by the State plan,
26 may modify the benefits under the private plan so as to provide
27 benefits not less than the benefits required by the State plan;
28 provided, that individuals covered under **[such]** a private plan shall
29 not be required to contribute to **[such]** the plan at a rate exceeding
30 $\frac{3}{4}$ of 1% of the amount of "wages" established for any calendar
31 year under the provisions of **[R.S.43:21-7(b)]** subsection (b) of
32 section 43:21-7 of the Revised Statutes prior to January 1, 1975,
33 and $\frac{1}{2}$ of 1% for calendar years beginning on or after January 1,
34 1975 and before January 1, 2007, and 0.60% for calendar years
35 beginning after December 31, 2006, except that, in the case of an
36 employer who is a covered employer with respect to being required
37 to provide benefits during periods of family temporary disability,
38 but not with respect to being required to provide benefits during an
39 employee's own disability, the individuals covered under the plan
40 shall not be required to contribute to the plan at a rate exceeding
41 0.10% of the amount of wages established pursuant to subsection
42 (b) of section 43:21-7 of the Revised Statutes. Notification of
43 **[such]** the proposed modification shall be given by the employer to
44 the division and to the individuals covered under **[such]** the plan,
45 on or before May 1, 1975].

46 (cf: P.L.1974, c.86, s.8)

1 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
2 read as follows:

3 14. Duration of benefits. With respect to periods of disability
4 commencing on or after January 1, 1953, disability benefits, not in
5 excess of an individual's maximum benefits, shall be payable with
6 respect to disability which commences while a person is a covered
7 individual under the Temporary Disability Benefits Law, and shall
8 be payable with respect to the eighth consecutive day of such
9 disability and each day thereafter that such period of disability
10 continues; and if benefits shall be payable for three consecutive
11 weeks with respect to any period of disability commencing on or
12 after January 1, 1968, then benefits shall also be payable with
13 respect to the first seven days thereof. The maximum total benefits
14 payable to any eligible individual for any period of disability of the
15 individual commencing on or after January 1, 1968, shall be either
16 26 times his weekly benefit amount or 1/3 of his total wages in his
17 base year, whichever is the lesser; provided that such maximum
18 amount shall be computed in the next lower multiple of \$1.00 if not
19 already a multiple thereof. The maximum total benefits payable to
20 any eligible individual for any period of family temporary disability
21 leave commencing on or after July 1, 2007, shall be four times the
22 individual's weekly benefit amount if the leave is taken to provide
23 care for a family member of the individual with a serious health
24 condition and shall be eight times the individual's weekly benefit
25 amount if the leave is taken in connection with the birth of a child
26 of the individual or the placement for adoption of a child with the
27 individual; provided that the maximum amount shall be computed
28 in the next lower multiple of \$1.00 if not already a multiple thereof.
29 (cf: P.L.1984, c.104, s.2)

30

31 6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
32 read as follows:

33 15. Limitation of benefits. Notwithstanding any other provision
34 of the "Temporary Disability Benefits Law," P.L.1948, c.110
35 (C.43:21-25 et seq.), no benefits shall be payable under the State
36 plan to any **[person]** individual

37 (a) for the first seven consecutive days of each period of
38 disability; except that if benefits shall be payable for three
39 consecutive weeks with respect to any period of disability
40 **[commencing on or after January 1, 1968]**, then benefits shall also
41 be payable with respect to the first seven days thereof, and, in the
42 case of intermittent leave in a single period of family temporary
43 disability leave taken to provide care for a family member of the
44 individual with a serious health condition, the seven-day waiting
45 period shall apply only one time during the entire period of leave,
46 provided that no benefits shall in any case be paid for family
47 temporary disability leave which is shorter in duration than one

- 1 work week;
2 (b) (1) for more than 26 weeks with respect to any one period of
3 disability of the individual;
4 (2) for more than four weeks with respect to any one period of
5 family temporary disability leave taken to provide care for a family
6 member of the individual with a serious health condition; or
7 (3) for more than eight weeks with respect to any one period of
8 family temporary disability leave taken in connection with the birth
9 of a child of the individual or the placement for adoption of a child
10 with the individual; or
11 (4) for more than four weeks of family temporary disability
12 leave taken to provide care for a family member of the individual
13 with a serious health condition during any 12-month period,
14 including family temporary disability leave taken pursuant to
15 subsection (f) of R.S.43:21-4 while unemployed.
16 (5) for more than eight weeks of family temporary disability
17 leave taken in connection with the birth of a child of the individual
18 or the placement for adoption of a child with the individual during
19 any 12-month period, including family temporary disability leave
20 taken pursuant to subsection (f) of R.S. 43:21-4 while unemployed.
21 (c) for any period of disability which did not commence while
22 the claimant was a covered individual;
23 (d) for any period of disability during which the claimant, or in
24 a case of family temporary disability leave for a serious health
25 condition of a family member of the claimant, the family member,
26 is not under the care of a legally licensed physician, dentist,
27 optometrist, podiatrist, practicing psychologist, advanced practice
28 nurse, or chiropractor, who, when requested by the division, shall
29 certify within the scope of the practitioner's practice, the disability
30 of the claimant or the serious health condition of the family
31 member, the probable duration thereof, and, where applicable, the
32 medical facts within the practitioner's knowledge;
33 (e) (Deleted by amendment, P.L.1980, c.90.)
34 (f) for any period of disability due to willfully and intentionally
35 self-inflicted injury, or to injury sustained in the perpetration by the
36 claimant of a crime of the first, second, or third degree;
37 (g) for any period during which the claimant performs any work
38 for remuneration or profit;
39 (h) in a weekly amount which together with any remuneration
40 the claimant continues to receive from the employer would exceed
41 regular weekly wages immediately prior to disability;
42 (i) for any period during which a covered individual would be
43 disqualified for unemployment compensation benefits under
44 subsection (d) of R.S.43:21-5, unless the disability commenced
45 prior to such disqualification; and there shall be no other cause of
46 disqualification or ineligibility to receive disability benefits
47 hereunder except as may be specifically provided in this act.
48 (cf: P.L.2004, c.162, s.2)

1 7. (New section) a. Family temporary disability leave shall be
2 compensable subject to the limitations of this act for any period of
3 family temporary disability leave taken by a covered individual
4 which commences after June 30, 2007.

5 b. The employer of an individual may require the individual,
6 during a period of family temporary disability leave, to use any paid
7 sick leave or other leave at full pay made available by the employer
8 before the individual is eligible for disability benefits for family
9 temporary disability leave pursuant to this act. The employer may
10 also have the total number of days worth of disability benefits paid
11 pursuant to this act to the individual during a period of family
12 temporary disability leave reduced by the number of days of sick
13 leave or other leave at full pay paid by the employer to the
14 individual during that period.

15 c. An individual shall not simultaneously receive disability
16 benefits for family temporary disability leave and any other
17 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.).

18 d. Each covered employer, and each employer who elects to not
19 be a covered employer pursuant to paragraph (3) of subsection (a)
20 of section 3 of P.L.1948, c.110 (C.43:21-27), shall conspicuously
21 post notification, in a place or places accessible to all employees in
22 each of the employer's workplaces, in a form issued in regulation
23 promulgated by the commissioner, of each covered employee's
24 rights regarding benefits payable pursuant to this section, and, in
25 the case of an employer electing not to be a covered employer, that
26 the employer has so elected. The employer shall also provide each
27 employee of the employer which a written copy of the notification:
28 (1) not later than 30 days after the form of the notification is issued
29 by regulation; (2) at the time of the employee's hiring, if the
30 employee is hired after the issuance; and (3) at any time, upon the
31 first request of the employee.

32

33 8. (New section) a. In the case of a family member who has a
34 serious health condition, the benefits for family temporary disability
35 leave may be taken intermittently when medically necessary, if: the
36 total time within which the leave is taken does not exceed 12
37 months; the covered individual provides the employer with prior
38 notice of the leave in a reasonable and practicable manner and with
39 a copy of the certification required pursuant to subsection b. of this
40 section; and the covered individual makes a reasonable effort to
41 schedule the leave so as not to unduly disrupt the operations of the
42 employer.

43 b. Any period of family temporary disability leave for the
44 serious health condition of a family member of the covered
45 individual shall be supported by certification provided by a legally
46 licensed physician, dentist, optometrist, podiatrist, practicing
47 psychologist, or chiropractor. The certification shall be sufficient if
48 it states:

- 1 (1) The date on which the serious health condition commenced;
 - 2 (2) The probable duration of the condition;
 - 3 (3) The medical facts within the knowledge of the provider of
4 the certification regarding the condition;
 - 5 (4) A statement that the covered individual is needed to care for
6 the family member and an estimate of the amount of time that the
7 covered individual is needed to care for the family member;
 - 8 (5) If the leave is intermittent, a statement of the medical
9 necessity for the intermittent leave and the expected duration of the
10 intermittent leave; and
 - 11 (6) If the leave is intermittent and for planned medical
12 treatment, the dates of the treatment.
- 13 c. If the employer has reason to doubt the validity of the
14 certification, the employer may require, at his own expense, that a
15 covered individual obtain an opinion regarding the serious health
16 condition from a second legally licensed physician, dentist,
17 optometrist, podiatrist, practicing psychologist, or chiropractor
18 designated or approved, but not employed on a regular basis, by the
19 employer. If the second opinion differs from the certification
20 provided pursuant to this section, the employer may take that
21 opinion into consideration with respect to any determination of the
22 eligibility of the covered individual for benefits under an approved
23 private plan or, in the case of the individual covered under the State
24 plan, the employer may provide the second opinion to the division,
25 which may take that opinion into consideration with respect to any
26 determination of the eligibility of the covered individual for
27 benefits, provided that, in either case, the covered individual shall
28 be entitled to the review procedures available pursuant to the
29 provisions of section 26 of P.L.1948, c.110 (C.43:21-50).
- 30 d. A covered individual claiming benefits to provide care for a
31 family member with a serious health condition under the State plan
32 or during unemployment shall, if requested by the division, have the
33 family member submit to an examination by a legally licensed
34 physician, dentist, optometrist, podiatrist, chiropractor, practicing
35 psychologist or public health nurse designated by the division. The
36 examinations shall not be more frequent than once a week, shall be
37 made without cost to the claimant and shall be held at a reasonable
38 time and place. Refusal to have the family member submit to an
39 examination requested pursuant to this subsection d. shall disqualify
40 the claimant from all benefits for the period in question, except
41 from benefits already paid.
- 42
- 43 9. (New section) a. All of the disability benefits paid to an
44 individual during a period of family temporary disability leave with
45 respect to any one birth or adoption shall be for a single continuous
46 period of time, except that the employer of the individual may
47 permit the individual to receive the disability benefits during non-
48 consecutive weeks in a manner mutually agreed to by the employer

1 and the individual and disclosed to the division by the employer.

2 b. The individual shall provide the employer with notice of the
3 period of family temporary disability leave with respect to birth or
4 adoption not less than 30 days before the leave commences, unless
5 it commences while the individual is receiving unemployment
6 benefits, in which case the individual shall notify the division. The
7 amount of benefits shall be reduced by two times the weekly benefit
8 amount if the individual does not provide notice to an employer as
9 required by this subsection b., unless the time of the leave is
10 unforeseeable or the time of the leave changes for unforeseeable
11 reasons.

12 c. Family temporary disability leave taken because of the birth
13 or placement for adoption of a child may commence at any time
14 within a year after the date of the birth or placement for adoption.
15

16 10. (New section) a. There is established in, but not of, the
17 Department of Labor and Workforce Development, a Task Force on
18 Work and the Family. The task force shall consist of 15 members
19 as follows: the Commissioner of Labor and Workforce
20 Development and 14 public members, appointed by the Governor
21 with the advice and consent of the Senate, including: four
22 representatives of labor organizations; four representatives of
23 business organizations; four representatives of women's
24 organizations other than labor or business organizations, and two
25 individuals with expertise on the impact of work on family life.
26 Not more than seven of the public members shall be of the same
27 political party. Each member shall serve on the task force for a
28 term lasting until the task force is dissolved. Any member may be
29 removed from office by the Governor for cause after a hearing and
30 may be suspended by the Governor pending the completion of the
31 hearing. All vacancies shall be filled in the same manner as the
32 original appointment. Members shall serve without compensation.

33 b. The task force shall organize itself within 30 days after the
34 appointment of its members. In organizing itself, the task force
35 shall elect a chairperson and vice-chairperson from among its
36 members. Each member shall be entitled to one vote on all matters
37 which may come before the task force. No determination, decision
38 or action of the task force shall be made or taken unless a majority
39 of its members vote in favor.

40 c. The task force shall collect data and conduct surveys of
41 employers and workers in this State as needed to ascertain the
42 amount of paid and unpaid leave, including family temporary
43 disability leave, that is taken, or needed but not taken, by workers
44 and how employers respond to worker leave-taking needs and
45 activity, with special attention to employers who have the option of
46 electing not to have benefits provided for family temporary
47 disability leave. The task force shall issue annual reports, the first
48 not later than September 30, 2006, describing the results of the

1 surveys and evaluating the impact of this act on the State disability
2 benefits fund and the unemployment compensation fund, and other
3 effects including the benefits and costs resulting from the
4 provisions of this act for:

5 (1) Participating workers and their families, including the
6 amount and duration of leave taken by workers for family
7 temporary disability leave compared to other kinds of leave and the
8 ability of workers receiving benefits pursuant to this act to retain
9 employment and sustain their attachment to the workforce;

10 (2) Employers, including benefits such as reduced training and
11 other costs related to reduced turnover of personnel, and increased
12 affordability of insurance for family leave benefits; and

13 (3) The public, including savings caused by any reduction in the
14 number of people receiving public assistance or by improvements in
15 the health, well-being and development of children.

16 The third annual report, issued not later than September 30,
17 2008, shall include recommendations regarding whether to modify
18 the provisions of this act after September 30, 2008, an evaluation of
19 the benefits and costs of any recommended modifications, and any
20 draft legislation needed to implement the recommendations. The
21 task force shall dissolve immediately after issuing the third annual
22 report.

23 d. The task force may hold public hearings and shall have access
24 to all files and records of the Department of the Treasury, the
25 Department of Labor and Workforce Development, the Department
26 of Health and Senior Services, the Department of Education and
27 other relevant State agencies and may call to its assistance and avail
28 itself of the services of the employees of those departments and
29 agencies to provide whatever information the task force deems
30 necessary in the performance of its functions. The total amount of
31 expenses which the task force determines is necessary to carry out
32 its duties pursuant to this section, if any, shall be regarded as part of
33 the cost of administration of P.L.1948, c.110 (C.43:21-25 et seq.)
34 and be charged to the administration account established pursuant to
35 section 22 of P.L.1948, c.110 (C.43:21-46), except that the amount
36 shall in no case exceed \$200,000 during any fiscal year. The task
37 force shall make that determination in consultation with the
38 Commissioner of Labor and Workforce Development and shall
39 report that determination to the commissioner not later than the 60th
40 day following its organization.

41

42 11. R.S.43:21-4 is amended to read as follows:

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

46 (a) The individual has filed a claim at an unemployment
47 insurance claims office and thereafter continues to report at an
48 employment service office or unemployment insurance claims

1 office, as directed by the division in accordance with such
2 regulations as the division may prescribe, except that the division
3 may, by regulation, waive or alter either or both of the requirements
4 of this subsection as to individuals attached to regular jobs, and as
5 to such other types of cases or situations with respect to which the
6 division finds that compliance with such requirements would be
7 oppressive, or would be inconsistent with the purpose of this act;
8 provided that no such regulation shall conflict with subsection (a) of
9 R.S.43:21-3.

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

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

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

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

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

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

35 (i) The training is for a labor demand occupation and is likely to
36 enhance the individual's marketable skills and earning power;

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

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

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

48 (v) The individual enrolls in vocational training, remedial

1 education or a combination of both on a full-time basis.

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

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

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

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

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

14 (D) For the purpose of this paragraph (4), "labor demand
15 occupation" means an occupation for which there is or is likely to
16 be an excess of demand over supply for adequately trained workers,
17 including, but not limited to, an occupation designated as a labor
18 demand occupation by the New Jersey Occupational Information
19 Coordinating Committee pursuant to the provisions of subsection h.
20 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
21 P.L.1992, c.43 (C.34:1A-78).

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

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

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

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

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

1 available reemployment services to which the individual is referred
2 by the division or in similar services, unless the division determines
3 that:

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

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

17 (d) With respect to any benefit year commencing before January
18 1, 2002, the individual has been totally or partially unemployed for
19 a waiting period of one week in the benefit year which includes that
20 week. When benefits become payable with respect to the third
21 consecutive week next following the waiting period, the individual
22 shall be eligible to receive benefits as appropriate with respect to
23 the waiting period. No week shall be counted as a week of
24 unemployment for the purposes of this subsection:

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

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

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

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

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

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

47 (2) With respect to benefit years commencing on or after
48 January 1, 1996 and before January 7, 2001, except as otherwise

1 provided in paragraph (3) of this subsection, the individual has,
2 during his base year as defined in subsection of R.S.43:21-19:

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

5 (B) If the individual has not met the requirements of
6 subparagraph (A) of this paragraph (2), earned remuneration not
7 less than an amount 12 times the Statewide average weekly
8 remuneration paid to workers, as determined under **[R.S.43:21-**
9 **3(c)]** subsection (c) of R.S.43:21-3 which amount shall be adjusted
10 to the next higher multiple of \$100 if not already a multiple thereof;
11 or

12 If the individual has not met the requirements of subparagraph
13 (A) or (B) of this paragraph (2), earned remuneration not less than
14 an amount 1,000 times the minimum wage in effect pursuant to
15 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
16 calendar year preceding the calendar year in which the benefit year
17 commences, which amount shall be adjusted to the next higher
18 multiple of \$100 if not already a multiple thereof.

19 (3) With respect to benefit years commencing before January 7,
20 2001, notwithstanding the provisions of paragraph (2) of this
21 subsection, an unemployed individual claiming benefits on the basis
22 of service performed in the production and harvesting of
23 agricultural crops shall, subject to the limitations of subsection (i)
24 of R.S.43:21-19, be eligible to receive benefits if during his base
25 year, as defined in subsection of R.S.43:21-19, the individual:

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

28 (B) Has earned 12 times the Statewide average weekly
29 remuneration paid to workers, as determined under R.S.43:21-3(c),
30 raised to the next higher multiple of \$100.00 if not already a
31 multiple thereof, or more; or

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

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

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

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

47 (5) With respect to benefit years commencing on or after

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

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

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

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

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

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

38 (A) For any period during which such individual is not under the
39 care of a legally licensed physician, dentist, optometrist, podiatrist,
40 practicing psychologist or chiropractor;

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

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

45 (D) For any week with respect to which or a part of which the
46 individual has received or is seeking benefits under any
47 unemployment compensation or disability benefits law of any other

1 state or of the United States; provided that if the appropriate agency
2 of such other state or the United States finally determines that the
3 individual is not entitled to such benefits, this disqualification shall
4 not apply;

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

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

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

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

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

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

44 **[(2)]** (3) Benefit payments under this subsection (f) shall be
45 charged to and paid from the State disability benefits fund
46 established by the "Temporary Disability Benefits Law," P.L.1948,
47 c.110 (C.43:21-25 et seq.), and shall not be charged to any
48 employer account in computing any employer's experience rate for

1 contributions payable under this chapter.

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

46 (c.f. P.L.2004, c.130, s.116)

47

48 12. R.S.43:21-7 is amended to read as follows:

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

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
26 following contributions:

27 (1) For the calendar year 1947, and each calendar year
28 thereafter, 2 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 shall be, 28 times the Statewide average weekly remuneration paid
9 to workers by employers, as determined under R.S.43:21-3(c),
10 raised to the next higher multiple of \$100.00 if not already a
11 multiple thereof, provided that if the amount of wages so
12 determined for a calendar year is less than the amount similarly
13 determined for the preceding year, the greater amount will be used;
14 provided, further, that if the amount of such wages so determined
15 does not equal or exceed the amount of wages as defined in
16 subsection (b) of section 3306 of the Federal Unemployment Tax
17 Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.
18 s.3306(b)), the wages as determined in this paragraph in any
19 calendar year shall be raised to equal the amount established under
20 the Federal Unemployment Tax Act for that calendar year.

21 (c) Future rates based on benefit experience.

22 (1) A separate account for each employer shall be maintained
23 and this shall be credited with all the contributions which he has
24 paid on his own behalf on or before January 31 of any calendar year
25 with respect to employment occurring in the preceding calendar
26 year; provided, however, that if January 31 of any calendar year
27 falls on a Saturday or Sunday, an employer's account shall be
28 credited as of January 31 of such calendar year with all the
29 contributions which he has paid on or before the next succeeding
30 day which is not a Saturday or Sunday. But nothing in this chapter
31 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
32 individuals in his service prior claims or rights to the amounts paid
33 by him into the fund either on his own behalf or on behalf of such
34 individuals. Benefits paid with respect to benefit years
35 commencing on and after January 1, 1953, to any individual on or
36 before December 31 of any calendar year with respect to
37 unemployment in such calendar year and in preceding calendar
38 years shall be charged against the account or accounts of the
39 employer or employers in whose employment such individual
40 established base weeks constituting the basis of such benefits,
41 except that, with respect to benefit years commencing after January
42 4, 1998, an employer's account shall not be charged for benefits
43 paid to a claimant if the claimant's employment by that employer
44 was ended in any way which, pursuant to subsection (a), (b), (c),
45 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
46 for benefits if the claimant had applied for benefits at the time when
47 that employment ended. Benefits paid under a given benefit
48 determination shall be charged against the account of the employer

1 to whom such determination relates. When each benefit payment is
2 made, either a copy of the benefit check or other form of
3 notification shall be promptly sent to the employer against whose
4 account the benefits are to be charged. Such copy or notification
5 shall identify the employer against whose account the amount of
6 such payment is being charged, shall show at least the name and
7 social security account number of the claimant and shall specify the
8 period of unemployment to which said check applies. If the total
9 amount of benefits paid to a claimant and charged to the account of
10 the appropriate employer exceeds 50% of the total base year, base
11 week wages paid to the claimant by that employer, then such
12 employer shall have canceled from his account such excess benefit
13 charges as specified above.

14 Each employer shall be furnished an annual summary statement
15 of benefits charged to his account.

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

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

29 (4) Employer Reserve Ratio.

30 (A) Each employer's rate shall be $2\frac{8}{10}\%$, except as otherwise
31 provided in the following provisions. No employer's rate for the 12
32 months commencing July 1 of any calendar year shall be other than
33 $2\frac{8}{10}\%$, unless as of the preceding January 31 such employer shall
34 have paid contributions with respect to wages paid in each of the
35 three calendar years immediately preceding such year, in which
36 case such employer's rate for the 12 months commencing July 1 of
37 any calendar year shall be determined on the basis of his record up
38 to the beginning of such calendar year. If, at the beginning of such
39 calendar year, the total of all his contributions, paid on his own
40 behalf, for all past years exceeds the total benefits charged to his
41 account for all such years, his contribution rate shall be:

42 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
43 5%, of his average annual payroll (as defined in paragraph (2),
44 subsection (a) of R.S.43:21-19);

45 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
46 than 6%, of his average annual payroll;

47 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
48 than 7%, of his average annual payroll;

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- 1 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
2 than 8%, of his average annual payroll;
- 3 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
4 than 9%, of his average annual payroll;
- 5 (6) 1%, if such excess equals or exceeds 9%, but is less than
6 10%, of his average annual payroll;
- 7 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
8 than 11%, of his average annual payroll;
- 9 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
10 average annual payroll.
- 11 (B) If the total of an employer's contributions, paid on his own
12 behalf, for all past periods for the purposes of this paragraph (4), is
13 less than the total benefits charged against his account during the
14 same period, his rate shall be:
- 15 (1) 4%, if such excess is less than 10% of his average annual
16 payroll;
- 17 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
18 than 20%, of his average annual payroll;
- 19 (3) 4 6/10%, if such excess equals or exceeds 20% of his
20 average annual payroll.
- 21 (C) Specially assigned rates. If no contributions were paid on
22 wages for employment in any calendar year used in determining the
23 average annual payroll of an employer eligible for an assigned rate
24 under this paragraph (4), the employer's rate shall be specially
25 assigned as follows:
- 26 if the reserve balance in its account is positive, its assigned rate
27 shall be the highest rate in effect for positive balance accounts for
28 that period, or 5.4%, whichever is higher, and
- 29 if the reserve balance in its account is negative, its assigned rate
30 shall be the highest rate in effect for deficit accounts for that period.
- 31 (ii) If, following the purchase of a corporation with little or no
32 activity, known as a corporate shell, the resulting employing unit
33 operates a new or different business activity, the employing unit
34 shall be assigned a new employer rate.
- 35 (iii) Entities operating under common ownership, management or
36 control, when the operation of the entities is not identifiable,
37 distinguishable and severable, shall be considered a single employer
38 for the purposes of this chapter (R.S. 43:21-1 et seq.).
- 39 (D) The contribution rates prescribed by subparagraphs (A) and
40 (B) of this paragraph (4) shall be increased or decreased in
41 accordance with the provisions of paragraph (5) of this subsection
42 (c) for experience rating periods through June 30, 1986.
- 43 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
44 31 of any calendar year the balance in the unemployment trust fund
45 equals or exceeds 4% but is less than 7% of the total taxable wages
46 reported to the controller as of that date in respect to employment
47 during the preceding calendar year, the contribution rate, effective
48 July 1 following, of each employer eligible for a contribution rate

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

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

33 (B) If on March 31 of any calendar year the balance in the
34 unemployment trust fund equals or exceeds 10% but is less than 12
35 1/2% of the total taxable wages reported to the controller as of that
36 date in respect to employment during the preceding calendar year,
37 the contribution rate, effective July 1 following, of each employer
38 eligible for a contribution rate calculation based upon benefit
39 experience, shall be reduced by 3/10 of 1% under the contribution
40 rate otherwise established under the provisions of paragraphs (3)
41 and (4) of this subsection; provided that in no event shall the
42 contribution rate of any employer be reduced to less than 4/10 of
43 1%. If on March 31 of any calendar year the balance in the
44 unemployment trust fund equals or exceeds 12 1/2% of the total
45 taxable wages reported to the controller as of that date in respect to
46 employment during the preceding calendar year, the contribution
47 rate, effective July 1 following, of each employer eligible for a
48 contribution rate calculation based upon benefit experience, shall be

1 reduced by 6/10 of 1% if his account for all past periods reflects an
 2 excess of contributions paid over total benefits charged of 3% or
 3 more of his average annual payroll, otherwise by 3/10 of 1% under
 4 the contribution rate otherwise established under the provisions of
 5 paragraphs (3) and (4) of this subsection; provided that in no event
 6 shall the contribution rate of any employer be reduced to less than
 7 4/10 of 1%.

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

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

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

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

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

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

25 (v) With respect to the experience rating year beginning on July
 26 1, 2003, the new employer rate or the unemployment experience
 27 rate of an employer under this section shall be the rate which
 28 appears in the column headed by the Unemployment Trust Fund
 29 Reserve Ratio as of the applicable calculation date and on the line
 30 with the Employer Reserve Ratio, as defined in paragraph 4 of this
 31 subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:
 32

33 EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio ¹				
	2.50%	2.00%	1.50%	1.00%	0.99%
37 Employer	and	to	to	to	and
38 Reserve	Over	2.49%	1.99%	1.49%	Under
39 Ratio ²	A	B	C	D	E
40 Positive Reserve Ratio:					
41 17% and over	0.3	0.4	0.5	0.6	1.2
42 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
43 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
44 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
45 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
46 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
47 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2

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1	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
2	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
3	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
4	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
5	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
6	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
7	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
8	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
9	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
10	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
11	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
12	Deficit Reserve Ratio:					
13	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
14	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
15	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
16	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
17	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
18	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
19	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
20	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
21	-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
22	-35.00% and under	5.4	5.4	5.8	6.4	7.0
23	New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

27 ² Employer Reserve Ratio (Contributions minus benefits as a
 28 percentage of employer's taxable wages).

30 (vi) With respect to experience rating years beginning on or after
 31 July 1, 2004, the new employer rate or the unemployment
 32 experience rate of an employer under this section shall be the rate
 33 which appears in the column headed by the Unemployment Trust
 34 Fund Reserve Ratio as of the applicable calculation date and on the
 35 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 36 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 37 table:

EXPERIENCE RATING TAX TABLE

41		Fund Reserve Ratio ¹				
42		1.40%	1.00%	0.75%	0.50%	0.49%
43	Employer	and	to	to	to	and
44	Reserve	Over	1.39%	0.99%	0.74%	Under
45	Ratio ²	A	B	C	D	E
46	Positive Reserve Ratio:					
47	17% and over	0.3	0.4	0.5	0.6	1.2

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1	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
2	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
3	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
4	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
5	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
6	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
7	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
8	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
9	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
10	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
11	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
12	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
13	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
14	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
15	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
16	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
17	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
18	Deficit Reserve Ratio:					
19	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
20	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
21	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
22	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
23	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
24	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
25						
26	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
27	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
28	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
29	-35.00% and under	5.4	5.4	5.8	6.4	7.0
30	New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

33 ² Employer Reserve Ratio (Contributions minus benefits as a
34 percentage of employer's taxable wages).

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

37 (ii) With respect to experience rating years beginning on or after
38 July 1, 1997, if the fund reserve ratio, based on the fund balance as
39 of the prior March 31, is less than 1.00%, the contribution rate for
40 each employer liable to pay contributions, as computed under
41 subparagraph (E) of this paragraph (5), shall be increased by a
42 factor of 10% computed to the nearest multiple of 1/10% if not
43 already a multiple thereof.

44 (iii) With respect to experience rating years beginning on or after
45 July 1, 2004, if the fund reserve ratio, based on the fund balance as
46 of the prior March 31, is less than 0.50%, the contribution rate for
47 each employer liable to pay contributions, as computed under

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

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

15 (H) On or after January 1, 1993 until December 31, 1993,
16 notwithstanding any other provisions of this paragraph (5), the
17 contribution rate for each employer liable to pay contributions, as
18 computed under subparagraph (E) of this paragraph (5), shall be
19 decreased by a factor of 52.0% computed to the nearest multiple of
20 1/10%, except that, if an employer has a deficit reserve ratio of
21 negative 35.0% or under, the employer's rate of contribution shall
22 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
23 The amount of the reduction in the employer contributions
24 stipulated by this subparagraph (H) shall be in addition to the
25 amount of the reduction in the employer contributions stipulated by
26 subparagraph (G) of this paragraph (5), except that the rate of
27 contribution of an employer who has a deficit reserve ratio of
28 negative 35.0% or under shall not be reduced pursuant to this
29 subparagraph (H) to less than 5.4% and the rate of contribution of
30 any other employer shall not be reduced to less than 0.0%.

31 On or after January 1, 1994 until December 31, 1995, except as
32 provided pursuant to subparagraph (I) of this paragraph (5),
33 notwithstanding any other provisions of this paragraph (5), the
34 contribution rate for each employer liable to pay contributions, as
35 computed under subparagraph (E) of this paragraph (5), shall be
36 decreased by a factor of 36.0% computed to the nearest multiple of
37 1/10%, except that, if an employer has a deficit reserve ratio of
38 negative 35.0% or under, the employer's rate of contribution shall
39 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
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 On or after April 1, 1996 until December 31, 1996, the

1 contribution rate for each employer liable to pay contributions, as
2 computed under subparagraph (E) of this paragraph (5), shall be
3 decreased by a factor of 25.0% computed to the nearest multiple of
4 1/10%, except that, if an employer has a deficit reserve ratio of
5 negative 35.0% or under, the employer's rate of contribution shall
6 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
7 The amount of the reduction in the employer contributions
8 stipulated by this subparagraph (H) shall be in addition to the
9 amount of the reduction in the employer contributions stipulated by
10 subparagraph (G) of this paragraph (5), except that the rate of
11 contribution of an employer who has a deficit reserve ratio of
12 negative 35.0% or under shall not be reduced pursuant to this
13 subparagraph (H) to less than 5.4% and the rate of contribution of
14 any other employer shall not be reduced to less than 0.0%.

15 On or after January 1, 1997 until December 31, 1997, the
16 contribution rate for each employer liable to pay contributions, as
17 computed under subparagraph (E) of this paragraph (5), shall be
18 decreased by a factor of 10.0% computed to the nearest multiple of
19 1/10%, except that, if an employer has a deficit reserve ratio of
20 negative 35.0% or under, the employer's rate of contribution shall
21 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
22 The amount of the reduction in the employer contributions
23 stipulated by this subparagraph (H) shall be in addition to the
24 amount of the reduction in the employer contributions stipulated by
25 subparagraph (G) of this paragraph (5), except that the rate of
26 contribution of an employer who has a deficit reserve ratio of
27 negative 35.0% or under shall not be reduced pursuant to this
28 subparagraph (H) to less than 5.4% and the rate of contribution of
29 any other employer shall not be reduced to less than 0.0%.

30 On and after January 1, 1998 until December 31, 2000 and on or
31 after January 1, 2002 until June 30, 2006, the contribution rate for
32 each employer liable to pay contributions, as computed under
33 subparagraph (E) of this paragraph (5), shall be decreased by a
34 factor, as set out below, computed to the nearest multiple of 1/10%,
35 except that, if an employer has a deficit reserve ratio of negative
36 35.0% or under, the employer's rate of contribution shall not be
37 reduced pursuant to this subparagraph (H) to less than 5.4%:

38 From January 1, 1998 until December 31, 1998, a factor of 12%;
39 From January 1, 1999 until December 31, 1999, a factor of 10%;
40 From January 1, 2000 until December 31, 2000, a factor of 7%;
41 From January 1, 2002 until March 31, 2002, a factor of 36%;
42 From April 1, 2002 until June 30, 2002, a factor of 85%;
43 From July 1, 2002 until June 30, 2003, a factor of 15%;
44 From July 1, 2003 until June 30, 2004, a factor of 15%;
45 From July 1, 2004 until June 30, 2005, a factor of 7%;
46 From July 1, 2005 until December 31, 2005, a factor of 16%; and
47 From January 1, 2006 until June 30, 2006, a factor of 34%.
48 The amount of the reduction in the employer contributions

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

8 (I) If the fund reserve ratio decreases to a level of less than
9 4.00% on March 31 of calendar year 1994 or calendar year 1995,
10 the provisions of subparagraph (H) of this paragraph (5) shall cease
11 to be in effect as of July 1 of that calendar year.

12 If, upon calculating the unemployment compensation fund
13 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
14 1997, March 31, 1998 or March 31, 1999, the controller finds that
15 the fund reserve ratio has decreased to a level of less than 3.00%,
16 the Commissioner of Labor and Workforce Development shall
17 notify the State Treasurer of this fact and of the dollar amount
18 necessary to bring the fund reserve ratio up to a level of 3.00%.
19 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
20 or March 31, 1999, as applicable, transfer from the General Fund to
21 the unemployment compensation fund, revenues in the amount
22 specified by the commissioner and which, upon deposit in the
23 unemployment compensation fund, shall result, upon recalculation,
24 in a fund reserve ratio used to determine employer contributions
25 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
26 at least 3.00%. If, upon calculating the unemployment
27 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
28 prior to March 31, 2000, the controller finds that the fund reserve
29 ratio has decreased to a level of less than 3.00%, the Commissioner
30 of Labor and Workforce Development shall notify the State
31 Treasurer of this fact and of the dollar amount necessary to bring
32 the fund reserve ratio up to a level of 3.00%. The State Treasurer
33 shall, prior to March 31, 2000, transfer from the General Fund to
34 the unemployment compensation fund, revenues in the amount
35 specified by the commissioner and which, upon deposit in the
36 unemployment compensation fund, shall result, upon recalculation,
37 in a fund reserve ratio used to determine employer contributions
38 beginning July 1, 2000 of at least 3.00%.

39 (J) On or after July 1, 2001, notwithstanding any other
40 provisions of this paragraph (5), the contribution rate for each
41 employer liable to pay contributions, as computed under
42 subparagraph (E) of this paragraph (5), shall be decreased by
43 0.0175%, except that, during any experience rating year starting on
44 or after July 1, 2001, in which the fund reserve ratio is equal to or
45 greater than 3.5%, there shall be no decrease pursuant to this
46 subparagraph (J) in the contribution of any employer who has a
47 deficit reserve ratio of negative 35.00% or under. The amount of the
48 reduction in the employer contributions stipulated by this

1 subparagraph (J) shall be in addition to the amount of the reduction
2 in the employer contributions stipulated by subparagraphs (G) and
3 (H) of this paragraph (5), except that the rate of contribution of an
4 employer who has a deficit reserve ratio of negative 35.0% or under
5 shall not be reduced pursuant to this subparagraph (J) to less than
6 5.4% and the rate of contribution of any other employer shall not be
7 reduced to less than 0.0%.

8 (K) On or after January 1, 2007, notwithstanding any other
9 provisions of this paragraph (5), the contribution rate for each
10 employer liable to pay contributions, as computed under
11 subparagraph (E) of this paragraph (5), shall be decreased by
12 0.10%, except that, during any experience rating year starting on or
13 after January 1, 2006, in which the fund reserve ratio is equal to or
14 greater than 3.5%, there shall be no decrease pursuant to this
15 subparagraph (K) in the contribution of any employer who has a
16 deficit reserve ratio of negative 35.00% or under. The amount of
17 the reduction in the employer contributions stipulated by this
18 subparagraph (K) shall be in addition to the amount of the reduction
19 in the employer contributions stipulated by subparagraphs (G), (H)
20 and (J) of this paragraph (5), except that the rate of contribution of
21 an employer who has a deficit reserve ratio of negative 35.0% or
22 under shall not be reduced pursuant to this subparagraph (J) to less
23 than 5.4% and in no case shall the rate of contribution of any
24 employer be reduced to less than 0.0%.

25 (6) Additional contributions.

26 Notwithstanding any other provision of law, any employer who
27 has been assigned a contribution rate pursuant to subsection (c) of
28 this section for the year commencing July 1, 1948, and for any year
29 commencing July 1 thereafter, may voluntarily make payment of
30 additional contributions, and upon such payment shall receive a
31 recomputation of the experience rate applicable to such employer,
32 including in the calculation the additional contribution so made,
33 except that, following a transfer as described under R.S.43:21-
34 7(c)(7)(D), neither the predecessor nor successor in interest shall be
35 eligible to make a voluntary payment of additional contributions
36 during the year the transfer occurs and the next full calendar year.
37 Any such additional contribution shall be made during the 30-day
38 period following the date of the mailing to the employer of the
39 notice of his contribution rate as prescribed in this section, unless,
40 for good cause, the time for payment has been extended by the
41 controller for not to exceed an additional 60 days; provided that in
42 no event may such payments which are made later than 120 days
43 after the beginning of the year for which such rates are effective be
44 considered in determining the experience rate for the year in which
45 the payment is made. Any employer receiving any extended period
46 of time within which to make such additional payment and failing
47 to make such payment timely shall be, in addition to the required
48 amount of additional payment, liable for a penalty of 5% thereof or

1 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
2 under this subsection shall be made only in the form of credits
3 against accrued or future contributions.

4 (7) Transfers.

5 (A) Upon the transfer of the organization, trade or business, or
6 substantially all the assets of an employer to a successor in interest,
7 whether by merger, consolidation, sale, transfer, descent or
8 otherwise, the controller shall transfer the employment experience
9 of the predecessor employer to the successor in interest, including
10 credit for past years, contributions paid, annual payrolls, benefit
11 charges, et cetera, applicable to such predecessor employer,
12 pursuant to regulation, if it is determined that the employment
13 experience of the predecessor employer with respect to the
14 organization, trade, assets or business which has been transferred
15 may be considered indicative of the future employment experience
16 of the successor in interest. The successor in interest may, within
17 four months of the date of such transfer of the organization, trade,
18 assets or business, or thereafter upon good cause shown, request a
19 reconsideration of the transfer of employment experience of the
20 predecessor employer. The request for reconsideration shall
21 demonstrate, to the satisfaction of the controller, that the
22 employment experience of the predecessor is not indicative of the
23 future employment experience of the successor.

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

42 (C) A transfer of the employment experience in whole or in part
43 having become final, the predecessor employer thereafter shall not
44 be entitled to consideration for an adjusted rate based upon his or its
45 experience or the part thereof, as the case may be, which has thus
46 been transferred. A successor in interest to whom employment
47 experience or a part thereof is transferred pursuant to this
48 subsection shall, as of the date of the transfer of the organization,

1 trade, assets or business, or part thereof, immediately become an
2 employer if not theretofore an employer subject to this chapter
3 (R.S.43:21-1 et seq.).

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

14 (E) The transfer of part of an employer's employment experience
15 to a successor in interest shall become effective as of the first day of
16 the calendar quarter following the acquisition by the successor in
17 interest. As of the effective date, the successor in interest shall
18 have its employer rate recalculated by merging its existing
19 employment experience, if any, with the employment experience
20 acquired. If the successor in interest is not an employer as of the
21 date of acquisition, it shall be assigned the new employer rate until
22 the effective date of the transfer of employment experience.

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

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

31 (1) (A) For periods after January 1, 1975, each worker shall
32 contribute to the fund 1% of his wages with respect to his
33 employment with an employer, which occurs on and after January
34 1, 1975, after such employer has satisfied the condition set forth in
35 subsection (h) of R.S.43:21-19 with respect to becoming an
36 employer; provided, however, that such contributions shall be at the
37 rate of 1/2 of 1% of wages paid with respect to employment while
38 the worker is in the employ of the State of New Jersey, or any
39 governmental entity or instrumentality which is an employer as
40 defined under R.S.43:21-19(h)(5), or is covered by an approved
41 private plan under the "Temporary Disability Benefits Law" or
42 while the worker is exempt from the provisions of the "Temporary
43 Disability Benefits Law" under section 7 of that law, P.L.1948,
44 c.110 (C.43:21-31).

45 (B) Effective January 1, 1978 there shall be no contributions by
46 workers in the employ of any governmental or nongovernmental
47 employer electing or required to make payments in lieu of
48 contributions unless the employer is covered by the State plan under

1 the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and
2 in that case contributions shall be at the rate of 1/2 of 1%, except
3 that commencing July 1, 1986, workers in the employ of any
4 nongovernmental employer electing or required to make payments
5 in lieu of contributions shall be required to make contributions to
6 the fund at the same rate prescribed for workers of other
7 nongovernmental employers.

8 (C) (i) Notwithstanding the above provisions of this paragraph
9 (1), during the period starting July 1, 1986 and ending December
10 31, 1992, each worker shall contribute to the fund 1.125% of wages
11 paid with respect to his employment with a governmental employer
12 electing or required to pay contributions or nongovernmental
13 employer, including a nonprofit organization which is an employer
14 as defined under R.S.43:21-19(h)(6), regardless of whether that
15 nonprofit organization elects or is required to finance its benefit
16 costs with contributions to the fund or by payments in lieu of
17 contributions, after that employer has satisfied the conditions set
18 forth in subsection R.S.43:21-19(h) with respect to becoming an
19 employer. Contributions, however, shall be at the rate of 0.625%
20 while the worker is covered by an approved private plan under the
21 "Temporary Disability Benefits Law" while the worker is exempt
22 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
23 other provision of that law; provided that such contributions shall
24 be at the rate of 0.625% of wages paid with respect to employment
25 with the State of New Jersey or any other governmental entity or
26 instrumentality electing or required to make payments in lieu of
27 contributions and which is covered by the State plan under the
28 "Temporary Disability Benefits Law," except that, while the worker
29 is exempt from the provisions of the "Temporary Disability Benefits
30 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
31 any other provision of that law, or is covered for disability benefits
32 by an approved private plan of the employer, the contributions to
33 the fund shall be 0.125%.

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

35 (D) Notwithstanding any other provisions of this paragraph (1),
36 during the period starting January 1, 1993 and ending June 30,
37 1994, each worker shall contribute to the unemployment
38 compensation fund 0.5% of wages paid with respect to the worker's
39 employment with a governmental employer electing or required to
40 pay contributions or nongovernmental employer, including a
41 nonprofit organization which is an employer as defined under
42 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
43 whether that nonprofit organization elects or is required to finance
44 its benefit costs with contributions to the fund or by payments in
45 lieu of contributions, after that employer has satisfied the conditions
46 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
47 an employer. No contributions, however, shall be made by the
48 worker while the worker is covered by an approved private plan

1 under the "Temporary Disability Benefits Law," P.L.1948, c.110
2 (C.43:21-25 et seq.) or while the worker is exempt under section 7
3 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
4 provided that the contributions shall be at the rate of 0.50% of
5 wages paid with respect to employment with the State of New
6 Jersey or any other governmental entity or instrumentality electing
7 or required to make payments in lieu of contributions and which is
8 covered by the State plan under the "Temporary Disability Benefits
9 Law," except that, while the worker is exempt from the provisions
10 of the "Temporary Disability Benefits Law" under section 7 of that
11 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
12 law, or is covered for disability benefits by an approved private plan
13 of the employer, no contributions shall be made to the fund.

14 Each worker shall, starting on January 1, 1996 and ending March
15 31, 1996, contribute to the unemployment compensation fund
16 0.60% of wages paid with respect to the worker's employment with
17 a governmental employer electing or required to pay contributions
18 or nongovernmental employer, including a nonprofit organization
19 which is an employer as defined under paragraph (6) of subsection
20 (h) of R.S.43:21-19, regardless of whether that nonprofit
21 organization elects or is required to finance its benefit costs with
22 contributions to the fund or by payments in lieu of contributions,
23 after that employer has satisfied the conditions set forth in
24 subsection (h) of R.S.43:21-19 with respect to becoming an
25 employer, provided that the contributions shall be at the rate of
26 0.10% of wages paid with respect to employment with the State of
27 New Jersey or any other governmental entity or instrumentality
28 electing or required to make payments in lieu of contributions.

29 Each worker shall, starting on January 1, 1998 and ending
30 December 31, 1998, contribute to the unemployment compensation
31 fund 0.10% of wages paid with respect to the worker's employment
32 with a governmental employer electing or required to pay
33 contributions or nongovernmental employer, including a nonprofit
34 organization which is an employer as defined under paragraph (6)
35 of subsection (h) of R.S.43:21-19, regardless of whether that
36 nonprofit organization elects or is required to finance its benefit
37 costs with contributions to the fund or by payments in lieu of
38 contributions, after that employer has satisfied the conditions set
39 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
40 employer, provided that the contributions shall be at the rate of
41 0.10% of wages paid with respect to employment with the State of
42 New Jersey or any other governmental entity or instrumentality
43 electing or required to make payments in lieu of contributions.

44 Each worker shall, starting on January 1, 1999 until December
45 31, 1999, contribute to the unemployment compensation fund
46 0.15% of wages paid with respect to the worker's employment with
47 a governmental employer electing or required to pay contributions
48 or nongovernmental employer, including a nonprofit organization

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

11 Each worker shall, starting on January 1, 2000 until December
12 31, 2001, contribute to the unemployment compensation fund
13 0.20% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 2002 until June 30,
27 2004, contribute to the unemployment compensation fund 0.1825%
28 of wages paid with respect to the worker's employment with a
29 governmental employer electing or required to pay contributions or
30 a nongovernmental employer, including a nonprofit organization
31 which is an employer as defined under paragraph (6) of subsection
32 (h) of R.S.43:21-19, regardless of whether that nonprofit
33 organization elects or is required to finance its benefit costs with
34 contributions to the fund or by payments in lieu of contributions,
35 after that employer has satisfied the conditions set forth in
36 subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.0825% of wages paid with respect to employment with the State
39 of New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on **[and after]** July 1, 2004 until
42 December 31 2006, contribute to the unemployment compensation
43 fund 0.3825% of wages paid with respect to the worker's
44 employment with a governmental employer electing or required to
45 pay contributions or nongovernmental employer, including a
46 nonprofit organization which is an employer as defined under
47 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
48 whether that nonprofit organization elects or is required to finance

1 its benefit costs with contributions to the fund or by payments in
2 lieu of contributions, after that employer has satisfied the conditions
3 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
4 an employer, provided that the contributions shall be at the rate of
5 0.0825% of wages paid with respect to employment with the State
6 of New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on and after January 1, 2007,
9 contribute to the unemployment compensation fund 0.2825% of
10 wages paid with respect to the worker's employment with a
11 governmental employer electing or required to pay contributions or
12 nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.0825% of wages paid with respect to employment with the State
21 of New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

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

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

40 (G) Each worker shall, starting on July 1, 1994, and ending on
41 December 31, 2006, contribute to the State disability benefits fund
42 an amount equal to 0.50% of wages paid with respect to the
43 worker's employment with a government employer electing or
44 required to pay contributions to the State disability benefits fund or
45 nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, unless the employer is covered by an approved
48 private disability plan or is exempt from the provisions of the

1 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
2 et seq.) under section 7 of that law (C.43:21-31) or any other
3 provision of that law.

4 (H) (i) Each worker shall, during the period starting on January
5 1, 2007, contribute to the State disability benefits fund an amount
6 equal to 0.60% of wages paid with respect to the worker's
7 employment with a government employer electing or required to
8 pay contributions to the State disability benefits fund or with a
9 nongovernmental employer, including a nonprofit organization
10 which is an employer as defined under paragraph (6) of subsection
11 (h) of R.S.43-21-19, unless the employer is covered by an approved
12 private disability plan or is exempt from the provisions of the
13 "Temporary Disability Benefits Law", P.L.1948, c.110 (C.43:21-25
14 et seq.) under section 7 of that law (C.43:21-31 or any other
15 provision of that law.

16 (ii) Each worker shall, during the period starting on January 1,
17 2007, contribute to the State disability benefits fund an amount
18 equal to 0.10% of wages paid with respect to the worker's
19 employment with a governmental employer not electing or required
20 to pay contributions to the State disability benefits fund, unless the
21 employer is covered by an approved private disability plan for all
22 benefits or is exempt from the provisions of the "Temporary
23 Disability Benefits Law." P.L.1948, c.110 (C.43:21-21-25 et seq.)
24 under section 7 of that law (C.43:21-31) or any other provision of
25 that law.

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

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

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

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

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

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

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

33 (3) If an employee receives wages from more than one employer
34 during any calendar year, and either the sum of his contributions
35 deposited in and credited to the State disability benefits fund plus
36 the amount of his contributions, if any, required towards the costs
37 of benefits under one or more approved private plans under the
38 provisions of section 9 of the "Temporary Disability Benefits Law"
39 (C.43:21-33) and deducted from his wages, or the sum of such latter
40 contributions, if the employee is covered during such calendar year
41 only by two or more private plans, exceeds an amount equal to 1/2
42 of 1% of the "wages" determined in accordance with the provisions
43 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
44 January 1, 1976 and ending before January 1, 2007 or if the sum
45 exceeds an amount equal to 0.60% during calendar years beginning
46 on or after January 1, 2007, the employee shall be entitled to a
47 refund of the excess if he makes a claim to the controller within two
48 years after the end of the calendar year in which the wages are

1 received with respect to which the refund is claimed and establishes
2 his right to such refund. Such refund shall be made by the controller
3 from the State disability benefits fund. No interest shall be allowed
4 or paid with respect to any such refund. The controller shall, in
5 accordance with prescribed regulations, determine the portion of the
6 aggregate amount of such refunds made during any calendar year
7 which is applicable to private plans for which deductions were
8 made under section 9 of the "Temporary Disability Benefits Law"
9 (C.43:21-33) such determination to be based upon the ratio of the
10 amount of such wages exempt from contributions to such fund, as
11 provided in subparagraph (B) of paragraph (1) of this subsection
12 with respect to coverage under private plans, to the total wages so
13 exempt plus the amount of such wages subject to contributions to
14 the disability benefits fund, as provided in subparagraph (G) or
15 subparagraph (H) of paragraph (1) of this subsection. The
16 controller shall, in accordance with prescribed regulations, prorate
17 the amount so determined among the applicable private plans in the
18 proportion that the wages covered by each plan bear to the total
19 private plan wages involved in such refunds, and shall assess
20 against and recover from the employer, or the insurer if the insurer
21 has indemnified the employer with respect thereto, the amount so
22 prorated. The provisions of R.S.43:21-14 with respect to collection
23 of employer contributions shall apply to such assessments. The
24 amount so recovered by the controller shall be paid into the State
25 disability benefits fund.

26 (4) If an individual does not receive any wages from the
27 employing unit which for the purposes of this chapter (R.S.43:21-1
28 et seq.) is treated as his employer, or receives his wages from some
29 other employing unit, such employer shall nevertheless be liable for
30 such individual's contributions in the first instance; and after
31 payment thereof such employer may deduct the amount of such
32 contributions from any sums payable by him to such employing
33 unit, or may recover the amount of such contributions from such
34 employing unit, or, in the absence of such an employing unit, from
35 such individual, in a civil action; provided proceedings therefor are
36 instituted within three months after the date on which such
37 contributions are payable. General rules shall be prescribed
38 whereby such an employing unit may recover the amount of such
39 contributions from such individuals in the same manner as if it were
40 the employer.

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

48 (6) Contributions by workers, payable to the controller as herein

1 provided, shall be exempt from garnishment, attachment, execution,
2 or any other remedy for the collection of debts.

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

4 (1) Except as hereinafter provided, each employer shall, in
5 addition to the contributions required by subsections (a), (b), and
6 (c) of this section, contribute 1/2 of 1% of the wages paid by such
7 employer to workers with respect to employment unless he is not a
8 covered employer as defined in section 3 of the "Temporary
9 Disability Benefits Law" (C.43:21-27 (a)), except that the rate for
10 the State of New Jersey shall be 1/10 of 1% for the calendar year
11 1980 and for the first six months of 1981. Prior to July 1, 1981 and
12 prior to July 1 each year thereafter, the controller shall review the
13 experience accumulated in the account of the State of New Jersey
14 and establish a rate for the next following fiscal year which, in
15 combination with worker contributions, will produce sufficient
16 revenue to keep the account in balance; except that the rate so
17 established shall not be less than 1/10 of 1%. Such contributions
18 shall become due and be paid by the employer to the controller for
19 the State disability benefits fund as established by law, in
20 accordance with such regulations as may be prescribed, and shall
21 not be deducted, in whole or in part, from the remuneration of
22 individuals in his employ. In the payment of any contributions, a
23 fractional part of a cent shall be disregarded unless it amounts to
24 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

33 (B) A separate disability benefits account shall be maintained for
34 each employer required to contribute to the State disability benefits
35 fund and such account shall be credited with contributions
36 deposited in and credited to such fund with respect to employment
37 occurring on and after January 1, 1949. Each employer's account
38 shall be credited with all contributions paid on or before January 31
39 of any calendar year on his own behalf and on behalf of individuals
40 in his service with respect to employment occurring in preceding
41 calendar years; provided, however, that if January 31 of any
42 calendar year falls on a Saturday or Sunday an employer's account
43 shall be credited as of January 31 of such calendar year with all the
44 contributions which he has paid on or before the next succeeding
45 day which is not a Saturday or Sunday. But nothing in this act shall
46 be construed to grant any employer or individuals in his service
47 prior claims or rights to the amounts paid by him to the fund either
48 on his own behalf or on behalf of such individuals. Benefits paid to

1 any covered individual in accordance with Article III of the
2 "Temporary Disability Benefits Law" on or before December 31 of
3 any calendar year with respect to disability in such calendar year
4 and in preceding calendar years shall be charged against the account
5 of the employer by whom such individual was employed at the
6 commencement of such disability or by whom he was last
7 employed, if out of employment.

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

15 (D) Prior to July 1 of each calendar year, the controller shall
16 make a preliminary determination of the rate of contribution for the
17 12 months commencing on such July 1 for each employer subject to
18 the contribution requirements of this subsection (e).

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

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

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

30 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
31 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

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

34 (3) If the minimum requirements in (1) above have been
35 fulfilled and the contributions credited exceed the benefits charged
36 but by not more than \$500.00 plus 1% of his average annual
37 payroll, or if the benefits charged exceed the contributions credited
38 but by not more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of
39 1%.

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

43 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
44 1% of his average annual payroll;

45 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
46 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

47 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
48 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

- 1 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
2 3/4 of 1% but is less than 1% of his average annual payroll;
- 3 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
4 1% of his average annual payroll.
- 5 (5) Determination of the preliminary rate as specified in (2), (3)
6 and (4) above shall be subject, however, to the condition that it
7 shall in no event be decreased by more than 1/10 of 1% of wages or
8 increased by more than 2/10 of 1% of wages from the preliminary
9 rate determined for the preceding year in accordance with (1), (2),
10 (3) or (4), whichever shall have been applicable.
- 11 (E) (1) Prior to July 1 of each calendar year the controller shall
12 determine the amount of the State disability benefits fund as of
13 December 31 of the preceding calendar year, increased by the
14 contributions paid thereto during January of the current calendar
15 year with respect to employment occurring in the preceding
16 calendar year. If such amount exceeds the net amount withdrawn
17 from the unemployment trust fund pursuant to section 23 of the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
19 plus the amount at the end of such preceding calendar year of the
20 unemployment disability account as defined in section 22 of said
21 law (C.43:21-46), such excess shall be expressed as a percentage of
22 the wages on which contributions were paid to the State disability
23 benefits fund on or before January 31 with respect to employment
24 in the preceding calendar year.
- 25 (2) The controller shall then make a final determination of the
26 rates of contribution for the 12 months commencing July 1 of such
27 year for employers whose preliminary rates are determined as
28 provided in (D) hereof, as follows:
- 29 (i) If the percentage determined in accordance with paragraph
30 (E)(1) of this subsection equals or exceeds 1 1/4%, the final
31 employer rates shall be the preliminary rates determined as
32 provided in (D) hereof, except that if the employer's preliminary
33 rate is determined as provided in (D)(2) or (D)(3) hereof, the final
34 employer rate shall be the preliminary employer rate decreased by
35 such percentage of excess taken to the nearest 5/100 of 1%, but in
36 no case shall such final rate be less than 1/10 of 1%.
- 37 (ii) If the percentage determined in accordance with paragraph
38 (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less
39 than 1 1/4 of 1%, the final employer rates shall be the preliminary
40 employer rates.
- 41 (iii) If the percentage determined in accordance with paragraph
42 (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4
43 of 1%, the final employer rates shall be the preliminary employer
44 rates determined as provided in (D) hereof increased by the
45 difference between 3/4 of 1% and such percentage taken to the
46 nearest 5/100 of 1%; provided, however, that no such final rate
47 shall be more than 1/4 of 1% in the case of an employer whose
48 preliminary rate is determined as provided in (D)(2) hereof, more

1 than 1/2 of 1% in the case of an employer whose preliminary rate is
2 determined as provided in (D)(1) and (D)(3) hereof, nor more than
3 3/4 of 1% in the case of an employer whose preliminary rate is
4 determined as provided in (D)(4) hereof.

5 (iv) If the amount of the State disability benefits fund determined
6 as provided in paragraph (E)(1) of this subsection is equal to or less
7 than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of
8 an employer whose preliminary rate is determined as provided in
9 (D)(2) hereof, 7/10 of 1% in the case of an employer whose
10 preliminary rate is determined as provided in (D)(1) and (D)(3)
11 hereof, and 1.1% in the case of an employer whose preliminary rate
12 is determined as provided in (D)(4) hereof. Notwithstanding any
13 other provision of law or any determination made by the controller
14 with respect to any 12-month period commencing on July 1, 1970,
15 the final rates for all employers for the period beginning January 1,
16 1971, shall be as set forth herein.

17 (F) (1) During the period starting on January 1, 2007, each
18 employer who is subject to the "unemployment compensation law"
19 (R.S.34:21-1 et seq.) shall, in addition to any other contributions
20 required pursuant to this subsection (e), contribute to the State
21 temporary disability benefits fund an amount equal to 0.10% of
22 wages paid by the employer to any employee not covered by an
23 approved private plan.

24 (2) Notwithstanding any other provisions of this subsection (e),
25 the rate of contribution of each covered employer as defined in
26 paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110
27 (C.43:21-27), shall be determined as if:

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

30 (ii) No worker paid contributions to the State disability benefits
31 fund in an amount exceeding 0.50% of wages that were paid during
32 any calendar year starting after December 31, 2006:

33 (iii) No worker paid any contributions to the State disability
34 benefits fund pursuant to paragraph (1)(H)(ii) of subsection (d) of
35 this section; and

36 (iv) The employer did not pay an added 0.10% contribution
37 pursuant to this paragraph (F):

38 (cf: P.L.2005, c.249,s.1)

39

40 13. This act shall take effect immediately.

41

42

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STATEMENT

44

45 This bill extends the State's existing temporary disability
46 insurance (TDI) system to provide workers with family temporary
47 disability leave benefits to care for members of the worker's family
48 unable to care for themselves, including sick family members and

1 newborn and newly adopted children.

2 The bill provides up to four weeks of TDI benefits for a worker
3 taking leave to provide necessary care for a family member of the
4 worker suffering a serious health condition, and up to eight weeks
5 of TDI benefits for a worker taking leave to be with a child of the
6 worker during the first 12 months after the child's birth or
7 placement for adoption with the worker's family.

8 The bill applies to all private and public employers subject to the
9 "unemployment compensation law" (R.S.43:21-1 et seq.), except
10 that it permits non-governmental employers with nine or fewer
11 employees to elect not to have the bill's benefits available for their
12 employees.

13 The weekly benefit amount paid under the bill is the same as the
14 weekly amount for TDI benefits during a worker's own disability
15 and is subject to the same one-week waiting period. The employer
16 may require that the employee take all available sick pay or other
17 fully-paid leave provided by the employer before receiving benefits
18 under the bill, and may require that the period of benefits under this
19 bill be reduced by the amount of time in which fully paid leave is
20 provided.

21 The bill raises \$134 million in added annual revenues for the
22 TDI fund by means of a 0.2% tax increase on wages subject to TDI
23 taxes, divided equally between employers and workers. At the
24 same time, the bill reduces worker and employer unemployment
25 insurance (UI) taxes by an equal amount, \$134 million, thus fully
26 offsetting the increase in TDI taxes.

27 The bill also establishes a task force to study the impact of
28 family leave benefits on workers, their families, employers, and the
29 public and to make recommendations regarding the possible
30 modification.

31 Finally, the bill reaffirms the State's commitment to sustaining
32 the State-operated, nonprofit State disability benefits plan, which
33 has proven to be a highly efficient and cost-effective means of
34 ensuring the availability of coverage for employers and workers
35 with low overhead costs and impartial claims processing.