

[First Reprint]

ASSEMBLY, No. 3975

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 17, 2018

Sponsored by:

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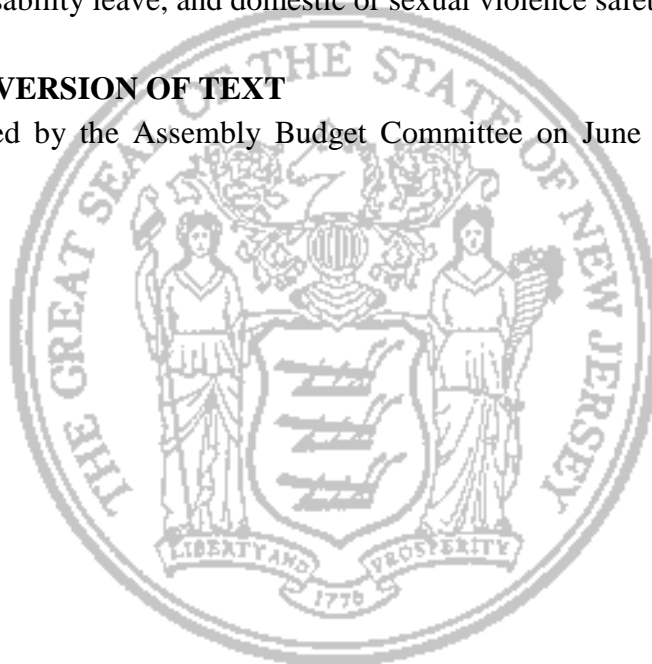
Assemblywoman Murphy, Assemblyman Benson, Assemblywoman McKnight and Assemblyman Johnson

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 18, 2018, with amendments.



(Sponsorship Updated As Of: 6/26/2018)

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

5

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

8

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

11 3. As used in this act:

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

14 (1) under 18 years of age; or

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

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

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

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

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

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

42 (1) **[**With respect to the period of time from the effective date of
43 this act until the 365th day following the effective date of this act,
44 employs 100 or more employees for each working day during each of
45 20 or more calendar workweeks in the then current or immediately

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted June 18, 2018.

1 preceding calendar year] (Deleted by amendment, P.L. ,
2 c. (pending before the Legislature as this bill));

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

10 (3) With respect to **[any]** the period of time [after] from the
11 1,095th day following the effective date of [this act] P.L.1989, c.261
12 (C.34:11B-1 et seq.) through June 30, 2019, employs 50 or more
13 employees for each working day during each of 20 or more calendar
14 workweeks in the then current or immediately preceding calendar
15 year; and

16 (4) With respect to any period of time after June 30, 2019,
17 employs 30 or more employees for each working day during each of
18 20 or more calendar workweeks in the then current or immediately
19 preceding calendar year.

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

22 g. "Employment benefits" means all benefits and policies
23 provided or made available to employees by an employer, and includes
24 group life insurance, health insurance, disability insurance, sick leave,
25 annual leave, pensions, or other similar benefits.

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

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

35 (1) the birth of a child of the employee, including a child born
36 pursuant to a valid written agreement between the employee and a
37 gestational carrier;

38 (2) the placement of a child ¹into foster care¹ with the employee
39 ¹or¹ in connection with adoption of such child by the employee; or

40 (3) the serious health condition of a family member of the
41 employee.

42 j. "Family member" means a child, parent, parent-in-law, sibling,
43 grandparent, grandchild, spouse, ¹domestic partner,¹ or one partner in
44 a civil union couple, or any other individual related by blood to the
45 employee, and any other individual ¹[whose] that the employee shows
46 to have a¹ close association with the employee ¹which¹ is the
47 equivalent of a family relationship.

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

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

7 (1) inpatient care in a hospital, hospice, or residential medical care
8 facility; or

9 (2) continuing medical treatment or continuing supervision by a
10 health care provider.

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

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

17
18 ¹2. Section 5 of P.L.1989, c.261 (C.34:11B-5) is amended to read
19 as follows:

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

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

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

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

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

40
41 ¹~~2.~~ 3.¹ Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to
42 read as follows:

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

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

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

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

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

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

1 (5) seeking legal assistance or remedies to ensure the health and
2 safety of the employee or the employee's parent-in-law, sibling,
3 grandparent, grandchild, child, parent, spouse, domestic partner, or
4 civil union partner, individual, or any other individual related by blood
5 to the employee, and any other individual ¹**【whose】** that the employee
6 shows to have a ¹ close association with the employee ¹**【which】** is the
7 equivalent of a family relationship, including preparing for, or
8 participating in, any civil or criminal legal proceeding related to or
9 derived from domestic or sexual violence; or

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

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

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

41 b. Prior to taking the leave provided for in this section, an
42 employee shall, if the necessity for the leave is foreseeable, provide
43 the employer with written notice of the need for the leave. The notice
44 shall be provided to the employer as far in advance as is reasonable
45 and practical under the circumstances.

46 c. Nothing contained in this act shall be construed to prohibit an
47 employer from requiring that a period of leave provided pursuant to

1 this section be supported by the employee with documentation of the
2 domestic violence or sexually violent offense which is the basis for the
3 leave. If the employer requires the documentation, the employee shall
4 be regarded as having provided sufficient documentation if the
5 employee provides one or more of the following:

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

8 (2) a letter or other written documentation from the county or
9 municipal prosecutor documenting the domestic violence or sexually
10 violent offense;

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

13 (4) medical documentation of the domestic violence or sexually
14 violent offense;

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

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

34 For the purposes of this subsection:

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

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

1 d. An employer shall display conspicuous notice of its employees'
2 rights and obligations pursuant to the provisions of this act, in such
3 form and in such manner as the Commissioner of Labor and
4 Workforce Development shall prescribe, and use other appropriate
5 means to keep its employees so informed.

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

15 Nothing contained in this act shall be construed as permitting an
16 employer to:

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

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

23 f. All information provided to an employer pursuant to subsection
24 c. of this section, and any information regarding a leave taken pursuant
25 to this section and any failure of an employee to return to work, shall
26 be retained in the strictest confidentiality, unless the disclosure is
27 voluntarily authorized in writing by the employee or is required by a
28 federal or State law, rule, or regulation.

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

30
31 ¹[3.] 4.¹ R.S.43:21-7 is amended to read as follows:

32 43:21-7. Employers other than governmental entities, whose
33 benefit financing provisions are set forth in section 4 of P.L.1971,
34 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
35 payment in lieu of contributions on the basis set forth in section 3 of
36 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
37 unemployment compensation fund, contributions as set forth in
38 subsections (a), (b) and (c) hereof, and the provisions of subsections
39 (d) and (e) shall be applicable to all employers, consistent with the
40 provisions of the "unemployment compensation law" and the
41 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
42 et al.).

43 (a) Payment.

44 (1) Contributions shall accrue and become payable by each
45 employer for each calendar year in which he is subject to this
46 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
47 his employ during that calendar year, at the rates and on the basis
48 hereinafter set forth. Such contributions shall become due and be

1 paid by each employer to the controller for the fund, in accordance
2 with such regulations as may be prescribed, and shall not be
3 deducted, in whole or in part, from the remuneration of individuals
4 in his employ.

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

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

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

14 (2) The "wages" of any individual, with respect to any one
15 employer, as the term is used in this subsection (b) and in
16 subsections (c), (d) and (e) of this section 7, shall include the first
17 \$4,800.00 paid during calendar year 1975, for services performed
18 either within or without this State; provided that no contribution
19 shall be required by this State with respect to services performed in
20 another state if such other state imposes contribution liability with
21 respect thereto. If an employer (hereinafter referred to as a
22 successor employer) during any calendar year acquires substantially
23 all the property used in a trade or business of another employer
24 (hereinafter referred to as a predecessor), or used in a separate unit
25 of a trade or business of a predecessor, and immediately after the
26 acquisition employs in his trade or business an individual who
27 immediately prior to the acquisition was employed in the trade or
28 business of such predecessors, then, for the purpose of determining
29 whether the successor employer has paid wages with respect to
30 employment equal to the first \$4,800.00 paid during calendar year
31 1975, any wages paid to such individual by such predecessor during
32 such calendar year and prior to such acquisition shall be considered
33 as having been paid by such successor employer.

34 (3) For calendar years beginning on and after January 1, 1976,
35 the "wages" of any individual, as defined in the preceding
36 paragraph (2) of this subsection (b), shall be established and
37 promulgated by the Commissioner of Labor and Workforce
38 Development on or before September 1 of the preceding year and,
39 except as provided in paragraph (4) of this subsection (b), shall be,
40 28 times the Statewide average weekly remuneration paid to
41 workers by employers, as determined under R.S.43:21-3(c), raised
42 to the next higher multiple of \$100.00 if not already a multiple
43 thereof, provided that if the amount of wages so determined for a
44 calendar year is less than the amount similarly determined for the
45 preceding year, the greater amount will be used; provided, further,
46 that if the amount of such wages so determined does not equal or
47 exceed the amount of wages as defined in subsection (b) of section
48 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),

1 the wages as determined in this paragraph in any calendar year shall
2 be raised to equal the amount established under the "Federal
3 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
4 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

5 (4) For calendar years beginning on and after January 1, 2019,
6 the "wages" of any individual, as defined in the preceding
7 paragraph (2) of this subsection (b) for purposes of contributions of
8 workers to the "Family Temporary Disability Leave Account" and
9 the "Pregnancy Temporary Disability Account" of the State
10 disability benefits fund pursuant to subsection (d) of this section,
11 shall be established and promulgated by the Commissioner of Labor
12 and Workforce Development on or before September 1 of the
13 preceding year and shall be 52 times the Statewide average weekly
14 remuneration paid to workers by employers, as determined under
15 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not
16 already a multiple thereof, provided that if the amount of wages so
17 determined for a calendar year is less than the amount similarly
18 determined for the preceding year, the greater amount will be used.

19 (c) Future rates based on benefit experience.

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

1 in the unemployment insurance monetary calculation of benefits.
2 Such notification shall identify the employer against whose account
3 the amount of such payment is being charged, shall show at least
4 the name and social security account number of the claimant and
5 shall specify the period of unemployment to which said benefit
6 payment applies.

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

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

16 (3) No employer's rate shall be lower than 5.4% unless
17 assignment of such lower rate is consistent with the conditions
18 applicable to additional credit allowance for such year under section
19 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
20 s.3303(a)(1)), any other provision of this section to the contrary
21 notwithstanding.

22 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
23 8/10%, except as otherwise provided in the following provisions.
24 No employer's rate for the 12 months commencing July 1 of any
25 calendar year shall be other than 2 8/10%, unless as of the
26 preceding January 31 such employer shall have paid contributions
27 with respect to wages paid in each of the three calendar years
28 immediately preceding such year, in which case such employer's
29 rate for the 12 months commencing July 1 of any calendar year
30 shall be determined on the basis of his record up to the beginning of
31 such calendar year. If, at the beginning of such calendar year, the
32 total of all his contributions, paid on his own behalf, for all past
33 years exceeds the total benefits charged to his account for all such
34 years, his contribution rate shall be:

35 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
36 5%, of his average annual payroll (as defined in paragraph (2),
37 subsection (a) of R.S.43:21-19);

38 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
39 than 6%, of his average annual payroll;

40 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
41 than 7%, of his average annual payroll;

42 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
43 than 8%, of his average annual payroll;

44 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
45 than 9%, of his average annual payroll;

46 (6) 1%, if such excess equals or exceeds 9%, but is less than
47 10%, of his average annual payroll;

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

3 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
4 average annual payroll.

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

9 (1) 4%, if such excess is less than 10% of his average annual
10 payroll;

11 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
12 than 20%, of his average annual payroll;

13 (3) 4 6/10%, if such excess equals or exceeds 20% of his
14 average annual payroll.

15 (C) Specially assigned rates.

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

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

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

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

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

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

37 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
38 31 of any calendar year the balance in the unemployment trust fund
39 equals or exceeds 4% but is less than 7% of the total taxable wages
40 reported to the controller as of that date in respect to employment
41 during the preceding calendar year, the contribution rate, effective
42 July 1 following, of each employer eligible for a contribution rate
43 calculation based upon benefit experience, shall be increased by
44 3/10 of 1% over the contribution rate otherwise established under
45 the provisions of paragraph (3) or (4) of this subsection. If on
46 March 31 of any calendar year the balance of the unemployment
47 trust fund exceeds 2 1/2% but is less than 4% of the total taxable
48 wages reported to the controller as of that date in respect to

1 employment during the preceding calendar year, the contribution
2 rate, effective July 1 following, of each employer eligible for a
3 contribution rate calculation based upon benefit experience, shall be
4 increased by 6/10 of 1% over the contribution rate otherwise
5 established under the provisions of paragraph (3) or (4) of this
6 subsection.

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

27 (B) If on March 31 of any calendar year the balance in the
28 unemployment trust fund equals or exceeds 10% but is less than 12
29 1/2% of the total taxable wages reported to the controller as of that
30 date in respect to employment during the preceding calendar year,
31 the contribution rate, effective July 1 following, of each employer
32 eligible for a contribution rate calculation based upon benefit
33 experience, shall be reduced by 3/10 of 1% under the contribution
34 rate otherwise established under the provisions of paragraphs (3)
35 and (4) of this subsection; provided that in no event shall the
36 contribution rate of any employer be reduced to less than 4/10 of
37 1%. If on March 31 of any calendar year the balance in the
38 unemployment trust fund equals or exceeds 12 1/2% of the total
39 taxable wages reported to the controller as of that date in respect to
40 employment during the preceding calendar year, the contribution
41 rate, effective July 1 following, of each employer eligible for a
42 contribution rate calculation based upon benefit experience, shall be
43 reduced by 6/10 of 1% if his account for all past periods reflects an
44 excess of contributions paid over total benefits charged of 3% or
45 more of his average annual payroll, otherwise by 3/10 of 1% under
46 the contribution rate otherwise established under the provisions of
47 paragraphs (3) and (4) of this subsection; provided that in no event

1 shall the contribution rate of any employer be reduced to less than
 2 4/10 of 1%.

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

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

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

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

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

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

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

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

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

30 EXPERIENCE RATING TAX TABLE

| | Fund Reserve Ratio ¹ | | | | |
|----------------------------|---------------------------------|---------------------------|--------------------------|--------------------------|----------------------------|
| | 3.50% and Over A | 3.00% to 3.49% B | 2.5% to 2.99% C | 2.0% to 2.49% D | 1.99% and Under E |
| 31 | | | | | |
| 32 | | | | | |
| 33 Employer | | | | | |
| 34 Reserve | | | | | |
| 35 Ratio ² | | | | | |
| 36 Positive Reserve Ratio: | | | | | |
| 37 17% and over | 0.3 | 0.4 | 0.5 | 0.6 | 1.2 |
| 38 16.00% to 16.99% | 0.4 | 0.5 | 0.6 | 0.6 | 1.2 |
| 39 15.00% to 15.99% | 0.4 | 0.6 | 0.7 | 0.7 | 1.2 |
| 40 14.00% to 14.99% | 0.5 | 0.6 | 0.7 | 0.8 | 1.2 |
| 41 13.00% to 13.99% | 0.6 | 0.7 | 0.8 | 0.9 | 1.2 |
| 42 12.00% to 12.99% | 0.6 | 0.8 | 0.9 | 1.0 | 1.2 |
| 43 11.00% to 11.99% | 0.7 | 0.8 | 1.0 | 1.1 | 1.2 |
| 44 10.00% to 10.99% | 0.9 | 1.1 | 1.3 | 1.5 | 1.6 |
| 45 9.00% to 9.99% | 1.0 | 1.3 | 1.6 | 1.7 | 1.9 |
| 46 8.00% to 8.99% | 1.3 | 1.6 | 1.9 | 2.1 | 2.3 |
| 47 7.00% to 7.99% | 1.4 | 1.8 | 2.2 | 2.4 | 2.6 |
| 48 6.00% to 6.99% | 1.7 | 2.1 | 2.5 | 2.8 | 3.0 |

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

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

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

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

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

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

26 (iv) With respect to experience rating years beginning on or after
27 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based
28 on the fund balance as of the prior March 31, is less than 1.0%, the
29 contribution rate for each employer liable to pay contributions, as
30 computed under subparagraph (E) of this paragraph (5), shall be
31 increased by a factor of 10% computed to the nearest multiple of
32 1/10% if not already a multiple thereof.

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

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

1 subparagraph (G) in the contribution of any employer who has a
2 deficit reserve ratio of negative 35.00% or under.

3 (H) On and after January 1, 1998 until December 31, 2000 and
4 on or after January 1, 2002 until June 30, 2006, the contribution rate
5 for each employer liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be decreased by a
7 factor, as set out below, computed to the nearest multiple of 1/10%,
8 except that, if an employer has a deficit reserve ratio of negative
9 35.0% or under, the employer's rate of contribution shall not be
10 reduced pursuant to this subparagraph (H) to less than 5.4%:

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

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

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

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

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

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

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

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

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

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

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

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

30 (J) On or after July 1, 2001, notwithstanding any other
31 provisions of this paragraph (5), the contribution rate for each
32 employer liable to pay contributions, as computed under
33 subparagraph (E) of this paragraph (5), shall be decreased by
34 0.0175%, except that, during any experience rating year starting on
35 or after July 1, 2001, in which the fund reserve ratio is equal to or
36 greater than 3.5%, there shall be no decrease pursuant to this
37 subparagraph (J) in the contribution of any employer who has a
38 deficit reserve ratio of negative 35.00% or under. The amount of the
39 reduction in the employer contributions stipulated by this
40 subparagraph (J) shall be in addition to the amount of the reduction
41 in the employer contributions stipulated by subparagraphs (G) and
42 (H) of this paragraph (5), except that the rate of contribution of an
43 employer who has a deficit reserve ratio of negative 35.0% or under
44 shall not be reduced pursuant to this subparagraph (J) to less than
45 5.4% and the rate of contribution of any other employer shall not be
46 reduced to less than 0.0%.

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

4 (i) Equal to or greater than 5.00% but less than 7.5%, the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph (E) of this paragraph (5), shall be
7 reduced by a factor of 25% computed to the nearest multiple of
8 1/10% if not already a multiple thereof except that there shall be no
9 decrease pursuant to this subparagraph (K) in the contribution of
10 any employer who has a deficit reserve ratio of 35.00% or under;

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

18 (L) Notwithstanding any other provision of this paragraph (5)
19 and notwithstanding the actual fund reserve ratio, the contribution
20 rate for employers liable to pay contributions, as computed under
21 subparagraph (E) of this paragraph (5), shall be, for fiscal year
22 2011, the rates set by column "C" of the table in that subparagraph.

23 (M) Notwithstanding any other provision of this paragraph (5)
24 and notwithstanding the actual fund reserve ratio, the contribution
25 rate for employers liable to pay contributions, as computed under
26 subparagraph (E) of this paragraph (5), shall be, for fiscal year
27 2012, the rates set by column "D" of the table in that subparagraph.

28 (N) Notwithstanding any other provision of this paragraph (5)
29 and notwithstanding the actual fund reserve ratio, the contribution
30 rate for employers liable to pay contributions, as computed under
31 subparagraph (E) of this paragraph (5), shall be, for fiscal year
32 2013, the rates set by column "E" of the table in that subparagraph.

33 (6) Additional contributions.

34 Notwithstanding any other provision of law, any employer who
35 has been assigned a contribution rate pursuant to subsection (c) of
36 this section for the year commencing July 1, 1948, and for any year
37 commencing July 1 thereafter, may voluntarily make payment of
38 additional contributions, and upon such payment shall receive a
39 recomputation of the experience rate applicable to such employer,
40 including in the calculation the additional contribution so made,
41 except that, following a transfer as described under R.S.43:21-
42 7(c)(7)(D), neither the predecessor nor successor in interest shall be
43 eligible to make a voluntary payment of additional contributions
44 during the year the transfer occurs and the next full calendar year.
45 Any such additional contribution shall be made during the 30-day
46 period following the notification to the employer of his contribution
47 rate as prescribed in this section, unless, for good cause, the time
48 for payment has been extended by the controller for not to exceed

1 an additional 60 days; provided that in no event may such payments
2 which are made later than 120 days after the beginning of the year
3 for which such rates are effective be considered in determining the
4 experience rate for the year in which the payment is made. Any
5 employer receiving any extended period of time within which to
6 make such additional payment and failing to make such payment
7 timely shall be, in addition to the required amount of additional
8 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
9 greater, not to exceed \$50.00. Any adjustment under this subsection
10 shall be made only in the form of credits against accrued or future
11 contributions.

12 (7) Transfers.

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

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

1 employer with respect to that part of the organization, trade, assets
2 or business transferred.

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

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

23 (E) The transfer of part of an employer's employment experience
24 to a successor in interest shall become effective as of the first day of
25 the calendar quarter following the acquisition by the successor in
26 interest. As of the effective date, the successor in interest shall
27 have its employer rate recalculated by merging its existing
28 employment experience, if any, with the employment experience
29 acquired. If the successor in interest is not an employer as of the
30 date of acquisition, it shall be assigned the new employer rate until
31 the effective date of the transfer of employment experience.

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

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

40 (1) (A) For periods after January 1, 1975, each worker shall
41 contribute to the fund 1% of his wages with respect to his
42 employment with an employer, which occurs on and after January
43 1, 1975, after such employer has satisfied the condition set forth in
44 subsection (h) of R.S.43:21-19 with respect to becoming an
45 employer; provided, however, that such contributions shall be at the
46 rate of 1/2 of 1% of wages paid with respect to employment while
47 the worker is in the employ of the State of New Jersey, or any
48 governmental entity or instrumentality which is an employer as

1 defined under R.S.43:21-19(h)(5), or is covered by an approved
2 private plan under the "Temporary Disability Benefits Law" or
3 while the worker is exempt from the provisions of the "Temporary
4 Disability Benefits Law" under section 7 of that law, P.L.1948,
5 c.110 (C.43:21-31).

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

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

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

44 (D) Notwithstanding any other provisions of this paragraph (1),
45 during the period starting January 1, 1993 and ending June 30,
46 1994, each worker shall contribute to the unemployment
47 compensation fund 0.5% of wages paid with respect to the worker's
48 employment with a governmental employer electing or required to

1 pay contributions or nongovernmental employer, including a
2 nonprofit organization which is an employer as defined under
3 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
4 whether that nonprofit organization elects or is required to finance
5 its benefit costs with contributions to the fund or by payments in
6 lieu of contributions, after that employer has satisfied the conditions
7 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
8 an employer. No contributions, however, shall be made by the
9 worker while the worker is covered by an approved private plan
10 under the "Temporary Disability Benefits Law," P.L.1948, c.110
11 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
12 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
13 provided that the contributions shall be at the rate of 0.50% of
14 wages paid with respect to employment with the State of New
15 Jersey or any other governmental entity or instrumentality electing
16 or required to make payments in lieu of contributions and which is
17 covered by the State plan under the "Temporary Disability Benefits
18 Law," except that, while the worker is exempt from the provisions
19 of the "Temporary Disability Benefits Law" under section 7 of that
20 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
21 law, or is covered for disability benefits by an approved private plan
22 of the employer, no contributions shall be made to the fund.

23 Each worker shall, starting on January 1, 1996 and ending March
24 31, 1996, contribute to the unemployment compensation fund
25 0.60% of wages paid with respect to the worker's employment with
26 a governmental employer electing or required to pay contributions
27 or nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.10% of wages paid with respect to employment with the State of
36 New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on January 1, 1998 and ending
39 December 31, 1998, contribute to the unemployment compensation
40 fund 0.10% of wages paid with respect to the worker's employment
41 with a governmental employer electing or required to pay
42 contributions or nongovernmental employer, including a nonprofit
43 organization which is an employer as defined under paragraph (6)
44 of subsection (h) of R.S.43:21-19, regardless of whether that
45 nonprofit organization elects or is required to finance its benefit
46 costs with contributions to the fund or by payments in lieu of
47 contributions, after that employer has satisfied the conditions set
48 forth in subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.10% of wages paid with respect to employment with the State of
3 New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 Each worker shall, starting on January 1, 1999 until December
6 31, 1999, contribute to the unemployment compensation fund
7 0.15% of wages paid with respect to the worker's employment with
8 a governmental employer electing or required to pay contributions
9 or 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, regardless of whether that nonprofit
12 organization elects or is required to finance its benefit costs with
13 contributions to the fund or by payments in lieu of contributions,
14 after that employer has satisfied the conditions set forth in
15 subsection (h) of R.S.43:21-19 with respect to becoming an
16 employer, provided that the contributions shall be at the rate of
17 0.10% of wages paid with respect to employment with the State of
18 New Jersey or any other governmental entity or instrumentality
19 electing or required to make payments in lieu of contributions.

20 Each worker shall, starting on January 1, 2000 until December
21 31, 2001, contribute to the unemployment compensation fund
22 0.20% of wages paid with respect to the worker's employment with
23 a governmental employer electing or required to pay contributions
24 or nongovernmental employer, including a nonprofit organization
25 which is an employer as defined under paragraph (6) of subsection
26 (h) of R.S.43:21-19, regardless of whether that nonprofit
27 organization elects or is required to finance its benefit costs with
28 contributions to the fund or by payments in lieu of contributions,
29 after that employer has satisfied the conditions set forth in
30 subsection (h) of R.S.43:21-19 with respect to becoming an
31 employer, provided that the contributions shall be at the rate of
32 0.10% of wages paid with respect to employment with the State of
33 New Jersey or any other governmental entity or instrumentality
34 electing or required to make payments in lieu of contributions.

35 Each worker shall, starting on January 1, 2002 until June 30,
36 2004, contribute to the unemployment compensation fund 0.1825%
37 of wages paid with respect to the worker's employment with a
38 governmental employer electing or required to pay contributions or
39 a nongovernmental employer, including a nonprofit organization
40 which is an employer as defined under paragraph (6) of subsection
41 (h) of R.S.43:21-19, regardless of whether that nonprofit
42 organization elects or is required to finance its benefit costs with
43 contributions to the fund or by payments in lieu of contributions,
44 after that employer has satisfied the conditions set forth in
45 subsection (h) of R.S.43:21-19 with respect to becoming an
46 employer, provided that the contributions shall be at the rate of
47 0.0825% of wages paid with respect to employment with the State

1 of New Jersey or any other governmental entity or instrumentality
2 electing or required to make payments in lieu of contributions.

3 Each worker shall, starting on and after July 1, 2004, contribute
4 to the unemployment compensation fund 0.3825% of wages paid
5 with respect to the worker's employment with a governmental
6 employer electing or required to pay contributions or
7 nongovernmental employer, including a nonprofit organization
8 which is an employer as defined under paragraph (6) of subsection
9 (h) of R.S.43:21-19, regardless of whether that nonprofit
10 organization elects or is required to finance its benefit costs with
11 contributions to the fund or by payments in lieu of contributions,
12 after that employer has satisfied the conditions set forth in
13 subsection (h) of R.S.43:21-19 with respect to becoming an
14 employer, provided that the contributions shall be at the rate of
15 0.0825% of wages paid with respect to employment with the State
16 of New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

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

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

35 (G) (i) **Each worker shall, starting on July 1, 1994 and ending**
36 **on December 31, 2011, contribute to the State disability benefits**
37 **fund an amount equal to 0.50% of wages paid with respect to the**
38 **worker's employment with a government employer electing or**
39 **required to pay contributions to the State disability benefits fund or**
40 **nongovernmental employer, including a nonprofit organization**
41 **which is an employer as defined under paragraph (6) of subsection**
42 **(h) of R.S.43:21-19, unless the employer is covered by an approved**
43 **private disability plan or is exempt from the provisions of the**
44 **"Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25**
45 **et al.) under section 7 of that law (C.43:21-31) or any other**
46 **provision of that law.] Each worker, with respect to the worker's**
47 **employment with a government employer electing or required to**
48 **pay contributions to the State disability benefits fund or**

1 nongovernmental employer, including a nonprofit organization
2 which is an employer as defined under paragraph (6) of subsection
3 (h) of R.S.43:21-19, unless the employer is covered by an approved
4 private disability plan or is exempt from the provisions of the
5 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
6 et al.) under section 7 of that law (C.43:21-31) or any other
7 provision of that law, shall, for calendar year 2012 and each
8 subsequent calendar year, make contributions to the State disability
9 benefits fund at the annual rate of contribution necessary to obtain a
10 total amount of contributions, which, when added to employer
11 contributions made to the State disability benefits fund pursuant to
12 subsection (e) of this section, is, for calendar years prior to calendar
13 year 2018, equal to 120% of the benefits paid for periods of
14 disability, excluding periods of family temporary disability, during
15 the immediately preceding calendar year plus an amount equal to
16 100% of the cost of administration of the payment of those benefits
17 during the immediately preceding calendar year, less the amount of
18 net assets remaining in the State disability benefits fund, excluding
19 net assets remaining in the "Family Temporary Disability Leave
20 Account" of that fund, as of December 31 of the immediately
21 preceding year, and is, for calendar year 2018 **【and subsequent**
22 **calendar years】**, equal to 120% of the benefits paid for periods of
23 disability, excluding periods of family temporary disability, during
24 the last preceding full fiscal year plus an amount equal to 100% of
25 the cost of administration of the payment of those benefits during
26 the last preceding full fiscal year, less the amount of net assets
27 anticipated to be remaining in the "Family Temporary Disability
28 Leave Account" of that fund, as of December 31 of the immediately
29 preceding calendar year, and is, for each of calendar years 2019 and
30 2020, equal to 120% of the benefits which the department
31 anticipates will be paid for periods of disability, excluding periods
32 of family temporary disability and pregnancy temporary disability,
33 during the respective calendar year plus an amount equal to 100%
34 of the cost of administration of the payment of those benefits which
35 the department anticipates during the respective calendar year, less
36 the amount of net assets anticipated to be remaining in the "Family
37 Temporary Disability Leave Account" of that fund, as of December
38 31 of the immediately preceding calendar year, and is, for calendar
39 year 2021 and any subsequent calendar year, equal to 120% of the
40 benefits paid for periods of disability, excluding periods of family
41 temporary disability and pregnancy temporary disability, during the
42 last preceding full fiscal year plus an amount equal to 100% of the
43 cost of administration of the payment of those benefits during the
44 last preceding full fiscal year, less the amount of net assets
45 anticipated to be remaining in the "Family Temporary Disability
46 Leave Account" and the "Pregnancy Temporary Disability Leave
47 Account" of that fund, as of December 31 of the immediately
48 preceding calendar year. The estimated rates for the next calendar

1 year shall be made available on the department's website no later
2 than 60 days after the end of the last preceding full fiscal year. The
3 rates of employer contributions determined pursuant to subsection
4 (e) of this section for any year shall be determined prior to the
5 determination of the rate of employee contributions pursuant to this
6 subparagraph (i) and any consideration of employee contributions in
7 determining employer rates for any year shall be based on amounts
8 of employee contributions made prior to the year to which the rate
9 of employee contributions applies and shall not be based on any
10 projection or estimate of the amount of employee contributions for
11 the year to which that rate applies.

12 (ii) Each worker shall contribute to the State disability benefits
13 fund, in addition to any amount contributed pursuant to
14 subparagraph (i) of this paragraph (1)(G), an amount equal to,
15 during calendar year 2009, 0.09%, and during calendar year 2010
16 0.12%, of wages paid with respect to the worker's employment with
17 any covered employer, including a governmental employer which is
18 an employer as defined under R.S.43:21-19(h)(5), unless the
19 employer is covered by an approved private disability plan for
20 benefits during periods of family temporary disability leave. The
21 contributions made pursuant to this subparagraph (ii) to the State
22 disability benefits fund shall be deposited into an account of that
23 fund reserved for the payment of benefits during periods of family
24 temporary disability leave as defined in section 3 of the "Temporary
25 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
26 administration of those payments and shall not be used for any other
27 purpose. This account shall be known as the "Family Temporary
28 Disability Leave Account." For calendar year 2011 and each
29 subsequent calendar year until 2018, the annual rate of contribution
30 to be paid by workers pursuant to this subparagraph (ii) shall be, for
31 calendar years prior to calendar year 2018, the rate necessary to
32 obtain a total amount of contributions equal to 125% of the benefits
33 paid for periods of family temporary disability leave during the
34 immediately preceding calendar year plus an amount equal to 100%
35 of the cost of administration of the payment of those benefits during
36 the immediately preceding calendar year, less the amount of net
37 assets remaining in the account as of December 31 of the
38 immediately preceding year, and shall be, for calendar year 2018
39 **[and subsequent calendar years]**, the rate necessary to obtain a total
40 amount of contributions equal to 125% of the benefits paid for
41 periods of family temporary disability leave during the last
42 preceding full fiscal year plus an amount equal to 100% of the cost
43 of administration of the payment of those benefits during the last
44 preceding full fiscal year, less the amount of net assets anticipated
45 to be remaining in the account as of December 31 of the
46 immediately preceding calendar year. For each of calendar years
47 2019 and 2020, the annual rate of contribution to be paid by
48 workers pursuant to this subparagraph (ii) shall be the rate

1 necessary to obtain a total amount of contributions equal to 125% of
2 the benefits which the department anticipates will be paid for
3 periods of family temporary disability leave during the respective
4 calendar year plus an amount equal to 100% of the cost of
5 administration of the payment of those benefits which the
6 department anticipates during the respective calendar year, less the
7 amount of net assets remaining in the account as of December 31 of
8 the immediately preceding calendar year. For 2021 and any
9 subsequent calendar year, the annual rate of contribution to be paid
10 by workers pursuant to this subparagraph (ii) shall be the rate
11 necessary to obtain a total amount of contributions equal to 125% of
12 the benefits which were paid for periods of family temporary
13 disability leave during the last preceding full fiscal year plus an
14 amount equal to 100% of the cost of administration of the payment
15 of those benefits during the last preceding full fiscal year, less the
16 amount of net assets remaining in the account as of December 31 of
17 the immediately preceding calendar year. All increases in the cost
18 of benefits for periods of family temporary disability leave caused
19 by the increases in the weekly benefit rate commencing July 1, 2019
20 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
21 increases in the maximum duration of benefits commencing July 1,
22 2019 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
23 and 43:21-39) shall be funded by contributions made by workers
24 pursuant to this paragraph (ii) and none of those increases shall be
25 funded by employer contributions. The estimated rates for the next
26 calendar year shall be made available on the department's website
27 no later than 60 days after the end of the last preceding full fiscal
28 year. Necessary administrative costs shall include the cost of an
29 outreach program to inform employees of the availability of the
30 benefits and the cost of issuing the reports required or permitted
31 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
32 monies, other than the funds in the "Family Temporary Disability
33 Leave Account," shall be used for the payment of benefits during
34 periods of family temporary disability leave or for the
35 administration of those payments, with the sole exception that,
36 during calendar years 2008 and 2009, a total amount not exceeding
37 \$25 million may be transferred to that account from the revenues
38 received in the State disability benefits fund pursuant to
39 subparagraph (i) of this paragraph (1)(G) and be expended for those
40 payments and their administration, including the administration of
41 the collection of contributions made pursuant to this subparagraph
42 (ii) and any other necessary administrative costs. Any amount
43 transferred to the account pursuant to this subparagraph (ii) shall be
44 repaid during a period beginning not later than January 1, 2011 and
45 ending not later than December 31, 2015. No monies, other than
46 the funds in the "Family Temporary Disability Leave Account,"
47 shall be used under any circumstances after December 31, 2009, for
48 the payment of benefits during periods of family temporary

1 disability leave or for the administration of those payments,
2 including for the administration of the collection of contributions
3 made pursuant to this subparagraph (ii).

4 (iii) Each worker, with respect to the worker's employment with
5 a government employer electing or required to pay contributions to
6 the State disability benefits fund or nongovernmental employer,
7 including a nonprofit organization which is an employer as defined
8 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
9 employer is covered by an approved private disability plan or is
10 exempt from the provisions of the "Temporary Disability Benefits
11 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that
12 law (C.43:21-31) or any other provision of that law, shall make
13 contributions to the State disability benefits fund, in addition to any
14 amount contributed pursuant to subparagraph (i) of this paragraph
15 (1)(G), for the purpose of funding the provision of pregnancy
16 temporary disability benefits. The contributions made pursuant to
17 this subparagraph (iii) to the State disability benefits fund shall be
18 deposited into an account of that fund reserved for the payment of
19 benefits during periods of pregnancy temporary disability and for
20 the administration of those payments and shall not be used for any
21 other purpose. This account shall be known as the "Pregnancy
22 Temporary Disability Account." For each of calendar years 2019
23 and 2020, the annual rate of contribution to be paid by workers
24 pursuant to this subparagraph (iii) shall be the rate necessary to
25 obtain a total amount of contributions, which, when added to the
26 portion of employer contributions made to the State disability
27 benefits fund pursuant to subsection (e) of this section which is
28 allocated to benefits for periods of pregnancy temporary disability,
29 is equal to 120% of the benefits which the department anticipates
30 will be paid for periods of pregnancy temporary disability during
31 the respective calendar year plus an amount equal to 100% of the
32 cost of administration of the payment of those benefits which the
33 department anticipates during the respective calendar year, less the
34 amount of net assets remaining in the account as of December 31 of
35 the immediately preceding calendar year. For calendar year 2021
36 and any subsequent calendar year, the annual rate of contribution to
37 be paid by workers pursuant to this subparagraph (iii) shall be the
38 rate necessary to obtain a total amount of contributions, which,
39 when added to the portion of employer contributions made to the
40 State disability benefits fund pursuant to subsection (e) of this
41 section which is allocated to benefits for a period of pregnancy
42 temporary disability, is equal to 120% of the benefits which were
43 paid for periods of pregnancy temporary disability during the last
44 preceding full fiscal year plus an amount equal to 100% of the cost
45 of administration of the payment of those benefits during the last
46 preceding full fiscal year, less the amount of net assets remaining in
47 the account as of December 31 of the immediately preceding
48 calendar year. The estimated rates for the next calendar year shall

1 be made available on the department's website no later than 60 days
2 after the end of the last preceding full fiscal year. No monies, other
3 than the funds in the "Pregnancy Temporary Disability Leave
4 Account" contributed by workers, and the portion of employer
5 contributions to the State disability benefits fund which the
6 department determines is allocated to benefits for periods of
7 pregnancy temporary disability, shall be used for the payment of
8 benefits during periods of pregnancy temporary disability or for the
9 administration of those payments, including for the administration
10 of the collection of contributions made pursuant to this
11 subparagraph (iii). The department shall base its determination of
12 what portion of employer contributions to the State disability
13 benefits fund is allocated to benefits for periods of pregnancy
14 temporary disability on the percentage that the total amount of
15 benefits for periods of pregnancy temporary disability benefits
16 would represent of the total amount of all disability benefits if the
17 increases in the weekly benefit rate for benefits for periods of
18 pregnancy temporary disability commencing July 1, 2019 pursuant
19 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.
20 All increases in the cost of benefits for periods of pregnancy
21 temporary disability caused by increases in the weekly benefit rate
22 for those benefits commencing July 1, 2019 pursuant to section 16
23 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions
24 made by workers pursuant to this paragraph (iii) and none of those
25 increases shall be funded by employer contributions.

26 For the purposes of this section, periods of "pregnancy
27 temporary disability" means periods of disability due to pregnancy
28 or recovery from childbirth.

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

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

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

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

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

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

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

36 (3) (A) If an employee receives wages from more than one
37 employer during any calendar year, and either the sum of his
38 contributions deposited in and credited to the State disability
39 benefits fund plus the amount of his contributions, if any, required
40 towards the costs of benefits under one or more approved private
41 plans under the provisions of section 9 of the "Temporary Disability
42 Benefits Law" (C.43:21-33) and deducted from his wages, or the
43 sum of such latter contributions, if the employee is covered during
44 such calendar year only by two or more private plans, exceeds an
45 amount equal to 1/2 of 1% of the "wages" determined in accordance
46 with the provisions of R.S.43:21-7(b)(3) during the calendar years
47 beginning on or after January 1, 1976 or, during calendar year 2012
48 or any subsequent calendar year, the total amount of his

1 contributions for the year exceeds the amount set by the annual rate
2 of contribution determined by the Commissioner of Labor and
3 Workforce Development pursuant to subparagraph (i) and, during
4 calendar year 2019 and subsequent calendar years, subparagraph
5 (iii), of paragraph (1)(G) of this subsection (d), the employee shall
6 be entitled to a refund of the excess if he makes a claim to the
7 controller within two years after the end of the calendar year in
8 which the wages are received with respect to which the refund is
9 claimed and establishes his right to such refund. Such refund shall
10 be made by the controller from the State disability benefits fund. No
11 interest shall be allowed or paid with respect to any such refund.
12 The controller shall, in accordance with prescribed regulations,
13 determine the portion of the aggregate amount of such refunds made
14 during any calendar year which is applicable to private plans for
15 which deductions were made under section 9 of the "Temporary
16 Disability Benefits Law" (C.43:21-33) such determination to be
17 based upon the ratio of the amount of such wages exempt from
18 contributions to such fund, as provided in subparagraph (B) of
19 paragraph (1) of this subsection with respect to coverage under
20 private plans, to the total wages so exempt plus the amount of such
21 wages subject to contributions to the disability benefits fund, as
22 provided in subparagraph (G) of paragraph (1) of this subsection.
23 The controller shall, in accordance with prescribed regulations,
24 prorate the amount so determined among the applicable private
25 plans in the proportion that the wages covered by each plan bear to
26 the total private plan wages involved in such refunds, and shall
27 assess against and recover from the employer, or the insurer if the
28 insurer has indemnified the employer with respect thereto, the
29 amount so prorated. The provisions of R.S.43:21-14 with respect to
30 collection of employer contributions shall apply to such
31 assessments. The amount so recovered by the controller shall be
32 paid into the State disability benefits fund.

33 (B) If an employee receives wages from more than one employer
34 during any calendar year, and the sum of his contributions deposited
35 in the "Family Temporary Disability Leave Account" of the State
36 disability benefits fund plus the amount of his contributions, if any,
37 required towards the costs of family temporary disability leave
38 benefits under one or more approved private plans under the
39 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
40 et al.) and deducted from his wages, exceeds an amount equal to,
41 during calendar year 2009, 0.09% of the "wages" determined in
42 accordance with the provisions of R.S.43:21-7(b)(3), or during
43 calendar year 2010, 0.12% of those wages, or, during calendar year
44 2011 or any subsequent calendar year, the percentage of those
45 wages set by the annual rate of contribution determined by the
46 Commissioner of Labor and Workforce Development pursuant to
47 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
48 employee shall be entitled to a refund of the excess if he makes a

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

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

45 (5) Every employer who has elected to become an employer
46 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
47 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
48 the provisions of R.S.43:21-8, shall post and maintain printed

1 notices of such election on his premises, of such design, in such
2 numbers, and at such places as the director may determine to be
3 necessary to give notice thereof to persons in his service.

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

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

9 (1) Except as hereinafter provided, each employer shall, in
10 addition to the contributions required by subsections (a), (b), and
11 (c) of this section, contribute 1/2 of 1% of the wages paid by such
12 employer to workers with respect to employment unless he is not a
13 covered employer as defined in subsection (a) of section 3 of the
14 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
15 the rate for the State of New Jersey shall be 1/10 of 1% for the
16 calendar year 1980 and for the first six months of 1981. Prior to
17 July 1, 1981 and prior to July 1 each year thereafter, the controller
18 shall review the experience accumulated in the account of the State
19 of New Jersey and establish a rate for the next following fiscal year
20 which, in combination with worker contributions, will produce
21 sufficient revenue to keep the account in balance; except that the
22 rate so established shall not be less than 1/10 of 1%. Such
23 contributions shall become due and be paid by the employer to the
24 controller for the State disability benefits fund as established by
25 law, in accordance with such regulations as may be prescribed, and
26 shall not be deducted, in whole or in part, from the remuneration of
27 individuals in his employ. In the payment of any contributions, a
28 fractional part of a cent shall be disregarded unless it amounts to
29 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

38 (B) A separate disability benefits account shall be maintained for
39 each employer required to contribute to the State disability benefits
40 fund and such account shall be credited with contributions
41 deposited in and credited to such fund with respect to employment
42 occurring on and after January 1, 1949. Each employer's account
43 shall be credited with all contributions paid on or before January 31
44 of any calendar year on his own behalf and on behalf of individuals
45 in his service with respect to employment occurring in preceding
46 calendar years; provided, however, that if January 31 of any
47 calendar year falls on a Saturday or Sunday an employer's account
48 shall be credited as of January 31 of such calendar year with all the

1 contributions which he has paid on or before the next succeeding
2 day which is not a Saturday or Sunday. But nothing in this act shall
3 be construed to grant any employer or individuals in his service
4 prior claims or rights to the amounts paid by him to the fund either
5 on his own behalf or on behalf of such individuals. Benefits paid to
6 any covered individual in accordance with Article III of the
7 "Temporary Disability Benefits Law" on or before December 31 of
8 any calendar year with respect to disability in such calendar year
9 and in preceding calendar years shall be charged against the account
10 of the employer by whom such individual was employed at the
11 commencement of such disability or by whom he was last
12 employed, if out of employment.

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

20 (D) Prior to July 1 of each calendar year, the controller shall
21 make a preliminary determination of the rate of contribution for the
22 12 months commencing on such July 1 for each employer subject to
23 the contribution requirements of this subsection (e).

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

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

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

36 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
37 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

38 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds 1
39 $\frac{1}{2}$ % of his average annual payroll.

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

46 (4) If the minimum requirements in subparagraph (D) (1) above
47 have been fulfilled and the benefits charged exceed the

1 contributions credited by more than \$500.00, such preliminary rate
2 shall be as follows:

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

5 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
6 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

7 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
8 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

9 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
10 3/4 of 1% but is less than 1% of his average annual payroll;

11 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
12 1% of his average annual payroll.

13 (5) Determination of the preliminary rate as specified in
14 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
15 to the condition that it shall in no event be decreased by more than
16 1/10 of 1% of wages or increased by more than 2/10 of 1% of
17 wages from the preliminary rate determined for the preceding year
18 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
19 shall have been applicable.

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

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

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

47 (ii) If the percentage determined in accordance with
48 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%

1 and is less than 1 1/4 of 1%, the final employer rates shall be the
2 preliminary employer rates.

3 (iii) If the percentage determined in accordance with
4 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
5 excess of 1/4 of 1%, the final employer rates shall be the
6 preliminary employer rates determined as provided in subparagraph
7 (D) hereof increased by the difference between 3/4 of 1% and such
8 percentage taken to the nearest 5/100 of 1%; provided, however,
9 that no such final rate shall be more than 1/4 of 1% in the case of an
10 employer whose preliminary rate is determined as provided in
11 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
12 employer whose preliminary rate is determined as provided in
13 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
14 3/4 of 1% in the case of an employer whose preliminary rate is
15 determined as provided in subparagraph (D)(4) hereof.

16 (iv) If the amount of the State disability benefits fund determined
17 as provided in subparagraph (E)(1) of this paragraph is equal to or
18 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case
19 of an employer whose preliminary rate is determined as provided in
20 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer
21 whose preliminary rate is determined as provided in subparagraph
22 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
23 employer whose preliminary rate is determined as provided in
24 subparagraph (D)(4) hereof. Notwithstanding any other provision of
25 law or any determination made by the controller with respect to any
26 12-month period commencing on July 1, 1970, the final rates for all
27 employers for the period beginning January 1, 1971, shall be as set
28 forth herein.

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

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

36 (ii) No worker paid any contributions to the State disability
37 benefits fund pursuant to paragraph (1)(G)(ii) or paragraph
38 (1)(G)(iii) of subsection (d) of this section; **[and]**

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

43 (iv) The total amount of benefits paid for periods of pregnancy
44 temporary disability were not subject to the increases in the weekly
45 benefit rate for those benefits commencing July 1, 2019 pursuant to
46 section 16 of P.L.1948, c.110 (C.43:21-40).

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

1 **1** **[4.]** **5.**¹ Section 2 of P.L.1948, c.110 (C.43:21-26) is
2 amended to read as follows:

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

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

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

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

36 While the enactment of that law has provided stable protection
37 for New Jersey's disabled workers, very few workers are protected
38 from income losses caused by the need to take time off from work
39 to care for family members who are incapable of self-care,
40 including newborn and newly-adopted children. The growing
41 portion of middle-income families in which all adult family
42 members work, largely due to economic necessity, points to the
43 desperate need for replacement income when a working family
44 member must take time to care for family members who are unable
45 to take care of themselves. Moreover, the United States is the only
46 industrialized nation in the world which does not have a mandatory
47 workplace-based program for such income support. It is therefore
48 desirable and necessary to fill the gap in existing provisions for

1 protection against the loss of earnings caused by involuntary
2 unemployment, by extending such protection to meet the hazard of
3 earnings loss due to inability to work caused by nonoccupational
4 sickness, accidents, or other disabilities of workers and members of
5 their families. Developing systems that help families adapt to the
6 competing interests of work and home not only benefits workers,
7 but also benefits employers by reducing employee turnover and
8 increasing worker productivity.

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

27 While the Legislature recognizes the pressing need for benefits
28 for workers taking leave to care for family members incapable of
29 self-care, it also finds that the need of workers for leave during their
30 own disability continues to be especially acute, as a disabled worker
31 has less discretion about taking time off from work than a worker
32 caring for a family member. Notwithstanding any interpretation of
33 law which may be construed as providing a worker with rights to
34 take action against an employer who fails or refuses to restore the
35 worker to employment after the worker's own disability, the
36 Legislature does not intend that the policy established by P.L.2008,
37 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during
38 periods of family temporary disability leave to care for family
39 members incapable of self-care be construed as granting any worker
40 an entitlement to be restored by the employer to employment held
41 by the worker prior to taking family temporary disability leave or
42 any right to take action, in tort, or for breach of an implied
43 provision of the employment agreement, or under common law,
44 against an employer who fails or refuses to restore the worker to
45 employment after the family temporary disability leave, and the
46 Legislature does not intend that the policy of providing benefits
47 during family temporary disability leave be construed as increasing,
48 reducing or otherwise modifying any entitlement of a worker to

1 return to employment or right of the worker to take action under the
2 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
3 et seq.)], or the federal "Family and Medical Leave Act of 1993,"
4 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)].

5 Since the enactment of the "Temporary Disability Benefits Law,"
6 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated
7 State temporary disability benefits plan, or "State plan," has proven
8 to be highly efficient and cost effective in providing temporary
9 disability benefits to New Jersey workers. The State plan
10 guarantees the availability of coverage for all employers, regardless
11 of experience, with low overhead costs and a rapid processing of
12 claims and appeals by knowledgeable, impartial public employees.
13 Consequently, the percentage of all employers using the State plan
14 increased from 64% in 1952 to 98% in 2006, while the percentage
15 of employees covered by the State plan increased from 28% to 83%.
16 A publicly-operated, nonprofit State plan is therefore indispensable
17 to achieving the goals of the "Temporary Disability Benefits Law,"
18 P.L.1948, c.110 (C.43:21-25 et al.).
19 (cf: P.L.2008, c.17, s.1)

20

21 ¹[5.] 6.¹ Section 3 of P.L.1948, c.110 (C.43:21-27) is amended
22 to read as follows:

23 3. As used in this act, unless the context clearly requires
24 otherwise:

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

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

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

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

20 (b) (1) "Covered individual" means, with respect to whether an
21 individual is eligible for benefits during an individual's own disability
22 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any person who is in
23 employment, as defined in the "unemployment compensation law"
24 (R.S.43:21-1 et seq.), for which the individual is entitled to
25 remuneration from a covered employer, or who has been out of such
26 employment for less than two weeks, except that a "covered
27 individual" who is employed by the State of New Jersey, including
28 Rutgers, The State University or the New Jersey Institute of
29 Technology, or by any governmental entity or instrumentality which
30 elects to become a "covered employer" pursuant to this amendatory
31 act¹; prior to July 1, 2019¹ shall not be eligible to receive any
32 benefits under the "Temporary Disability Benefits Law" until such
33 individual has exhausted all sick leave accumulated as an employee in
34 the classified service of the State or accumulated under terms and
35 conditions similar to classified employees or accumulated under the
36 terms and conditions pursuant to the laws of this State or as the result
37 of a negotiated contract with any governmental entity or
38 instrumentality which elects to become a "covered employer"¹; and,
39 after June 30, 2019 may be required, prior to receiving any benefits
40 under the "Temporary Disability Benefits Law," to use up to two
41 weeks of sick leave accumulated as an employee in the classified
42 service of the State or accumulated under terms and conditions similar
43 to classified employees or accumulated under the terms and conditions
44 pursuant to the laws of this State or as the result of a negotiated
45 contract with any governmental entity or instrumentality which elects
46 to become a "covered employer", except that the individual shall not
47 be required to use the individual's last week's worth of accumulated
48 sick time before receiving the benefits.¹

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (4) "Base week" with respect to periods of disability commencing
46 on or after January 1, 2001, means any calendar week of a covered
47 individual's base year during which the covered individual earned in
48 employment from a covered employer remuneration not less than an

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

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

21 (j) (1) "Average weekly wage" means the amount derived by
22 dividing a covered individual's total wages earned from the
23 individual's most recent covered employer during the base weeks in
24 the eight calendar weeks immediately preceding the calendar week in
25 which a period of disability commenced, by the number of such base
26 weeks.

27 (2) If the computation in paragraph (1) of this subsection (j) yields
28 a result which is less than the individual's average weekly earnings in
29 employment with all covered employers during the base weeks in such
30 eight calendar weeks, then the average weekly wage shall be computed
31 on the basis of earnings from all covered employers during the base
32 weeks in the eight calendar weeks immediately preceding the week in
33 which the period of disability commenced.

34 (3) For periods of disability commencing on or after July 1, 2009,
35 if the computations in paragraphs (1) and (2) of this subsection (j) both
36 yield a result which is less than the individual's average weekly
37 earnings in employment with all covered employers during the base
38 weeks in the 26 calendar weeks immediately preceding the week in
39 which the period of disability commenced, then the average weekly
40 wage shall, upon a written request to the department by the individual
41 on a form provided by the department, be computed by the department
42 on the basis of earnings from all covered employers of the individual
43 during the base weeks in those 26 calendar weeks, and, in the case of a
44 claim for benefits from a private plan, that computation of the average
45 weekly wage shall be provided by the department to the individual and
46 the individual's employer.

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

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

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

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

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

18 (n) "Family member" means a sibling, grandparent, grandchild,
19 child, spouse, domestic partner, civil union partner, parent-in-law, or
20 parent of a covered individual, or any other individual related by blood
21 to the employee, and any other individual ¹**【whose】** that the employee
22 shows to have a¹ close association with the employee ¹which¹ is the
23 equivalent of a family relationship.

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

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

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

37 (3) engage in activities for which unpaid leave may be taken
38 pursuant to section 3 of the "New Jersey Security and Financial
39 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the individual's
40 own behalf, if the individual is a victim of an incident of domestic
41 violence a sexually violent offense, or to assist a family member of the
42 individual who has been a victim of an incident of domestic violence a
43 sexually violent offense, provided that any time taken by an individual
44 who has been a victim of an incident of domestic violence a sexually
45 violent offense for which the individual receives benefits for a
46 disability caused by the violence or offense shall be regarded as a

1 period of disability of the individual and not as a period of family
2 temporary disability leave.

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

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

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

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

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

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

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

33 (cf: P.L.2013, c.221, s.3)

34

35 ¹**[6.] 7.**¹ Section 11 of P.L.1948, c.110 (C.43:21-35) is
36 amended to read as follows:

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

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

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

17 (d) No termination of an approved private plan shall affect the
18 payment of benefits, in accordance with the provisions of the plan,
19 to employees whose period of disability commenced prior to the
20 date of termination. Employees who have ceased to be covered by
21 an approved private plan because of its termination shall, subject to
22 the limitations and restrictions of this act, become eligible forthwith
23 for benefits from the State Disability Benefits Fund for a period of
24 disability commencing after such cessation, and contributions with
25 respect to their wages shall immediately become payable as
26 otherwise provided by law. Any withdrawal of approval of a
27 private plan pursuant to this section shall be reviewable by writ of
28 certiorari or by such other procedure as may be provided by law.
29 With respect to a period of family temporary disability leave
30 immediately after the individual has a period of disability during the
31 individual's own disability, the period of disability is deemed, for
32 the purposes of determining whether the period of disability
33 commenced prior to the date of the termination, to have commenced
34 at the beginning of the period of disability during the individual's
35 own disability, not the period of family temporary disability leave.

36 (e) Anything in this act to the contrary notwithstanding, a
37 covered employer who, under an approved private plan, is
38 providing benefits at least equal to those required by the State plan,
39 may modify the benefits under the private plan so as to provide
40 benefits not less than the benefits required by the State plan.
41 Individuals covered under a private plan shall not be required to
42 contribute to the plan at a rate exceeding $\frac{3}{4}$ of 1% of the amount of
43 "wages" established for any calendar year under the provisions of
44 R.S.43:21-7(b) prior to January 1, 1975, and $\frac{1}{2}$ of 1% for calendar
45 years beginning on or after January 1, 1975 and before January 1,
46 2009. For a calendar year beginning on or after January 1, 2009
47 and before January 1, 2012: an employer providing a private plan
48 only for benefits for employees during their own disabilities may

1 require the employees to contribute to the plan at a rate not
2 exceeding 0.5% of the amount of "wages" established for the
3 calendar year under the provisions of R.S.43:21-7(b); an employer
4 providing a private plan only for benefits for employees during
5 periods of family temporary disability may require the individuals
6 covered by the private plan to contribute an amount not exceeding
7 the amount the individuals would pay pursuant to R.S.43:21-
8 7(d)(1)(G)(ii); an employer providing a private plan both for
9 benefits for employees during their own disabilities and for benefits
10 during periods of family temporary disability may require the
11 employees to contribute to the plan at a rate not exceeding 0.5% of
12 the amount of "wages" established for the calendar year under the
13 provisions of R.S.43:21-7(b) plus an additional amount not
14 exceeding the amount the individuals would pay pursuant to
15 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after
16 January 1, 2012: an employer providing a private plan only for
17 benefits for employees during their own disabilities may require the
18 employees to contribute to the plan at a rate not exceeding the
19 amount the individuals would pay pursuant to R.S.43:21-
20 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing
21 a private plan only for benefits for employees during periods of
22 family temporary disability may require the individuals covered by
23 the private plan to contribute an amount not exceeding the amount
24 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an
25 employer providing a private plan both for benefits for employees
26 during their own disabilities and for benefits during periods of
27 family temporary disability may require the employees to contribute
28 to the plan an amount not exceeding the amount the individuals
29 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-
30 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the
31 proposed modification shall be given by the employer to the
32 division and to the individuals covered under the plan.
33 (cf: P.L.2011, c.88, s.2)

34

35 **1[7.] 8.1** Section 14 of P.L.1948, c.110 (C.43:21-38) is amended
36 to read as follows:

37 14. With respect to any period of disability for an individual's own
38 disability commencing on or after January 1, 1953, disability benefits,
39 not in excess of an individual's maximum benefits, shall be payable
40 with respect to disability which commences while a person is a
41 covered individual under the Temporary Disability Benefits Law, and
42 shall be payable with respect to the eighth consecutive day of such
43 disability and each day thereafter that such period of disability
44 continues; and if benefits shall be payable for three consecutive weeks
45 with respect to any period of disability commencing on or after
46 January 1, 1968, then benefits shall also be payable with respect to the
47 first seven days thereof. With respect to any period of family
48 temporary disability leave commencing on or after July 1, 2009 and

1 while an individual is a covered individual, family temporary disability
2 benefits, not in excess of the individual's maximum benefits, shall be
3 payable with respect to the first day of leave taken after the first one-
4 week period following the commencement of the period of family
5 temporary disability leave and each subsequent day of leave during
6 that period of family temporary disability leave; and if benefits
7 become payable on any day after the first three weeks in which leave
8 is taken, then benefits shall also be payable with respect to any leave
9 taken during the first one-week period in which leave is taken. ¹With
10 respect to any period of family temporary disability leave commencing
11 on or after July 1, 2019 and while an individual is a covered
12 individual, family temporary disability benefits, not in excess of the
13 individual's maximum benefits, shall be payable with respect to the
14 first day of leave taken upon the commencement of the period of
15 family temporary disability leave and each subsequent day of leave
16 during that period of family temporary disability leave.¹ The
17 maximum total benefits payable to any eligible individual for any
18 period of disability of the individual commencing on or after January
19 1, 1968, shall be either 26 times his weekly benefit amount or 1/3 of
20 his total wages in his base year, whichever is the lesser; provided that
21 such maximum amount shall be computed in the next lower multiple
22 of \$1.00 if not already a multiple thereof. The maximum total benefits
23 payable to any eligible individual for any period of family temporary
24 disability leave commencing on or after July 1, 2009 and before July 1,
25 2019, shall be six times the individual's weekly benefit amount or 1/3
26 of his total wages in his base year, whichever is the lesser; provided
27 that the maximum amount shall be computed in the next lower
28 multiple of \$1.00, if not already a multiple thereof. The maximum
29 total benefits payable to any eligible individual for any period of
30 family temporary disability leave commencing on or after July 1,
31 2019, shall be twelve times the individual's weekly benefit amount;
32 provided that the maximum amount shall be computed in the next
33 lower multiple of \$1.00, if not already a multiple thereof.

34 (cf: P.L.2008, c.17, s.5)

35

36 ¹**[8.]** 9.¹ Section 15 of P.L.1948, c.110 (C.43:21-39) is amended
37 to read as follows:

38 15. Limitation of benefits. Notwithstanding any other provision of
39 the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-
40 25 et al.), no benefits shall be payable under the State plan to any
41 individual:

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

44 (1) if benefits shall be payable for three consecutive weeks with
45 respect to any period of ¹the individual's own¹ disability, then benefits
46 shall also be payable with respect to the first seven days thereof;

47 (2) in the case of intermittent leave in a single period of family
48 temporary disability leave taken to provide care for a family member

1 of the individual with a serious health condition, benefits shall be
2 payable with respect to the first day of leave ¹["taken after the first one-
3 week period following] upon¹ the commencement of the period of
4 family temporary disability leave and each subsequent day of leave
5 during that period of family temporary disability leave; ¹["and if
6 benefits become payable on any day after the first three weeks in
7 which leave is taken, then benefits shall also be payable with respect to
8 any leave taken during the first one-week period in which leave is
9 taken;"]¹ and

10 (3) in the case of an individual taking family temporary disability
11 leave ¹["immediately after the individual has a period of disability for
12 the individual's own disability"]¹, there shall be no waiting period
13 ¹["between the period of the individual's own disability and the period
14 of family temporary disability"]¹;

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

17 (2) for more than six weeks with respect to any one period of
18 family temporary disability leave commencing before July 1, 2019 and
19 more than 12 weeks if the period of leave commences on or after July
20 1, 2019, or for more than 42 days with respect to any one period of
21 family temporary disability leave commencing before July 1, 2019 and
22 more than 84 days if the period of leave commences on or after July 1,
23 2019, in the case of leave taken on an intermittent basis to provide care
24 for a family member of the individual with a serious health condition;
25 and

26 (3) for more than six weeks of family temporary disability leave
27 during any 12-month period commencing before July 1, 2019 and
28 more than 12 weeks for any 12-month period commencing on or after
29 July 1, 2019, or for more than 42 days of family temporary disability
30 leave taken during any 12-month period commencing before July 1,
31 2019 and more than 84 days if the period of leave commences on or
32 after July 1, 2019, on an intermittent basis to provide care for a family
33 member of the individual with a serious health condition, including
34 family temporary disability leave taken pursuant to R.S.43:21-4(f)(2)
35 while unemployed;

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

38 (d) for any period of disability of a claimant during which the
39 claimant is not under the care of a legally licensed physician, dentist,
40 optometrist, podiatrist, practicing psychologist, advanced practice
41 nurse, certified nurse midwife, or chiropractor, who, when requested
42 by the division, shall certify within the scope of the practitioner's
43 practice, the disability of the claimant, the probable duration thereof,
44 and, where applicable, the medical facts within the practitioner's
45 knowledge or for any period of family temporary disability leave for a
46 serious health condition of a family member of the claimant, during
47 which the family member is not receiving inpatient care in a hospital,

1 hospice, or residential medical care facility or is not subject to
2 continuing medical treatment or continuing supervision by a health
3 care provider, who, when requested by the division, shall certify
4 within the scope of the provider's practice, the serious health condition
5 of the family member, the probable duration thereof, and, where
6 applicable, the medical facts within the provider's knowledge;

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

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

14 (g) for any period during which the claimant performs any work
15 for remuneration or profit¹, except that, in a case of family temporary
16 disability in which the covered individual has more than one employer,
17 the individual shall have the option of claiming benefits for leave
18 taken from one employer on the condition that the individual does not,
19 during the period for which the benefits are paid, increase the amount
20 of employment time with any other employer¹;

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

24 (i) for any period during which a covered individual would be
25 disqualified for unemployment compensation benefits under
26 subsection (d) of R.S.43:21-5, unless the disability commenced prior
27 to such disqualification;

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

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

32

33 ¹**[9.] 10.¹** Section 10 of P.L.2008, c.17 (C.43:21-39.1) is
34 amended to read as follows:

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

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

43 c. The employer of an individual may, notwithstanding any other
44 provision of law, including the provisions of N.J.S.18A:30-1 et seq.,
45 permit **[or require]** the individual, during a period of family temporary
46 disability leave, to use any paid sick leave, vacation time or other leave
47 at full pay made available by the employer before the individual **[is**

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

25 d. An individual who is entitled to leave under the provisions of
26 the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
27 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
28 U.S.C. s.2601 et seq.), shall take any benefits provided for family
29 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et
30 al.) concurrently with leave taken pursuant to the "Family Leave Act,"
31 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and
32 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).
33 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to
34 grant an employee any entitlement to be restored by the employer to
35 employment held by the employee prior to taking family temporary
36 disability leave or any right to take action against an employer who
37 refuses to restore the employee to employment after the leave.
38 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to
39 increase, reduce or otherwise modify any entitlement of an employee
40 to return to employment or right of the employee to take action under
41 the provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-
42 1 et seq.) 1[or the federal "Family and Medical Leave Act of 1993,"
43 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)]1. If an employee receives
44 benefits for family temporary disability leave pursuant to P.L.2008,
45 c.17 (C.43:21-39.1 et al.) with respect to employment with an
46 employer who is not an employer as defined in the "Family Leave
47 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and that employer fails or

1 refuses to restore the employee to employment after the period of
2 family temporary disability leave, that failure or refusal shall not be a
3 wrongful discharge in violation of a clear mandate of public policy,
4 and the employee shall not have a cause of action against that
5 employer, in tort, or for breach of an implied provision of the
6 employment agreement, or under common law, for that failure or
7 refusal.

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

17 f. In the event of a period of family temporary disability leave of
18 any individual covered under the State plan, the employer shall, not
19 later than the ninth day of the period of family temporary disability
20 leave, including any waiting period or time in which the employer
21 provides sick leave, vacation or other fully paid leave, issue to the
22 individual and to the division printed notices on division forms
23 containing the name, address and Social Security number of the
24 individual, such wage information as the division may require to
25 determine the individual's eligibility for benefits, including any sick
26 pay, vacation or other fully paid time off provided by the employer
27 during the period of family temporary disability leave, and the name,
28 address, and division identity number of the employer. Not later than
29 30 days after the commencement of the period of family temporary
30 disability leave for which the notice is furnished by the employer, the
31 individual shall furnish to the division a notice and claim for family
32 temporary disability leave benefits. Upon the submission of the
33 notices by the employer and the individual, the division may issue
34 benefit payments. In the case of family temporary disability leave
35 taken to care for a family member with a serious health condition, the
36 benefits may be paid for periods not exceeding three weeks pending
37 the receipt of the certification required pursuant to subsection b. of
38 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish notice
39 and certification in the manner above provided shall not invalidate or
40 reduce any claim if it shall be shown to the satisfaction of the division
41 not to have been reasonably possible to furnish the notice and
42 certification and that the notice and certification was furnished as soon
43 as reasonably possible.

44 g. Each covered employer shall conspicuously post notification,
45 in a place or places accessible to all employees in each of the
46 employer's workplaces, in a form issued by regulation promulgated by
47 the commissioner, of each covered employee's rights regarding
48 benefits payable pursuant to this section. The employer shall also

1 provide each employee of the employer with a written copy of the
2 notification: (1) not later than 30 days after the form of the notification
3 is issued by regulation; (2) at the time of the employee's hiring, if the
4 employee is hired after the issuance; (3) whenever the employee
5 notifies the employer that the employee is taking time off for
6 circumstances under which the employee is eligible for benefits
7 pursuant to this section; and (4) at any time, upon the first request of
8 the employee.

9 (cf: P.L.2008, c.17, s.10)

10

11 ¹~~10.~~ 11.¹ Section 12 of P.L.2008, c.17 (C.43:21-39.3) is
12 amended to read as follows:

13 12. a. (1) All of the disability benefits paid to a covered individual
14 during a period of family temporary disability leave with respect to
15 any one birth¹, placement in foster care,¹ or adoption shall be for a
16 single continuous period of time **],** except that the employer of the
17 covered individual may permit the covered individual to receive the
18 disability benefits **]** or during non-consecutive weeks **]** in a manner
19 mutually agreed to by the employer and the covered individual and **]** or
20 days on an intermittent basis pursuant to paragraph (2) of this
21 subsection, which shall be disclosed to the division by the employer.

22 (2) In the case of intermittent benefits for family temporary
23 disability leave with respect to a birth¹, placement in foster care,¹ or
24 adoption, the covered individual shall provide the employer with prior
25 notice of the leave not less than 15 days before the first day on which
26 benefits are paid for the intermittent leave, unless an emergency or
27 other unforeseen circumstance precludes prior notice; and the covered
28 individual makes a reasonable effort to schedule the leave so as not to
29 unduly disrupt the operations of the employer and, if possible, provide
30 the employer, prior to the commencement of intermittent leave, with a
31 regular schedule of the days or days of the week on which the
32 intermittent leave will be taken.

33 b. **]** In the case of single continuous benefits for family
34 temporary disability leave with respect to birth¹, placement in foster
35 care,¹ or adoption, the covered individual shall provide the employer
36 with prior notice of the]period of family temporary disability] leave
37] **]** with respect to birth or adoption] not less than 30 days before the
38 leave commences, unless it commences while the individual is
39 receiving unemployment benefits, in which case the covered
40 individual shall notify the division. The amount of benefits shall be
41 reduced by two weeks worth of benefits if the individual does not
42 provide notice to an employer as required by this subsection b., unless
43 the time of the leave is unforeseeable or the time of the leave changes
44 for unforeseeable reasons.

45 c. Family temporary disability leave taken because of the birth or
46 placement ¹in foster care or¹ for adoption of a child may be taken at

1 any time within a year after the date of the birth or placement ¹in
2 foster care or¹ for adoption.

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

4

5 ¹~~11.~~ 12.¹ Section 13 of P.L.2008, c.17 (C.43:21-39.4) is
6 amended to read as follows:

7 13. a. The Commissioner of Labor and Workforce Development
8 shall issue and make available to the public, not later than December
9 31, 2010, and each subsequent year, annual reports providing data on
10 temporary disability benefits, including separate data for claims
11 involving pregnancy and childbirth, and family temporary disability
12 benefits, including separate data for each of the following categories of
13 claims: care of newborn children; care of newly adopted children; care
14 of sick children; care of sick spouses, and care of other sick family
15 members. The reports shall include, for each category of claims, the
16 number of workers receiving the benefits, the amount of benefits paid,
17 the average duration of benefits, the average weekly benefit, and, in
18 the case of family temporary disability benefits, any reported amount
19 of sick leave, vacation or other fully paid time which resulted in
20 reduced benefit duration. The report shall provide data by gender and
21 by any other demographic factors determined to be relevant by the
22 commissioner. The reports shall also provide, for all temporary
23 disability benefits and for all family temporary disability benefits, the
24 total costs of benefits and the total cost of administration, the portion
25 of benefits for claims during unemployment, and the total revenues
26 from: employer assessments, where applicable; employee assessments;
27 and other sources. For each of the reports issued not later than
28 December 31 of 2019 and each subsequent year, the report shall also
29 provide¹]: the number of claims for bonding, and care for family
30 members, broken down by relationship; demographic information:
31 income, age, gender, ethnicity, occupation, full or part-time
32 employment status; what portion of the leave is taken on an
33 intermittent basis; the percentage of bonding leave applicants who
34 report providing their employer with 50 or more days of notice of
35 leave-taking; for all claims, the percentage of employers who reported
36 that the employee will have additional paid time off with the source
37 being the difference between their regular weekly wages and the
38 maximum benefit provided under P.L.2008, c.17 (C.43:21-39.1 et al.);
39 and¹ the amount and rate of contributions, with the amount of the tax
40 base, made by employers for each of the following: benefits for
41 periods of pregnancy temporary disability, and benefits for periods of
42 all other disability, and the amount and rate of contributions, with the
43 amount of the tax base, made by workers for each of the following:
44 benefits for periods of pregnancy temporary disability, benefits for
45 periods of all other disability, and benefits for periods of temporary
46 disability leave.

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

8 (1) Employees and their families, including surveys and
9 evaluations of: what portion of the total number of employees taking
10 leave would not have taken leave, or would have taken less leave,
11 without the availability of benefits; what portion of employees return
12 to work after receiving benefits and what portion are not permitted to
13 return to work; and what portion of employees who are eligible for
14 benefits do not claim or receive them and why they do not;

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

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

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

26 (cf: P.L.2008, c.17, s.13).

27
28 ¹~~12.~~ 13.¹ Section 16 of P.L.1948, c.110 (C.43:21-40) is
29 amended to read as follows:

30 16. ~~With respect to periods of disability commencing on or~~
31 ~~after July 1, 1961, an individual's weekly benefit amount shall be~~
32 ~~determined and computed by the division on the same basis as the~~
33 ~~weekly benefit rate is determined and computed pursuant to~~
34 ~~subsection (c) of R.S. 43:21-3, except that for~~ a. For periods of
35 disability commencing on or after October 1, 1984, an individual's
36 weekly benefit rate shall be two-thirds of his average weekly wage,
37 subject to a maximum of 53% of the Statewide average weekly
38 remuneration paid to workers by employers, as determined under
39 subsection (c) of R.S. 43:21-3~~]; provided, however, that such~~,
40 except as provided in subsection b. of this section.

41 b. For periods of disability in cases of pregnancy or recovery
42 from childbirth commencing on or after July 1, 2019, and for
43 periods of family temporary disability leave commencing on or
44 after July 1, 2019, an individual's weekly benefit rate shall be 90%
45 of the individual's average weekly wage, subject to a maximum of
46 100% of the Statewide average weekly remuneration paid to
47 workers by employers.

1 c. Each individual's benefit rate shall be computed to the next
2 lower multiple of \$1.00 if not already a multiple thereof. The
3 amount of benefits for each day of disability for which benefits are
4 payable shall be one-seventh of the corresponding weekly benefit
5 amount; provided that the total benefits for a fractional part of a
6 week shall be computed to the next lower multiple of \$1.00 if not
7 already a multiple thereof.

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

9
10 ¹~~13.~~ 14.¹ (New section) a. The division shall implement
11 disability insurance goals for the timely determination and payment
12 of temporary disability benefits and family temporary disability
13 benefits under the State plan, as follows:

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

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

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

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

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

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

33 (a) not less than 80 percent of the original benefit
34 determinations shall be completed within seven days after the
35 commencement of the period of family temporary disability leave,
36 or the receipt of the benefit claims by the division, whichever is
37 later;

38 (b) not less than 85 percent of the original benefit
39 determinations shall be completed within 14 days after the
40 commencement of the period of family temporary disability leave,
41 or the receipt of the benefit claims by the division, whichever is
42 later;

43 (c) not less than 90 percent of the original benefit
44 determinations shall be completed within 21 days after the
45 commencement of the period of family temporary disability leave,
46 or the receipt of the benefit claims by the division, whichever is
47 later; and

1 (d) not less than 95 percent of the original benefit
2 determinations shall be completed within 28 days after the
3 commencement of the period of family temporary disability leave,
4 or the receipt of the benefit claims by the division, whichever is
5 later.

6 b. The commissioner shall, not later than September 30 of 2019
7 and each subsequent year, issue, provide to the Legislature, and
8 make available to the public on the department's webpage, a report
9 regarding division efforts in the preceding calendar year to attain
10 the disability insurance goals set pursuant to this section for
11 temporary disability benefits, and a report regarding those efforts
12 for family temporary disability benefits. Each report shall include:

13 (1) the total number of claims and the number and percentage of
14 original determinations completed within each number of days
15 specified in the goals set pursuant to this section, and the number
16 and percentage of original determinations completed within the
17 following number of days after the receipt of the benefit claims or
18 the commencement of disability or family temporary disability,
19 whichever is later: 35 days, 42 days, 49 days and 56 days, and the
20 number and percentage of original determinations completed more
21 than 56 days after the receipt of the claims or the commencement of
22 disability or family temporary disability and the average number of
23 days to make the determinations for the claims that took more than
24 56 days;

25 (2) the number and percentage of claims received with
26 insufficient information, what portion of those claims were because
27 of failure of claimants to provide sufficient information, what
28 portion of those claims were because of failures of medical
29 providers of claimants to provide sufficient information, and what
30 portion of those claims were because of failures of employers to
31 provide sufficient information;

32 (3) the number and percentage of claims for which
33 determinations were delayed because of employer failure to make
34 the notifications or disclosures to employees and the division within
35 the amount of time required by subsection (a) of section 25 of
36 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of
37 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received
38 related to employer noncompliance with those requirements, and
39 the number of employers which have been, because of the failures,
40 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to
41 pay fines or penalties to the division or added amounts to claimants,
42 the total amount of payments to the division, and the total amount
43 of payments to claimants;

44 (4) the number of personnel in the division and the budgeted
45 cost of salaries and benefits for those personnel; the number of
46 personnel who are processing family temporary disability benefit
47 claims, the number processing other temporary disability claims,
48 and the budgeted cost of salaries and benefits for those personnel;

1 what percentage of total division administrative costs is comprised
2 of those categories of personnel costs; and a comparison of total
3 division administrative costs to the maximum amount permitted to
4 be expended for those division administrative costs pursuant to
5 section 22 of P.L.1948, c.110 (C.43:21-46); and

6 (5) if any of the disability insurance goals set pursuant to this
7 section were not attained during the year, the report shall provide an
8 evaluation of the causes of the deficiencies and a plan to correct
9 them and that plan shall include:

10 (a) any increase in personnel needed to process claims;

11 (b) any measures needed to enforce notification and reporting
12 requirements;

13 (c) any measures needed to inform employers and employees of
14 their responsibilities to facilitate the timely provision of benefits;
15 and

16 (d) any improvements needed in data processing and other
17 administrative services and equipment.

18 The plan shall specify any added costs entailed in implementing
19 the plan, which shall be regarded as costs of administration of
20 family temporary disability benefits, and shall specify the amount
21 of any resulting increase in the estimate made pursuant to
22 R.S.43:21-7(d)(1)(G)(i), (ii), and (iii) of the amount needed to
23 provide 100 percent of the cost of administration of family
24 temporary disability benefits.

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

31 c. (1) The division shall, during each calendar year beginning
32 with 2019, allocate not less than \$1,200,000 to disseminate
33 information about the rights and responsibilities of employers and
34 employees regarding temporary disability benefits and family
35 temporary disability benefits by means of programs of educational
36 outreach in communities and workplaces. Of that allocation, not
37 less than \$600,000 shall be used by the division to enter into
38 contracts with community-based organizations to disseminate
39 information to workers regarding temporary disability benefits and
40 family temporary disability benefits. That allocation shall be
41 regarded as a cost of administration of temporary disability and
42 family temporary disability benefits and be charged to the
43 administration account of the State disability benefit fund. Of the
44 costs charged to the administration account of the State disability
45 benefit fund pursuant to this subsection, the percentage which is
46 charged to the Family Temporary Disability Leave Account shall be
47 equal to the percentage that family temporary disability benefits
48 represents of all temporary disability benefits paid from the State

1 disability benefits fund during the preceding calendar year. The
2 allocation made pursuant to this subsection, including any
3 adjustments in the allocation specified in the plan provided pursuant
4 to paragraph (2) of this subsection, shall not result in the total
5 amount credited to administrative costs exceeding the maximum
6 amount permitted pursuant to subsection (a) of section 22 of
7 P.L.1948, c.110 (C.43:21-46).

8 (2) The commissioner shall, not later than September 30 of 2019
9 and September 30 of each subsequent year, issue, provide to the
10 Legislature, and make available to the public on the department's
11 webpage, a report regarding efforts made during the preceding
12 calendar year by the division and by community-based
13 organizations to disseminate information about the rights and
14 responsibilities of employers and employees regarding temporary
15 disability and family temporary disability benefits. Each report
16 shall include, for that preceding calendar year:

17 (a) an accounting of all funds allocated pursuant to this
18 subsection and all expenditures made from those funds by the
19 division and each community-based organization entering into
20 contracts with the division pursuant to this subsection, and
21 estimates of the number of employers and the number of workers to
22 which the information was disseminated;

23 (b) an estimate of the number of workers who were eligible for
24 temporary disability and family temporary disability benefits and
25 what percentage of those workers received those benefits, including
26 an assessment of whatever progress was made to increase that
27 percentage; and

28 (c) a plan to increase the percentage of workers who are aware
29 of the benefits which specifies the amounts to be allocated to the
30 division and community-based organizations for the purposes of
31 this subsection during the subsequent calendar year, provided that
32 the amounts specified shall not be less than or more than the
33 minimum and maximum amounts indicated in paragraph (1) of this
34 subsection.

35
36 ¹15. Section 22 of P.L.1948, c.110 (C.43:21-46) is amended to
37 read as follows:

38 22. State disability benefits fund. (a) The State disability benefits
39 fund, hereinafter referred to as the fund, is hereby established. The
40 fund shall remain in the custody of the State Treasurer, and to the
41 extent of its cash requirements shall be deposited in authorized public
42 depositories in the State of New Jersey. There shall be deposited in
43 and credited to the fund the amount of worker and employer
44 contributions provided under subparagraph (G) of paragraph (1) of
45 subsection (d) of R.S.43:21-7 and subsection (e) of R.S.43:21-7, less
46 refunds authorized by the chapter (R.S.43:21-1 et seq.) to which this
47 act is a supplement, and the entire amount of interest and earnings
48 from investments of the fund, and all assessments, fines and penalties

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

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

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

39 If the unemployment disability account shall show an accumulated
40 deficit in excess of \$200,000.00 at the end of any calendar year after
41 interest and other earnings have been credited as provided
42 hereinabove, the division shall determine the ratio of such deficit to the
43 total of all taxable wages paid during the preceding calendar year, and
44 shall make an assessment against all employers in an amount equal to
45 the taxable wages paid by them during such preceding calendar year to
46 employees, multiplied by such ratio, but in no event shall any such
47 assessment exceed 1/10 or 1% of such wages; provided, however, that
48 the assessment made against the State (including Rutgers, The State

1 University and the New Jersey Institute of Technology) shall not
2 exceed the sum of all benefits paid under the provisions of R.S.43:21-
3 4(f) as the result of employment with the State. Such amounts shall be
4 collectible by the division in the same manner as provided for the
5 collection of employee contributions under this chapter (R.S.43:21-1 et
6 seq.). In making this assessment, the division shall furnish to each
7 affected employer a brief summary of the determination thereof. The
8 amount of such assessments collected by the division shall be credited
9 to the unemployment disability account.

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

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

21 (d) There is hereby appropriated, to be paid out of the fund, such
22 amounts as may from time to time be required for the payment of
23 disability benefits, and such amounts as may be required each year, as
24 contained in the annual appropriation act, for the administration of this
25 act, including R.S.43:21-4(f).¹

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

27

28 ¹**[14.]** 16.¹ Section 31 of P.L.1948, c.110 (C.43:21-55) is
29 amended to read as follows:

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

47 (b) Any employer or any officer or agent of any employer or
48 any other person who makes a false statement or representation

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

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

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

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

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

45

46 ¹[15.] 17.¹ (New section) a. An employer shall not discharge,
47 harass, threaten, or otherwise discriminate or retaliate against an
48 employee with respect to the compensation, terms, conditions, or

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

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

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

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

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

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

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

28 (6) payment of reasonable costs and attorney's fees.
29

30 ¹~~16.~~ 18.¹ This act shall take effect on ¹~~the first day of the~~
31 ~~third month next following enactment~~ on January 1, 2019, except that
32 the commissioner shall have power immediately to promulgate rules
33 and regulations as may be necessary to carry out the provisions of this
34 act, and do such other things as may be necessary to implement the
35 provisions of this act¹.