

§§21-22 -
C.43:21-45.2 &
43:21-45.3
§24 –
C.43:21-55.2
§26 - Note

P.L. 2019, CHAPTER 37, *approved February 19, 2019*
Assembly, No. 3975 (*Third Reprint*)

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

5

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

8

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

11 3. As used in this act:

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

14 (1) under 18 years of age; or

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

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

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

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

28 e. "Employee" means a person who is employed for at least 12
29 months by an employer, with respect to whom benefits are sought
30 under this act, for not less than 1,000 base hours during the
31 immediately preceding 12-month period. Any time, up to a
32 maximum of 90 calendar days, during which a person is laid off or
33 furloughed by an employer due to that employer curtailing
34 operations because of a state of emergency declared after October
35 22, 2012, shall be regarded as time in which the person is employed

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted June 18, 2018.

²Assembly floor amendments adopted October 29, 2018.

³Senate floor amendments adopted January 31, 2019.

1 for the purpose of determining eligibility for leave time under this
2 act. In making the determination, the base hours per week during
3 the layoff or furlough shall be deemed to be the same as the average
4 number of hours worked per week during the rest of the 12-month
5 period.

6 f. "Employer" means a person or corporation, partnership,
7 individual proprietorship, joint venture, firm or company or other
8 similar legal entity which engages the services of an employee and
9 which:

10 (1) **【With respect to the period of time from the effective date of**
11 **this act until the 365th day following the effective date of this act,**
12 **employs 100 or more employees for each working day during each**
13 **of 20 or more calendar workweeks in the then current or**
14 **immediately preceding calendar year】** (Deleted by amendment,
15 P.L. , c. (pending before the Legislature as this bill));

16 (2) **【With respect to the period of time from the 366th day**
17 **following the effective date of this act until the 1,095th day**
18 **following the effective date of this act, employs 75 or more**
19 **employees for each working day during each of 20 or more calendar**
20 **workweeks in the then current or immediately preceding calendar**
21 **year】** (Deleted by amendment, P.L. , c. (pending before the
22 Legislature as this bill); **【and】**

23 (3) With respect to **【any】** the period of time **【after】** from the
24 1,095th day following the effective date of **【this act】** P.L.1989,
25 c.261 (C.34:11B-1 et seq.) through ²**【June 30, 2019】** ³**【December**
26 **31, 2018²】** **June 30, 2019³** , employs 50 or more employees for each
27 working day during each of 20 or more calendar workweeks in the
28 then current or immediately preceding calendar year; and

29 (4) With respect to any period of time ²on or² after ²**【June 30,**
30 **2019】** ³**【January 1, 2019²】** **June 30, 2019³** , employs 30 or more
31 employees for each working day during each of 20 or more calendar
32 workweeks in the then current or immediately preceding calendar
33 year.

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

36 g. "Employment benefits" means all benefits and policies
37 provided or made available to employees by an employer, and
38 includes group life insurance, health insurance, disability insurance,
39 sick leave, annual leave, pensions, or other similar benefits.

40 h. "Parent" means a person who is the biological parent,
41 adoptive parent, foster parent, resource family parent, step-parent,
42 parent-in-law or legal guardian, having a "parent-child relationship"
43 with a child as defined by law, or having sole or joint legal or
44 physical custody, care, guardianship, or visitation with a child, or
45 who became the parent of the child pursuant to a valid written
46 agreement between the parent and a gestational carrier.

- 1 i. "Family leave" means leave from employment so that the
2 employee may provide care made necessary by reason of:
- 3 (1) the birth of a child of the employee, including a child born
4 pursuant to a valid written agreement between the employee and a
5 gestational carrier;
- 6 (2) the placement of a child ¹into foster care¹ with the employee
7 ¹or¹ in connection with adoption of such child by the employee; or
- 8 (3) the serious health condition of a family member of the
9 employee.
- 10 j. "Family member" means a child, parent, parent-in-law,
11 sibling, grandparent, grandchild, spouse, ¹domestic partner,¹ or one
12 partner in a civil union couple, or any other individual related by
13 blood to the employee, and any other individual ¹**【whose】** that the
14 employee shows to have a¹ close association with the employee
15 ¹which¹ is the equivalent of a family relationship.
- 16 k. "Reduced leave schedule" means leave scheduled for fewer
17 than an employee's usual number of hours worked per workweek
18 but not for fewer than an employee's usual number of hours worked
19 per workday, unless agreed to by the employee and the employer.
- 20 l. "Serious health condition" means an illness, injury,
21 impairment, or physical or mental condition which requires:
- 22 (1) inpatient care in a hospital, hospice, or residential medical
23 care facility; or
- 24 (2) continuing medical treatment or continuing supervision by a
25 health care provider.
- 26 m. "State of emergency" means a natural or man-made disaster
27 or emergency for which a state of emergency has been declared by
28 the President of the United States or the Governor, or for which a
29 state of emergency has been declared by a municipal emergency
30 management coordinator.
31 (cf: P.L.2013, c.221, s.1)
- 32
- 33 ²2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to
34 read as follows:
- 35 4. An employee of an employer in this State subject to the
36 provisions of this act shall be entitled to a family leave of 12 weeks
37 in any 24-month period upon advance notice to the employer in the
38 manner specified by the provisions of sections 11 and 12 of
39 P.L.2008, c.17 (C.43:21-39.2 and 43:21-39.3), unless the employer
40 denies family leave to the employee pursuant to subsection h. of
41 this section.
- 42 a. In the case of a family member who has a serious health
43 condition, the leave may be taken intermittently when medically
44 necessary, **【if:**
- 45 (1) The total time within which the leave is taken does not
46 exceed a 12-month period for each serious health condition episode;

- 1 (2) The employee provides the employer with prior notice of the
2 leave in a manner which is reasonable and practicable; and
- 3 (3) The employee makes a reasonable effort to schedule the
4 leave so as not to disrupt unduly the operations of the employer **】** in
5 the manner specified by the provisions of section 11 of P.L.2008,
6 c.17 (C.43:21-39.2).
- 7 b. In the case of the foster care placement, birth or adoption of
8 a healthy child, the leave may be taken intermittently **【**if agreed to
9 by the employer and the employee **】** in the manner specified by the
10 provisions of paragraph (2) of subsection a. of section 12 of
11 P.L.2008, c.17 (C.43:21-39.3).
- 12 c. Leave taken because of the birth or placement for adoption
13 of a child may commence at any time within a year after the date of
14 the foster care placement, birth or placement for adoption.
- 15 d. Family leave required by this act may be paid, unpaid, or a
16 combination of paid and unpaid leave. If an employer provides paid
17 family leave for fewer than 12 workweeks, the additional weeks of
18 leave added to attain the 12-workweek total required by this act
19 may be unpaid.
- 20 e. An employer may require that any period of family leave be
21 supported by certification issued by a duly licensed health care
22 provider or any other health care provider determined by the
23 director to be capable of providing adequate certification.
- 24 (1) Where the certification is for the serious health condition of
25 a family member of the employee, the certification shall be
26 sufficient if it states: (a) the date on which the serious health
27 condition commenced; (b) the probable duration of the condition;
28 and (c) the medical facts within the provider's knowledge regarding
29 the condition;
- 30 (2) Where the certification is for the birth or placement of the
31 child, the certification need only state the date of birth or date of
32 placement, whichever is appropriate.
- 33 In any case in which the employer has reason to doubt the
34 validity of the certification provided pursuant to paragraph (1) of
35 this subsection, the employer may require, at its own expense, that
36 an employee obtain an opinion regarding the serious health
37 condition from a second health care provider designated or
38 approved, but not employed on a regular basis, by the employer. If
39 the second opinion differs from the certification provided pursuant
40 to paragraph (1) of this subsection, the employer may require, at its
41 own expense, that the employee obtain the opinion of a third health
42 care provider designated or approved jointly by the employer and
43 the employee concerning the serious health condition. The opinion
44 of the third health care provider shall be considered to be final and
45 shall be binding on the employer and the employee.
- 46 f. In any case in which the necessity for leave under this act is
47 foreseeable, based upon placement of a child into foster care an
48 expected birth or placement of the child for adoption, the employee

1 shall provide the employer with prior notice of the expected birth or
2 placement of the child for adoption ³or foster care³ in **[a]** the
3 manner [which is reasonable and practicable] specified by the
4 provisions of section 11 of P.L.2008, c.17 (C.43:21-39.2).

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

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

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

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

15 (3) The employer notifies the employee of its intent to deny the
16 leave at the time the employer determines that the denial is
17 necessary.

18 i. In any case in which the leave has already commenced at the
19 time of the notification pursuant to paragraph (3) of subsection h. of
20 this section, the employee shall return to work within 10 working
21 days of the date of notification.²

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

23
24 ²**[12.] 3.**² Section 5 of P.L.1989, c.261 (C.34:11B-5) is
25 amended to read as follows:

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

28 a. The employee shall not be entitled to a reduced leave
29 schedule for a period exceeding **[24] 12** consecutive **[weeks]**
30 months for any one period of leave; and

31 b. **[The employee shall not be entitled to take the leave on a**
32 **reduced leave schedule without an agreement between the employer**
33 **and employee, if] If the leave is taken upon the foster care**
34 **placement, birth or adoption of a healthy child, the leave may be**
35 **taken on an intermittent basis in the manner specified by the**
36 **provisions of paragraph (2) of subsection a. of section 12 of**
37 **P.L.2008, c.17 (C.43:21-39.3).**

38 The employee shall make a reasonable effort to schedule reduced
39 leave so as not to disrupt unduly the operations of the employer and
40 the employee shall provide the employer with prior notice of the
41 care, medical treatment, or continuing supervision by a health care
42 provider necessary due to a serious health condition of a family
43 member, in a manner which is reasonable and practicable. ²**[Leave**
44 **taken on a reduced leave schedule shall not result in a reduction of**
45 **the total amount of leave to which an employee is entitled.]²**

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

1 ¹[2.]²[3.]¹ 4.² Section 3 of P.L.2013, c.82 (C.34:11C-3) is
2 amended to read as follows:

3 3. a. Any employee of an employer in the State who was a
4 victim of an incident of domestic violence as defined in section 3 of
5 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as
6 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose
7 parent-in-law, sibling, grandparent, grandchild, child, parent,
8 spouse, domestic partner, or civil union partner individual, or any
9 other individual related by blood to the employee, and any other
10 individual ¹[whose] that the employee shows to have a¹ close
11 association with the employee ¹which¹ is the equivalent of a family
12 relationship, was a victim shall be entitled to unpaid leave of no
13 more than 20 days in one 12-month period, to be used in the 12-
14 month period next following any incident of domestic violence or
15 any sexually violent offense as provided in this section. For
16 purposes of this section, each incident of domestic violence or any
17 sexually violent offense shall constitute a separate offense for
18 which an employee is entitled to unpaid leave, provided that the
19 employee has not exhausted the allotted 20 days for the 12-month
20 period. The unpaid leave may be taken intermittently in intervals of
21 no less than one day, as needed for the purpose of engaging in any
22 of the following activities as they relate to the incident of domestic
23 violence or sexually violent offense:

24 (1) seeking medical attention for, or recovering from, physical
25 or psychological injuries caused by domestic or sexual violence to
26 the employee or the employee's parent-in-law, sibling, grandparent,
27 grandchild, child, parent, spouse, domestic partner, or civil union
28 partner individual, or any other individual related by blood to the
29 employee, and any other individual ¹[whose] that the employee
30 shows to have a¹ close association with the employee ¹which¹ is the
31 equivalent of a family relationship;

32 (2) obtaining services from a victim services organization for
33 the employee or the employee's parent-in-law, sibling, grandparent,
34 grandchild, child, parent, spouse, domestic partner, or civil union
35 partner individual, or any other individual related by blood to the
36 employee, and any other individual ¹[whose] that the employee
37 shows to have a¹ close association with the employee ¹which¹ is the
38 equivalent;

39 (3) obtaining psychological or other counseling for 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
44 shows to have a¹ close association with the employee ¹which¹ is the
45 equivalent of a family relationship;

46 (4) participating in safety planning, temporarily or permanently
47 relocating, or taking other actions to increase the safety of the

1 employee or the employee's parent-in-law, sibling, grandparent,
2 grandchild, child, parent, spouse, domestic partner, or civil union
3 partner individual, or any other individual related by blood to the
4 employee, and any other individual **1**【whose】 that the employee
5 shows to have a**1** close association with the employee **1**which**1** is the
6 equivalent of a family relationship, from future domestic or sexual
7 violence or to ensure economic security;

8 (5) seeking legal assistance or remedies to ensure the health and
9 safety of the employee or the employee's parent-in-law, sibling,
10 grandparent, grandchild, child, parent, spouse, domestic partner, or
11 civil union partner, individual, or any other individual related by
12 blood to the employee, and any other individual **1**【whose】 that the
13 employee shows to have a**1** close association with the employee
14 **1**which**1** is the equivalent of a family relationship, including
15 preparing for, or participating in, any civil or criminal legal
16 proceeding related to or derived from domestic or sexual violence;
17 or

18 (6) attending, participating in, or preparing for a criminal or
19 civil court proceeding relating to an incident of domestic or sexual
20 violence of which the employee or the employee's parent-in-law,
21 sibling, grandparent, grandchild, child, parent, spouse, domestic
22 partner, or civil union partner, or any other individual related by
23 blood to the employee, and any other individual **1**【whose】 that the
24 employee shows to have a**1** close association with the employee
25 **1**which**1** is the equivalent of a family relationship, was a victim.

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

44 Leave granted under this section shall not conflict with any
45 rights pursuant to the "Family Leave Act," P.L.1989, c.261
46 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"
47 P.L.1948, c.110 (C.43:21-25 et **【seq.】** al.), or the federal "Family

1 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
2 seq.).

3 b. Prior to taking the leave provided for in this section, an
4 employee shall, if the necessity for the leave is foreseeable, provide
5 the employer with written notice of the need for the leave², unless
6 an emergency or other unforeseen circumstances precludes prior
7 notice². The notice shall be provided to the employer as far in
8 advance as is reasonable and practical under the circumstances.

9 c. Nothing contained in this act shall be construed to prohibit
10 an employer from requiring that a period of leave provided pursuant
11 to this section be supported by the employee with documentation of
12 the domestic violence or sexually violent offense which is the basis
13 for the leave. If the employer requires the documentation, the
14 employee shall be regarded as having provided sufficient
15 documentation if the employee provides one or more of the
16 following:

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

19 (2) a letter or other written documentation from the county or
20 municipal prosecutor documenting the domestic violence or
21 sexually violent offense;

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

24 (4) medical documentation of the domestic violence or sexually
25 violent offense;

26 (5) certification from a certified Domestic Violence Specialist or
27 the director of a designated domestic violence agency or Rape
28 Crisis Center, that the employee or employee's parent-in-law,
29 sibling, grandparent, grandchild, child, parent, spouse, domestic
30 partner, or civil union partner, or any other individual related by
31 blood to the employee, and any other individual ¹**【whose】** that the
32 employee shows to have a¹ close association with the employee
33 ¹which ¹ is the equivalent of a family relationship, is a victim of
34 domestic violence or a sexually violent offense; or

35 (6) other documentation or certification of the domestic violence
36 or sexually violent offense provided by a social worker, member of
37 the clergy, shelter worker, or other professional who has assisted
38 the employee or employee's parent-in-law, sibling, grandparent,
39 grandchild, child, parent, spouse, domestic partner, or civil union
40 partner, or any other individual related by blood to the employee,
41 and any other individual ¹**【whose】** that the employee shows to have
42 a¹ close association with the employee ¹which ¹ is the equivalent of
43 a family relationship, in dealing with the domestic violence or
44 sexually violent offenses.

45 For the purposes of this subsection:

46 "Certified Domestic Violence Specialist" means a person who
47 has fulfilled the requirements of certification as a Domestic

1 Violence Specialist established by the New Jersey Association of
2 Domestic Violence Professionals; and "designated domestic
3 violence agency" means a county-wide organization with a primary
4 purpose to provide services to victims of domestic violence, and
5 which provides services that conform to the core domestic violence
6 services profile as defined by the Division of Child Protection and
7 Permanency in the Department of Children and Families and is
8 under contract with the division for the express purpose of
9 providing the services.

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

14 d. An employer shall display conspicuous notice of its
15 employees' rights and obligations pursuant to the provisions of this
16 act, in such form and in such manner as the Commissioner of Labor
17 and Workforce Development shall prescribe, and use other
18 appropriate means to keep its employees so informed.

19 e. No provision of this act shall be construed as requiring or
20 permitting an employer to reduce employment benefits provided by
21 the employer or required by a collective bargaining agreement
22 which are in excess of those required by this act. Nor shall any
23 provision of this act be construed to prohibit the negotiation and
24 provision through collective bargaining agreements of leave
25 policies or benefit programs which provide benefits in excess of
26 those required by this act. This provision shall apply irrespective of
27 the date that a collective bargaining agreement takes effect.

28 Nothing contained in this act shall be construed as permitting an
29 employer to:

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

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

37 f. All information provided to an employer pursuant to
38 subsection c. of this section, and any information regarding a leave
39 taken pursuant to this section and any failure of an employee to
40 return to work, shall be retained in the strictest confidentiality,
41 unless the disclosure is voluntarily authorized in writing by the
42 employee or is required by a federal or State law, rule, or
43 regulation.

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

45

46 ²5. R.S.43:21-4 is amended to read as follows:

1 43:21-4. Benefit eligibility conditions. An unemployed
2 individual shall be eligible to receive benefits with respect to any
3 week eligible only if:

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

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

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

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

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

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

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

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

47 (ii) The training is provided by a competent and reliable private
48 or public entity approved by the Commissioner of Labor and

1 Workforce Development pursuant to the provisions of section 8 of
2 the "1992 New Jersey Employment and Workforce Development
3 Act," P.L.1992, c.43 (C.34:15D-8);

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

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

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

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

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

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

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

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

27 (D) For the purpose of this paragraph (4), "labor demand
28 occupation" means an occupation for which there is or is likely to
29 be an excess of demand over supply for adequately trained workers,
30 including, but not limited to, an occupation designated as a labor
31 demand occupation by the Center for Occupational Employment
32 Information pursuant to the provisions of subsection d. of section
33 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

43 For purposes of this paragraph, "immediate family member"
44 includes any of the following individuals: father, mother, mother-
45 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
46 child, child placed by the Division of Youth and Family Services in
47 the Department of Children and Families, sister or brother of the

1 unemployed individual and any relatives of the unemployed
2 individual residing in the unemployed individual's household.

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

10 (8) Any individual who is determined to be likely to exhaust
11 regular benefits and need reemployment services based on
12 information obtained by the worker profiling system shall not be
13 eligible to receive benefits if the individual fails to participate in
14 available reemployment services to which the individual is referred
15 by the division or in similar services, unless the division determines
16 that:

- 17 (A) The individual has completed the reemployment services; or
18 (B) There is justifiable cause for the failure to participate, which
19 shall include participation in employment and training, self-
20 employment assistance activities or other activities authorized by
21 the division to assist reemployment or enhance the marketable skills
22 and earning power of the individual and which shall include any
23 other circumstance indicated pursuant to this section in which an
24 individual is not required to be available for and actively seeking
25 work to receive benefits.

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

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

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

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

42 (d) With respect to any benefit year commencing before January
43 1, 2002, the individual has been totally or partially unemployed for
44 a waiting period of one week in the benefit year which includes that
45 week. When benefits become payable with respect to the third
46 consecutive week next following the waiting period, the individual
47 shall be eligible to receive benefits as appropriate with respect to

1 the waiting period. No week shall be counted as a week of
2 unemployment for the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

33 (B) If the individual has not met the requirements of
34 subparagraph (A) of this paragraph (4), earned remuneration not
35 less than an amount 1,000 times the minimum wage in effect
36 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
37 1 of the calendar year preceding the calendar year in which the
38 benefit year commences, which amount shall be adjusted to the next
39 higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (D) For any period of family temporary disability leave for a
42 serious health condition of a family member of the claimant during
43 which the family member is not receiving inpatient care in a
44 hospital, hospice, or residential medical care facility and is not
45 subject to continuing medical treatment or continuing supervision
46 by a health care provider, who, when requested by the division,
47 shall certify within the scope of the provider's practice, the serious
48 health condition of the family member, the probable duration

1 thereof, and, where applicable, the medical facts within the
2 provider's knowledge.

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

9 (g) Benefits based on service in employment defined in
10 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
11 in the same amount and on the terms and subject to the same
12 conditions as benefits payable on the basis of other service subject
13 to the "unemployment compensation law"; except that,
14 notwithstanding any other provisions of the "unemployment
15 compensation law":

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

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

43 (3) With respect to those services described in paragraphs (1)
44 and (2) above, benefits shall not be paid on the basis of such
45 services to any individual for any week which commences during
46 an established and customary vacation period or holiday recess if
47 such individual performs such services in the period immediately
48 before such vacation period or holiday recess, and there is a

1 reasonable assurance that such individual will perform such
2 services in the period immediately following such period or holiday
3 recess;

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

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

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

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

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

47 (j) Notwithstanding any other provision of this chapter, the
48 director may, to the extent that it may be deemed efficient and

1 economical, provide for consolidated administration by one or more
2 representatives or deputies of claims made pursuant to subsection
3 (f) of this section with those made pursuant to Article III (State
4 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
5 (C.43:21-25 et al.).²
6 (cf: P.L.2011, c.154, s.11)
7

8 ¹[3.] ²[4.1] ^{6.2} R.S.43:21-7 is amended to read as follows:
9 43:21-7. Employers other than governmental entities, whose
10 benefit financing provisions are set forth in section 4 of P.L.1971,
11 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
12 payment in lieu of contributions on the basis set forth in section 3 of
13 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
14 unemployment compensation fund, contributions as set forth in
15 subsections (a), (b) and (c) hereof, and the provisions of subsections
16 (d) and (e) shall be applicable to all employers, consistent with the
17 provisions of the "unemployment compensation law" and the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
19 et al.).

20 (a) Payment.

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

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

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

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

39 (2) The "wages" of any individual, with respect to any one
40 employer, as the term is used in this subsection (b) and in
41 subsections (c), (d) and (e) of this section 7, shall include the first
42 \$4,800.00 paid during calendar year 1975, for services performed
43 either within or without this State; provided that no contribution
44 shall be required by this State with respect to services performed in
45 another state if such other state imposes contribution liability with
46 respect thereto. If an employer (hereinafter referred to as a
47 successor employer) during any calendar year acquires substantially
48 all the property used in a trade or business of another employer

1 (hereinafter referred to as a predecessor), or used in a separate unit
2 of a trade or business of a predecessor, and immediately after the
3 acquisition employs in his trade or business an individual who
4 immediately prior to the acquisition was employed in the trade or
5 business of such predecessors, then, for the purpose of determining
6 whether the successor employer has paid wages with respect to
7 employment equal to the first \$4,800.00 paid during calendar year
8 1975, any wages paid to such individual by such predecessor during
9 such calendar year and prior to such acquisition shall be considered
10 as having been paid by such successor employer.

11 (3) For calendar years beginning on and after January 1, 1976,
12 the "wages" of any individual, as defined in the preceding
13 paragraph (2) of this subsection (b), shall be established and
14 promulgated by the Commissioner of Labor and Workforce
15 Development on or before September 1 of the preceding year and,
16 except as provided in paragraph (4) of this subsection (b), shall be,
17 28 times the Statewide average weekly remuneration paid to
18 workers by employers, as determined under R.S.43:21-3(c), raised
19 to the next higher multiple of \$100.00 if not already a multiple
20 thereof, provided that if the amount of wages so determined for a
21 calendar year is less than the amount similarly determined for the
22 preceding year, the greater amount will be used; provided, further,
23 that if the amount of such wages so determined does not equal or
24 exceed the amount of wages as defined in subsection (b) of section
25 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
26 the wages as determined in this paragraph in any calendar year shall
27 be raised to equal the amount established under the "Federal
28 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
29 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

30 (4) For calendar years beginning on and after January 1,
31 ²[2019,] 2020,² the "wages" of any individual, as defined in the
32 preceding paragraph (2) of this subsection (b) for purposes of
33 contributions of workers to the ²State disability benefits fund,
34 including the² "Family Temporary Disability Leave Account" ²[and
35 the "Pregnancy Temporary Disability Account" of the State
36 disability benefits fund]² pursuant to subsection (d) of this section,
37 shall be established and promulgated by the Commissioner of Labor
38 and Workforce Development on or before September 1 of the
39 preceding year and shall be ²[52] 107² times the Statewide average
40 weekly remuneration paid to workers by employers, as determined
41 under R.S.43:21-3(c), raised to the next higher multiple of \$100.00
42 if not already a multiple thereof, provided that if the amount of
43 wages so determined for a calendar year is less than the amount
44 similarly determined for the preceding year, the greater amount will
45 be used.

46 (c) Future rates based on benefit experience.

1 (1) A separate account for each employer shall be maintained
2 and this shall be credited with all the contributions which he has
3 paid on his own behalf on or before January 31 of any calendar year
4 with respect to employment occurring in the preceding calendar
5 year; provided, however, that if January 31 of any calendar year
6 falls on a Saturday or Sunday, an employer's account shall be
7 credited as of January 31 of such calendar year with all the
8 contributions which he has paid on or before the next succeeding
9 day which is not a Saturday or Sunday. But nothing in this chapter
10 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
11 individuals in his service prior claims or rights to the amounts paid
12 by him into the fund either on his own behalf or on behalf of such
13 individuals. Benefits paid with respect to benefit years commencing
14 on and after January 1, 1953, to any individual on or before
15 December 31 of any calendar year with respect to unemployment in
16 such calendar year and in preceding calendar years shall be charged
17 against the account or accounts of the employer or employers in
18 whose employment such individual established base weeks
19 constituting the basis of such benefits, except that, with respect to
20 benefit years commencing after January 4, 1998, an employer's
21 account shall not be charged for benefits paid to a claimant if the
22 claimant's employment by that employer was ended in any way
23 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
24 R.S.43:21-5, would have disqualified the claimant for benefits if the
25 claimant had applied for benefits at the time when that employment
26 ended. Benefits paid under a given benefit determination shall be
27 charged against the account of the employer to whom such
28 determination relates. When each benefit payment is made,
29 notification shall be promptly provided to each employer included
30 in the unemployment insurance monetary calculation of benefits.
31 Such notification shall identify the employer against whose account
32 the amount of such payment is being charged, shall show at least
33 the name and social security account number of the claimant and
34 shall specify the period of unemployment to which said benefit
35 payment applies.

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

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

45 (3) No employer's rate shall be lower than 5.4% unless
46 assignment of such lower rate is consistent with the conditions
47 applicable to additional credit allowance for such year under section
48 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.

1 s.3303(a)(1)), any other provision of this section to the contrary
2 notwithstanding.

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

16 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
17 5%, of his average annual payroll (as defined in paragraph (2),
18 subsection (a) of R.S.43:21-19);

19 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
20 than 6%, of his average annual payroll;

21 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
22 than 7%, of his average annual payroll;

23 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
24 than 8%, of his average annual payroll;

25 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
26 than 9%, of his average annual payroll;

27 (6) 1%, if such excess equals or exceeds 9%, but is less than
28 10%, of his average annual payroll;

29 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
30 than 11%, of his average annual payroll;

31 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
32 average annual payroll.

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

37 (1) 4%, if such excess is less than 10% of his average annual
38 payroll;

39 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
40 than 20%, of his average annual payroll;

41 (3) 4 6/10%, if such excess equals or exceeds 20% of his
42 average annual payroll.

43 (C) Specially assigned rates.

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

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

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

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

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

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

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

36 If on March 31 of any calendar year the balance of the
37 unemployment trust fund is less than 2 1/2% of the total taxable
38 wages reported to the controller as of that date in respect to
39 employment during the preceding calendar year, the contribution
40 rate, effective July 1 following, of each employer: (1) eligible for a
41 contribution rate calculation based upon benefit experience, shall be
42 increased by (i) 6/10 of 1% over the contribution rate otherwise
43 established under the provisions of paragraph (3), (4)(A) or (4)(B)
44 of this subsection, and (ii) an additional amount equal to 20% of the
45 total rate established herein, provided, however, that the final
46 contribution rate for each employer shall be computed to the nearest
47 multiple of 1/10% if not already a multiple thereof; (2) not eligible
48 for a contribution rate calculation based upon benefit experience,

1 shall be increased by $\frac{6}{10}$ of 1% over the contribution rate
2 otherwise established under the provisions of paragraph (4) of this
3 subsection. For the period commencing July 1, 1984 and ending
4 June 30, 1986, the contribution rate for each employer liable to pay
5 contributions under R.S.43:21-7 shall be increased by a factor of
6 10% computed to the nearest multiple of $\frac{1}{10}$ % if not already a
7 multiple thereof.

8 (B) If on March 31 of any calendar year the balance in the
9 unemployment trust fund equals or exceeds 10% but is less than 12
10 $\frac{1}{2}$ % of the total taxable wages reported to the controller as of that
11 date in respect to employment during the preceding calendar year,
12 the contribution rate, effective July 1 following, of each employer
13 eligible for a contribution rate calculation based upon benefit
14 experience, shall be reduced by $\frac{3}{10}$ of 1% under the contribution
15 rate otherwise established under the provisions of paragraphs (3)
16 and (4) of this subsection; provided that in no event shall the
17 contribution rate of any employer be reduced to less than $\frac{4}{10}$ of
18 1%. If on March 31 of any calendar year the balance in the
19 unemployment trust fund equals or exceeds 12 $\frac{1}{2}$ % of the total
20 taxable wages reported to the controller as of that date in respect to
21 employment during the preceding calendar year, the contribution
22 rate, effective July 1 following, of each employer eligible for a
23 contribution rate calculation based upon benefit experience, shall be
24 reduced by $\frac{6}{10}$ of 1% if his account for all past periods reflects an
25 excess of contributions paid over total benefits charged of 3% or
26 more of his average annual payroll, otherwise by $\frac{3}{10}$ of 1% under
27 the contribution rate otherwise established under the provisions of
28 paragraphs (3) and (4) of this subsection; provided that in no event
29 shall the contribution rate of any employer be reduced to less than
30 $\frac{4}{10}$ of 1%.

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

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

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

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

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

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

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

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

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

10

11 EXPERIENCE RATING TAX TABLE

12

Fund Reserve Ratio¹

13

3.50% 3.00% 2.5% 2.0% 1.99%

14

Employer

and to to to and

15

Reserve

Over 3.49% 2.99% 2.49% Under

16

Ratio²

A B C D E

17

Positive Reserve Ratio:

18

17% and over

0.3 0.4 0.5 0.6 1.2

19

16.00% to 16.99%

0.4 0.5 0.6 0.6 1.2

20

15.00% to 15.99%

0.4 0.6 0.7 0.7 1.2

21

14.00% to 14.99%

0.5 0.6 0.7 0.8 1.2

22

13.00% to 13.99%

0.6 0.7 0.8 0.9 1.2

23

12.00% to 12.99%

0.6 0.8 0.9 1.0 1.2

24

11.00% to 11.99%

0.7 0.8 1.0 1.1 1.2

25

10.00% to 10.99%

0.9 1.1 1.3 1.5 1.6

26

9.00% to 9.99%

1.0 1.3 1.6 1.7 1.9

27

8.00% to 8.99%

1.3 1.6 1.9 2.1 2.3

28

7.00% to 7.99%

1.4 1.8 2.2 2.4 2.6

29

6.00% to 6.99%

1.7 2.1 2.5 2.8 3.0

30

5.00% to 5.99%

1.9 2.4 2.8 3.1 3.4

31

4.00% to 4.99%

2.0 2.6 3.1 3.4 3.7

32

3.00% to 3.99%

2.1 2.7 3.2 3.6 3.9

33

2.00% to 2.99%

2.2 2.8 3.3 3.7 4.0

34

1.00% to 1.99%

2.3 2.9 3.4 3.8 4.1

35

0.00% to 0.99%

2.4 3.0 3.6 4.0 4.3

36

Deficit Reserve Ratio:

37

-0.00% to -2.99%

3.4 4.3 5.1 5.6 6.1

38

-3.00% to -5.99%

3.4 4.3 5.1 5.7 6.2

39

-6.00% to -8.99%

3.5 4.4 5.2 5.8 6.3

40

-9.00% to -11.99%

3.5 4.5 5.3 5.9 6.4

41

-12.00% to -14.99%

3.6 4.6 5.4 6.0 6.5

42

-15.00% to -19.99%

3.6 4.6 5.5 6.1 6.6

43

-20.00% to -24.99%

3.7 4.7 5.6 6.2 6.7

44

-25.00% to -29.99%

3.7 4.8 5.6 6.3 6.8

45

-30.00% to -34.99%

3.8 4.8 5.7 6.3 6.9

46

-35.00% and under

5.4 5.4 5.8 6.4 7.0

47

New Employer Rate

2.8 2.8 2.8 3.1 3.4

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

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

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

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

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

8 (iv) With respect to experience rating years beginning on or after
9 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based
10 on the fund balance as of the prior March 31, is less than 1.0%, the
11 contribution rate for each employer liable to pay contributions, as
12 computed under subparagraph (E) of this paragraph (5), shall be
13 increased by a factor of 10% computed to the nearest multiple of
14 1/10% if not already a multiple thereof.

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

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

33 (H) On and after January 1, 1998 until December 31, 2000 and
34 on or after January 1, 2002 until June 30, 2006, the contribution rate
35 for each employer liable to pay contributions, as computed under
36 subparagraph (E) of this paragraph (5), shall be decreased by a
37 factor, as set out below, computed to the nearest multiple of 1/10%,
38 except that, if an employer has a deficit reserve ratio of negative
39 35.0% or under, the employer's rate of contribution shall not be
40 reduced pursuant to this subparagraph (H) to less than 5.4%:

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

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

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

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

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

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

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

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

1 From July 1, 2005 until December 31, 2005, a factor of 16%; and
2 From January 1, 2006 until June 30, 2006, a factor of 34%.

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

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

12 (J) On or after July 1, 2001, notwithstanding any other
13 provisions of this paragraph (5), the contribution rate for each
14 employer liable to pay contributions, as computed under
15 subparagraph (E) of this paragraph (5), shall be decreased by
16 0.0175%, except that, during any experience rating year starting on
17 or after July 1, 2001, in which the fund reserve ratio is equal to or
18 greater than 3.5%, there shall be no decrease pursuant to this
19 subparagraph (J) in the contribution of any employer who has a
20 deficit reserve ratio of negative 35.00% or under. The amount of the
21 reduction in the employer contributions stipulated by this
22 subparagraph (J) shall be in addition to the amount of the reduction
23 in the employer contributions stipulated by subparagraphs (G) and
24 (H) of this paragraph (5), except that the rate of contribution of an
25 employer who has a deficit reserve ratio of negative 35.0% or under
26 shall not be reduced pursuant to this subparagraph (J) to less than
27 5.4% and the rate of contribution of any other employer shall not be
28 reduced to less than 0.0%.

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

32 (i) Equal to or greater than 5.00% but less than 7.5%, the
33 contribution rate for each employer liable to pay contributions, as
34 computed under subparagraph (E) of this paragraph (5), shall be
35 reduced by a factor of 25% computed to the nearest multiple of
36 1/10% if not already a multiple thereof except that there shall be no
37 decrease pursuant to this subparagraph (K) in the contribution of
38 any employer who has a deficit reserve ratio of 35.00% or under;

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

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

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year
2 2011, the rates set by column "C" of the table in that subparagraph.

3 (M) Notwithstanding any other provision of this paragraph (5)
4 and notwithstanding the actual fund reserve ratio, the contribution
5 rate for employers liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be, for fiscal year
7 2012, the rates set by column "D" of the table in that subparagraph.

8 (N) Notwithstanding any other provision of this paragraph (5)
9 and notwithstanding the actual fund reserve ratio, the contribution
10 rate for employers liable to pay contributions, as computed under
11 subparagraph (E) of this paragraph (5), shall be, for fiscal year
12 2013, the rates set by column "E" of the table in that subparagraph.

13 (6) Additional contributions.

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

40 (7) Transfers.

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

1 experience of the predecessor employer with respect to the
2 organization, trade, assets or business which has been transferred
3 may be considered indicative of the future employment experience
4 of the successor in interest. The successor in interest may, within
5 four months of the date of such transfer of the organization, trade,
6 assets or business, or thereafter upon good cause shown, request a
7 reconsideration of the transfer of employment experience of the
8 predecessor employer. The request for reconsideration shall
9 demonstrate, to the satisfaction of the controller, that the
10 employment experience of the predecessor is not indicative of the
11 future employment experience of the successor.

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

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

40 (D) If an employer transfers in whole or in part his or its
41 organization, trade, assets or business to a successor in interest,
42 whether by merger, consolidation, sale, transfer, descent or
43 otherwise and both the employer and successor in interest are at the
44 time of the transfer under common ownership, management or
45 control, then the employment experience attributable to the
46 transferred business shall also be transferred to and combined with
47 the employment experience of the successor in interest. The

1 transfer of the employment experience is mandatory and not subject
2 to appeal or protest.

3 (E) The transfer of part of an employer's employment experience
4 to a successor in interest shall become effective as of the first day of
5 the calendar quarter following the acquisition by the successor in
6 interest. As of the effective date, the successor in interest shall
7 have its employer rate recalculated by merging its existing
8 employment experience, if any, with the employment experience
9 acquired. If the successor in interest is not an employer as of the
10 date of acquisition, it shall be assigned the new employer rate until
11 the effective date of the transfer of employment experience.

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

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

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

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

45 (C) (i) Notwithstanding the above provisions of this paragraph
46 (1), during the period starting July 1, 1986 and ending December
47 31, 1992, each worker shall contribute to the fund 1.125% of wages
48 paid with respect to his employment with a governmental employer

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

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

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

1 law, or is covered for disability benefits by an approved private plan
2 of the employer, no contributions shall be made to the fund.

3 Each worker shall, starting on January 1, 1996 and ending March
4 31, 1996, contribute to the unemployment compensation fund
5 0.60% of wages paid with respect to the worker's employment with
6 a governmental employer electing or required to pay contributions
7 or 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 0.10% of wages paid with respect to employment with the State of
16 New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

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

33 Each worker shall, starting on January 1, 1999 until December
34 31, 1999, contribute to the unemployment compensation fund
35 0.15% of wages paid with respect to the worker's employment with
36 a governmental employer electing or required to pay contributions
37 or nongovernmental employer, including a nonprofit organization
38 which is an employer as defined under paragraph (6) of subsection
39 (h) of R.S.43:21-19, regardless of whether that nonprofit
40 organization elects or is required to finance its benefit costs with
41 contributions to the fund or by payments in lieu of contributions,
42 after that employer has satisfied the conditions set forth in
43 subsection (h) of R.S.43:21-19 with respect to becoming an
44 employer, provided that the contributions shall be at the rate of
45 0.10% of wages paid with respect to employment with the State of
46 New Jersey or any other governmental entity or instrumentality
47 electing or required to make payments in lieu of contributions.

1 Each worker shall, starting on January 1, 2000 until December
2 31, 2001, contribute to the unemployment compensation fund
3 0.20% of wages paid with respect to the worker's employment with
4 a governmental employer electing or required to pay contributions
5 or nongovernmental employer, including a nonprofit organization
6 which is an employer as defined under paragraph (6) of subsection
7 (h) of R.S.43:21-19, regardless of whether that nonprofit
8 organization elects or is required to finance its benefit costs with
9 contributions to the fund or by payments in lieu of contributions,
10 after that employer has satisfied the conditions set forth in
11 subsection (h) of R.S.43:21-19 with respect to becoming an
12 employer, provided that the contributions shall be at the rate of
13 0.10% of wages paid with respect to employment with the State of
14 New Jersey or any other governmental entity or instrumentality
15 electing or required to make payments in lieu of contributions.

16 Each worker shall, starting on January 1, 2002 until June 30,
17 2004, contribute to the unemployment compensation fund 0.1825%
18 of wages paid with respect to the worker's employment with a
19 governmental employer electing or required to pay contributions or
20 a nongovernmental employer, including a nonprofit organization
21 which is an employer as defined under paragraph (6) of subsection
22 (h) of R.S.43:21-19, regardless of whether that nonprofit
23 organization elects or is required to finance its benefit costs with
24 contributions to the fund or by payments in lieu of contributions,
25 after that employer has satisfied the conditions set forth in
26 subsection (h) of R.S.43:21-19 with respect to becoming an
27 employer, provided that the contributions shall be at the rate of
28 0.0825% of wages paid with respect to employment with the State
29 of New Jersey or any other governmental entity or instrumentality
30 electing or required to make payments in lieu of contributions.

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

46 (E) Each employer shall, notwithstanding any provision of law
47 in this State to the contrary, withhold in trust the amount of his
48 workers' contributions from their wages at the time such wages are

1 paid, shall show such deduction on his payroll records, shall furnish
2 such evidence thereof to his workers as the division or controller
3 may prescribe, and shall transmit all such contributions, in addition
4 to his own contributions, to the office of the controller in such
5 manner and at such times as may be prescribed. If any employer
6 fails to deduct the contributions of any of his workers at the time
7 their wages are paid, or fails to make a deduction therefor at the
8 time wages are paid for the next succeeding payroll period, he alone
9 shall thereafter be liable for such contributions, and for the purpose
10 of R.S.43:21-14, such contributions shall be treated as employer's
11 contributions required from him.

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

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

1 preceding year, and is, for calendar year 2018 ~~and subsequent~~
2 ~~calendar years~~ ²and year 2019², equal to 120% of the benefits paid
3 for periods of disability, excluding periods of family temporary
4 disability, during the last preceding full fiscal year plus an amount
5 equal to 100% of the cost of administration of the payment of those
6 benefits during the last preceding full fiscal year, less the amount of
7 net assets anticipated to be remaining in the "Family Temporary
8 Disability Leave Account" of that fund, as of December 31 of the
9 immediately preceding calendar year, and is, for each of calendar
10 years ²~~[2019]~~ 2020² and ²~~[2020]~~ 2021² , equal to 120% of the
11 benefits which the department anticipates will be paid for periods of
12 disability, excluding periods of family temporary disability ²~~and~~
13 pregnancy temporary disability², during the respective calendar
14 year plus an amount equal to 100% of the cost of administration of
15 the payment of those benefits which the department anticipates
16 during the respective calendar year, less the amount of net assets
17 anticipated to be remaining in ¹the State disability benefits fund,
18 excluding net assets remaining in¹ the "Family Temporary
19 Disability Leave Account" of that fund, as of December 31 of the
20 immediately preceding calendar year, and is, for calendar year
21 ²~~[2021]~~ 2022² and any subsequent calendar year, equal to 120% of
22 the benefits paid for periods of disability, excluding periods of
23 family temporary disability ²~~and~~ pregnancy temporary
24 disability², during the last preceding full fiscal year plus an
25 amount equal to 100% of the cost of administration of the payment
26 of those benefits during the last preceding full fiscal year, less the
27 amount of net assets anticipated to be remaining in ²the State
28 disability benefits fund, excluding net assets remaining in² the
29 "Family Temporary Disability Leave Account" ²~~and the~~
30 ~~"Pregnancy Temporary Disability Leave Account"]² of that fund,~~
31 as of December 31 of the immediately preceding calendar year.
32 ²All increases in the cost of benefits for periods of disability caused
33 by the increases in the weekly benefit rate commencing July 1,
34 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall
35 be funded by contributions made by workers pursuant to this
36 paragraph (i) and none of those increases shall be funded by
37 employer contributions.² The estimated rates for the next calendar
38 year shall be made available on the department's website no later
39 than 60 days after the end of the last preceding full fiscal year. The
40 rates of employer contributions determined pursuant to subsection
41 (e) of this section for any year shall be determined prior to the
42 determination of the rate of employee contributions pursuant to this
43 subparagraph (i) and any consideration of employee contributions in
44 determining employer rates for any year shall be based on amounts
45 of employee contributions made prior to the year to which the rate
46 of employee contributions applies and shall not be based on any

1 projection or estimate of the amount of employee contributions for
2 the year to which that rate applies.

3 (ii) Each worker shall contribute to the State disability benefits
4 fund, in addition to any amount contributed pursuant to
5 subparagraph (i) of this paragraph (1)(G), an amount equal to,
6 during calendar year 2009, 0.09%, and during calendar year 2010
7 0.12%, of wages paid with respect to the worker's employment with
8 any covered employer, including a governmental employer which is
9 an employer as defined under R.S.43:21-19(h)(5), unless the
10 employer is covered by an approved private disability plan for
11 benefits during periods of family temporary disability leave. The
12 contributions made pursuant to this subparagraph (ii) to the State
13 disability benefits fund shall be deposited into an account of that
14 fund reserved for the payment of benefits during periods of family
15 temporary disability leave as defined in section 3 of the "Temporary
16 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
17 administration of those payments and shall not be used for any other
18 purpose. This account shall be known as the "Family Temporary
19 Disability Leave Account." For calendar year 2011 and each
20 subsequent calendar year until 2018, the annual rate of contribution
21 to be paid by workers pursuant to this subparagraph (ii) shall be, for
22 calendar years prior to calendar year 2018, the rate necessary to
23 obtain a total amount of contributions equal to 125% of the benefits
24 paid for periods of family temporary disability leave during the
25 immediately preceding calendar year plus an amount equal to 100%
26 of the cost of administration of the payment of those benefits during
27 the immediately preceding calendar year, less the amount of net
28 assets remaining in the account as of December 31 of the
29 immediately preceding year, and shall be, for calendar year 2018
30 **【and subsequent calendar years】²and calendar year 2019²**, the rate
31 necessary to obtain a total amount of contributions equal to 125% of
32 the benefits paid for periods of family temporary disability leave
33 during the last preceding full fiscal year plus an amount equal to
34 100% of the cost of administration of the payment of those benefits
35 during the last preceding full fiscal year, less the amount of net
36 assets anticipated to be remaining in the account as of December 31
37 of the immediately preceding calendar year. For each of calendar
38 years ²【2019】 2020² and ²【2020】 2021², the annual rate of
39 contribution to be paid by workers pursuant to this subparagraph (ii)
40 shall be the rate necessary to obtain a total amount of contributions
41 equal to 125% of the benefits which the department anticipates will
42 be paid for periods of family temporary disability leave during the
43 respective calendar year plus an amount equal to 100% of the cost
44 of administration of the payment of those benefits which the
45 department anticipates during the respective calendar year, less the
46 amount of net assets remaining in the account as of December 31 of
47 the immediately preceding calendar year. For ²【2021】 2022² and
48 any subsequent calendar year, the annual rate of contribution to be

1 paid by workers pursuant to this subparagraph (ii) shall be the rate
2 necessary to obtain a total amount of contributions equal to 125% of
3 the benefits which were paid for periods of family temporary
4 disability leave during the last preceding full fiscal year plus an
5 amount equal to 100% of the cost of administration of the payment
6 of those benefits during the last preceding full fiscal year, less the
7 amount of net assets remaining in the account as of December 31 of
8 the immediately preceding calendar year. All increases in the cost
9 of benefits for periods of family temporary disability leave caused
10 by the increases in the weekly benefit rate commencing July 1,
11 ²[2019] 2020² pursuant to section 16 of P.L.1948, c.110 (C.43:21-
12 40) and increases in the maximum duration of benefits commencing
13 July 1, ²[2019] 2020² pursuant to sections 14 and 15 of P.L.1948,
14 c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions
15 made by workers pursuant to this paragraph (ii) and none of those
16 increases shall be funded by employer contributions. The estimated
17 rates for the next calendar year shall be made available on the
18 department's website no later than 60 days after the end of the last
19 preceding full fiscal year. Necessary administrative costs shall
20 include the cost of an outreach program to inform employees of the
21 availability of the benefits and the cost of issuing the reports
22 required or permitted pursuant to section 13 of P.L.2008, c.17
23 (C.43:21-39.4). No monies, other than the funds in the "Family
24 Temporary Disability Leave Account," shall be used for the
25 payment of benefits during periods of family temporary disability
26 leave or for the administration of those payments, with the sole
27 exception that, during calendar years 2008 and 2009, a total amount
28 not exceeding \$25 million may be transferred to that account from
29 the revenues received in the State disability benefits fund pursuant
30 to subparagraph (i) of this paragraph (1)(G) and be expended for
31 those payments and their administration, including the
32 administration of the collection of contributions made pursuant to
33 this subparagraph (ii) and any other necessary administrative costs.
34 Any amount transferred to the account pursuant to this
35 subparagraph (ii) shall be repaid during a period beginning not later
36 than January 1, 2011 and ending not later than December 31, 2015.
37 No monies, other than the funds in the "Family Temporary
38 Disability Leave Account," shall be used under any circumstances
39 after December 31, 2009, for the payment of benefits during periods
40 of family temporary disability leave or for the administration of
41 those payments, including for the administration of the collection of
42 contributions made pursuant to this subparagraph (ii).

43 ²[(iii) Each worker, with respect to the worker's employment
44 with a government employer electing or required to pay
45 contributions to the State disability benefits fund or
46 nongovernmental employer, including a nonprofit organization
47 which is an employer as defined under paragraph (6) of subsection
48 (h) of R.S.43:21-19, unless the employer is covered by an approved

1 private disability plan or is exempt from the provisions of the
2 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
3 et al.) under section 7 of that law (C.43:21-31) or any other
4 provision of that law, shall make contributions to the State
5 disability benefits fund, in addition to any amount contributed
6 pursuant to subparagraph (i) of this paragraph (1)(G), for the
7 purpose of funding the provision of pregnancy temporary disability
8 benefits. The contributions made pursuant to this subparagraph (iii)
9 to the State disability benefits fund shall be deposited into an
10 account of that fund reserved for the payment of benefits during
11 periods of pregnancy temporary disability and for the
12 administration of those payments and shall not be used for any other
13 purpose. This account shall be known as the "Pregnancy
14 Temporary Disability Account." For each of calendar years 2019
15 and 2020, the annual rate of contribution to be paid by workers
16 pursuant to this subparagraph (iii) shall be the rate necessary to
17 obtain a total amount of contributions, which, when added to the
18 portion of employer contributions made to the State disability
19 benefits fund pursuant to subsection (e) of this section which is
20 allocated to benefits for periods of pregnancy temporary disability,
21 is equal to 120% of the benefits which the department anticipates
22 will be paid for periods of pregnancy temporary disability during
23 the respective calendar year plus an amount equal to 100% of the
24 cost of administration of the payment of those benefits which the
25 department anticipates during the respective calendar year, less the
26 amount of net assets remaining in the account as of December 31 of
27 the immediately preceding calendar year. For calendar year 2021
28 and any subsequent calendar year, the annual rate of contribution to
29 be paid by workers pursuant to this subparagraph (iii) shall be the
30 rate necessary to obtain a total amount of contributions, which,
31 when added to the portion of employer contributions made to the
32 State disability benefits fund pursuant to subsection (e) of this
33 section which is allocated to benefits for a period of pregnancy
34 temporary disability, is equal to 120% of the benefits which were
35 paid for periods of pregnancy temporary disability during the last
36 preceding full fiscal year plus an amount equal to 100% of the cost
37 of administration of the payment of those benefits during the last
38 preceding full fiscal year, less the amount of net assets remaining in
39 the account as of December 31 of the immediately preceding
40 calendar year. The estimated rates for the next calendar year shall
41 be made available on the department's website no later than 60 days
42 after the end of the last preceding full fiscal year. No monies, other
43 than the funds in the "Pregnancy Temporary Disability Leave
44 Account" contributed by workers, and the portion of employer
45 contributions to the State disability benefits fund which the
46 department determines is allocated to benefits for periods of
47 pregnancy temporary disability, shall be used for the payment of
48 benefits during periods of pregnancy temporary disability or for the

1 administration of those payments, including for the administration
 2 of the collection of contributions made pursuant to this
 3 subparagraph (iii). The department shall base its determination of
 4 what portion of employer contributions to the State disability
 5 benefits fund is allocated to benefits for periods of pregnancy
 6 temporary disability on the percentage that the total amount of
 7 benefits for periods of pregnancy temporary disability benefits
 8 would represent of the total amount of all disability benefits if the
 9 increases in the weekly benefit rate for benefits for periods of
 10 pregnancy temporary disability commencing July 1, 2019 pursuant
 11 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.
 12 All increases in the cost of benefits for periods of pregnancy
 13 temporary disability caused by increases in the weekly benefit rate
 14 for those benefits commencing July 1, 2019 pursuant to section 16
 15 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions
 16 made by workers pursuant to this paragraph (iii) and none of those
 17 increases shall be funded by employer contributions.

18 For the purposes of this section, periods of "pregnancy
 19 temporary disability" means periods of disability due to pregnancy
 20 or recovery from childbirth.]²

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

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

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

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

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

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

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

28 (3) (A) If an employee receives wages from more than one
 29 employer during any calendar year, and either the sum of his
 30 contributions deposited in and credited to the State disability
 31 benefits fund plus the amount of his contributions, if any, required
 32 towards the costs of benefits under one or more approved private
 33 plans under the provisions of section 9 of the "Temporary Disability
 34 Benefits Law" (C.43:21-33) and deducted from his wages, or the
 35 sum of such latter contributions, if the employee is covered during
 36 such calendar year only by two or more private plans, exceeds an
 37 amount equal to 1/2 of 1% of the "wages" determined in accordance
 38 with the provisions of R.S.43:21-7(b)(3) during the calendar years
 39 beginning on or after January 1, 1976 or, during calendar year 2012
 40 or any subsequent calendar year, the total amount of his
 41 contributions for the year exceeds the amount set by the annual rate
 42 of contribution determined by the Commissioner of Labor and
 43 Workforce Development pursuant to subparagraph (i) ²[and, during
 44 calendar year 2019 and subsequent calendar years, subparagraph
 45 (iii).]² of paragraph (1)(G) of this subsection (d), the employee
 46 shall be entitled to a refund of the excess if he makes a claim to the
 47 controller within two years after the end of the calendar year in
 48 which the wages are received with respect to which the refund is

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

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

1 during any calendar year which is applicable to private plans for
2 which deductions were made under section 9 of the "Temporary
3 Disability Benefits Law" (C.43:21-33), with that determination
4 based upon the ratio of the amount of such wages exempt from
5 contributions to the fund, as provided in paragraph (1)(B) of this
6 subsection (d) with respect to coverage under private plans, to the
7 total wages so exempt plus the amount of such wages subject to
8 contributions to the "Family Temporary Disability Leave Account"
9 of the State disability benefits fund, as provided in subparagraph (ii)
10 of paragraph (1)(G) of this subsection (d). The controller shall, in
11 accordance with prescribed regulations, prorate the amount so
12 determined among the applicable private plans in the proportion
13 that the wages covered by each plan bear to the total private plan
14 wages involved in such refunds, and shall assess against and
15 recover from the employer, or the insurer if the insurer has
16 indemnified the employer with respect thereto, the prorated amount.
17 The provisions of R.S.43:21-14 with respect to collection of
18 employer contributions shall apply to such assessments. The
19 amount so recovered by the controller shall be paid into the "Family
20 Temporary Disability Leave Account" of the State disability
21 benefits fund.

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

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

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

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

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

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

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

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

1 and in preceding calendar years shall be charged against the account
2 of the employer by whom such individual was employed at the
3 commencement of such disability or by whom he was last
4 employed, if out of employment.

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

12 (D) Prior to July 1 of each calendar year, the controller shall
13 make a preliminary determination of the rate of contribution for the
14 12 months commencing on such July 1 for each employer subject to
15 the contribution requirements of this subsection (e).

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

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

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

28 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 $1\frac{1}{4}\%$ but is less than $1\frac{1}{2}\%$ of his average annual payroll;

30 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds 1
31 $\frac{1}{2}\%$ of his average annual payroll.

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

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

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

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

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

1 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
2 3/4 of 1% but is less than 1% of his average annual payroll;

3 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
4 1% of his average annual payroll.

5 (5) Determination of the preliminary rate as specified in
6 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
7 to the condition that it shall in no event be decreased by more than
8 1/10 of 1% of wages or increased by more than 2/10 of 1% of
9 wages from the preliminary rate determined for the preceding year
10 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
11 shall have been applicable.

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

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

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

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

43 (iii) If the percentage determined in accordance with
44 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
45 excess of 1/4 of 1%, the final employer rates shall be the
46 preliminary employer rates determined as provided in subparagraph
47 (D) hereof increased by the difference between 3/4 of 1% and such
48 percentage taken to the nearest 5/100 of 1%; provided, however,

1 that no such final rate shall be more than 1/4 of 1% in the case of an
 2 employer whose preliminary rate is determined as provided in
 3 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
 4 employer whose preliminary rate is determined as provided in
 5 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
 6 3/4 of 1% in the case of an employer whose preliminary rate is
 7 determined as provided in subparagraph (D)(4) hereof.

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

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

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

28 (ii) No worker paid any contributions to the State disability
 29 benefits fund pursuant to paragraph (1)(G)(ii) ²or paragraph
 30 (1)(G)(iii) ² of subsection (d) of this section; **[and]**

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

35 (iv) The total amount of benefits paid for periods of
 36 ²[pregnancy temporary] ² disability were not subject to the
 37 increases in the weekly benefit rate for those benefits commencing
 38 July 1, ²[2019] 2020² pursuant to section 16 of P.L.1948, c.110
 39 (C.43:21-40).

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

41

42 ¹**[4.]** ²**[5.1]** 7.² Section 2 of P.L.1948, c.110 (C.43:21-26) is
 43 amended to read as follows:

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

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

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

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

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

1 competing interests of work and home not only benefits workers,
2 but also benefits employers by reducing employee turnover and
3 increasing worker productivity.

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

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

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

17 ¹~~5.~~ ²~~6.~~¹ Section 3 of P.L.1948, c.110 (C.43:21-27) is
18 amended to read as follows:

19 3. As used in this act, unless the context clearly requires
20 otherwise:

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

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

1 instrumentality which is an employer under R.S.43:21-19(h)(5),
2 notwithstanding that the governmental entity or instrumentality has not
3 elected to be a covered employer pursuant to paragraph (2) of this
4 subsection (a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (4) "Base week" with respect to periods of disability commencing
42 on or after January 1, 2001, means any calendar week of a covered
43 individual's base year during which the covered individual earned in
44 employment from a covered employer remuneration not less than an
45 amount 20 times the minimum wage in effect pursuant to section 5 of
46 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
47 preceding the calendar year in which the benefit year commences,
48 which amount shall be adjusted to the next higher multiple of \$1.00 if

1 not already a multiple thereof, except that if in any calendar week an
2 individual subject to this paragraph is in employment with more than
3 one employer, the covered individual may in that calendar week
4 establish a base week with respect to each of the employers from
5 whom the covered individual earns remuneration equal to not less than
6 the amount defined in this paragraph during that week.

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

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

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

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

43 When determining the "average weekly wage" with respect to a
44 period of family temporary disability leave for an individual who has a
45 period of family temporary disability immediately after the individual
46 has a period of disability for the individual's own disability, the period
47 of disability is deemed to have commenced at the beginning of the

1 period of disability for the individual's own disability, not the period of
2 family temporary disability.

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

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

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

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

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

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

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

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

46 "Family temporary disability leave" does not include any period of
47 time in which a covered individual is paid benefits pursuant to

1 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable to
2 perform the duties of the individual's employment due to the
3 individual's own disability.

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

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

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

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

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

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

29 (cf: P.L.2013, c.221, s.3)]²

30

31 ¹[6.] ²[7.]¹ Section 11 of P.L.1948, c.110 (C.43:21-35) is
32 amended to read as follows:

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

45 (b) Unless sooner permitted, for cause, by the division, no
46 approved private plan shall be terminated by an employer, in whole
47 or in part, until at least 30 days after written notice of intention so
48 to do has been given by the employer to the division and after

1 notices are conspicuously posted so as reasonably to assure their
2 being seen, or after individual notices are given to the employees
3 concerned.

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

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

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

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

30

31 ²8. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
32 read as follows:

33 3. As used in this act, unless the context clearly requires
34 otherwise:

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

1 University and the New Jersey Institute of Technology, shall be
2 deemed a covered employer, as defined herein.

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

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

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

1 result of a negotiated contract with any governmental entity or
2 instrumentality which elects to become a "covered employer" ; and,
3 after June 30, 2019 may be required, prior to receiving any benefits
4 under the "Temporary Disability Benefits Law," to use up to two
5 weeks of sick leave accumulated as an employee in the classified
6 service of the State or accumulated under terms and conditions
7 similar to classified employees or accumulated under the terms and
8 conditions pursuant to the laws of this State or as the result of a
9 negotiated contract with any governmental entity or instrumentality
10 which elects to become a "covered employer," except that the
11 individual shall not be required to use the individual's last week's
12 worth of accumulated sick time before receiving the benefits.

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

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

26 (c) "Division" or "commission" means the Division of
27 Unemployment and Temporary Disability Insurance of the
28 Department of Labor and Workforce Development, and any
29 transaction or exercise of authority by the director of the division
30 shall be deemed to be performed by the division.

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

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

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

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

40 (1) The entire period of time during which the covered
41 individual is continuously and totally unable to perform the duties
42 of the covered individual's employment because of the covered
43 individual's own disability, except that two periods of disability due
44 to the same or related cause or condition and separated by a period
45 of not more than 14 days shall be considered as one continuous
46 period of disability; provided the individual has earned wages
47 during such 14-day period with the employer who was the

1 individual's last employer immediately preceding the first period of
2 disability; and

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

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

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

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

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

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

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

38 (j) (1) "Average weekly wage" means , with respect to the
39 payment of benefits commencing before ³【January 1, 2019】 the
40 effective date of P.L. , c. (C.) (pending before the
41 Legislature as this bill)³ , the amount derived by dividing a covered
42 individual's total wages earned from the individual's most recent
43 covered employer during the base weeks in the eight calendar
44 weeks immediately preceding the calendar week in which a period
45 of disability commenced, **【or in which the individual submits a**
46 **claim for the benefits pursuant to subsection h. of section 10 of**
47 **P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of**
48 **section 25 of P.L.1948, c.110 (C.43:21-49),】** by the number of such

1 base weeks , and, with respect to the payment of benefits
2 commencing on or after ³【January 1, 2019】 the effective date of
3 P.L. , c. (C.) (pending before the Legislature as this bill)³, the
4 amount derived by dividing a covered individual's total wages
5 earned from the individual's most recent covered employer during
6 the base weeks in the base year immediately preceding the calendar
7 week in which a period of disability commenced, or in which the
8 individual submits a claim for the benefits pursuant to subsection h.
9 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of
10 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the
11 number of base weeks.

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

38 (3) For periods of disability commencing on or after July 1,
39 2009 and before ³【January 1, 2019】 the effective date of P.L. , c.
40 (C.) (pending before the Legislature as this bill)³, if the
41 computations in paragraphs (1) and (2) of this subsection (j) both
42 yield a result which is less than the individual's average weekly
43 earnings in employment with all covered employers during the base
44 weeks in the 26 calendar weeks immediately preceding the week in
45 which the period of disability commenced, 【or in which the
46 individual submits a claim for the benefits pursuant to subsection h.
47 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of

1 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49),**】** then
2 the average weekly wage shall, upon a written request to the
3 department by the individual on a form provided by the department,
4 be computed by the department on the basis of earnings from all
5 covered employers of the individual during the base weeks in those
6 26 calendar weeks, and, in the case of a claim for benefits from a
7 private plan, that computation of the average weekly wage shall be
8 provided by the department to the individual and the individual's
9 employer.

10 When determining the "average weekly wage" with respect to a
11 period of family temporary disability leave for an individual who
12 has a period of family temporary disability immediately after the
13 individual has a period of disability for the individual's own
14 disability, the period of disability is deemed to have commenced at
15 the beginning of the period of disability for the individual's own
16 disability, not the period of family temporary disability.

17 (k) "Child" means a biological, adopted, or foster child,
18 stepchild or legal ward of a covered individual, child of a domestic
19 partner of the covered individual, or child of a civil union partner of
20 the covered individual, **【**who is less than 19 years of age or is 19
21 years of age or older but incapable of self-care because of mental or
22 physical impairment**】** including a child who becomes the child of a
23 parent pursuant to a valid written agreement between the parent and
24 a gestational carrier.

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

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

29 (n) "Family member" means a sibling, grandparent, grandchild,
30 child, spouse, domestic partner, civil union partner, parent-in-law,
31 or parent of a covered individual, or any other individual related by
32 blood to the employee, and any other individual that the employee
33 shows to have a close association with the employee which is the
34 equivalent of a family relationship.

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

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

41 **【or】**

42 (2) be with a child during the first 12 months after the child's
43 birth, if the individual, or the domestic partner or civil union partner
44 of the individual, is a biological parent of the child, or is a parent of
45 the child pursuant to a valid gestational carrier agreement, or the
46 first 12 months after the placement of the child for adoption or as a
47 foster child with the individual; or

1 (3) engage in activities for which unpaid leave may be taken
2 pursuant to section 3 of the "New Jersey Security and Financial
3 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the
4 individual's own behalf, if the individual is a victim of an incident
5 of domestic violence a sexually violent offense, or to assist a family
6 member of the individual who has been a victim of an incident of
7 domestic violence a sexually violent offense, provided that any time
8 taken by an individual who has been a victim of an incident of
9 domestic violence a sexually violent offense for which the
10 individual receives benefits for a disability caused by the violence
11 or offense shall be regarded as a period of disability of the
12 individual and not as a period of family temporary disability leave.

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

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

21 (q) "Parent of a covered individual" means a biological parent,
22 foster parent, adoptive parent, or stepparent of the covered
23 individual or a person who was a legal guardian of the covered
24 individual when the covered individual was a child, or who became
25 the parent of the covered individual pursuant to a valid written
26 agreement between the parent and a gestational carrier.

27 (r) "Placement for adoption" means the time when a covered
28 individual adopts a child or becomes responsible for a child pending
29 adoption by the covered individual.

30 (s) "Serious health condition" means an illness, injury,
31 impairment or physical or mental condition which requires:
32 inpatient care in a hospital, hospice, or residential medical care
33 facility; or continuing medical treatment or continuing supervision
34 by a health care provider.

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

40 (u) "State of emergency" means a natural or man-made disaster
41 or emergency for which a state of emergency has been declared by
42 the President of the United States or the Governor, or for which a
43 state of emergency has been declared by a municipal emergency
44 management coordinator.

45 (v) "Base year" with respect to benefit years commencing on or
46 after ³【January 1, 2019】 the effective date of P.L. , c. (C.)
47 (pending before the Legislature as this bill)³, means the first four of
48 the last five completed calendar quarters immediately preceding the

1 period of disability, except that, if the individual does not have
2 sufficient qualifying weeks or wages in the individual's base year to
3 qualify for benefits, the individual shall have the option of
4 designating that the individual's base year shall be the "alternative
5 base year," which means the last four completed calendar quarters
6 immediately preceding the period of disability; and except that if
7 the individual also does not have sufficient qualifying weeks or
8 wages in the last four completed calendar quarters immediately
9 preceding the period of disability, "alternative base year" means the
10 last three completed calendar quarters immediately preceding the
11 individual's benefit year and, of the calendar quarter in which the
12 period of disability commences, the portion of the quarter which
13 occurs before the commencing the period of disability. The
14 division shall inform the individual of the individual's options
15 under this subsection. If information regarding weeks and wages
16 for the calendar quarter or quarters immediately preceding the
17 period of disability is not available to the division from the regular
18 quarterly reports of wage information and the division is not able to
19 obtain the information using other means pursuant to State or
20 federal law, the division may base the determination of eligibility
21 for benefits on the affidavit of an individual with respect to weeks
22 and wages for that calendar quarter. The individual shall furnish
23 payroll documentation, if available, in support of the affidavit. A
24 determination of benefits based on an alternative base year shall be
25 adjusted when the quarterly report of wage information from the
26 employer is received if that information causes a change in the
27 determination.²

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

29

30 ^{29.} Section 8 of P.L.1948, c.110 (C.43:21-32) is amended to
31 read as follows:

32 8. Establishment of private plans. Any covered employer may
33 establish a private plan for the payment of disability benefits in lieu
34 of the benefits of the State plan hereinafter established. Benefits
35 under such a private plan may be provided by a contract of
36 insurance issued by an insurer duly authorized and admitted to do
37 business in this State, or by an agreement between the employer and
38 a union or association representing his employees, or by a specific
39 undertaking by the employer as a self-insurer. Subject to the
40 insurance laws of this State, such a contract of insurance may be
41 between the insurer and the employer; or may be between the
42 insurer and two or more employers, acting for the purpose through a
43 nominee, designee or trustee; or may be between the insurer and the
44 union or association with which the employer has an agreement
45 with respect thereto. Each such private plan shall be submitted in
46 detail to the Division of Employment Security and shall be
47 approved by the division, to take effect as of the first day of the
48 calendar quarter next following, or as of an earlier date if requested

1 by the employer and approved by the Division of Employment
2 Security, if it finds that:

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

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

10 (c) the weekly benefits payable under such plan for any week of
11 disability are at least equal to the weekly benefit amount payable by
12 the State plan, taking into consideration any coverage with respect
13 to concurrent employment by another employer, and the total
14 number of weeks of disability for which benefits are payable under
15 such plan is at least equal to the total number of weeks for which
16 benefits would have been payable by the State plan; and

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

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

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

34 Subject to the approval of the Division of Employment Security,
35 any such private plan may exclude a class or classes of employees,
36 except a class or classes determined by the age, sex or race of the
37 employees, or by the wages paid such employees, the exclusion of
38 which, in the opinion of the division, will result in a substantial
39 selection of risk adverse to the State plan. Covered individuals so
40 excluded shall be covered by the State plan and subject to the
41 employee contribution required by law to be paid into the State
42 disability benefits fund.

43 Notice, in a form approved by the director, of the benefits
44 provided by the private plan shall be furnished to the covered
45 employees by the employer by a conspicuous and continuing
46 posting at the place of employment, and by personal notice to each
47 employee at the time of the establishment of the private plan, at any
48 subsequent time of hire, and within three business days of when the

1 employer knows or should know that the employee may have a need
2 for disability benefits or family temporary disability benefits. This
3 notice shall reflect current rates, eligibility requirements, benefit
4 entitlements, and rights of the employees under a private plan
5 pursuant to the provisions of P.L.1948, c.110 (C.43:21-25 et seq.),
6 including appeal rights to the division, and shall include contact
7 information for the private plan and instructions as to how to file
8 for benefits with the private plan.

9 The division shall permit any application for approval by the
10 division of a private plan to be submitted to the division by means
11 of electronic communication, and permit the use of an electronic
12 signature for any signature required in the application, as the term
13 electronic signature is defined in section 2 of P.L.2001, c.116,
14 (C.12A:12-2).²

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

16
17 ²10. Section 9 of P.L.1948, c.110 (C.43:21-33) is amended to
18 read as follows:

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

1 A covered individual shall not be entitled to any benefits from
2 the State disability benefits fund with respect to any period of
3 disability commencing while he is covered under an approved
4 private plan.²

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

6
7 ¹[7.] ²[8.1] 11.² Section 14 of P.L.1948, c.110 (C.43:21-38) is
8 amended to read as follows:

9 14. With respect to any period of disability for an individual's
10 own disability commencing on or after January 1, 1953, disability
11 benefits, not in excess of an individual's maximum benefits, shall be
12 payable with respect to disability which commences while a person
13 is a covered individual under the Temporary Disability Benefits
14 Law, and shall be payable with respect to the eighth consecutive
15 day of such disability and each day thereafter that such period of
16 disability continues; and if benefits shall be payable for three
17 consecutive weeks with respect to any period of disability
18 commencing on or after January 1, 1968, then benefits shall also be
19 payable with respect to the first seven days thereof. With respect to
20 any period of family temporary disability leave commencing on or
21 after July 1, 2009 and while an individual is a covered individual,
22 family temporary disability benefits, not in excess of the
23 individual's maximum benefits, shall be payable with respect to the
24 first day of leave taken after the first one-week period following the
25 commencement of the period of family temporary disability leave
26 and each subsequent day of leave during that period of family
27 temporary disability leave; and if benefits become payable on any
28 day after the first three weeks in which leave is taken, then benefits
29 shall also be payable with respect to any leave taken during the first
30 one-week period in which leave is taken. ¹With respect to any
31 period of family temporary disability leave commencing on or after
32 July 1, 2019 and while an individual is a covered individual, family
33 temporary disability benefits, not in excess of the individual's
34 maximum benefits, shall be payable with respect to the first day of
35 leave taken upon the commencement of the period of family
36 temporary disability leave and each subsequent day of leave during
37 that period of family temporary disability leave.¹ The maximum
38 total benefits payable to any eligible individual for any period of
39 disability of the individual commencing on or after January 1, 1968,
40 shall be either 26 times his weekly benefit amount or 1/3 of his total
41 wages in his base year, whichever is the lesser; provided that such
42 maximum amount shall be computed in the next lower multiple of
43 \$1.00 if not already a multiple thereof. The maximum total benefits
44 payable to any eligible individual for any period of family
45 temporary disability leave commencing on or after July 1, 2009 and
46 before July 1, ²[2019] 2020², shall be six times the individual's
47 weekly benefit amount or 1/3 of his total wages in his base year,

1 whichever is the lesser; provided that the maximum amount shall be
 2 computed in the next lower multiple of \$1.00, if not already a
 3 multiple thereof. The maximum total benefits payable to any
 4 eligible individual for any period of family temporary disability
 5 leave commencing on or after July 1, ²[2019] 2020², shall be
 6 twelve times the individual's weekly benefit amount; provided that
 7 the maximum amount shall be computed in the next lower multiple
 8 of \$1.00, if not already a multiple thereof.

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

10
 11 ¹[8.] ²[9.¹] 12.² Section 15 of P.L.1948, c.110 (C.43:21-39) is
 12 amended to read as follows:

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

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

19 (1) if benefits shall be payable for three consecutive weeks with
 20 respect to any period of ²[¹the individual's own¹]² disability, then
 21 benefits shall also be payable with respect to the first seven days
 22 thereof; ²and²

23 (2) ²[in the case of intermittent leave in a single period of
 24 family temporary disability leave taken to provide care for a family
 25 member of the individual with a serious health condition, benefits
 26 shall be payable with respect to the first day of leave taken ¹[after
 27 the first one-week period following] upon¹ the commencement of
 28 the period of family temporary disability leave and each subsequent
 29 day of leave during that period of family temporary disability leave;
 30 and if benefits become payable on any day after the first three
 31 weeks in which leave is taken, then benefits shall also be payable
 32 with respect to any leave taken during the first one-week period in
 33 which leave is taken; and] (Deleted by amendment, P.L. , c.)
 34 (pending before the Legislature, as this bill)²;

35 (3) in the case of an individual taking family temporary
 36 disability leave ¹[immediately after the individual has a period of
 37 disability for the individual's own disability]¹, there shall be no
 38 waiting period ¹[between the period of the individual's own
 39 disability and the period of family temporary disability]¹;

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

42 (2) for more than six weeks with respect to any one period of
 43 family temporary disability leave commencing before July 1,
 44 ²[2019] 2020² and more than 12 weeks if the period of leave
 45 commences on or after July 1, ²[2019] 2020², or for more than 42
 46 days with respect to any one period of family temporary disability

1 leave commencing before July 1, ²[2019] 2020² and more than
2 ²[84] ³[52²] 56³ days if the period of leave commences on or after
3 July 1, ²[2019, in the case of leave] 2020, and is² taken on an
4 intermittent basis ²[to provide care for a family member of the
5 individual with a serious health condition]² ; and

6 (3) for more than six weeks of family temporary disability leave
7 during any 12-month period commencing before July 1, ²[2019]
8 2020² and more than 12 weeks for any 12-month period
9 commencing on or after July 1, ²[2019] 2020², or for more than 42
10 days of family temporary disability leave taken during any 12-
11 month period commencing before July 1, ²[2019] 2020² and more
12 than ²[84] ³[52²] 56³ days if the period of leave commences on or
13 after July 1, ²[2019] 2020², on an intermittent basis ²[to provide
14 care for a family member of the individual with a serious health
15 condition]², including family temporary disability leave taken
16 pursuant to R.S.43:21-4(f)(2) while unemployed;

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

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

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

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

43 (g) for any period during which the claimant performs any work
44 for remuneration or profit¹, except that, in a case of a claim for
45 benefits for a period family temporary disability on or after July 1,
46 2020 in which the covered individual has more than one employer,
47 the individual shall have the option of claiming benefits for leave

1 taken from one employer, based on wages paid by that employer, on
2 the condition that the individual does not, during the period for
3 which the benefits are paid, increase the amount of employment
4 time with any other employer¹;

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

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

12 ²(j) for any period during which the claimant receives any paid
13 sick leave, vacation time or other leave at full pay from the
14 employer of the individual;²

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

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

19

20 ¹~~9.~~ ²~~10.~~¹ Section 10 of P.L.2008, c.17 (C.43:21-39.1) is
21 amended to read as follows:

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

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

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

43 ¹~~If the employer~~ ¹~~requires~~ ¹~~permits~~ the individual to use leave at
44 full pay, the employee shall also be permitted to take that fully-paid
45 leave during the waiting period required pursuant to subsection (a) of
46 section 15 of P.L.1948, c.110 (C.43:21-39).] ¹ Nothing in P.L.2008,
47 c.17 (C.43:21-39.1 et al.) shall be construed as nullifying any

1 provision of an existing collective bargaining agreement or employer
2 policy, or preventing any new provision of a collective bargaining
3 agreement or employer policy, which provides employees more
4 generous leave or gives employees greater rights to select which kind
5 of leave is used or select the order in which the different kinds of leave
6 are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be
7 construed as preventing an employer from providing more generous
8 benefits than are provided under P.L.2008, c.17 (C.43:21-39.1 et al.)
9 or providing benefits which supplement the benefits provided under
10 P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all of the employer's
11 employees.

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

42 e. An employee taking family temporary disability leave or an
43 employer from whom the employee is taking the leave shall have the
44 same right to appeal a determination of a benefit for the family
45 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1 et
46 al.) as an employee or employer has to appeal a determination of a
47 benefit for the disability of the employee under the "Temporary
48 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and any

1 regulations adopted pursuant to the "Temporary Disability Benefits
2 Law," P.L.1948, c.110 (C.43:21-25 et al.).

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

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

43 (cf: P.L.2008, c.17, s.10)]²

44
45 ²13. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to
46 read as follows:

47 10. a. Family temporary disability leave shall be compensable
48 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for

1 any period of family temporary disability leave taken by a covered
2 individual which commences after June 30, 2009.

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

8 c. The employer of an individual may, notwithstanding any
9 other provision of law, including the provisions of N.J.S.18A:30-1
10 et seq., permit **【or require】** the individual, during a period of family
11 temporary disability leave, to use any paid sick leave, vacation time
12 or other leave at full pay made available by the employer before the
13 individual **【is eligible for】** uses disability benefits for family
14 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1
15 et al.)**【,** except that the employer may not require the individual to
16 use more than two weeks worth of leave at full pay**】.** **【**The
17 employer may also have the total number of days worth of disability
18 benefits paid pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) to the
19 individual during a period of family temporary disability leave
20 reduced by the number of days of leave at full pay paid by the
21 employer to the individual during that period. If the employer
22 requires the individual to use leave at full pay, the employee shall
23 be permitted to take that fully-paid leave during the waiting period
24 required pursuant to subsection (a) of section 15 of P.L.1948, c.110
25 (C.43:21-39).**】** Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall
26 be construed as nullifying any provision of an existing collective
27 bargaining agreement or employer policy, or preventing any new
28 provision of a collective bargaining agreement or employer policy,
29 which provides employees more generous leave or gives employees
30 greater rights to select which kind of leave is used or select the
31 order in which the different kinds of leave are used. Nothing in
32 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as preventing
33 an employer from providing more generous benefits than are
34 provided under P.L.2008, c.17 (C.43:21-39.1 et al.) or providing
35 benefits which supplement the benefits provided under P.L.2008,
36 c.17 (C.43:21-39.1 et al.) for some or all of the employer's
37 employees.

38 d. An individual who is entitled to leave under the provisions
39 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
40 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
41 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
42 family temporary disability leave pursuant to P.L.2008, c.17
43 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the
44 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the
45 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29
46 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et
47 al.) shall be construed to grant an employee any entitlement to be

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

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

31 f. In the event of a period of family temporary disability leave
32 of any individual covered under the State plan, the employer shall,
33 not later than the ninth day of the period of family temporary
34 disability leave, or not later than the ninth day after the employee
35 notifies the employer of an anticipated period of family temporary
36 disability leave pursuant to subsection h. of this section, whichever
37 comes first, including any [waiting period or] time in which the
38 employer provides sick leave, vacation or other fully paid leave,
39 issue to the individual and to the division printed notices on
40 division forms containing the name, address and Social Security
41 number of the individual, such wage information as the division
42 may require to determine the individual's eligibility for benefits,
43 including any sick pay, vacation or other fully paid time off
44 provided by the employer during the period of family temporary
45 disability leave, and the name, address, and division identity
46 number of the employer. Not later than 30 days after the
47 commencement of the period of family temporary disability leave
48 for which the notice is furnished by the employer, the individual

1 shall furnish to the division a notice and claim for family temporary
2 disability leave benefits. Upon the submission of the notices by the
3 employer and the individual, and the commencement of the
4 compensable portion of the family temporary disability leave
5 pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), the division may
6 issue benefit payments. In the case of family temporary disability
7 leave taken to care for a family member with a serious health
8 condition, the benefits may be paid for periods not exceeding three
9 weeks pending the receipt of the certification required pursuant to
10 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2).
11 Failure to furnish notice and certification in the manner above
12 provided shall not invalidate or reduce any claim if it shall be
13 shown to the satisfaction of the division not to have been
14 reasonably possible to furnish the notice and certification and that
15 the notice and certification was furnished as soon as reasonably
16 possible.

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

30 h. With respect to any period of family temporary disability
31 leave commencing on or after **January 1, 2018,** October 4, 2019
32 if an individual knows in advance when the period will commence,
33 the individual may notify the employer of the anticipated period of
34 family temporary disability leave and submit to the division a claim
35 for benefits for that period, which shall include a statement of when
36 the period will commence and any certification required pursuant to
37 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2), prior
38 to, but not more than 60 days prior to, the date that the period will
39 commence. The division shall process that claim immediately and,
40 upon finding that the claim is valid, shall pay the benefit upon the
41 commencement of the period of family temporary disability leave
42 **or after any applicable one week waiting period**, except that if
43 division receives the claim less than 30 days before the
44 commencement of the period, the division shall make the payment
45 not more than 30 days after the receipt of the claim. The periods of
46 family temporary disability leave to which the provisions of this
47 subsection apply shall include, but not be limited to, any of the
48 following if the commencement date of the leave is known in

1 advance: periods of leave for care of a child of the individual after
2 adoption, the placement of a child into foster care, or childbirth,
3 including childbirth under a valid agreement between the individual
4 and a gestational carrier; periods of leave for scheduled medical
5 procedures, treatments, or appointments for a family member of the
6 individual; and periods of leave for scheduled ongoing care of a
7 family member of the individual. If the individual did not establish
8 enough base weeks or have enough total earnings during the **【52**
9 **weeks】** base year preceding the week the individual submits the
10 claim, the division shall notify the individual that the individual
11 may file the claim again upon or after the commencement of the
12 period of family temporary disability leave and the division shall
13 then reconsider the individual's eligibility for benefits based on the
14 **【52 weeks】** base year preceding the week in which the period of
15 family temporary disability leave commences.²

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

17

18 ²14. Section 11 of P.L.2008, c.17 (C.43:21-39.2) is amended to
19 read as follows:

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

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

- 1 (1) The date, if known, on which the serious health condition
2 commenced;
- 3 (2) The probable duration of the condition;
- 4 (3) The medical facts within the knowledge of the provider of
5 the certification regarding the condition;
- 6 (4) A statement that the serious health condition warrants the
7 participation of the covered individual in providing health care, as
8 provided in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1
9 et seq.) and regulations adopted pursuant to that act;
- 10 (5) An estimate of the amount of time that the covered
11 individual is needed for participation in the care of the family
12 member;
- 13 (6) If the leave is intermittent, a statement of the medical
14 necessity for the intermittent leave and the expected duration of the
15 intermittent leave; and
- 16 (7) If the leave is intermittent and for planned medical
17 treatment, the dates of the treatment.
- 18 c. A covered individual claiming benefits to provide care for a
19 family member with a serious health condition under the State plan
20 or during unemployment shall, if requested by the division, have the
21 family member submit to an examination by a health care provider
22 designated by the division. The examinations shall not be more
23 frequent than once a week, shall be made without cost to the
24 claimant and shall be held at a reasonable time and place. Refusal
25 of the family member to submit to an examination requested
26 pursuant to this subsection shall disqualify the claimant from all
27 benefits for the period in question, except from benefits already
28 paid.
- 29 d. Any period of family temporary disability leave to engage in
30 activities for which unpaid leave may be taken pursuant to section 3
31 of the "New Jersey Security and Financial Empowerment Act,"
32 P.L.2013, c.82 (C.34:11C-3), on the individual's own behalf, if the
33 individual is a victim of an incident of domestic violence or a
34 sexually violent offense, or to assist a family member of the
35 individual who has been a victim of an incident of domestic
36 violence or a sexually violent offense, shall, if requested by the
37 division, be supported with certification provided to the division
38 which meets the standards regarding sufficient documentation
39 specified by subsection c. of section 3 of P.L.2013, c.82 (C.34:11C-
40 3), whether or not the employer of the individual requires that
41 documentation. Prior to taking the leave provided for in this
42 subsection, an employee shall, if the necessity for the leave is
43 foreseeable, and unless an emergency or other unforeseen
44 circumstances precludes prior notice, provide the employer with
45 written notice of the need for the leave, which shall be provided to
46 the employer as far in advance as is reasonable and practical under
47 the circumstances.²
- 48 (cf: P.L.2008, c.17, s.11)

1 ¹【10.】²【11.】¹ 15.² Section 12 of P.L.2008, c.17 (C.43:21-39.3)
2 is amended to read as follows:

3 12. a. (1) All of the disability benefits paid to a covered
4 individual during a period of family temporary disability leave with
5 respect to any one birth¹, placement in foster care,¹ or adoption shall
6 be for a single continuous period of time **【**, except that the employer of
7 the covered individual may permit the covered individual to receive
8 the disability benefits**】** or during non-consecutive weeks **【**in a manner
9 mutually agreed to by the employer and the covered individual and**】** or
10 days on an intermittent basis pursuant to paragraph (2) of this
11 subsection, which shall be disclosed to the division by the employer.

12 (2) In the case of intermittent benefits for family temporary
13 disability leave with respect to a birth¹, placement in foster care,¹ or
14 adoption, the covered individual shall provide the employer with prior
15 notice of the leave not less than 15 days before the first day on which
16 benefits are paid for the intermittent leave, unless an emergency or
17 other unforeseen circumstance precludes prior notice; and the covered
18 individual makes a reasonable effort to schedule the leave so as not to
19 unduly disrupt the operations of the employer and, if possible, provide
20 the employer, prior to the commencement of intermittent leave, with a
21 regular schedule of the days or days of the week on which the
22 intermittent leave will be taken.

23 b. **【The】** In the case of single continuous benefits for family
24 temporary disability leave with respect to birth¹, placement in foster
25 care,¹ or adoption, the covered individual shall provide the employer
26 with prior notice of the **【**period of family temporary disability**】** leave
27 **【**with respect to birth or adoption**】** not less than 30 days before the
28 leave commences, unless it commences while the individual is
29 receiving unemployment benefits, in which case the covered
30 individual shall notify the division. The amount of benefits shall be
31 reduced by two weeks worth of benefits if the individual does not
32 provide notice to an employer as required by this subsection b., unless
33 the time of the leave is unforeseeable or the time of the leave changes
34 for unforeseeable reasons.

35 c. Family temporary disability leave taken because of the birth or
36 placement ¹in foster care or¹ for adoption of a child may be taken at
37 any time within a year after the date of the birth or placement ¹in
38 foster care or¹ for adoption.

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

40

41 ¹【11.】²【12.】¹ Section 13 of P.L.2008, c.17 (C.43:21-39.4) is
42 amended to read as follows:

43 13. a. The Commissioner of Labor and Workforce Development
44 shall issue and make available to the public, not later than December
45 31, 2010, and each subsequent year, annual reports providing data on
46 temporary disability benefits, including separate data for claims

1 involving pregnancy and childbirth, and family temporary disability
2 benefits, including separate data for each of the following categories of
3 claims: care of newborn children; care of newly adopted children; care
4 of sick children; care of sick spouses, and care of other sick family
5 members. The reports shall include, for each category of claims, the
6 number of workers receiving the benefits, the amount of benefits paid,
7 the average duration of benefits, the average weekly benefit, and, in
8 the case of family temporary disability benefits, any reported amount
9 of sick leave, vacation or other fully paid time which resulted in
10 reduced benefit duration. The report shall provide data by gender and
11 by any other demographic factors determined to be relevant by the
12 commissioner. The reports shall also provide, for all temporary
13 disability benefits and for all family temporary disability benefits, the
14 total costs of benefits and the total cost of administration, the portion
15 of benefits for claims during unemployment, and the total revenues
16 from: employer assessments, where applicable; employee assessments;
17 and other sources. For each of the reports issued not later than
18 December 31 of 2019 and each subsequent year, the report shall also
19 provide¹]: the number of claims for bonding, and care for family
20 members, broken down by relationship; demographic information:
21 income, age, gender, ethnicity, occupation, full or part-time
22 employment status; what portion of the leave is taken on an
23 intermittent basis; the percentage of bonding leave applicants who
24 report providing their employer with 50 or more days of notice of
25 leave-taking; for all claims, the percentage of employers who reported
26 that the employee will have additional paid time off with the source
27 being the difference between their regular weekly wages and the
28 maximum benefit provided under P.L.2008, c.17 (C.43:21-39.1 et al.);
29 and]¹ the amount and rate of contributions, with the amount of the tax
30 base, made by employers for each of the following: benefits for
31 periods of pregnancy temporary disability, and benefits for periods of
32 all other disability, and the amount and rate of contributions, with the
33 amount of the tax base, made by workers for each of the following:
34 benefits for periods of pregnancy temporary disability, benefits for
35 periods of all other disability, and benefits for periods of temporary
36 disability leave.

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

44 (1) Employees and their families, including surveys and
45 evaluations of: what portion of the total number of employees taking
46 leave would not have taken leave, or would have taken less leave,
47 without the availability of benefits; what portion of employees return
48 to work after receiving benefits and what portion are not permitted to

1 return to work; and what portion of employees who are eligible for
2 benefits do not claim or receive them and why they do not;

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

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

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

14 (cf: P.L.2008, c.17, s.13).²

15

16 ²16. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to
17 read as follows:

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

1 shall also provide, for all temporary disability benefits and for all
2 family temporary disability benefits, the number of workers
3 claiming both temporary disability benefits and family temporary
4 disability benefits in the same calendar year, the total costs of
5 benefits and the total cost of administration, the portion of benefits
6 for claims during unemployment, and the total revenues from:
7 employer assessments, where applicable; employee assessments;
8 and other sources.

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

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

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

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

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

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

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

9

10 ¹~~12.~~ ²~~13.1~~ ^{17.}² Section 16 of P.L.1948, c.110 (C.43:21-40)
11 is amended to read as follows:

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

23 b. ~~For periods of disability~~ ²~~in cases of pregnancy or recovery~~
24 ~~from childbirth~~ ² ~~commencing on or after July 1,~~ ²~~2019~~ ²⁰²⁰,
25 ~~and for periods of family temporary disability leave commencing on~~
26 ~~or after July 1,~~ ²~~2019~~ ²⁰²⁰, ~~an individual's weekly benefit rate~~
27 ~~shall be~~ ²~~90%~~ ^{85%} ² ~~of the individual's average weekly wage,~~
28 ~~subject to a maximum of~~ ²~~100%~~ ^{70%} ² ~~of the Statewide average~~
29 ~~weekly remuneration paid to workers by employers.~~

30 c. ~~Each individual's benefit rate shall be computed to the next~~
31 ~~lower multiple of \$1.00 if not already a multiple thereof. The~~
32 ~~amount of benefits for each day of disability for which benefits are~~
33 ~~payable shall be one-seventh of the corresponding weekly benefit~~
34 ~~amount; provided that the total benefits for a fractional part of a~~
35 ~~week shall be computed to the next lower multiple of \$1.00 if not~~
36 ~~already a multiple thereof.~~

37 ²d. ~~For any week beginning on or after the effective date of~~
38 ~~P.L. , c. (pending before the Legislature as Senate bill, No.~~
39 ~~844(1R)), with respect to a period of disability of an individual who~~
40 ~~is otherwise eligible for benefits but only able to return to work on a~~
41 ~~reduced basis while recovering from the disability, the individual, if~~
42 ~~permitted by the employer to return to work on the reduced basis,~~
43 ~~shall be paid an amount of benefits with respect to that week such~~
44 ~~that the sum of the wages and those benefits paid to the individual,~~
45 ~~rounded to the next lower multiple of \$1.00, will equal the weekly~~
46 ~~benefit amount the individual would have been paid if totally~~

1 unable to perform the duties of employment due to disability,
 2 provided that:

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

7 (2) The maximum duration of partial benefits paid pursuant to
 8 this subsection is eight weeks, unless the division, after a review of
 9 medical documentation from a qualified healthcare provider,
 10 approves in writing an extension beyond eight weeks, but in no case
 11 shall the duration be extended to more than 12 weeks; and

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

19 For the purposes of this section, “qualified healthcare provider”
 20 means a legally licensed physician, dentist, podiatrist, chiropractor,
 21 certified nurse midwife, advanced practice nurse or public health
 22 nurse designated by the division.²

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

24
 25 ²18. Section 17 of P. L.1948, c.110 (C.43:21-41) is amended to
 26 read as follows:

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

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

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

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

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

1 (3) With respect to periods of disability commencing on or after
 2 ³[October 4, 2019] the effective date of P.L. , c. (C.)
 3 (pending before the Legislature as this bill)³, no individual shall be
 4 entitled to benefits under this act unless the individual has, within
 5 the base year preceding the week in which the individual's period of
 6 disability commenced, or within the base year preceding the week
 7 in which the individual submits a claim for benefits pursuant to
 8 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or
 9 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110
 10 (C.43:21-49), established at least 20 base weeks or earned not less
 11 than 1,000 times the minimum wage in effect pursuant to section 5
 12 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
 13 year preceding the calendar year in which the disability commences,
 14 which amount shall be adjusted to the next higher multiple of
 15 \$100.00, if not already a multiple thereof.

16 If an individual who submits a claim for benefits pursuant to
 17 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or
 18 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110
 19 (C.43:21-49) did not establish enough base weeks or have enough
 20 total earnings during the **[52 weeks]** base year preceding the week
 21 the individual submits the claim, the division shall notify the
 22 individual that the individual may file the claim again upon or after
 23 the commencement of the period of disability or family temporary
 24 disability leave and the division shall then reconsider the
 25 individual's eligibility for benefits based on the **[52 weeks]** base
 26 year preceding the week in which the period of disability or family
 27 temporary disability leave commences.

28 (e) With respect to a period of family temporary disability leave
 29 for an individual who has a period of family temporary disability
 30 immediately after the individual has a period of disability for the
 31 individual's own disability, the period of disability is deemed, for
 32 the purposes of specifying the time of the 52-week period or base
 33 year in which base weeks or earnings are required to be established
 34 for benefit eligibility pursuant to this subsection (e), to have
 35 commenced at the beginning of the period of disability for the
 36 individual's own disability, not the period of family temporary
 37 disability.²

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

39

40 ²**[15.]** 19.² Section 22 of P.L.1948, c.110 (C.43:21-46) is
 41 amended to read as follows:

42 22. State disability benefits fund. (a) The State disability benefits
 43 fund, hereinafter referred to as the fund, is hereby established. The
 44 fund shall remain in the custody of the State Treasurer, and to the
 45 extent of its cash requirements shall be deposited in authorized public
 46 depositories in the State of New Jersey. There shall be deposited in
 47 and credited to the fund the amount of worker and employer

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

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

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

44 If the unemployment disability account shall show an accumulated
45 deficit in excess of \$200,000.00 at the end of any calendar year after
46 interest and other earnings have been credited as provided
47 hereinabove, the division shall determine the ratio of such deficit to the
48 total of all taxable wages paid during the preceding calendar year, and

1 shall make an assessment against all employers in an amount equal to
2 the taxable wages paid by them during such preceding calendar year to
3 employees, multiplied by such ratio, but in no event shall any such
4 assessment exceed 1/10 or 1% of such wages; provided, however, that
5 the assessment made against the State (including Rutgers, The State
6 University and the New Jersey Institute of Technology) shall not
7 exceed the sum of all benefits paid under the provisions of R.S.43:21-
8 4(f) as the result of employment with the State. Such amounts shall be
9 collectible by the division in the same manner as provided for the
10 collection of employee contributions under this chapter (R.S.43:21-1 et
11 seq.). In making this assessment, the division shall furnish to each
12 affected employer a brief summary of the determination thereof. The
13 amount of such assessments collected by the division shall be credited
14 to the unemployment disability account.

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

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

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

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

32

33 ²20. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to
34 read as follows:

35 25. (a) (1) Every employer shall post, in prominent locations,
36 notices to employees in the form provided by the division of
37 whether the employer is permitted or required to participate in a
38 temporary disability benefits program pursuant to the "Temporary
39 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and
40 whether the employer does or does not participate. For employers
41 who participate in a temporary disability benefits program, the
42 notice shall also describe the temporary disability benefits available
43 to the employees and prominently disclose that pregnancy is
44 regarded by law as a disability and that pregnant employees are
45 regarded as disabled and entitled to temporary disability benefits to
46 the same extent as other disabled employees. Upon the request of
47 an employer, the division shall, without charge, provide the
48 employer with a copy of each applicable notice, suitable for

1 reproduction by the employer. Each employer participating in the
2 State plan or a private plan shall give a printed copy of benefit
3 instructions to any disabled employee as soon as the employer
4 becomes aware of the disability.

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

33 (3) With respect to any period of disability commencing on or
34 after ³January 1 ~~October 4~~³, ~~2018,~~ ²⁰¹⁹^{3,3} if an individual
35 knows in advance when the period will commence, the individual
36 may notify the employer of the anticipated period of disability and
37 submit to the division a claim for benefits for that period, which
38 shall include a statement of when the period will commence and
39 any certification requested by the division pursuant to this section,
40 prior to, but not more than 60 days prior to, the date on which the
41 period will commence. The division shall process that claim
42 immediately and, upon a finding that the claim is valid, shall pay
43 the benefit upon the commencement of the period ~~or after any~~
44 ~~applicable one week waiting period~~, except that if the division
45 receives the claim less than 30 days before the commencement of
46 the period, the division shall make the payment not more than 30
47 days after the receipt of the claim. The periods of disability leave
48 to which the provisions of this paragraph apply shall include, but

1 not be limited to, any of the following if the commencement date of
2 the leave is known in advance: disability related to pregnancy or
3 childbirth; disability related to scheduled medical procedures,
4 treatments, or appointments for the individual; and disability related
5 to scheduled ongoing care of the individual. If an individual did not
6 establish enough base weeks or have enough total earnings during
7 the **[52 weeks]** base year preceding the week the individual submits
8 the claim for benefits, the division shall notify the individual that
9 the individual may file the claim again upon or after the
10 commencement of the period of disability and the division shall
11 then reconsider the individual's eligibility for benefits based on the
12 **[52 weeks]** base year preceding the week in which the period of
13 disability commences.

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

29 (c) All medical records of the division, except to the extent
30 necessary for the proper administration of this act, shall be
31 confidential and shall not be published or be open to public
32 inspection (other than to public employees in the performance of
33 their public duties) in any manner revealing the identity of the
34 claimant, or the nature or cause of disability nor admissible in
35 evidence in any action or special proceeding other than one arising
36 under this act.²

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

38

39 ¹**[13.]** ²**[14.1]** 21.² (New section) a. The division shall
40 implement disability insurance goals for the timely determination
41 and ²prompt² payment of temporary disability benefits and family
42 temporary disability benefits under the State plan, as follows:

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

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

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

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

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

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

15 (a) not less than 80 percent of the original benefit
16 determinations shall be completed within seven days after the
17 commencement of the period of family temporary disability leave,
18 or the receipt of the benefit claims by the division, whichever is
19 later;

20 (b) not less than 85 percent of the original benefit
21 determinations shall be completed within 14 days after the
22 commencement of the period of family temporary disability leave,
23 or the receipt of the benefit claims by the division, whichever is
24 later;

25 (c) not less than 90 percent of the original benefit
26 determinations shall be completed within 21 days after the
27 commencement of the period of family temporary disability leave,
28 or the receipt of the benefit claims by the division, whichever is
29 later; and

30 (d) not less than 95 percent of the original benefit
31 determinations shall be completed within 28 days after the
32 commencement of the period of family temporary disability leave,
33 or the receipt of the benefit claims by the division, whichever is
34 later.

35 b. The commissioner shall, not later than September 30 of 2019
36 and each subsequent year, issue, provide to the Legislature, and
37 make available to the public on the department's webpage, a report
38 regarding division efforts in the preceding calendar year to attain
39 the disability insurance goals set pursuant to this section for
40 temporary disability benefits, and a report regarding those efforts
41 for family temporary disability benefits. Each report shall include:

42 (1) the total number of claims and the number and percentage of
43 original determinations completed within each number of days
44 specified in the goals set pursuant to this section, and the number
45 and percentage of original determinations completed within the
46 following number of days after the receipt of the benefit claims or
47 the commencement of disability or family temporary disability,
48 whichever is later: 35 days, 42 days, 49 days and 56 days, and the

1 number and percentage of original determinations completed more
2 than 56 days after the receipt of the claims or the commencement of
3 disability or family temporary disability and the average number of
4 days to make the determinations for the claims that took more than
5 56 days;

6 (2) the number and percentage of claims received with
7 insufficient information, what portion of those claims were because
8 of failure of claimants to provide sufficient information, what
9 portion of those claims were because of failures of medical
10 providers of claimants to provide sufficient information, and what
11 portion of those claims were because of failures of employers to
12 provide sufficient information;

13 (3) the number and percentage of claims for which
14 determinations were delayed because of employer failure to make
15 the notifications or disclosures to employees and the division within
16 the amount of time required by subsection (a) of section 25 of
17 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of
18 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received
19 related to employer noncompliance with those requirements, and
20 the number of employers which have been, because of the failures,
21 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to
22 pay fines or penalties to the division or added amounts to claimants,
23 the total amount of payments to the division, and the total amount
24 of payments to claimants;

25 (4) the number of personnel in the division and the budgeted
26 cost of salaries and benefits for those personnel; the number of
27 personnel who are processing family temporary disability benefit
28 claims, the number processing other temporary disability claims,
29 and the budgeted cost of salaries and benefits for those personnel;
30 what percentage of total division administrative costs is comprised
31 of those categories of personnel costs; and a comparison of total
32 division administrative costs to the maximum amount permitted to
33 be expended for those division administrative costs pursuant to
34 section 22 of P.L.1948, c.110 (C.43:21-46); and

35 (5) if any of the disability insurance goals set pursuant to this
36 section were not attained during the year, ²or it is determined that
37 there are other significant problems in the administration of the
38 disability insurance system,² the report shall provide an evaluation
39 of the causes of the deficiencies and a plan to correct them and that
40 plan shall include:

41 (a) any increase in personnel needed to process claims ²and
42 make benefit payments expeditiously and accurately²;

43 (b) any measures needed to enforce notification and reporting
44 requirements;

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

47 ²**[and]**²

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

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

8 (f) any other measures appropriate for a full modernization of
9 the administration of all aspects of the disability insurance system².

10 The plan shall specify any added costs entailed in implementing
11 the plan, which shall be regarded as costs of administration of
12 family temporary disability benefits, and shall specify the amount
13 of any resulting increase in the estimate made pursuant to
14 R.S.43:21-7(d)(1)(G)(i), ²and² (ii), ²[and (iii)]² of the amount
15 needed to provide 100 percent of the cost of administration of
16 family temporary disability benefits.

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

23 c. (1) The division shall, during each ²[calendar] fiscal² year
24 ²[beginning with] commencing on or after July 1,² 2019, allocate
25 not less than \$1,200,000 to disseminate information about the rights
26 and responsibilities of employers and employees regarding
27 temporary disability benefits and family temporary disability
28 benefits by means of programs of educational outreach in
29 communities and workplaces. Of that ²annual² allocation, not less
30 than \$600,000 shall be used by the division to enter into contracts
31 with community-based organizations to disseminate information to
32 workers regarding temporary disability benefits and family
33 temporary disability benefits. That allocation shall be regarded as a
34 cost of administration of temporary disability and family temporary
35 disability benefits and be charged to the administration account of
36 the State disability benefit fund. Of the costs charged to the
37 administration account of the State disability benefit fund pursuant
38 to this subsection, the percentage which is charged to the Family
39 Temporary Disability Leave Account shall be equal to the
40 percentage that family temporary disability benefits represents of all
41 temporary disability benefits paid from the State disability benefits
42 fund during the preceding calendar year. The allocation made
43 pursuant to this subsection, including any adjustments in the
44 allocation specified in the plan provided pursuant to paragraph (2)
45 of this subsection, shall not result in the total amount credited to
46 administrative costs exceeding the maximum amount permitted

1 pursuant to subsection (a) of section 22 of P.L.1948, c.110
2 (C.43:21-46).

3 (2) The commissioner shall, not later than September 30 of
4 ²~~[2019]~~ 2020² and September 30 of each subsequent year, issue,
5 provide to the Legislature, and make available to the public on the
6 department's webpage, a report regarding efforts made during the
7 preceding calendar year by the division and by community-based
8 organizations to disseminate information about the rights and
9 responsibilities of employers and employees regarding temporary
10 disability and family temporary disability benefits. Each report
11 shall include, for that preceding calendar year:

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

18 (b) an estimate of the number of workers who were eligible for
19 temporary disability and family temporary disability benefits and
20 what percentage of those workers received those benefits, including
21 an assessment of whatever progress was made to increase that
22 percentage; and

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

30

31 ²22. (New section) a. Notwithstanding the provisions of any
32 other law to the contrary, a contract for technical and support
33 services and equipment to increase the ability of the Department of
34 Labor and Workforce Development to adapt and increase the
35 functionality and dependability of the administrative system of the
36 State plan for temporary disability and family temporary disability
37 leave, provide accurate and timely reporting, increase customer
38 accessibility, and implement timely payment of temporary disability
39 and family temporary disability benefits in accordance with section
40 21 of P.L. , c. (C.) (pending before the Legislature as this
41 bill) may be procured in the most expeditious means possible and in
42 the manner provided by this section.

43 b. The Division of Purchase and Property in the Department of
44 the Treasury may procure, without the need for advertisement in
45 accordance with subsection (b), (c), (d) and (e) of P.L.1954, c.48
46 (C.52:34-12), but through the solicitation of proposals from at least
47 three vendors, qualified vendors for technical and support services
48 and, to the extent necessary, equipment based upon price and other

1 factors. The Director of the Division of Purchase and Property shall
2 award the contract(s) to the vendor whose proposal is most
3 advantageous to the State, price and other factors considered.

4 c. Notwithstanding the provisions of any other law to the
5 contrary, for the purpose of expediting the procurements, the
6 following provisions shall apply as modifications to law or
7 regulation that may interfere with the expedited award of contracts
8 for the above services:

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

11 (2) in lieu of advertising in accordance with section 7 of
12 P.L.1954, c. 48 (C.52:34-12), the Division of Purchase and Property
13 shall solicit proposals as set forth in paragraph (b) above and post
14 the request for proposals for the above services and equipment and
15 any addenda thereto on its website;

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

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

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

31 (6) notwithstanding the provision of subparagraph (f) of
32 subsection a. of section 7 of P.L.1954, c.48 (C.52:34-12), the
33 Division shall negotiate the final terms and conditions of the
34 contract, including price and may, as part of those negotiations,
35 disclose to any bidder, the prices included in another bidder’s
36 proposal.²

37
38 ¹~~[14.]~~ ²~~[16.1]~~ ^{23.}² Section 31 of P.L.1948, c.110 (C.43:21-55)
39 is amended to read as follows:

40 31. Penalties. (a) Whoever makes a false statement or
41 representation knowing it to be false or knowingly fails to disclose
42 a material fact, and each such false statement or representation or
43 failure to disclose a material fact shall constitute a separate offense,
44 to obtain or increase any disability benefit under the State plan or
45 an approved private plan, or for a disability during unemployment,
46 including any benefit during a period of family temporary disability
47 leave, either for himself or for any other person, shall be liable for a
48 fine of \$250 to be paid to the division. Upon refusal to pay such

1 fine, the same shall be recovered in a civil action by the division in
2 the name of the State of New Jersey. If in any case liability for the
3 payment of a fine as aforesaid shall be determined, any person who
4 shall have received any benefits hereunder by reason of the making
5 of such false statements or representations or failure to disclose a
6 material fact, shall not be entitled to any benefits under this act for
7 any disability occurring prior to the time he shall have discharged
8 his liability hereunder to pay such fine.

9 (b) Any employer or any officer or agent of any employer or
10 any other person who makes a false statement or representation
11 knowing it to be false or knowingly fails to disclose a material fact,
12 to prevent or reduce the benefits to any person entitled thereto, or to
13 avoid becoming or remaining subject hereto or to avoid or reduce
14 any contribution or other payment required from an employer under
15 this act, or who willfully fails or refuses to make any such
16 contributions or other payment or to furnish any reports required
17 hereunder or to produce or permit the inspection or copying of
18 records as required hereunder, or who fails to provide any
19 notification or disclosure to the division or the employee required
20 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or
21 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at
22 the time and in the manner required by those sections, including
23 disclosure of the information the division requires for the
24 processing of a claim, shall be liable for a fine of \$250 to be paid to
25 the division²], and, if a failure of an employer to provide the
26 notification or disclosure to the division or the employee results in a
27 delay in the payment of benefits, the employer shall also be liable
28 for an added amount, to be paid to the claimant, equal to the
29 benefits due from the time that the employer was required to
30 provide the notification or disclosure until the time that the benefit
31 payments commenced]². Upon refusal to pay such fine ²[or added
32 payments to a claimant]², the same shall be recovered in a civil
33 action by the division in the name of the State of New Jersey.

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

40 (d) Any person, employing unit, employer or entity violating
41 any of the provisions of the above subsections with intent to
42 defraud the division shall in addition to the penalties hereinbefore
43 described, be liable for each offense upon conviction before the
44 Superior Court or any municipal court for a fine not to exceed
45 \$1,000 or by imprisonment for a term not to exceed ninety days, or
46 both, at the discretion of the court. The fine upon conviction shall
47 be payable to the State disability benefits fund of the division. Any

1 penalties imposed by this subsection shall be in addition to those
2 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

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

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

8

9 ¹[15.] ²[17.¹] 24.² (New section) a. An employer shall not
10 discharge, harass, threaten, or otherwise discriminate or retaliate
11 against an employee with respect to the compensation, terms,
12 conditions, or privileges of employment on the basis that the
13 employee requested or took any temporary disability benefits
14 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family temporary
15 disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et
16 al.), ²[provided] including retaliation by refusing to restore the
17 employee following a period of leave, except² that, pursuant to
18 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or
19 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or
20 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as
21 increasing, reducing or otherwise modifying any entitlement
22 provided to a worker by the provisions of the "Family Leave Act,"
23 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment
24 by the employer after a period of family temporary disability leave.

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

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

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

35 (3) reinstatement of the employee to the same position or to a
36 position equivalent to that which the employee held prior to
37 unlawful discharge or retaliatory action;

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

39 (5) compensation for any lost wages, benefits and other
40 remuneration; and

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

42

43 ³25. Section 2 of P.L.1997, c.318 (C.43:21-55.1), is amended to
44 read as follows:

45 2. (a) If it is determined by the division that an individual for
46 any reason has received, under the State plan, an approved private
47 plan or for a disability during unemployment, any sum of disability
48 benefits, including benefits during a period of family temporary

1 disability leave, to which the individual was not entitled, the
 2 individual shall, except as provided in subsection (b) of this section,
 3 be liable to repay the sum in full. Except as provided in subsection
 4 (b) of this section, the sum that the individual is liable to repay shall
 5 be deducted from future benefits payable to the individual under
 6 P.L.1948, c.110 (C.43:21-25 et al.) or subsection (f) of R.S.43:21-4,
 7 or shall be repaid by the individual to the division, the employer or
 8 the insurer, and that sum shall be collectible in the manner provided
 9 for by law, including, but not limited to, the filing of a certificate of
 10 debt with the Clerk of the Superior Court of New Jersey; except that
 11 no individual who does not knowingly misrepresent or withhold any
 12 material fact to obtain benefits shall be liable for any repayments or
 13 deductions against future benefits unless notified before four years
 14 have elapsed from the time the benefits in question were paid. The
 15 division shall promptly notify the individual by mail of the
 16 determination and the reasons for the determination. Unless the
 17 individual files an appeal of the determination within 20 calendar
 18 days following the receipt of the notice, or, within 24 days after the
 19 notice was mailed to the individual's last known address, the
 20 determination shall be final.

21 (b) If the individual received the overpayment of benefits
 22 because of error made by the division, the employer or the
 23 physician, and if the individual did not knowingly misrepresent or
 24 withhold any material fact to obtain the benefits, the following
 25 limits shall apply:

26 (1) The amount withheld from any subsequent benefit check
 27 shall be an amount not greater than 50% of the amount of the check;
 28 and

29 (2) ~~Any~~ repayments of the overpayments by the
 30 individual or the estate of the individual ~~shall~~ may be waived
 31 ~~if~~, but all repayments of overpayments shall be waived in cases in
 32 which the individual is deceased or permanently disabled.

33 Any demand for repayment from an individual pursuant to this
 34 subsection shall include an explanation of the provisions of this
 35 subsection.³

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

37

38 ¹~~[16.]~~ ²~~[18.]~~ ³~~[25.]~~ ^{26.}³ This act shall take effect ³~~[on]~~³
 39 ¹~~[the first day of the third month next following enactment]~~ ³~~[on~~
 40 January 1, 2019, except that the commissioner] ³ ²~~[shall have power~~
 41 immediately to promulgate rules and regulations as may be
 42 necessary to carry out the provisions of this act, and do such other
 43 things as may be necessary to implement the provisions] ³~~[may~~
 44 take any anticipatory administrative action in advance as shall be
 45 necessary for implementation² of this act¹ immediately upon
 46 enactment³.

1

2 _____
3 Revises law concerning family leave, temporary disability and
4 family temporary disability leave, and domestic or sexual violence
 safety leave.