

ASSEMBLY, No. 460

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROMA

1 AN ACT providing self-employment assistance and entrepreneurial
2 training and amending and supplementing chapter 21 of Title 43 of
3 the Revised Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as the
9 "Self-Employment Assistance and Entrepreneurial Training Act."

10

11 2. (New section) The Legislature finds and declares that a
12 significant percentage of new jobs in this country are created by small
13 businesses and that approximately 12 percent of the persons employed
14 in the United States are self-employed, mostly in small businesses. In
15 the wake of recent corporate downsizing, it is imperative that ways are
16 found to help unemployed individuals, including professional and
17 technical employees, to re-enter the labor force. Experience in
18 numerous other states and in certain urban areas of New Jersey has
19 shown that "micro-lending," or carefully targeting small loans to
20 individuals with well-developed, realistic business plans, has been
21 successful in helping those individuals to establish small businesses and
22 become self-employed entrepreneurs. This approach is particularly
23 successful where the loan recipients are part of a peer group that
24 provides support, advice and assistance, and helps to ensure loan
25 repayments.

26

27 3. (New section) As used in this 1996 amendatory and
28 supplementary act:

29 "Authority" means the New Jersey Economic Development
30 Authority established pursuant to section 4 of P.L.1974, c.80
31 (C.34:1B-4).

32 "Full-time basis" with respect to the amount of time spent

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

Matter underlined thus is new matter.

1 participating in self-employment assistance activities shall have the
2 meaning contained in regulations adopted by the Commissioner of
3 Labor.

4 "Peer group" means a group of not more than twenty participating
5 individuals who provide mutual assistance and support for each other's
6 efforts to establish businesses and become self-employed
7 entrepreneurs.

8 "Reemployment services" means job search assistance and job
9 placement services, including counseling, testing, assessment, job
10 search workshops, job clubs, referrals to employers and providing
11 occupational and labor market information.

12 "Regular benefits" means benefits payable to an individual under the
13 "unemployment compensation law" (R.S.43:21-1 et seq.), including
14 benefits payable to Federal civilian employees and to
15 ex-servicemembers pursuant to 5 U.S.C. chapter 85, but not including
16 additional benefits provided pursuant to P.L.1992, c.47 (C.43:21-57
17 et seq.) or extended benefits.

18 "Self-employment assistance activities" means activities, approved
19 by the division, in which an individual participates for the purpose of
20 establishing a business and becoming self-employed, including:
21 activities in which the individual participates in connection with
22 self-employment assistance services; and other activities in which the
23 individual engages to establish the business.

24 "Self-employment assistance allowance" means an allowance,
25 payable in lieu of regular benefits and from the unemployment
26 compensation fund, to an individual participating in self-employment
27 assistance activities who meets the requirements of this 1996
28 amendatory and supplementary act.

29 "Self-employment Assistance Financing Program" means the
30 Self-employment Assistance Financing Program established pursuant
31 to section 4 of this 1996 amendatory and supplementary act.

32 "Self-employment assistance services" means services provided to
33 an individual, including entrepreneurial training, business counseling,
34 and technical assistance, to help the individual to develop a business
35 plan, establish a business and become self-employed.

36 "Worker profiling system" means the worker profiling system
37 established pursuant to section 2 of P.L.1992, c.46 (C.43:21-4.1).

38

39 4. (New section) a. There is created in the authority a
40 Self-employment Assistance Financing Program which shall provide
41 loans and loan guarantees to individuals selected by the authority from
42 those who are referred to the authority for self-employment assistance
43 services pursuant to subsection a. of section 5 of this 1996 amendatory
44 and supplementary act.

45 b. The authority shall set the terms of the loans and loan
46 guarantees. The authority, notwithstanding any provisions of "The

1 New Jersey Economic Development Authority Act," P.L.1974, C.80
2 (C.34:1B-1 et seq.), shall develop flexible underwriting criteria to
3 reflect the special financing requirements for loans and loan guarantees
4 made under the program which are consistent with the purposes of this
5 1996 amendatory and supplementary act. The loans and loan
6 guarantees, self-employment assistance services provided pursuant to
7 subsection a. of section 5 of this 1996 amendatory and supplementary
8 act and all related administrative expenses may be funded from:

9 (1) Funds available from existing authority loan and loan guarantee
10 programs;

11 (2) The Economic Growth Account for Business Programs, within
12 the Economic Recovery Fund, established pursuant to the "Economic
13 Recovery Fund Act," P.L.1992, c.16 (C.34:1B-7.10 et seq.);

14 (3) Program loan repayments;

15 (4) Any funds made available by the authority or appropriated for
16 the program; and

17 (5) Any other appropriate sources of funding, including funding
18 from other State agencies or authorities.

19 c. The authority may, when making a decision regarding the
20 granting of a loan or loan guarantee to an individual who is a member
21 of a peer group, take into consideration the recommendation of the
22 peer group. When determining whether to make a loan or loan
23 guarantee to a participant of a peer group, the authority may take into
24 consideration how reliable other participants in the group have been
25 in repayments of previous loans.

26 d. After consultation with the Department of Labor and the
27 Department of Commerce and Economic Development, the authority
28 shall report to the Governor and the Legislature within two years of
29 the effective date of this act, and not later than September 15 of each
30 third year thereafter. Each report shall include information on the
31 number of participants and peer groups, the amount of loans or loan
32 guarantees outstanding, the number of loan or loan guarantee
33 repayments and defaults, the types of businesses that program
34 participants have established and are operating, the number of business
35 successes and failures, and any recommendations of the authority
36 regarding the expansion of, or changes in, the program.

37
38 5. (New section) a. Any unemployed individual who qualifies for
39 regular benefits and is identified through the worker profiling system
40 as likely to exhaust regular benefits may apply to the division for a
41 self-employment assistance allowance. The division shall review the
42 application to determine whether to refer the individual to the
43 authority for self-employment assistance services. If the individual is
44 referred and if the authority, based on the individual's skills,
45 employment experience or other qualifications, determines that the
46 individual is able to successfully develop and manage a small business,

1 the authority may make the self-employment assistance services
2 available to the individual. To make the services available, the
3 authority shall collaborate with the New Jersey Small Business
4 Development Center Program, the Department of Commerce and
5 Economic Development and any community-based agency, non-profit
6 organization, educational institution or other public or private entity
7 deemed competent and selected by the authority and the division to
8 provide the services. The provision of the services shall be, to the
9 extent feasible, based predominantly on peer groups, the formation of
10 which shall be facilitated by the authority and the collaborating
11 entities. The primary purpose of the services provided to an individual
12 prior to approval of the payment of a self-employment assistance
13 allowance to the individual is to assist the individual to meet
14 prerequisites set by the division for receiving the allowance, which
15 shall include the development of an acceptable business plan, and the
16 obtaining of an adequate commitment for any continued services
17 needed after payment of the allowance is approved and the obtaining
18 of adequate commitment for the financing needed to implement the
19 plan, including financing from the Self-employment Assistance
20 Financing Program or financing from private sources. Upon
21 certification by the authority that the prerequisites have been met, the
22 division may approve payment of the self-employment assistance
23 allowance to the individual pursuant to the provisions of this section.
24 The authority shall monitor each individual who is referred by the
25 division to the authority for self-employment services and notify the
26 division whenever the individual is not participating on a full-time
27 basis in self-employment activities authorized by the division.

28 b. The weekly self-employment assistance allowance payable
29 pursuant to this section to an individual shall be equal to the weekly
30 benefit amount for regular benefits. In no instance shall a
31 self-employment assistance allowance and regular benefits be paid to
32 an individual with respect to the same period. The sum of the
33 allowance and regular benefits paid under this 1994 amendatory and
34 supplementary act with respect to any benefit year shall not exceed the
35 maximum benefit amount established for regular benefits alone with
36 respect to that benefit year. The allowance shall not be paid for any
37 week in which the individual does not participate, on a full-time basis,
38 in self-employment assistance activities authorized by the division.

39 c. A self-employment assistance allowance shall be payable to an
40 individual at the same interval, on the same terms, and subject to the
41 same conditions as regular benefits, except as otherwise provided in
42 this 1996 amendatory and supplementary act.

43 d. The aggregate number of individuals receiving self-employment
44 assistance allowances at any time shall not exceed 0.5 percent of the
45 number of individuals receiving regular benefits. The Commissioner
46 of Labor shall, through regulations, prescribe the actions necessary to

1 assure that the requirements of this subsection are met.

2 e. Self-employment assistance allowances shall be charged to
3 employers in the same manner as provided for the charging of regular
4 benefits.

5 f. The provisions of this section will shall apply to weeks beginning
6 after the effective date of this 1996 amendatory and supplementary act
7 and after any plan required by the United States Department of Labor
8 is approved by that department. The authority provided by this section
9 shall terminate as of the end of the week preceding the date when
10 federal law no longer authorizes the provisions of this section, unless
11 that date is a Saturday in which case the authority shall terminate as of
12 that date.

13

14 6. (New section) The authority, the Department of Commerce and
15 Economic Development, and the Department of Labor shall
16 respectively adopt, pursuant to the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations
18 necessary to effectuate the purposes of this 1996 amendatory and
19 supplementary act.

20

21 7. R.S. 43:21-3 is amended to read as follows:

22 43:21-3. Benefits. (a) Payment of benefits.

23 All benefits shall be promptly paid from the fund in accordance
24 with such regulations as may be prescribed hereunder.

25 (b) Weekly benefits for unemployment.

26 With respect to an individual's benefit year commencing on or after
27 July 1, 1961, such individual, if eligible and unemployed (as defined in
28 subsection (m) of R.S. 43:21-19), shall be paid an amount (except as
29 to final payment) equal to his weekly benefit rate less any
30 remuneration, other than remuneration from self-employment paid to
31 an individual who is receiving a self-employment assistance allowance,
32 paid or payable to him for such week in excess of 20% of his weekly
33 benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is
34 the greater; provided that such amount shall be computed to the next
35 lower multiple of \$1.00 if not already a multiple thereof.

36 (c) Weekly benefit rate.

37 (1) With respect to an individual whose benefit year commences
38 after September 30, 1984, his weekly benefit rate under each
39 determination shall be 60% of his average weekly wage, subject to a
40 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly remuneration
41 paid to workers by employers subject to this chapter (R.S. 43:21-1 et
42 seq.), as determined and promulgated by the Commissioner of Labor;
43 provided, however, that such individual's weekly benefit rate shall be
44 computed to the next lower multiple of \$1.00 if not already a multiple
45 thereof.

46 (2) Dependency benefits.

1 (A) With respect to an individual whose benefit year commences
2 after September 30, 1984, the individual's weekly benefit rate as
3 determined in paragraph (1) of this subsection (c) will be increased by
4 7% for the first dependent and 4% each for the next two dependents
5 (up to a maximum of three dependents), computed to the next lower
6 multiple of \$1.00 if not already a multiple thereof, except that the
7 maximum weekly benefit rate payable for an individual claiming
8 dependency benefits shall not exceed the maximum amount determined
9 under paragraph (1) of this subsection (c).

10 (B) For the purposes of this paragraph (2), a dependent is defined
11 as an individual's unemployed spouse or an unemployed unmarried
12 child (including a stepchild or a legally adopted child) under the age
13 of 19 or an unemployed unmarried child, who is attending an
14 educational institution as defined in subsection (y) of R.S. 43:21-19 on
15 a full-time basis and is under the age of 22. If an individual's spouse
16 is employed during the week the individual files an initial claim for
17 benefits, this paragraph (2) shall not apply. If both spouses establish
18 a claim for benefits in accordance with the provisions of this chapter
19 (R.S. 43:21-1 et seq.), only one shall be entitled to dependency
20 benefits as provided in this paragraph (2).

21 (C) Any determination establishing dependency benefits under this
22 paragraph (2) shall remain fixed for the duration of the individual's
23 benefit year and shall not be increased or decreased unless it is
24 determined by the division that the individual wrongfully claimed
25 dependency benefits as a result of false or fraudulent representation.

26 (D) Notwithstanding the provisions of any other law, the division
27 shall use every available administrative means to insure that
28 dependency benefits are paid only to individuals who meet the
29 requirements of this paragraph (2). These administrative actions may
30 include, but shall not be limited to, the following:

31 (i) All married individuals claiming dependents under this paragraph
32 (2) shall be required to provide the social security number of the
33 individual's spouse. If the individual indicates that the spouse is
34 unemployed, the division shall match the social security number of the
35 spouse against available wage records to determine whether earnings
36 were reported on the last quarterly earnings report filed by employers
37 under R.S. 43:21-14 of this chapter. If earnings were reported, the
38 division shall contact in writing the last employer to determine whether
39 the spouse is currently employed.

40 (ii) Where a child is claimed as a dependent by an individual under
41 this paragraph (2), the individual shall be required to provide to the
42 division the most recent federal income tax return filed by the
43 individual to assist the division in verifying the claim.

44 (3) For the purposes of this subsection (c), the "Statewide average
45 weekly remuneration paid to workers by employers" shall be computed
46 and determined by the Commissioner of Labor on or before September

1 1 of each year on the basis of one-fifty-second of the total
2 remuneration reported for the preceding calendar year by employers
3 subject to this chapter, divided by the average of the number of
4 workers reported by such employers, and shall be effective as to
5 benefit determinations in the calendar year following such computation
6 and determination.

7 (d) Maximum total benefits.

8 (1) (A) With respect to an individual to whom benefits shall be
9 payable for benefit years commencing on or after January 1, 1975 and
10 prior to July 1, 1986, as provided in this section, such individual shall
11 be entitled to receive, under each successive benefit determination
12 relating to each of his base year employers, a total amount of benefits
13 equal to three-quarters of his base weeks from the employer in
14 question multiplied by his weekly benefit rate; but the amount of
15 benefits thus resulting under any such determination made with respect
16 to any employer shall be adjusted to the next lower multiple of \$1.00
17 if not already a multiple thereof.

18 (B)(i) With respect to an individual for whom benefits shall be
19 payable for benefit years commencing on or after July 1, 1986, as
20 provided in this section, the individual shall be entitled to receive a
21 total amount of benefits equal to three-quarters of the individual's base
22 weeks with all employers in the base year multiplied by the individual's
23 weekly benefit rate; but the amount of benefits thus resulting under
24 that determination shall be adjusted to the next lower multiple of \$1.00
25 if not already a multiple thereof.

26 (ii) Except that benefits paid to an individual for benefit years
27 commencing on or after July 1, 1986 shall be charged against the
28 accounts of the individual's base year employers in the following
29 manner: Each week of benefits paid to an eligible individual shall
30 be charged against each base year employer's account in the same
31 proportion that the wages paid by each employer to the individual
32 during the base year bear to the wages paid by all employers to that
33 individual during the base year.

34 (iii) Wages earned during a base year, which had previously been
35 used to establish a benefit year commencing prior to July 1, 1986, may
36 also be used to establish benefit years commencing on or after July 1,
37 1986 but prior to October 1, 1987. No employer's account shall be
38 charged for any benefits payable based on base year wages which may
39 be used to establish entitlement under the provisions of this
40 subparagraph (iii).

41 (2) No such individual shall be entitled to receive benefits under this
42 chapter (R.S. 43:21-1 et seq.) in excess of 26 times his weekly benefit
43 rate in any benefit year under either of subsections (c) and (f) of
44 section 43:21-4 of this chapter (R.S. 43:21-1 et seq.). In the event
45 that any individual qualifies for benefits under both of said subsections
46 during any benefit year, the maximum total amount of benefits payable

1 under said subsections combined to such individual during the benefit
2 year shall be one and one-half times the maximum amount of benefits
3 payable under one of said subsections.

4 (3) (Deleted by amendment, P.L.1984, c. 24.)

5 (cf: P.L.1984, c.24, s.1)

6

7 8. R.S. 43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed individual
9 shall be eligible to receive benefits with respect to any week only if:

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

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

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

26 (2) The director may modify the requirement of actively seeking
27 work if such modification of this requirement is warranted by
28 economic conditions.

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

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

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

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

1 (ii) The training is provided by a competent and reliable private or
2 public entity approved by the Commissioner of Labor [, which
3 approval shall be made, if the "1992 Employment and Workforce
4 Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) is enacted,]
5 pursuant to the provisions of section 8 of [that act] the "1992 New
6 Jersey Employment and Workforce Development Act," P.L.1992, c.43
7 (C.34:15D-8);

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

10 (iv) The training does not include on the job training or other
11 training under which the individual is paid by an employer for work
12 performed by the individual during the time that the individual receives
13 benefits; and

14 (v) The individual enrolls in vocational training, remedial education
15 or a combination of both on a full-time basis.

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

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

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

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

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

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

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

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

45 For purposes of this paragraph, "immediate family member"
46 includes any of the following individuals: father, mother,

1 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
2 spouse, child, foster child, sister or brother of the unemployed
3 individual and any relatives of the unemployed individual residing in
4 the unemployed individual's household.

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

11 (8) Any individual who is determined to be likely to exhaust
12 regular benefits and need reemployment services based on information
13 obtained by the worker profiling system shall not be eligible to receive
14 benefits if the individual fails to participate in available reemployment
15 services to which the individual is referred by the division or in similar
16 services, unless the division determines 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,
20 self-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 other
23 circumstance indicated pursuant to this section in which an individual
24 is not required to be available for and actively seeking work to receive
25 benefits.

26 (d) The individual has been totally or partially unemployed for a
27 waiting period of one week in the benefit year which includes that
28 week. When benefits become payable with respect to the third
29 consecutive week next following the waiting period, the individual
30 shall be eligible to receive benefits as appropriate with respect to the
31 waiting period. No week shall be counted as a week of unemployment
32 for the purposes of this subsection:

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

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

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

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

44 (e) (1) With respect to a base year as defined in subsection (c) of
45 R.S.43:21-19, the individual has established at least 20 base weeks as
46 defined in paragraph (1) of subsection (t) of R.S.43:21-19, or, in those

1 instances in which the individual has not established 20 base weeks,
2 the individual has earned \$2,200.00 for benefit years commencing
3 prior to October 1, 1984; and, except as otherwise provided in
4 paragraph (2) or paragraph (3) of this subsection, for benefit years
5 commencing on or after October 1, 1984, the individual has earned 12
6 times the Statewide average weekly remuneration paid to workers, as
7 determined under R.S.43:21-3(c), raised to the next higher multiple of
8 \$100.00 if not already a multiple thereof, or more in the individual's
9 base year.

10 (2) Notwithstanding the provisions of paragraph (1) of this
11 subsection, for benefit years commencing on or after October 1, 1984
12 and before January 1, 1985, an unemployed individual claiming
13 benefits on the basis of service performed in the production and
14 harvesting of agricultural crops shall, subject to the limitations of
15 subsection (i) of R.S.43:21-19, be eligible to receive benefits if it
16 appears that the individual has established at least 20 base weeks as
17 defined in paragraph (2) of subsection (t) of R.S.43:21-19, or, in those
18 instances in which the individual has not established 20 base weeks,
19 the individual has earned \$2,200.00.

20 (3) Notwithstanding the provisions of paragraph (1) of this
21 subsection, an unemployed individual claiming benefits on the basis of
22 service performed in the production and harvesting of agricultural
23 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
24 be eligible to receive benefits if during his base year, as defined in
25 subsection (c) of R.S.43:21-19, the individual:

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

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

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

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

40 (f) (1) The individual has suffered any accident or sickness not
41 compensable under the workers' compensation law, R.S.34:15-1 et
42 seq. and resulting in the individual's total disability to perform any
43 work for remuneration, and would be eligible to receive benefits under
44 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
45 amount of benefits payable during any benefit year) except for the
46 inability to work and has furnished notice and proof of claim to the

1 division, in accordance with its rules and regulations, and payment is
2 not precluded by the provisions of R.S.43:21-3(d); provided, however,
3 that benefits paid under this subsection (f) shall be computed on the
4 basis of only those base year wages earned by the claimant as a
5 "covered individual," as defined in R.S.43:21-27(b); provided further
6 that no benefits shall be payable under this subsection to any
7 individual:

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

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

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

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

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

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

29 (2) Benefit payments under this subsection shall be charged to and
30 paid from the State disability benefits fund established by the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
32 seq.), and shall not be charged to any employer account in computing
33 any employer's experience rate for contributions payable under this
34 chapter.

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

41 (1) With respect to service performed after December 31, 1977, in
42 an instructional research, or principal administrative capacity for an
43 educational institution, benefits shall not be paid based on such
44 services for any week of unemployment commencing during the period
45 between two successive academic years, or during a similar period
46 between two regular terms, whether or not successive, or during a

1 period of paid sabbatical leave provided for in the individual's contract,
2 to any individual if such individual performs such services in the first
3 of such academic years (or terms) and if there is a contract or a
4 reasonable assurance that such individual will perform services in any
5 such capacity for any educational institution in the second of such
6 academic years or terms;

7 (2) With respect to weeks of unemployment beginning after
8 September 3, 1982, on the basis of service performed in any other
9 capacity for an educational institution, benefits shall not be paid on the
10 basis of such services to any individual for any week which
11 commences during a period between two successive academic years or
12 terms if such individual performs such services in the first of such
13 academic years or terms and there is a reasonable assurance that such
14 individual will perform such services in the second of such academic
15 years or terms, except that if benefits are denied to any individual
16 under this paragraph (2) and the individual was not offered an
17 opportunity to perform these services for the educational institution
18 for the second of any academic years or terms, the individual shall be
19 entitled to a retroactive payment of benefits for each week for which
20 the individual filed a timely claim for benefits and for which benefits
21 were denied solely by reason of this clause;

22 (3) With respect to those services described in paragraphs (1) and
23 (2) above, benefits shall not be paid on the basis of such services to
24 any individual for any week which commences during an established
25 and customary vacation period or holiday recess if such individual
26 performs such services in the period immediately before such vacation
27 period or holiday recess, and there is a reasonable assurance that such
28 individual will perform such services in the period immediately
29 following such period or holiday recess;

30 (4) With respect to any services described in paragraphs (1) and
31 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
32 and (3) above to any individual who performed those services in an
33 educational institution while in the employ of an educational service
34 agency, and for this purpose the term "educational service agency"
35 means a governmental agency or governmental entity which is
36 established and operated exclusively for the purpose of providing
37 those services to one or more educational institutions.

38 (h) Benefits shall not be paid to any individual on the basis of any
39 services, substantially all of which consist of participating in sports or
40 athletic events or training or preparing to so participate, for any week
41 which commences during the period between two successive sports
42 seasons (or similar periods) if such individual performed such services
43 in the first of such seasons (or similar periods) and there is a
44 reasonable assurance that such individual will perform such services in
45 the later of such seasons (or similar periods).

46 (i) (1) Benefits shall not be paid on the basis of services performed

1 by an alien unless such alien is an individual who was lawfully admitted
2 for permanent residence at the time the services were performed and
3 was lawfully present for the purpose of performing the services or
4 otherwise was permanently residing in the United States under color
5 of law at the time the services were performed (including an alien who
6 is lawfully present in the United States as a result of the application of
7 the provisions of section 203(a)(7) (8 U.S.C. §1153 (a)(7)) or section
8 212(d)(5) (8 U.S.C. §1182 (d)(5)) of the Immigration and Nationality
9 Act (8 U.S.C. §1101 et seq.); provided that any modifications of the
10 provisions of section 3304(a)(14) of the Federal Unemployment Tax
11 Act (26 U.S.C. §3304 (a)(14)), as provided by Pub.L.94-566, which
12 specify other conditions or other effective dates than stated herein for
13 the denial of benefits based on services performed by aliens and which
14 modifications are required to be implemented under State law as a
15 condition for full tax credit against the tax imposed by the Federal
16 Unemployment Tax Act, shall be deemed applicable under the
17 provisions of this section.

18 (2) Any data or information required of individuals applying for
19 benefits to determine whether benefits are not payable to them because
20 of their alien status shall be uniformly required from all applicants for
21 benefits.

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

26 (j) Notwithstanding any other provision of this chapter, the
27 director may, to the extent that it may be deemed efficient and
28 economical, provide for consolidated administration by one or more
29 representatives or deputies of claims made pursuant to subsection (f)
30 of this section with those made pursuant to Article III (State plan) of
31 the "Temporary Disability Benefits Law," P.L.1948, c.110
32 (C.43:21-25 et seq.).
33 (cf: P.L.1992, c.46, s.1)

34
35 9. Section 2 of P.L.1992, c.46 (C.43:21-4.1) is amended to read as
36 follows:

37 2. a. There is established a worker profiling system for the
38 purpose of determining which new claimants for regular benefits are
39 likely to exhaust benefits and therefore have the greatest need for
40 reemployment services to make a successful transition to new
41 employment. Information obtained from the profiling system shall be
42 used in making referrals for reemployment services and may be used
43 in making referrals to other services and benefits, but no individual
44 shall be excluded from seeking or receiving reemployment services or
45 other services or benefits because the individual is not among those
46 determined to be likely to exhaust benefits, unless the exclusion is

1 specifically required by federal law. Nor shall an individual be
2 required to participate, as a condition for receiving regular benefits, in
3 any employment and training services because the individual is among
4 those determined to be likely to exhaust benefits, unless that
5 participation by the individual is specifically required by federal law.
6 A characteristic of an individual shall not be used in making a
7 determination regarding whether the individual is likely to exhaust
8 benefits unless it is demonstrated to be an actual indicator of a high
9 likelihood that benefits will be exhausted.

10 b. The division shall provide each individual who applies for
11 unemployment compensation with [notice] an initial interview which
12 includes:

13 (1) Notice of the benefits and services available pursuant to the
14 provisions of this 1992 amendatory and supplementary act and the
15 provisions of [P.L.1983, c.328 (C.34:15B-11 et seq.),] the "1992 New
16 Jersey Employment and Workforce Development Act," P.L.1992, c.43
17 (C.34:15D-1 et al.), P.L.1992, c.47 (C.43:21-57 et al.) and the "Job
18 Training Partnership Act," Pub.L. 97-300 (29 U.S.C. §1501 et seq.)
19 and of the tuition waivers available pursuant to P.L.1983, c.469
20 (C.18A:64-13.1 et seq.) and P.L.1983, c.470 (C.18A:64A-23.1 et
21 seq.); and

22 (2) A review of the individual's rights and responsibilities with
23 respect to the unemployment compensation, including an explanation
24 of the appeal process and of the worker profiling system and its
25 possible impact on the individual.

26 (cf: P.L.1992, c.46, s.2)

27

28 10. R.S. 43:21-19 is amended to read as follows:

29 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
30 seq.), unless the context clearly requires otherwise:

31 (a) (1) "Annual payroll" means the total amount of wages paid
32 during a calendar year (regardless of when earned) by an employer for
33 employment.

34 (2) "Average annual payroll" means the average of the annual
35 payrolls of any employer for the last three or five preceding calendar
36 years, whichever average is higher, except that any year or years
37 throughout which an employer has had no "annual payroll" because of
38 military service shall be deleted from the reckoning; the "average
39 annual payroll" in such case is to be determined on the basis of the
40 prior three or five calendar years in each of which the employer had an
41 "annual payroll" in the operation of his business, if the employer
42 resumes his business within 12 months after separation, discharge or
43 release from such service, under conditions other than dishonorable,
44 and makes application to have his "average annual payroll" determined
45 on the basis of such deletion within 12 months after he resumes his
46 business; provided, however, that "average annual payroll" solely for

1 the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means
2 the average of the annual payrolls of any employer on which he paid
3 contributions to the State disability benefits fund for the last three or
4 five preceding calendar years, whichever average is higher; provided
5 further that only those wages be included on which employer
6 contributions have been paid on or before January 31 (or the next
7 succeeding day if such January 31 is a Saturday or Sunday)
8 immediately preceding the beginning of the 12-month period for which
9 the employer's contribution rate is computed.

10 (b) "Benefits" means the money payments payable to an individual,
11 as provided in this chapter (R.S.43:21-1 et seq.), with respect to his
12 unemployment.

13 (c) (1) "Base year" with respect to benefit years commencing on
14 or after January 1, 1953, shall mean the 52 calendar weeks ending with
15 the second week immediately preceding an individual's benefit year.
16 "Base year" with respect to benefit years commencing on or after July
17 1, 1986, shall mean the first four of the last five completed calendar
18 quarters immediately preceding an individual's benefit year.

19 (2) With respect to a benefit year commencing on or after June 1,
20 1990 for an individual who immediately preceding the benefit year was
21 subject to a disability compensable under the provisions of the
22 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
23 seq.), "base year" shall mean the first four of the last five completed
24 calendar quarters immediately preceding the individual's period of
25 disability, if the employment held by the individual immediately
26 preceding the period of disability is no longer available at the
27 conclusion of that period and the individual files a valid claim for
28 unemployment benefits after the conclusion of that period. For the
29 purposes of this paragraph, "period of disability" means the period
30 defined as a period of disability by section 3 of the "Temporary
31 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual
32 who files a claim under the provisions of this paragraph (2) shall not
33 be regarded as having left work voluntarily for the purposes of
34 subsection (a) of R.S.43:21-5.

35 (3) With respect to a benefit year commencing on or after June 1,
36 1990 for an individual who immediately preceding the benefit year was
37 subject to a disability compensable under the provisions of the
38 workers' compensation law (chapter 15 of Title 34 of the Revised
39 Statutes), "base year" shall mean the first four of the last five
40 completed calendar quarters immediately preceding the individual's
41 period of disability, if the period of disability was not longer than two
42 years, if the employment held by the individual immediately preceding
43 the period of disability is no longer available at the conclusion of that
44 period and if the individual files a valid claim for unemployment
45 benefits after the conclusion of that period. For the purposes of this
46 paragraph, "period of disability" means the period from the time at

1 which the individual becomes unable to work because of the
2 compensable disability until the time that the individual becomes able
3 to resume work and continue work on a permanent basis. An
4 individual who files a claim under the provisions of this paragraph (3)
5 shall not be regarded as having left work voluntarily for the purposes
6 of subsection (a) of R.S.43:21-5.

7 (d) "Benefit year" with respect to any individual means the 364
8 consecutive calendar days beginning with the day on, or as of, which
9 he first files a valid claim for benefits, and thereafter beginning with
10 the day on, or as of, which the individual next files a valid claim for
11 benefits after the termination of his last preceding benefit year. Any
12 claim for benefits made in accordance with subsection (a) of
13 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
14 this subsection if (1) he is unemployed for the week in which, or as of
15 which, he files a claim for benefits; and (2) he has fulfilled the
16 conditions imposed by subsection (e) of R.S.43:21-4.

17 (e) (1) "Division" means the Division of Unemployment and
18 Temporary Disability Insurance of the Department of Labor, and any
19 transaction or exercise of authority by the director of the division
20 thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be
21 deemed to be performed by the division.

22 (2) "Controller" means the Office of the Assistant Commissioner
23 for Finance and Controller of the Department of Labor, established by
24 the 1982 Reorganization Plan of the Department of Labor.

25 (f) "Contributions" means the money payments to the State
26 Unemployment Compensation Fund, required by R.S.43:21-7.
27 "Payments in lieu of contributions" means the money payments to the
28 State Unemployment Compensation Fund by employers electing or
29 required to make payments in lieu of contributions, as provided in
30 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

31 (g) "Employing unit" means the State or any of its instrumentalities
32 or any political subdivision thereof or any of its instrumentalities or
33 any instrumentality of more than one of the foregoing or any
34 instrumentality of any of the foregoing and one or more other states
35 or political subdivisions or any individual or type of organization, any
36 partnership, association, trust, estate, joint-stock company, insurance
37 company or corporation, whether domestic or foreign, or the receiver,
38 trustee in bankruptcy, trustee or successor thereof, or the legal
39 representative of a deceased person, which has or subsequent to
40 January 1, 1936, had in its employ one or more individuals performing
41 services for it within this State. All individuals performing services
42 within this State for any employing unit which maintains two or more
43 separate establishments within this State shall be deemed to be
44 employed by a single employing unit for all the purposes of this
45 chapter (R.S.43:21-1 et seq.). Each individual employed to perform
46 or to assist in performing the work of any agent or employee of an

1 employing unit shall be deemed to be employed by such employing unit
2 for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such
3 individual was hired or paid directly by such employing unit or by such
4 agent or employee; provided the employing unit had actual or
5 constructive knowledge of the work.

6 (h) "Employer" means:

7 (1) Any employing unit which in either the current or the preceding
8 calendar year paid remuneration for employment in the amount of
9 \$1,000.00 or more;

10 (2) Any employing unit (whether or not an employing unit at the
11 time of acquisition) which acquired the organization, trade or business,
12 or substantially all the assets thereof, of another which, at the time of
13 such acquisition, was an employer subject to this chapter (R.S.43:21-1
14 et seq.);

15 (3) Any employing unit which acquired the organization, trade or
16 business, or substantially all the assets thereof, of another employing
17 unit and which, if treated as a single unit with such other employing
18 unit, would be an employer under paragraph (1) of this subsection;

19 (4) Any employing unit which together with one or more other
20 employing units is owned or controlled (by legally enforceable means
21 or otherwise), directly or indirectly by the same interests, or which
22 owns or controls one or more other employing units (by legally
23 enforceable means or otherwise), and which, if treated as a single unit
24 with such other employing unit or interest, would be an employer
25 under paragraph (1) of this subsection;

26 (5) Any employing unit for which service in employment as defined
27 in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971;
28 and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
29 December 31, 1977;

30 (6) Any employing unit for which service in employment as defined
31 in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and
32 which in either the current or the preceding calendar year paid
33 remuneration for employment in the amount of \$1,000.00 or more;

34 (7) Any employing unit not an employer by reason of any other
35 paragraph of this subsection (h) for which, within either the current or
36 preceding calendar year, service is or was performed with respect to
37 which such employing unit is liable for any federal tax against which
38 credit may be taken for contributions required to be paid into a state
39 unemployment fund; or which, as a condition for approval of the
40 "unemployment compensation law" for full tax credit against the tax
41 imposed by the Federal Unemployment Tax Act, is required pursuant
42 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

43 (8) (Deleted by amendment; P.L.1977, c.307.)

44 (9) (Deleted by amendment; P.L.1977, c.307.)

45 (10) (Deleted by amendment; P.L.1977, c.307.)

46 (11) Any employing unit subject to the provisions of the Federal

1 Unemployment Tax Act within either the current or the preceding
2 calendar year, except for employment hereinafter excluded under
3 paragraph (7) of subsection (i) of this section;

4 (12) Any employing unit for which agricultural labor in
5 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
6 December 31, 1977;

7 (13) Any employing unit for which domestic service in employment
8 as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31,
9 1977;

10 (14) Any employing unit which having become an employer under
11 the "unemployment compensation law" (R.S.43:21-1 et seq.), has not
12 under R.S.43:21-8 ceased to be an employer; or for the effective
13 period of its election pursuant to R.S.43:21-8, any other employing
14 unit which has elected to become fully subject to this chapter
15 (R.S.43:21-1 et seq.).

16 (i) (1) "Employment" means:

17 (A) Any service performed prior to January 1, 1972, which was
18 employment as defined in the "unemployment compensation law"
19 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
20 provisions of this subsection, service performed on or after January 1,
21 1972, including service in interstate commerce, performed for
22 remuneration or under any contract of hire, written or oral, express or
23 implied.

24 (B) (i) Service performed after December 31, 1971 by an individual
25 in the employ of this State or any of its instrumentalities or in the
26 employ of this State and one or more other states or their
27 instrumentalities for a hospital or institution of higher education
28 located in this State, if such service is not excluded from
29 "employment" under paragraph (D) below.

30 (ii) Service performed after December 31, 1977, in the employ of
31 this State or any of its instrumentalities or any political subdivision
32 thereof or any of its instrumentalities or any instrumentality of more
33 than one of the foregoing or any instrumentality of the foregoing and
34 one or more other states or political subdivisions, if such service is not
35 excluded from "employment" under paragraph (D) below.

36 (C) Service performed after December 31, 1971 by an individual
37 in the employ of a religious, charitable, educational, or other
38 organization, which is excluded from "employment" as defined in the
39 Federal Unemployment Tax Act, solely by reason of section 3306 (c)
40 (8) of that act, if such service is not excluded from "employment"
41 under paragraph (D) below.

42 (D) For the purposes of paragraphs (B) and (C), the term
43 "employment" does not apply to services performed

44 (i) In the employ of (I) a church or convention or association of
45 churches, or (II) an organization, or school which is operated primarily
46 for religious purposes and which is operated, supervised, controlled or

1 principally supported by a church or convention or association of
2 churches;

3 (ii) By a duly ordained, commissioned, or licensed minister of a
4 church in the exercise of his ministry or by a member of a religious
5 order in the exercise of duties required by such order;

6 (iii) Prior to January 1, 1978, in the employ of a school which is
7 not an institution of higher education, and after December 31, 1977,
8 in the employ of a governmental entity referred to in R.S.43:21-19 (i)
9 (1) (B), if such service is performed by an individual in the exercise of
10 duties

11 (aa) as an elected official;

12 (bb) as a member of a legislative body, or a member of the
13 judiciary, of a state or political subdivision;

14 (cc) as a member of the State National Guard or Air National
15 Guard;

16 (dd) as an employee serving on a temporary basis in case of fire,
17 storm, snow, earthquake, flood or similar emergency;

18 (ee) in a position which, under or pursuant to the laws of this
19 State, is designated as a major nontenured policy making or advisory
20 position, or a policy making or advisory position, the performance of
21 the duties of which ordinarily does not require more than eight hours
22 per week; or

23 (iv) By an individual receiving rehabilitation or remunerative work
24 in a facility conducted for the purpose of carrying out a program of
25 rehabilitation of individuals whose earning capacity is impaired by age
26 or physical or mental deficiency or injury or providing remunerative
27 work for individuals who because of their impaired physical or mental
28 capacity cannot be readily absorbed in the competitive labor market;

29 (v) By an individual receiving work-relief or work-training as part
30 of an unemployment work-relief or work-training program assisted in
31 whole or in part by any federal agency or an agency of a state or
32 political subdivision thereof; or

33 (vi) Prior to January 1, 1978, for a hospital in a State prison or
34 other State correctional institution by an inmate of the prison or
35 correctional institution and after December 31, 1977, by an inmate of
36 a custodial or penal institution.

37 (E) The term "employment" shall include the services of an
38 individual who is a citizen of the United States, performed outside the
39 United States after December 31, 1971 (except in Canada and in the
40 case of the Virgin Islands, after December 31, 1971 and prior to
41 January 1 of the year following the year in which the U.S. Secretary
42 of Labor approves the unemployment compensation law of the Virgin
43 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
44 (26 U.S.C. §3304 (a)) in the employ of an American employer (other
45 than the service which is deemed employment under the provisions of
46 R.S.43:21-19 (i) (2) or (5) of the parallel provisions of another state's

1 unemployment compensation law), if

2 (i) The American employer's principal place of business in the
3 United States is located in this State; or

4 (ii) The American employer has no place of business in the United
5 States, but (I) the American employer is an individual who is a resident
6 of this State; or (II) the American employer is a corporation which is
7 organized under the laws of this State; or (III) the American employer
8 is a partnership or trust and the number of partners or trustees who are
9 residents of this State is greater than the number who are residents of
10 another state; or

11 (iii) None of the criteria of divisions (i) and (ii) of this
12 subparagraph (E) is met but the American employer has elected to
13 become an employer subject to the "unemployment compensation law"
14 (R.S.43:21-1 et seq.) in this State, or the American employer having
15 failed to elect to become an employer in any state, the individual has
16 filed a claim for benefits, based on such service, under the law of this
17 State;

18 (iv) An "American employer," for the purposes of this
19 subparagraph (E), means (I) an individual who is a resident of the
20 United States; or (II) a partnership, if two-thirds or more of the
21 partners are residents of the United States; or (III) a trust, if all the
22 trustees are residents of the United States; or (IV) a corporation
23 organized under the laws of the United States or of any state.

24 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
25 after January 1, 1972 by an officer or member of the crew of an
26 American vessel or American aircraft on or in connection with such
27 vessel or aircraft, if the operating office from which the operations of
28 such vessel or aircraft operating within, or within and without, the
29 United States are ordinarily and regularly supervised, managed,
30 directed, and controlled, is within this State.

31 (G) Notwithstanding any other provision of this subsection, service
32 in this State with respect to which the taxes required to be paid under
33 any federal law imposing a tax against which credit may be taken for
34 contributions required to be paid into a state unemployment fund or
35 which as a condition for full tax credit against the tax imposed by the
36 Federal Unemployment Tax Act is required to be covered under the
37 "unemployment compensation law" (R.S.43:21-1 et seq.).

38 (H) The term "United States" when used in a geographical sense
39 in subsection R.S.43:21-19 (i) includes the states, the District of
40 Columbia, the Commonwealth of Puerto Rico and, effective on the day
41 after the day on which the U.S. Secretary of Labor approves for the
42 first time under section 3304 (a) of the Internal Revenue Code of 1986
43 (26 U.S.C §3304 (a)) an unemployment compensation law submitted
44 to the Secretary by the Virgin Islands for such approval, the Virgin
45 Islands.

46 (I) (i) Service performed after December 31, 1977 in agricultural

- 1 labor in a calendar year for an entity which is an employer as defined
2 in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of
3 January 1 of such year; or for an employing unit which
- 4 (aa) during any calendar quarter in either the current or the
5 preceding calendar year paid remuneration in cash of \$20,000.00 or
6 more for individuals employed in agricultural labor, or
- 7 (bb) for some portion of a day in each of 20 different calendar
8 weeks, whether or not such weeks were consecutive, in either the
9 current or the preceding calendar year, employed in agricultural labor
10 10 or more individuals, regardless of whether they were employed at
11 the same moment in time.
- 12 (ii) For the purposes of this subsection any individual who is a
13 member of a crew furnished by a crew leader to perform service in
14 agricultural labor for any other entity shall be treated as an employee
15 of such crew leader
- 16 (aa) if such crew leader holds a certification of registration under
17 the Migrant and Seasonal Agricultural Worker Protection Act,
18 Pub.L.97-470 (29 U.S.C.§1801 et seq.), or P.L.1971, c.192
19 (C.34:8A-7 et seq.); or substantially all the members of such crew
20 operate or maintain tractors, mechanized harvesting or cropdusting
21 equipment, or any other mechanized equipment, which is provided by
22 such crew leader; and
- 23 (bb) if such individual is not an employee of such other person for
24 whom services were performed.
- 25 (iii) For the purposes of subparagraph (I) (i) in the case of any
26 individual who is furnished by a crew leader to perform service in
27 agricultural labor or any other entity and who is not treated as an
28 employee of such crew leader under (I) (ii)
- 29 (aa) such other entity and not the crew leader shall be treated as
30 the employer of such individual; and
- 31 (bb) such other entity shall be treated as having paid cash
32 remuneration to such individual in an amount equal to the amount of
33 cash remuneration paid to such individual by the crew leader (either on
34 his own behalf or on behalf of such other entity) for the service in
35 agricultural labor performed for such other entity.
- 36 (iv) For the purpose of subparagraph (I) (i), the term "crew leader"
37 means an individual who
- 38 (aa) furnishes individuals to perform service in agricultural labor
39 for any other entity;
- 40 (bb) pays (either on his own behalf or on behalf of such other
41 entity) the individuals so furnished by him for the service in
42 agricultural labor performed by them; and
- 43 (cc) has not entered into a written agreement with such other entity
44 under which such individual is designated as an employee of such other
45 entity.
- 46 (J) Domestic service after December 31, 1977 performed in the

1 private home of an employing unit which paid cash remuneration of
2 \$1,000.00 or more to one or more individuals for such domestic
3 service in any calendar quarter in the current or preceding calendar
4 year.

5 (2) The term "employment" shall include an individual's entire
6 service performed within or both within and without this State if:

7 (A) The service is localized in this State; or

8 (B) The service is not localized in any state but some of the service
9 is performed in this State, and (i) the base of operations, or, if there is
10 no base of operations, then the place from which such service is
11 directed or controlled, is in this State; or (ii) the base of operations or
12 place from which such service is directed or controlled is not in any
13 state in which some part of the service is performed, but the
14 individual's residence is in this State.

15 (3) Services performed within this State but not covered under
16 paragraph (2) of this subsection shall be deemed to be employment
17 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
18 required and paid with respect to such services under an
19 unemployment compensation law of any other state or of the federal
20 government.

21 (4) Services not covered under paragraph (2) of this subsection and
22 performed entirely without this State, with respect to no part of which
23 contributions are required and paid under an unemployment
24 compensation law of any other state or of the federal government,
25 shall be deemed to be employment subject to this chapter (R.S.43:21-1
26 et seq.) if the individual performing such services is a resident of this
27 State and the employing unit for whom such services are performed
28 files with the division an election that the entire service of such
29 individual shall be deemed to be employment subject to this chapter
30 (R.S.43:21-1 et seq.).

31 (5) Service shall be deemed to be localized within a state if:

32 (A) The service is performed entirely within such state; or

33 (B) The service is performed both within and without such state,
34 but the service performed without such state is incidental to the
35 individual's service within the state; for example, is temporary or
36 transitory in nature or consists of isolated transactions.

37 (6) Services performed by an individual for remuneration shall be
38 deemed to be employment subject to this chapter (R.S.43:21-1 et seq.)
39 unless and until it is shown to the satisfaction of the division that:

40 (A) Such individual has been and will continue to be free from
41 control or direction over the performance of such service, both under
42 his contract of service and in fact; and

43 (B) Such service is either outside the usual course of the business
44 for which such service is performed, or that such service is performed
45 outside of all the places of business of the enterprise for which such
46 service is performed; and

1 (C) Such individual is customarily engaged in an independently
2 established trade, occupation, profession or business.

3 (7) Provided that such services are also exempt under the Federal
4 Unemployment Tax Act, as amended, or that contributions with
5 respect to such services are not required to be paid into a state
6 unemployment fund as a condition for a tax offset credit against the
7 tax imposed by the Federal Unemployment Tax Act, as amended, the
8 term "employment" shall not include:

9 (A) Agricultural labor performed prior to January 1, 1978; and
10 after December 31, 1977, only if performed in a calendar year for an
11 entity which is not an employer as defined in the "unemployment
12 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
13 calendar year; or unless performed for an employing unit which

14 (i) during a calendar quarter in either the current or the preceding
15 calendar year paid remuneration in cash of \$20,000.00 or more to
16 individuals employed in agricultural labor, or

17 (ii) for some portion of a day in each of 20 different calendar
18 weeks, whether or not such weeks were consecutive, in either the
19 current or the preceding calendar year, employed in agricultural labor
20 10 or more individuals, regardless of whether they were employed at
21 the same moment in time;

22 (B) Domestic service in a private home performed prior to January
23 1, 1978; and after December 31, 1977, unless performed in the private
24 home of an employing unit which paid cash remuneration of \$1,000.00
25 or more to one or more individuals for such domestic service in any
26 calendar quarter in the current or preceding calendar year;

27 (C) Service performed by an individual in the employ of his son,
28 daughter or spouse, and service performed by a child under the age of
29 18 in the employ of his father or mother;

30 (D) Service performed prior to January 1, 1978, in the employ of
31 this State or of any political subdivision thereof or of any
32 instrumentality of this State or its political subdivisions, except as
33 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
34 of the South Jersey Port Corporation or its successors;

35 (E) Service performed in the employ of any other state or its
36 political subdivisions or of an instrumentality of any other state or
37 states or their political subdivisions to the extent that such
38 instrumentality is with respect to such service exempt under the
39 Constitution of the United States from the tax imposed under the
40 Federal Unemployment Tax Act, as amended, except as provided in
41 R.S.43:21-19 (i) (1) (B) above;

42 (F) Service performed in the employ of the United States
43 Government or of any instrumentality of the United States except
44 under the Constitution of the United States from the contributions
45 imposed by the "unemployment compensation law," except that to the
46 extent that the Congress of the United States shall permit states to

1 require any instrumentalities of the United States to make payments
2 into an unemployment fund under a state unemployment compensation
3 law, all of the provisions of this act shall be applicable to such
4 instrumentalities, and to service performed for such instrumentalities,
5 in the same manner, to the same extent and on the same terms as to all
6 other employers, employing units, individuals and services; provided
7 that if this State shall not be certified for any year by the Secretary of
8 Labor of the United States under section 3304 of the federal Internal
9 Revenue Code of 1986 (26 U.S.C. §3304), the payments required of
10 such instrumentalities with respect to such year shall be refunded by
11 the division from the fund in the same manner and within the same
12 period as is provided in R.S.43:21-14 (f) with respect to contributions
13 erroneously paid to or collected by the division;

14 (G) Services performed in the employ of fraternal beneficiary
15 societies, orders, or associations operating under the lodge system or
16 for the exclusive benefit of the members of a fraternity itself operating
17 under the lodge system and providing for the payment of life, sick,
18 accident, or other benefits to the members of such society, order, or
19 association, or their dependents;

20 (H) Services performed as a member of the board of directors, a
21 board of trustees, a board of managers, or a committee of any bank,
22 building and loan, or savings and loan association, incorporated or
23 organized under the laws of this State or of the United States, where
24 such services do not constitute the principal employment of the
25 individual;

26 (I) Service with respect to which unemployment insurance is
27 payable under an unemployment insurance program established by an
28 Act of Congress;

29 (J) Service performed by agents of mutual fund brokers or dealers
30 in the sale of mutual funds or other securities, by agents of insurance
31 companies, exclusive of industrial insurance agents or by agents of
32 investment companies, if the compensation to such agents for such
33 services is wholly on a commission basis;

34 (K) Services performed by real estate salesmen or brokers who are
35 compensated wholly on a commission basis;

36 (L) Services performed in the employ of any veterans' organization
37 chartered by Act of Congress or of any auxiliary thereof, no part of the
38 net earnings of which organization, or auxiliary thereof, inures to the
39 benefit of any private shareholder or individual;

40 (M) Service performed for or in behalf of the owner or operator of
41 any theatre, ballroom, amusement hall or other place of entertainment,
42 not in excess of 10 weeks in any calendar year for the same owner or
43 operator, by any leader or musician of a band or orchestra, commonly
44 called a "name band," entertainer, vaudeville artist, actor, actress,
45 singer or other entertainer;

46 (N) Services performed after January 1, 1973 by an individual for

1 a labor union organization, known and recognized as a union local, as
2 a member of a committee or committees reimbursed by the union local
3 for time lost from regular employment, or as a part-time officer of a
4 union local and the remuneration for such services is less than
5 \$1,000.00 in a calendar year;

6 (O) Services performed in the sale or distribution of merchandise
7 by home-to-home salespersons or in-the-home demonstrators whose
8 remuneration consists wholly of commissions or commissions and
9 bonuses;

10 (P) Service performed in the employ of a foreign government,
11 including service as a consular, nondiplomatic representative, or other
12 officer or employee;

13 (Q) Service performed in the employ of an instrumentality wholly
14 owned by a foreign government if (i) the service is of a character
15 similar to that performed in foreign countries by employees of the
16 United States Government or of an instrumentality thereof, and (ii) the
17 division finds that the United States Secretary of State has certified to
18 the United States Secretary of the Treasury that the foreign
19 government, with respect to whose instrumentality exemption is
20 claimed, grants an equivalent exemption with respect to similar
21 services performed in the foreign country by employees of the United
22 States Government and of instrumentalities thereof;

23 (R) Service in the employ of an international organization entitled
24 to enjoy the privileges, exemptions and immunities under the
25 International Organizations Immunities Act (22 U.S.C. §288 et seq.);

26 (S) Service covered by an election duly approved by an agency
27 charged with the administration of any other state or federal
28 unemployment compensation or employment security law, in
29 accordance with an arrangement pursuant to R.S.43:21-21 during the
30 effective period of such election;

31 (T) Service performed in the employ of a school, college, or
32 university if such service is performed (i) by a student enrolled at such
33 school, college, or university on a full-time basis in an educational
34 program or completing such educational program leading to a degree
35 at any of the severally recognized levels, or (ii) by the spouse of such
36 a student, if such spouse is advised at the time such spouse commences
37 to perform such service that (I) the employment of such spouse to
38 perform such service is provided under a program to provide financial
39 assistance to such student by such school, college, or university, and
40 (II) such employment will not be covered by any program of
41 unemployment insurance;

42 (U) Service performed by an individual who is enrolled at a
43 nonprofit or public educational institution which normally maintains a
44 regular faculty and curriculum and normally has a regularly organized
45 body of students in attendance at the place where its educational
46 activities are carried on, as a student in a full-time program, taken for

1 credit at such institution, which combines academic instruction with
2 work experience, if such service is an integral part of such program,
3 and such institution has so certified to the employer, except that this
4 subparagraph shall not apply to service performed in a program
5 established for or on behalf of an employer or group of employers;

6 (V) Service performed in the employ of a hospital, if such service
7 is performed by a patient of the hospital; service performed as a
8 student nurse in the employ of a hospital or a nurses' training school
9 by an individual who is enrolled and regularly attending classes in a
10 nurses' training school approved under the laws of this State; and
11 service performed as an intern in the employ of a hospital by an
12 individual who has completed a four-year course in a medical school
13 approved pursuant to the laws of this State;

14 (W) Services performed after the effective date of this amendatory
15 act by agents of mutual benefit associations if the compensation to
16 such agents for such services is wholly on a commission basis;

17 (X) Services performed by operators of motor vehicles weighing
18 18,000 pounds or more, licensed for commercial use and used for the
19 highway movement of motor freight, who own their equipment or who
20 lease or finance the purchase of their equipment through an entity
21 which is not owned or controlled directly or indirectly by the entity for
22 which the services were performed and who were compensated by
23 receiving a percentage of the gross revenue generated by the
24 transportation move or by a schedule of payment based on the distance
25 and weight of the transportation move;

26 (Y) Services performed by a certified shorthand reporter certified
27 pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third
28 party by the reporter who is referred to the third party pursuant to an
29 agreement with another certified shorthand reporter or shorthand
30 reporting service, on a freelance basis, compensation for which is
31 based upon a fee per transcript page, flat attendance fee, or other flat
32 minimum fee, or combination thereof, set forth in the agreement;

33 (Z) Services performed, using facilities provided by a travel agent,
34 by a person, commonly known as an outside travel agent, who acts as
35 an independent contractor, is paid on a commission basis, sets his own
36 work schedule and receives no benefits, sick leave, vacation or other
37 leave from the travel agent owning the facilities.

38 (8) If one-half or more of the services in any pay period performed
39 by an individual for an employing unit constitutes employment, all the
40 services of such individual shall be deemed to be employment; but if
41 more than one-half of the service in any pay period performed by an
42 individual for an employing unit does not constitute employment, then
43 none of the service of such individual shall be deemed to be
44 employment. As used in this paragraph, the term "pay period" means
45 a period of not more than 31 consecutive days for which a payment for
46 service is ordinarily made by an employing unit to individuals in its

1 employ.

2 (9) Services performed by the owner of a limousine franchise
3 (franchisee) shall not be deemed to be employment subject to the
4 "unemployment compensation law," R.S.43:21-1 et seq., with regard
5 to the franchisor if:

6 (A) The limousine franchisee is incorporated;

7 (B) The franchisee is subject to regulation by the Interstate
8 Commerce Commission;

9 (C) The limousine franchise exists pursuant to a written franchise
10 arrangement between the franchisee and the franchisor as defined by
11 section 3 of P.L.1971, c.356 (C.56:10-3); and

12 (D) The franchisee registers with the Department of Labor and
13 receives an employer registration number.

14 (j) "Employment office" means a free public employment office, or
15 branch thereof operated by this State or maintained as a part of a
16 State-controlled system of public employment offices.

17 (k) (Deleted by amendment, P.L.1984, c.24.)

18 (l) "State" includes, in addition to the states of the United States
19 of America, the District of Columbia, the Virgin Islands and Puerto
20 Rico.

21 (m) "Unemployment."

22 (1) An individual shall be deemed "unemployed" for any week
23 during which [he] :

24 (A) The individual is not engaged in full-time work and with
25 respect to which his remuneration is less than his weekly benefit rate,
26 including any week during which he is on vacation without pay;
27 provided such vacation is not the result of the individual's voluntary
28 action, except that for benefit years commencing on or after July 1,
29 1984, an officer of a corporation, or a person who has more than a 5%
30 equitable or debt interest in the corporation, whose claim for benefits
31 is based on wages with that corporation shall not be deemed to be
32 unemployed in any week during the individual's term of office or
33 ownership in the corporation; or

34 (B) The individual is eligible for and receiving a self-employment
35 assistance allowance pursuant to the requirements of this 1996
36 amendatory and supplementary act.

37 (2) The term "remuneration" with respect to any individual for
38 benefit years commencing on or after July 1, 1961, and as used in this
39 subsection, shall include only that part of the same which in any week
40 exceeds 20% of his weekly benefit rate (fractional parts of a dollar
41 omitted) or \$5.00, whichever is the larger.

42 (3) An individual's week of unemployment shall be deemed to
43 commence only after the individual has filed a claim at an
44 unemployment insurance claims office, except as the division may by
45 regulation otherwise prescribe.

46 (n) "Unemployment compensation administration fund" means the

1 unemployment compensation administration fund established by this
2 chapter (R.S.43:21-1 et seq.), from which administrative expenses
3 under this chapter (R.S.43:21-1 et seq.) shall be paid.

4 (o) "Wages" means remuneration paid by employers for
5 employment. If a worker receives gratuities regularly in the course of
6 his employment from other than his employer, his "wages" shall also
7 include the gratuities so received, if reported in writing to his
8 employer in accordance with regulations of the division, and if not so
9 reported, his "wages" shall be determined in accordance with the
10 minimum wage rates prescribed under any labor law or regulation of
11 this State or of the United States, or the amount of remuneration
12 actually received by the employee from his employer, whichever is the
13 higher.

14 (p) "Remuneration" means all compensation for personal services,
15 including commission and bonuses and the cash value of all
16 compensation in any medium other than cash.

17 (q) "Week" means for benefit years commencing on or after
18 October 1, 1984, the calendar week ending at midnight Saturday, or
19 as the division may by regulation prescribe.

20 (r) "Calendar quarter" means the period of three consecutive
21 calendar months ending March 31, June 30, September 30, or
22 December 31.

23 (s) "Investment company" means any company as defined in
24 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

25 (t) (1) "Base week" for a benefit year commencing prior to
26 October 1, 1984, means, except as otherwise provided in paragraph
27 (2) of this subsection, any calendar week of an individual's base year
28 during which he earned in employment from an employer remuneration
29 equal to not less than \$30.00. "Base week" for a benefit year
30 commencing on or after October 1, 1984 and prior to October 1, 1985
31 means any calendar week of an individual's base year during which the
32 individual earned in employment from an employer remuneration equal
33 to not less than 15% of the Statewide average weekly remuneration
34 defined in subsection (c) of R.S.43:21-3, which shall be adjusted to the
35 next higher multiple of \$1.00 if not already a multiple thereof.

36 "Base week" for a benefit year commencing on or after October 1,
37 1985 means, except as otherwise provided in paragraph (2) of this
38 subsection, any calendar week of an individual's base year during
39 which the individual earned in employment from an employer
40 remuneration equal to not less than 20% of the Statewide average
41 weekly remuneration defined in subsection (c) of R.S.43:21-3 which
42 shall be adjusted to the next higher multiple of \$1.00 if not already a
43 multiple thereof; provided if in any calendar week an individual is in
44 employment with more than one employer, he may in such calendar
45 week establish a base week with respect to each such employer from
46 whom the individual earns remuneration equal to not less than the

1 amount defined in this paragraph (1) during such week.

2 (2) "Base week," with respect to an individual claiming benefits on
3 the basis of service performed in the production and harvesting of
4 agricultural crops, means, for a benefit year commencing on or after
5 October 1, 1984 and before January 1, 1985, any calendar week of an
6 individual's base year during which the individual earned in
7 employment from an employer remuneration equal to not less than
8 \$30.00, except that if in any calendar week an individual subject to this
9 paragraph is in employment with more than one employer, the
10 individual may in that calendar week establish a base week with
11 respect to each of the employers from whom the individual earns
12 remuneration equal to not less than the amount defined in this
13 paragraph (2) during that week.

14 (u) "Average weekly wage" means the amount derived by dividing
15 an individual's total wages received during his base year base weeks
16 (as defined in subsection (t) of this section) from that most recent base
17 year employer with whom he has established at least 20 base weeks,
18 by the number of base weeks in which such wages were earned. In the
19 event that such claimant had no employer in his base year with whom
20 he had established at least 20 base weeks, then such individual's
21 average weekly wage shall be computed as if all of his base week
22 wages were received from one employer and as if all his base weeks of
23 employment had been performed in the employ of one employer.

24 For the purpose of computing the average weekly wage, the
25 monetary alternative in subsection (e) of R.S.43:21-4 shall only apply
26 in those instances where the individual did not have at least 20 base
27 weeks in the base year. For benefit years commencing on or after July
28 1, 1986, "average weekly wage" means the amount derived by dividing
29 an individual's total base year wages by the number of base weeks
30 worked by the individual during the base year; provided that for the
31 purpose of computing the average weekly wage, the maximum number
32 of base weeks used in the divisor shall be 52.

33 (v) "Initial determination" means, subject to the provisions of
34 R.S.43:21-6 (b) (2) and (3), a determination of benefit rights as
35 measured by an eligible individual's base year employment with a
36 single employer covering all periods of employment with that employer
37 during the base year. For benefit years commencing prior to July 1,
38 1986, subject to the provisions of R.S.43:21-3 (d) (3), if an individual
39 has been in employment in his base year with more than one employer,
40 no benefits shall be paid to that individual under any successive initial
41 determination until his benefit rights have been exhausted under the
42 next preceding initial determination.

43 (w) "Last date of employment" means the last calendar day in the
44 base year of an individual on which he performed services in
45 employment for a given employer.

46 (x) "Most recent base year employer" means that employer with

1 whom the individual most recently, in point of time, performed service
2 in employment in the base year.

3 (y) (1) "Educational institution" means any public or other
4 nonprofit institution (including an institution of higher education):

5 (A) In which participants, trainees, or students are offered an
6 organized course of study or training designed to transfer to them
7 knowledge, skills, information, doctrines, attitudes or abilities from,
8 by or under the guidance of an instructor (s) or teacher (s);

9 (B) Which is approved, licensed or issued a permit to operate as a
10 school by the State Department of Education or other government
11 agency that is authorized within the State to approve, license or issue
12 a permit for the operation of a school; and

13 (C) Which offers courses of study or training which may be
14 academic, technical, trade, or preparation for gainful employment in
15 a recognized occupation.

16 (2) "Institution of higher education" means an educational
17 institution which:

18 (A) Admits as regular students only individuals having a certificate
19 of graduation from a high school, or the recognized equivalent of such
20 a certificate;

21 (B) Is legally authorized in this State to provide a program of
22 education beyond high school;

23 (C) Provides an educational program for which it awards a
24 bachelor's or higher degree, or provides a program which is acceptable
25 for full credit toward such a degree, a program of post-graduate or
26 post-doctoral studies, or a program of training to prepare students for
27 gainful employment in a recognized occupation; and

28 (D) Is a public or other nonprofit institution.

29 Notwithstanding any of the foregoing provisions of this subsection,
30 all colleges and universities in this State are institutions of higher
31 education for purposes of this section.

32 (z) "Hospital" means an institution which has been licensed,
33 certified or approved under the law of this State as a hospital.

34 (cf: P.L.1993, c.312, s.1)

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36 11. This act shall take effect on the 180th day following enactment.

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STATEMENT

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41 This bill establishes a Self-Employment Assistance Financing
42 Program within the New Jersey Economic Development Authority
43 (EDA) to: (1) assist unemployed individuals who demonstrate the
44 ability to become small-business entrepreneurs in establishing new
45 businesses; (2) help involve participants with public, private and
46 non-profit community and economic development agencies,

1 educational, community and financial institutions, community business
2 groups and each other; and (3) provide this assistance at the lowest
3 possible public cost, through micro-lending, training, and technical
4 assistance. The EDA has recognized the "micro-lending" approach,
5 and through its newly created Entrepreneurial Training Institute, is
6 providing entrepreneurial training for minority, female and small
7 business entrepreneurs in Atlantic City and Camden.

8 A central component of the program is the use of "peer groups,"
9 each with not more than twenty participants who provide mutual
10 assistance and support for each other's efforts to establish businesses
11 and become self-employed entrepreneurs. Training, counseling and
12 technical services would be provided to program participants
13 principally through peer groups. The EDA could consider the
14 recommendations and past experience of a peer group when providing
15 loans and loan guarantees to members of the group.

16 The bill also establishes a program in the State Department of
17 Labor to assist laid-off workers in their efforts to become
18 self-employed. Each new claimant who qualifies for regular
19 unemployment benefits would be evaluated under the worker profiling
20 system established by the bill to determine whether the claimant is
21 among those who are likely to exhaust unemployment benefits. If so,
22 the claimant could apply to the department for self-employment
23 assistance. The department may refer the applicant to the EDA for
24 business counseling, technical assistance and entrepreneurial training.
25 The purpose of those services is to help the claimant to meet
26 prerequisites for receiving a self-employment assistance allowance,
27 including developing an acceptable business plan and obtaining
28 adequate commitments for financing and further services as needed to
29 implement the plan. If the EDA certifies that the prerequisites have
30 been met, the department may approve payment to the claimant of a
31 self-employment assistance allowance.

32 A self-employment assistance allowance is a weekly allowance paid
33 from the unemployment compensation fund in lieu of, and equal to,
34 regular unemployment benefits. To receive the allowance an
35 unemployed worker must participate on a full-time basis in
36 self-employment assistance activities. The requirements to be
37 available for work and search for work which apply when receiving
38 regular unemployment benefits do not apply when receiving a
39 self-employment assistance allowance. No reduction is made in the
40 allowance due to income earned in self-employment.

41 The number of people receiving self-employment assistance
42 allowances at any time is limited to 0.5% of the number of people
43 receiving regular unemployment benefits. It is estimated that about
44 200 individuals will receive the benefits during the first year of the
45 program.

46 The bill also establishes a worker profiling system to help determine

1 which new claimants for regular unemployment benefits are likely to
2 exhaust benefits and have the greatest need for reemployment services
3 to find new employment. The system would be used in making
4 referrals not only for the self-employment assistance program, but also
5 for reemployment services, such as job search and job placement
6 services. It may be used in making referrals to other benefits and
7 services, such as job training, but not to exclude anyone from seeking
8 or receiving services, except where the exclusion is required by federal
9 law, which is the case for self-employment assistance services. An
10 individual found likely to exhaust benefits may be required, as a
11 condition for receiving regular benefits, to participate in available
12 reemployment services (but not other services) to which the individual
13 is referred, unless it is found that the individual has completed
14 reemployment services or is participating in other
15 department-approved activities to assist reemployment or enhance
16 marketable skills and earning power. Factors may not be used to
17 determine whether the individual is likely to exhaust benefits unless
18 they are demonstrated to be an actual indicator of a high likelihood
19 that benefits will be exhausted.

20 The bill also:

- 21 1. Permits the EDA to use funds from other State agencies and
22 authorities for loans and loan guarantees to participants;
- 23 2. Permits the EDA to develop underwriting criteria appropriate
24 for the purposes of the program;
- 25 3. Provides that the EDA and the Department of Labor jointly
26 select any outside provider of self-employment assistance services;
- 27 4. Makes EDA responsible for informing the Department of Labor
28 whenever a program participant fails to participate on a full-time basis;
- 29 5. Reduces the maximum number of people receiving
30 self-employment assistance allowances at any time from 1% of the
31 number of people receiving regular unemployment benefits to 0.5%.

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36 The "Self-Employment Assistance and Entrepreneurial Training Act."