

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 873**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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ADOPTED FEBRUARY 28, 2008

**Sponsored by:**

**Assemblyman NELSON T. ALBANO**  
**District 1 (Cape May, Atlantic and Cumberland)**  
**Assemblywoman SHEILA Y. OLIVER**  
**District 34 (Essex and Passaic)**  
**Assemblywoman LINDA R. GREENSTEIN**  
**District 14 (Mercer and Middlesex)**  
**Assemblyman WAYNE P. DEANGELO**  
**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblymen Giblin, Burzichelli, Assemblywoman Stender, Assemblymen Johnson, Scalera, Egan, Diegnan, Assemblywomen Vainieri Huttie, Jasey, Assemblyman L.Smith, Assemblywoman Evans, Senators Sweeney, Buono, Redd, Weinberg and Stack**

**SYNOPSIS**

Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on March 10, 2008, with amendments.

(Sponsorship Updated As Of: 3/18/2008)

1 AN ACT providing benefits for family temporary disability leave,  
2 amending R.S.43:21-4 and R.S.43:21-7, amending and  
3 supplementing P.L.1948, c.110, and supplementing Title 54A of  
4 the New Jersey Statutes.

5

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

8

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted March 10, 2008.

1 **[affords]** afforded uneven, unequal and sometimes uncertain  
2 protection among the various voluntary benefit programs.

3 While the enactment of that law has provided stable protection  
4 for New Jersey's disabled workers, very few workers are protected  
5 from income losses caused by the need to take time off from work  
6 to care for family members who are incapable of self-care,  
7 including newborn and newly-adopted children. The growing  
8 portion of middle-income families in which all adult family  
9 members work, largely due to economic necessity, points to the  
10 desperate need for replacement income when a working family  
11 member must take time to care for family members who are unable  
12 to take care of themselves. Moreover, the United States is the only  
13 industrialized nation in the world which does not have a mandatory  
14 workplace-based program for such income support. It is therefore  
15 desirable and necessary to fill the gap in existing provisions for  
16 protection against the loss of earnings caused by involuntary  
17 unemployment, by extending such protection to meet the hazard of  
18 earnings loss due to inability to work caused by nonoccupational  
19 sickness **[or accident]**, accidents, or other disabilities of workers  
20 and members of their families. Developing systems that help  
21 families adapt to the competing interests of work and home not only  
22 benefits workers, but also benefits employers by reducing employee  
23 turnover and increasing worker productivity.

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

42 <sup>1</sup>While the Legislature recognizes the pressing need for benefits  
43 for workers taking leave to care for family members incapable of  
44 self-care, it also finds that the need of workers for leave during their  
45 own disability continues to be especially acute, as a disabled worker  
46 has less discretion about taking time off from work than a worker  
47 caring for a family member. Notwithstanding any interpretation of  
48 law which may be construed as providing a worker with rights to

1 take action against an employer who fails or refuses to restore the  
2 worker to employment after the worker's own disability, the  
3 Legislature does not intend that the policy established by  
4 P.L. , c. (C. ) (pending before the Legislature as this bill) of  
5 providing benefits for workers during periods of family temporary  
6 disability leave to care for family members incapable of self-care be  
7 construed as granting any worker an entitlement to be restored by  
8 the employer to employment held by the worker prior to taking  
9 family temporary disability leave or any right to take action, in tort,  
10 or for breach of an implied provision of the employment agreement,  
11 or under common law, against an employer who fails or refuses to  
12 restore the worker to employment after the family temporary  
13 disability leave, and the Legislature does not intend that the policy  
14 of providing benefits during family temporary disability leave be  
15 construed as increasing, reducing or otherwise modifying any  
16 entitlement of a worker to return to employment or right of the  
17 worker to take action under the provisions of the "Family Leave  
18 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), or the federal "Family  
19 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et  
20 seq.).<sup>1</sup>

21 Since the enactment of the "Temporary Disability Benefits Law,"  
22 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated  
23 State temporary disability benefits plan, or "State plan," has proven  
24 to be highly efficient and cost effective in providing temporary  
25 disability benefits to New Jersey workers. The State plan  
26 guarantees the availability of coverage for all employers, regardless  
27 of experience, with low overhead costs and a rapid processing of  
28 claims and appeals by knowledgeable, impartial public employees.  
29 Consequently, the percentage of all employers using the State plan  
30 increased from 64% in 1952 to 98% in 2006, while the percentage  
31 of employees covered by the State plan increased from 28% to 83%.  
32 A publicly-operated, nonprofit State plan is therefore indispensable  
33 to achieving the goals of the "Temporary Disability Benefits Law,"  
34 P.L.1948, c.110 (C.43:21-25 et seq.).

35 (cf: P.L.1948, c.110, s.2)

36

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

39 3. As used in this act, unless the context clearly requires  
40 otherwise:

41 (a) (1) "Covered employer" means, with respect to whether an  
42 employer is required to provide benefits during an employee's own  
43 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any  
44 individual or type of organization, including any partnership,  
45 association, trust, estate, joint-stock company, insurance company  
46 or corporation, whether domestic or foreign, or the receiver, trustee  
47 in bankruptcy, trustee or successor thereof, or the legal  
48 representative of a deceased person, who is an employer subject to

1 the [chapter to which this act is a supplement, designated as the]  
2 "unemployment compensation law" (R.S.43:21-1 et seq.), except  
3 the State, its political subdivisions, and any instrumentality of the  
4 State unless such governmental entity elects to become a covered  
5 employer [under the "Temporary Disability Benefits Law"]  
6 pursuant to paragraph (2) of this subsection (a); provided, however,  
7 that commencing with the effective date of this act, the State of  
8 New Jersey, including Rutgers, The State University, the University  
9 of Medicine and Dentistry of New Jersey and the New Jersey  
10 Institute of Technology, shall be deemed a covered employer, as  
11 defined herein.

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

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

40 (b) (1) "Covered individual" means, with respect to whether an  
41 individual is eligible for benefits during an individual's own  
42 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any  
43 person who is in employment, as defined in the [chapter to which  
44 this act is a supplement], "unemployment compensation law"  
45 (R.S.43:21-1 et seq.) for which the individual is entitled to  
46 remuneration from a covered employer, or who has been out of such  
47 employment for less than two weeks[. However,], except that a  
48 "covered individual" who is employed by the State of New Jersey,

1 including Rutgers, The State University, the University of Medicine  
2 and Dentistry of New Jersey and the New Jersey Institute of  
3 Technology, or by any governmental entity or instrumentality  
4 which elects to become a "covered employer" pursuant to this  
5 amendatory act, shall not be eligible to receive any benefits under  
6 the "Temporary Disability Benefits Law" until such individual has  
7 exhausted all sick leave accumulated as an employee in the  
8 classified service of the State or accumulated under terms and  
9 conditions similar to classified employees or accumulated under the  
10 terms and conditions pursuant to the laws of this State or as the  
11 result of a negotiated contract with any governmental entity or  
12 instrumentality which elects to become a "covered employer."

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (3) "Base week" with respect to periods of disability  
13 commencing on or after October 1, 1985 and before January 1,  
14 2001, means any calendar week during which **[an]** a covered  
15 individual earned in employment from a covered employer  
16 remuneration equal to not less than 20% of the Statewide average  
17 weekly **[remuneration]** wage determined under subsection (c) of  
18 R.S.43:21-3, which shall be adjusted to the next higher multiple of  
19 \$1.00 if not already a multiple thereof.

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

35 (j) (1) "Average weekly wage" means the amount derived  
36 by dividing a covered individual's total wages earned from the  
37 individual's most recent covered employer during the base weeks in  
38 the eight calendar weeks immediately preceding the calendar week  
39 in which a period of disability commenced, by the number of such  
40 base weeks.

41 (2) If **[this]** the computation in paragraph (1) of this subsection  
42 (j) yields a result which is less than the individual's average weekly  
43 earnings in employment**],** as defined in the chapter to which this act  
44 is a supplement,**]** with all covered employers during the base weeks  
45 in such eight calendar weeks, then the average weekly wage shall be  
46 computed on the basis of earnings from all covered employers  
47 during the **[eight]** base weeks in the eight calendar weeks

1 immediately preceding the week in which the period of disability  
2 commenced.

3 (3) For periods of disability commencing on or after July 1,  
4 2009, if the computations in paragraphs (1) and (2) of this  
5 subsection (j) both yield a result which is less than the individual's  
6 average weekly earnings in employment with all covered employers  
7 during the base weeks in the 26 calendar weeks immediately  
8 preceding the week in which the period of disability commenced,  
9 then the average weekly wage shall, upon a written request to the  
10 department by the individual on a form provided by the department,  
11 be computed by the department on the basis of earnings from all  
12 covered employers of the individual during the base weeks in those  
13 26 calendar weeks, and, in the case of a claim for benefits from a  
14 private plan, that computation of the average weekly wage shall be  
15 provided by the department to the individual and the individual's  
16 employer.

17 When determining the "average weekly wage" with respect to a  
18 period of family temporary disability leave for an individual who  
19 has a period of family temporary disability immediately after the  
20 individual has a period of disability for the individual's own  
21 disability, the period of disability is deemed to have commenced at  
22 the beginning of the period of disability for the individual's own  
23 disability, not the period of family temporary disability.

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

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

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

34 (n) "Family member" means a child, spouse, domestic partner,  
35 civil union partner or parent of a covered individual.

36 (o) "Family temporary disability leave" means leave taken by a  
37 covered individual from work with an employer to (1) participate in  
38 the providing of care<sup>1</sup>, as defined in the "Family Leave Act,"  
39 P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted  
40 pursuant to that act,<sup>1</sup> for a family member of the individual made  
41 necessary by a serious health condition of the family member<sup>1</sup> [,  
42 including providing psychological comfort and arranging third party  
43 care for the family member]<sup>1</sup>; or (2) be with a child during the first  
44 12 months after the child's birth, if the individual, or the domestic  
45 partner or civil union partner of the individual, is a biological parent  
46 of the child, or the first 12 months after the placement of the child  
47 for adoption with the individual. "Family temporary disability  
48 leave" does not include any period of time in which a covered

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

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

7 (q) "Parent of a covered individual" means a biological parent,  
8 foster parent, adoptive parent, or stepparent of the covered  
9 individual or a person who was a legal guardian of the covered  
10 individual when the covered individual was a child.

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

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

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

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

25  
26 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to  
27 read as follows:

28 5. Compensable disability. **【Disability】** (a) In the case of the  
29 disability of a covered individual, disability shall be compensable  
30 subject to the limitations of this act【, where a】 if the disability is  
31 the result of the covered individual 【suffers any】 suffering an  
32 accident or sickness not arising out of and in the course of the  
33 individual's employment or if so arising not compensable under the  
34 workers' compensation law 【(Title 34 of the Revised Statutes)】  
35 R.S.34:15-1 et seq., and resulting in the individual's total inability  
36 to perform the duties of employment.

37 (b) In the case of an individual taking family temporary  
38 disability leave, the leave shall be compensable subject to the  
39 limitations of P.L. , c. (C. )(pending before the  
40 Legislature as this bill).

41 (cf: P.L.1980, c.90, s.13)

42  
43 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to  
44 read as follows:

45 11. (a) If the division is furnished satisfactory evidence that a  
46 majority of the employees covered by an approved private plan  
47 have made election in writing to discontinue such plan, the division  
48 shall withdraw its approval of such plan effective at the end of the

1 calendar quarter next succeeding that in which such evidence is  
2 furnished. Upon receipt of a petition therefor signed by not less  
3 than 10% of the employees covered by an approved private plan,  
4 the division shall require the employer upon 30 days' written notice  
5 to conduct an election by ballot in writing to determine whether or  
6 not a majority of the employees covered by such private plan favor  
7 discontinuance thereof; provided, that such election shall not be  
8 required more often than once in any 12-month period.

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

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

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

45 (e) Anything in this act to the contrary notwithstanding, a  
46 covered employer who, under an approved private plan, is  
47 providing benefits at least equal to those required by the State plan,  
48 may modify the benefits under the private plan so as to provide

1 benefits not less than the benefits required by the State plan[;  
2 provided, that individuals]. Individuals covered under [such] a  
3 private plan shall not be required to contribute to [such] the plan at  
4 a rate exceeding 3/4 of 1% of the amount of "wages" established for  
5 any calendar year under the provisions of R.S.43:21-7(b) prior to  
6 January 1, 1975, and 1/2 of 1% for calendar years beginning on or  
7 after January 1, 1975. For a calendar year beginning on or after  
8 January 1, 2009: an employer providing a private plan only for  
9 benefits for employees during their own disabilities may require the  
10 employees to contribute to the plan at a rate not exceeding 0.5% of  
11 the amount of "wages" established for the calendar year under the  
12 provisions of R.S.43:21-7(b); an employer providing a private plan  
13 only for benefits for employees during periods of family temporary  
14 disability may require the individuals covered by the private plan to  
15 contribute an amount not exceeding the amount the individuals  
16 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer  
17 providing a private plan both for benefits for employees during their  
18 own disabilities and for benefits during periods of family temporary  
19 disability may require the employees to contribute to the plan at a  
20 rate not exceeding 0.5% of the amount of "wages" established for  
21 the calendar year under the provisions of R.S.43:21-7(b) plus an  
22 additional amount not exceeding the amount the individuals would  
23 pay pursuant to R.S.43:21-7(d)(1)(G)(ii). Notification of [such]  
24 the proposed modification shall be given by the employer to the  
25 division and to the individuals covered under [such] the plan[, on  
26 or before May 1, 1975].

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

28

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

31 14. Duration of benefits.

32 With respect to [periods] any period of disability for an  
33 individual's own disability commencing on or after January 1,  
34 1953, disability benefits, not in excess of an individual's maximum  
35 benefits, shall be payable with respect to disability which  
36 commences while a person is a covered individual under the  
37 Temporary Disability Benefits Law, and shall be payable with  
38 respect to the eighth consecutive day of such disability and each  
39 day thereafter that such period of disability continues; and if  
40 benefits shall be payable for three consecutive weeks with respect  
41 to any period of disability commencing on or after January 1, 1968,  
42 then benefits shall also be payable with respect to the first seven  
43 days thereof. With respect to any period of family temporary  
44 disability leave commencing on or after July 1, 2009 and while an  
45 individual is a covered individual, family temporary disability  
46 benefits, not in excess of the individual's maximum benefits, shall  
47 be payable with respect to the first day of leave taken after the first  
48 one-week period following the commencement of the period of

1 family temporary disability leave and each subsequent day of leave  
2 during that period of family temporary disability leave; and if  
3 benefits become payable on any day after the first three weeks in  
4 which leave is taken, then benefits shall also be payable with  
5 respect to any leave taken during the first one-week period in which  
6 leave is taken. The maximum total benefits payable to any eligible  
7 individual for any period of disability of the individual commencing  
8 on or after January 1, 1968, shall be either 26 times his weekly  
9 benefit amount or 1/3 of his total wages in his base year, whichever  
10 is the lesser; provided that such maximum amount shall be  
11 computed in the next lower multiple of \$1.00 if not already a  
12 multiple thereof. The maximum total benefits payable to any  
13 eligible individual for any period of family temporary disability  
14 leave commencing on or after July 1, 2009, shall be six times the  
15 individual's weekly benefit amount or 1/3 of his total wages in his  
16 base year, whichever is the lesser; provided that the maximum  
17 amount shall be computed in the next lower multiple of \$1.00, if not  
18 already a multiple thereof.

19 (cf: P.L.1984, c.104, s.2)

20

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

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

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

29 (1) if benefits shall be payable for three consecutive weeks with  
30 respect to any period of disability **commencing on or after January**  
31 **1, 1968**], then benefits shall also be payable with respect to the first  
32 seven days thereof;

33 (2) in the case of intermittent leave in a single period of family  
34 temporary disability leave taken to provide care for a family  
35 member of the individual with a serious health condition, benefits  
36 shall be payable with respect to the first day of leave taken after the  
37 first one-week period following the commencement of the period of  
38 family temporary disability leave and each subsequent day of leave  
39 during that period of family temporary disability leave; and if  
40 benefits become payable on any day after the first three weeks in  
41 which leave is taken, then benefits shall also be payable with  
42 respect to any leave taken during the first one-week period in which  
43 leave is taken, and

44 (3) in the case of an individual taking family temporary  
45 disability leave immediately after the individual has a period of  
46 disability for the individual's own disability, there shall be no  
47 waiting period between the period of the individual's own disability  
48 and the period of family temporary disability.

- 1 (b) (1) for more than 26 weeks with respect to any one period  
2 of disability of the individual;
- 3 (2) for more than six weeks with respect to any one period of  
4 family temporary disability leave, or more than 42 days with respect  
5 to any one period of family temporary disability leave taken on an  
6 intermittent basis to provide care for a family member of the  
7 individual with a serious health condition; and
- 8 (3) for more than six weeks of family temporary disability leave  
9 during any 12-month period, or more than 42 days of family  
10 temporary disability leave taken during any 12-month period, on an  
11 intermittent basis to provide care for a family member of the  
12 individual with a serious health condition, including family  
13 temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while  
14 unemployed.
- 15 (c) for any period of disability which did not commence while  
16 the claimant was a covered individual;
- 17 (d) for any period of disability of a claimant during which the  
18 claimant is not under the care of a legally licensed physician,  
19 dentist, optometrist, podiatrist, practicing psychologist, advanced  
20 practice nurse, or chiropractor, who, when requested by the  
21 division, shall certify within the scope of the practitioner's practice,  
22 the disability of the claimant, the probable duration thereof, and,  
23 where applicable, the medical facts within the practitioner's  
24 knowledge or for any period of family temporary disability leave  
25 for a serious health condition of a family member of the claimant,  
26 during which the family member is not receiving inpatient care in a  
27 hospital, hospice, or residential medical care facility or is not  
28 subject to continuing medical treatment or continuing supervision  
29 by a health care provider, who, when requested by the division,  
30 shall certify within the scope of the provider's practice, the serious  
31 health condition of the family member, the probable duration  
32 thereof, and, where applicable, the medical facts within the  
33 provider's knowledge;
- 34 (e) (Deleted by amendment, P.L.1980, c.90.)
- 35 (f) for any period of disability due to willfully and intentionally  
36 self-inflicted injury, or to injury sustained in the perpetration by the  
37 claimant of a crime of the first, second, third, or fourth degree, or  
38 for any period during which a covered individual would be  
39 disqualified for unemployment compensation benefits for gross  
40 misconduct under subsection (b) of R.S.43:21-5;
- 41 (g) for any period during which the claimant performs any work  
42 for remuneration or profit;
- 43 (h) in a weekly amount which together with any remuneration  
44 the claimant continues to receive from the employer would exceed  
45 regular weekly wages immediately prior to disability;
- 46 (i) for any period during which a covered individual would be  
47 disqualified for unemployment compensation benefits under  
48 subsection (d) of R.S.43:21-5, unless the disability commenced

1 prior to such disqualification; and there shall be no other cause of  
2 disqualification or ineligibility to receive disability benefits  
3 hereunder except as may be specifically provided in this act.

4 (cf: P.L.2007, c.322, s.1)

5

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

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

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

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

11 (d) (1) **[**With respect to periods of disability commencing on or  
12 after October 1, 1984 and before January 1, 2001, no individual  
13 shall be entitled to benefits under this act unless the individual has  
14 established at least 20 base weeks within the 52 calendar weeks  
15 preceding the week in which the individual's period of disability  
16 commenced, or, in the alternative, the individual has earned twelve  
17 times the Statewide average weekly remuneration paid to workers,  
18 as determined under subsection (c) of R.S. 43:21-3, raised to the  
19 next higher multiple of \$100.00, if not already a multiple thereof, or  
20 more within the 52 calendar weeks preceding the week in which the  
21 period of disability commenced, nor shall the individual be entitled  
22 to benefits unless he shall duly file notice and proof of claim, and  
23 submit to such reasonable examinations as are required by this act  
24 and the rules and regulations of the division.] (Deleted by  
25 amendment, P.L. , c. )(pending before the Legislature as this  
26 bill)

27 (2) With respect to periods of disability commencing on or after  
28 January 1, 2001, no individual shall be entitled to benefits under  
29 this act unless the individual has, within the 52 calendar weeks  
30 preceding the week in which the individual's period of disability  
31 commenced, established at least 20 base weeks or earned not less  
32 than 1,000 times the minimum wage in effect pursuant to section 5  
33 of P.L.1996, c.113 (C.34:11-56a4) on October 1 of the calendar  
34 year preceding the calendar year in which the disability commences,  
35 which amount shall be adjusted to the next higher multiple of  
36 \$100.00, if not already a multiple thereof.

37 (e) With respect to a period of family temporary disability leave  
38 for an individual who has a period of family temporary disability  
39 immediately after the individual has a period of disability for the  
40 individual's own disability, the period of disability is deemed, for  
41 the purposes of specifying the time of the 52-week period in which  
42 base weeks or earnings are required to be established for benefit  
43 eligibility pursuant to this subsection (e), to have commenced at the  
44 beginning of the period of disability for the individual's own  
45 disability, not the period of family temporary disability.

46 (cf: P.L.2001, c.17, s.4)

1       8. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to  
2 read as follows:

3       31. Penalties. (a) Whoever makes a false statement or  
4 representation knowing it to be false or knowingly fails to disclose  
5 a material fact, and each such false statement or representation or  
6 failure to disclose a material fact shall constitute a separate offense,  
7 to obtain or increase any disability benefit under the State plan or  
8 an approved private plan, or for a disability during unemployment,  
9 including any benefit during a period of family temporary disability  
10 leave, either for himself or for any other person, shall be liable for a  
11 fine of '~~twenty dollars (\$20.00)~~ \$250' to be paid to the division.  
12 Upon refusal to pay such fine, the same shall be recovered in a civil  
13 action by the division in the name of the State of New Jersey. If in  
14 any case liability for the payment of a fine as aforesaid shall be  
15 determined, any person who shall have received any benefits  
16 hereunder by reason of the making of such false statements or  
17 representations or failure to disclose a material fact, shall not be  
18 entitled to any benefits under this act for any disability occurring  
19 prior to the time he shall have discharged his liability hereunder to  
20 pay such fine.

21       (b) Any employer or any officer or agent of any employer or  
22 any other person who makes a false statement or representation  
23 knowing it to be false or knowingly fails to disclose a material fact,  
24 to prevent or reduce the benefits to any person entitled thereto, or to  
25 avoid becoming or remaining subject hereto or to avoid or reduce  
26 any contribution or other payment required from an employer under  
27 this act, or who willfully fails or refuses to make any such  
28 contributions or other payment or to furnish any reports required  
29 hereunder or to produce or permit the inspection or copying of  
30 records as required hereunder, shall be liable for a fine of twenty  
31 dollars '~~(\$20.00)~~ \$250' to be paid to the division. Upon refusal to  
32 pay such fine, the same shall be recovered in a civil action by the  
33 division in the name of the State of New Jersey.

34       (c) Any person who shall willfully violate any provision hereof  
35 or any rule or regulation made hereunder, for which a fine is neither  
36 prescribed herein nor provided by any other applicable statute, shall  
37 be liable to a fine of '~~fifty dollars (\$50.00)~~ \$500' to be paid to  
38 the division. Upon the refusal to pay such fine, the same shall be  
39 recovered in a civil action by the division in the name of the State  
40 of New Jersey.

41       (d) Any person, employing unit, employer or entity violating  
42 any of the provisions of the above subsections with intent to  
43 defraud the division shall in addition to the penalties hereinbefore  
44 described, be liable for each offense upon conviction before the  
45 Superior Court or any municipal court for a fine not to exceed  
46 '~~two hundred fifty dollars (\$250.00)~~ \$1,000' or by imprisonment  
47 for a term not to exceed ninety days, or both, at the discretion of the  
48 court. The fine upon conviction shall be payable to the State

1 disability benefits fund of the division. Any penalties imposed by  
2 this subsection shall be in addition to those otherwise prescribed in  
3 this chapter (R.S.43:21-1 et seq.).  
4 (cf: P.L.1997, c.318, s.1)

5  
6 9. Section 2 of P.L.1997, c.318 (C.43:21-55.1) is amended to  
7 read as follows:

8 2. (a) If it is determined by the division that an individual for  
9 any reason has received, under the State plan, an approved private  
10 plan or for a disability during unemployment, any sum of disability  
11 benefits, including benefits during a period of family temporary  
12 disability leave, to which the individual was not entitled, the  
13 individual shall, except as provided in subsection (b) of this section,  
14 be liable to repay the sum in full. Except as provided in subsection  
15 (b) of this section, the sum that the individual is liable to repay shall  
16 be deducted from future benefits payable to the individual under  
17 this act (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or  
18 shall be repaid by the individual to the division, the employer or the  
19 insurer, and that sum shall be collectible in the manner provided for  
20 by law, including, but not limited to, the filing of a certificate of  
21 debt with the Clerk of the Superior Court of New Jersey; except that  
22 no individual who does not knowingly misrepresent or withhold any  
23 material fact to obtain benefits shall be liable for any repayments or  
24 deductions against future benefits unless notified before four years  
25 have elapsed from the time the benefits in question were paid. The  
26 division shall promptly notify the individual by mail of the  
27 determination and the reasons for the determination. Unless the  
28 individual files an appeal of the determination within 20 calendar  
29 days following the receipt of the notice, or, within 24 days after the  
30 notice was mailed to the individual's last known address, the  
31 determination shall be final.

32 (b) If the individual received the overpayment of benefits  
33 because of error made by the division, the employer or the  
34 physician, and if the individual did not knowingly misrepresent or  
35 withhold any material fact to obtain the benefits, the following  
36 limits shall apply:

37 (1) The amount withheld from any subsequent benefit check  
38 shall be an amount not greater than 50% of the amount of the check;  
39 and

40 (2) All repayments of the overpayments by the individual or the  
41 estate of the individual shall be waived if the individual is deceased  
42 or permanently disabled.

43 Any demand for repayment from an individual pursuant to this  
44 subsection shall include an explanation of the provisions of this  
45 subsection.

46 (cf: P.L.1997, c.318, s.2)

- 1        10. (New section) a. Family temporary disability leave shall be  
2 compensable subject to the limitations of P.L.     , c.     (C.     )  
3 (pending before the Legislature as this bill) for any period of family  
4 temporary disability leave taken by a covered individual which  
5 commences after June 30, 2009.
- 6        b. An individual shall not simultaneously receive disability  
7 benefits for family temporary disability leave and any other  
8 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.)  
9 or any unemployment compensation.
- 10       c. The employer of an individual may, notwithstanding any  
11 other provision of law, including the provisions of N.J.S.18A:30-1  
12 et seq., permit or require the individual, during a period of family  
13 temporary disability leave, to use any paid sick leave, vacation time  
14 or other leave at full pay made available by the employer before the  
15 individual is eligible for disability benefits for family temporary  
16 disability leave pursuant to P.L.     , c.     (C.     ) (pending before  
17 the Legislature as this bill), except that the employer may not  
18 require the individual to use more than two weeks worth of leave at  
19 full pay. The employer may also have the total number of days  
20 worth of disability benefits paid pursuant to P.L.     , c.     (C.     )  
21 (pending before the Legislature as this bill) to the individual during  
22 a period of family temporary disability leave reduced by the number  
23 of days of leave at full pay paid by the employer to the individual  
24 during that period. If the employer requires the individual to use  
25 leave at full pay, the employee shall be permitted to take that fully-  
26 paid leave during the waiting period required pursuant to subsection  
27 (a) of section 15 of P.L.1948, c.110 (C.43:21-39). Nothing in  
28 P.L.     , c.     (C.     ) (pending before the Legislature as this bill)  
29 shall be construed as nullifying any provision of an existing  
30 collective bargaining agreement or employer policy, or preventing  
31 any new provision of a collective bargaining agreement or employer  
32 policy, which provides employees more generous leave or gives  
33 employees greater rights to select which kind of leave is used or  
34 select the order in which the different kinds of leave are used.  
35 Nothing in P.L.     , c.     (C.     ) (pending before the Legislature as  
36 this bill) shall be construed as preventing an employer from  
37 providing more generous benefits than are provided under  
38 P.L.     , c.     (C.     ) (pending before the Legislature as this bill) or  
39 providing benefits which supplement the benefits provided under  
40 P.L.     , c.     (C.     ) (pending before the Legislature as this bill) for  
41 some or all of the employer's employees.
- 42       d. An individual who is entitled to leave under the provisions  
43 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or  
44 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3  
45 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for  
46 family temporary disability leave pursuant to P.L.     , c.     (C.     )  
47 (pending before the Legislature as this bill) concurrently with leave  
48 taken pursuant to the "Family Leave Act," P.L.1989, c.261

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

26 e. An employee taking family temporary disability leave or an  
27 employer from whom the employee is taking the leave shall have  
28 the same right to appeal a determination of a benefit for the family  
29 temporary disability leave made under P.L. , c. (C. )  
30 (pending before the Legislature as this bill) as an employee or  
31 employer has to appeal a determination of a benefit for the  
32 disability of the employee under the “Temporary Disability Benefits  
33 Law,” P.L.1948, c.110 (C.43:21-25 et seq.), and any regulations  
34 adopted pursuant to the “Temporary Disability Benefits Law,”  
35 P.L.1948, c.110 (C.43:21-25 et seq.).

36 f. In the event of a period of family temporary disability leave  
37 of any individual covered under the State plan, the employer shall,  
38 not later than the ninth day of the period of family temporary  
39 disability leave, including any waiting period or time in which the  
40 employer provides sick leave, vacation or other fully paid leave,  
41 issue to the individual and to the division printed notices on  
42 division forms containing the name, address and Social Security  
43 number of the individual, such wage information as the division  
44 may require to determine the individual's eligibility for benefits,  
45 including any sick pay, vacation or other fully paid time off  
46 provided by the employer during the period of family temporary  
47 disability leave, and the name, address, and division identity  
48 number of the employer. Not later than 30 days after the

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

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

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

1 provide the employer with prior notice of the leave in a reasonable  
2 and practicable manner, unless an emergency or other unforeseen  
3 circumstance precludes prior notice; provide a copy of the  
4 certification required pursuant to subsection b. of this section; make  
5 a reasonable effort to schedule the leave so as not to unduly disrupt  
6 the operations of the employer.

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

11 (1) The date, if known, on which the serious health condition  
12 commenced;

13 (2) The probable duration of the condition;

14 (3) The medical facts within the knowledge of the provider of  
15 the certification regarding the condition;

16 (4) A statement that the serious health condition warrants the  
17 participation of the covered individual in providing health care,  
18 <sup>1</sup>[including providing psychological comfort and arranging third  
19 party care for the family member] as provided in the "Family Leave  
20 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted  
21 pursuant to that act<sup>1</sup>;

22 (5) An estimate of the amount of time that the covered  
23 individual is needed for participation in the care of the family  
24 member;

25 (6) If the leave is intermittent, a statement of the medical  
26 necessity for the intermittent leave and the expected duration of the  
27 intermittent leave; and

28 (7) If the leave is intermittent and for planned medical  
29 treatment, the dates of the treatment.

30 c. A covered individual claiming benefits to provide care for a  
31 family member with a serious health condition under the State plan  
32 or during unemployment shall, if requested by the division, have the  
33 family member submit to an examination by a health care provider  
34 designated by the division. The examinations shall not be more  
35 frequent than once a week, shall be made without cost to the  
36 claimant and shall be held at a reasonable time and place. Refusal  
37 of the family member to submit to an examination requested  
38 pursuant to this subsection shall disqualify the claimant from all  
39 benefits for the period in question, except from benefits already  
40 paid.

41

42 12. (New section) a. All of the disability benefits paid to a  
43 covered individual during a period of family temporary disability  
44 leave with respect to any one birth or adoption shall be for a single  
45 continuous period of time, except that the employer of the covered  
46 individual may permit the covered individual to receive the  
47 disability benefits during non-consecutive weeks in a manner

1 mutually agreed to by the employer and the covered individual and  
2 disclosed to the division by the employer.

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

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

16  
17 13. (New section) a. The Commissioner of Labor and  
18 Workforce Development shall issue and make available to the  
19 public, not later than December 31, 2010, and each subsequent year,  
20 annual reports providing data on temporary disability benefits,  
21 including separate data for claims involving pregnancy and  
22 childbirth, and family temporary disability benefits, including  
23 separate data for each of the following categories of claims: care of  
24 newborn children; care of newly adopted children; care of sick  
25 children; care of sick spouses, and care of other sick family  
26 members. The reports shall include, for each category of claims,  
27 the number of workers receiving the benefits, the amount of  
28 benefits paid, the average duration of benefits, the average weekly  
29 benefit, and, in the case of family temporary disability benefits, any  
30 reported amount of sick leave, vacation or other fully paid time  
31 which resulted in reduced benefit duration. The report shall provide  
32 data by gender and by any other demographic factors determined to  
33 be relevant by the commissioner. The reports shall also provide, for  
34 all temporary disability benefits and for all family temporary  
35 disability benefits, the total costs of benefits and the total cost of  
36 administration, the portion of benefits for claims during  
37 unemployment, and the total revenues from: employer assessments,  
38 where applicable; employee assessments; and other sources.

39 b. The commissioner may, in his discretion, conduct surveys  
40 and other research regarding, and include in the annual reports  
41 descriptions and evaluations of, the impact and potential future  
42 impact of the provisions of P.L. , c. (C. ) (pending before the  
43 Legislature as this bill) on the State disability benefits fund, and  
44 other effects of those provisions, including the costs and benefits  
45 resulting from the provisions of P.L. , c. (C. ) (pending before  
46 the Legislature as this bill) for:

47 (1) Employees and their families, including surveys and  
48 evaluations of: what portion of the total number of employees

1 taking leave would not have taken leave, or would have taken less  
2 leave, without the availability of benefits; what portion of  
3 employees return to work after receiving benefits and what portion  
4 are not permitted to return to work; and what portion of employees  
5 who are eligible for benefits do not claim or receive them and why  
6 they do not;

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

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

13 c. The total amount of any expenses which the commissioner  
14 determines are necessary to carry out its duties pursuant to this  
15 section shall be charged to the Family Temporary Disability Leave  
16 Account of the State disability benefits fund, except that the amount  
17 shall in no case exceed \$150,000 during any fiscal year.  
18

19 14. R.S.43:21-4 is amended to read as follows:

20 43:21-4. Benefit eligibility conditions. An unemployed  
21 individual shall be eligible to receive benefits with respect to any  
22 week only if:

23 (a) The individual has filed a claim at an unemployment  
24 insurance claims office and thereafter continues to report at an  
25 employment service office or unemployment insurance claims  
26 office, as directed by the division in accordance with such  
27 regulations as the division may prescribe, except that the division  
28 may, by regulation, waive or alter either or both of the requirements  
29 of this subsection as to individuals attached to regular jobs, and as  
30 to such other types of cases or situations with respect to which the  
31 division finds that compliance with such requirements would be  
32 oppressive, or would be inconsistent with the purpose of this act;  
33 provided that no such regulation shall conflict with subsection (a) of  
34 R.S.43:21-3.

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

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

41 (2) The director may modify the requirement of actively seeking  
42 work if such modification of this requirement is warranted by  
43 economic conditions.

44 (3) No individual, who is otherwise eligible, shall be deemed  
45 ineligible, or unavailable for work, because the individual is on  
46 vacation, without pay, during said week, if said vacation is not the  
47 result of the individual's own action as distinguished from any

1 collective action of a collective bargaining agent or other action  
2 beyond the individual's control.

3 (4) (A) Subject to such limitations and conditions as the division  
4 may prescribe, an individual, who is otherwise eligible, shall not be  
5 deemed unavailable for work or ineligible because the individual is  
6 attending a training program approved for the individual by the  
7 division to enhance the individual's employment opportunities or  
8 because the individual failed or refused to accept work while  
9 attending such program.

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

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

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

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

22 (iv) The training does not include on the job training or other  
23 training under which the individual is paid by an employer for work  
24 performed by the individual during the time that the individual  
25 receives benefits; and

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

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

31 (i) The training includes remedial basic skills education  
32 necessary for the individual to successfully complete the vocational  
33 component of the training;

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

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

38 (iv) The lack of a prior guarantee of employment upon  
39 completion of the training.

40 (D) For the purpose of this paragraph (4), "labor demand  
41 occupation" means an occupation for which there is or is likely to  
42 be an excess of demand over supply for adequately trained workers,  
43 including, but not limited to, an occupation designated as a labor  
44 demand occupation by the 【New Jersey】 Center for Occupational  
45 Employment Information 【Coordinating Committee】 pursuant to  
46 the provisions of subsection 【h.】 d. of section 【1 of P.L.1987, c.457  
47 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)】 27 of  
48 P.L.2005, c.354 (C.34:1A-86).

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

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

10 For purposes of this paragraph, "immediate family member"  
11 includes any of the following individuals: father, mother, mother-  
12 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,  
13 child, child placed by the Division of Youth and Family Services in  
14 the Department of Children and Families, sister or brother of the  
15 unemployed individual and any relatives of the unemployed  
16 individual residing in the unemployed individual's household.

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

24 (8) Any individual who is determined to be likely to exhaust  
25 regular benefits and need reemployment services based on  
26 information obtained by the worker profiling system shall not be  
27 eligible to receive benefits if the individual fails to participate in  
28 available reemployment services to which the individual is referred  
29 by the division or in similar services, unless the division determines  
30 that:

- 31 (A) The individual has completed the reemployment services; or  
32 (B) There is justifiable cause for the failure to participate, which  
33 shall include participation in employment and training, self-  
34 employment assistance activities or other activities authorized by  
35 the division to assist reemployment or enhance the marketable skills  
36 and earning power of the individual and which shall include any  
37 other circumstance indicated pursuant to this section in which an  
38 individual is not required to be available for and actively seeking  
39 work to receive benefits.

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

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

1 shall be eligible to receive benefits as appropriate with respect to  
2 the waiting period. No week shall be counted as a week of  
3 unemployment for the purposes of this subsection:

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

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

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

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

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

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

26 (2) **【**With respect to benefit years commencing on or after  
27 January 1, 1996 and before January 7, 2001, except as otherwise  
28 provided in paragraph (3) of this subsection, the individual has,  
29 during his base year as defined in subsection (c) of R.S.43:21-19:

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

32 (B) If the individual has not met the requirements of  
33 subparagraph (A) of this paragraph (2), earned remuneration not  
34 less than an amount 12 times the Statewide average weekly  
35 remuneration paid to workers, as determined under R.S.43:21-3(c),  
36 which amount shall be adjusted to the next higher multiple of \$100  
37 if not already a multiple thereof; or

38 If the individual has not met the requirements of subparagraph  
39 (A) or (B) of this paragraph (2), earned remuneration not less than  
40 an amount 1,000 times the minimum wage in effect pursuant to  
41 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the  
42 calendar year preceding the calendar year in which the benefit year  
43 commences, which amount shall be adjusted to the next higher  
44 multiple of \$100 if not already a multiple thereof. **】** (Deleted by  
45 amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the legislature as  
46 this bill).

47 **【**(3)With respect to benefit years commencing before January 7,  
48 2001, notwithstanding the provisions of paragraph (2) of this

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

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

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

12 (C) Has performed at least 770 hours of service in the  
13 production and harvesting of agricultural crops. ~~]( Deleted by~~  
14 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
15 ~~bill).~~

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

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

22 (B) If the individual has not met the requirements of  
23 subparagraph (A) of this paragraph (4), earned remuneration not  
24 less than an amount 1,000 times the minimum wage in effect  
25 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
26 1 of the calendar year preceding the calendar year in which the  
27 benefit year commences, which amount shall be adjusted to the next  
28 higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

46 (6) The individual applying for benefits in any successive  
47 benefit year has earned at least six times his previous weekly  
48 benefit amount and has had four weeks of employment since the

1 beginning of the immediately preceding benefit year. This  
2 provision shall be in addition to the earnings requirements specified  
3 in paragraph [(2), (3),] (4) or (5) of this subsection, as applicable.

4 (f) (1) The individual has suffered any accident or sickness not  
5 compensable under the workers' compensation law, R.S.34:15-1 et  
6 seq. and resulting in the individual's total disability to perform any  
7 work for remuneration, and would be eligible to receive benefits  
8 under this chapter (R.S.43:21-1 et seq.) (without regard to the  
9 maximum amount of benefits payable during any benefit year)  
10 except for the inability to work and has furnished notice and proof  
11 of claim to the division, in accordance with its rules and  
12 regulations, and payment is not precluded by the provisions of  
13 R.S.43:21-3(d); provided, however, that benefits paid under this  
14 subsection (f) shall be computed on the basis of only those base  
15 year wages earned by the claimant as a "covered individual," as  
16 defined in R.S.43:21-27(b); provided further that no benefits shall  
17 be payable under this subsection to any individual:

18 (A) For any period during which such individual is not under the  
19 care of a legally licensed physician, dentist, optometrist, podiatrist,  
20 practicing psychologist, advanced practice nurse, or chiropractor,  
21 who, when requested by the division, shall certify within the scope  
22 of the practitioner's practice, the disability of the individual, the  
23 probable duration thereof, and, where applicable, the medical facts  
24 within the practitioner's knowledge;

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

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

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

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

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

44 (2) The individual is taking family temporary disability leave to  
45 provide care for a family member with a serious health condition or  
46 to be with a child during the first 12 months after the child's birth or  
47 placement of the child for adoption with the individual, and the  
48 individual would be eligible to receive benefits under R.S.43:21-1

1 et seq. (without regard to the maximum amount of benefits payable  
2 during any benefit year) except for the individual's unavailability  
3 for work while taking the family temporary disability leave, and the  
4 individual has furnished notice and proof of claim to the division, in  
5 accordance with its rules and regulations, and payment is not  
6 precluded by the provisions of R.S.43:21-3(d) provided, however,  
7 that benefits paid under this subsection (f) shall be computed on the  
8 basis of only those base year wages earned by the claimant as a  
9 "covered individual," as defined in R.S.43:21-27(b); provided  
10 further that no benefits shall be payable under this subsection to any  
11 individual:

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

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

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

27 (D) For any period of family temporary disability leave for a  
28 serious health condition of a family member of the claimant during  
29 which the family member is not receiving inpatient care in a  
30 hospital, hospice, or residential medical care facility and is not  
31 subject to continuing medical treatment or continuing supervision  
32 by a health care provider, who, when requested by the division,  
33 shall certify within the scope of the provider's practice, the serious  
34 health condition of the family member, the probable duration  
35 thereof, and, where applicable, the medical facts within the  
36 provider's knowledge.

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

43 (g) Benefits based on service in employment defined in  
44 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable  
45 in the same amount and on the terms and subject to the same  
46 conditions as benefits payable on the basis of other service subject  
47 to the "unemployment compensation law"; except that,

1 notwithstanding any other provisions of the "unemployment  
2 compensation law":

3 (1) With respect to service performed after December 31, 1977,  
4 in an instructional research, or principal administrative capacity for  
5 an educational institution, benefits shall not be paid based on such  
6 services for any week of unemployment commencing during the  
7 period between two successive academic years, or during a similar  
8 period between two regular terms, whether or not successive, or  
9 during a period of paid sabbatical leave provided for in the  
10 individual's contract, to any individual if such individual performs  
11 such services in the first of such academic years (or terms) and if  
12 there is a contract or a reasonable assurance that such individual  
13 will perform services in any such capacity for any educational  
14 institution in the second of such academic years or terms;

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

30 (3) With respect to those services described in paragraphs (1)  
31 and (2) above, benefits shall not be paid on the basis of such  
32 services to any individual for any week which commences during  
33 an established and customary vacation period or holiday recess if  
34 such individual performs such services in the period immediately  
35 before such vacation period or holiday recess, and there is a  
36 reasonable assurance that such individual will perform such  
37 services in the period immediately following such period or holiday  
38 recess;

39 (4) With respect to any services described in paragraphs (1) and  
40 (2) above, benefits shall not be paid as specified in paragraphs (1),  
41 (2), and (3) above to any individual who performed those services  
42 in an educational institution while in the employ of an educational  
43 service agency, and for this purpose the term "educational service  
44 agency" means a governmental agency or governmental entity  
45 which is established and operated exclusively for the purpose of  
46 providing those services to one or more educational institutions.

47 (h) Benefits shall not be paid to any individual on the basis of  
48 any services, substantially all of which consist of participating in

1 sports or athletic events or training or preparing to so participate,  
2 for any week which commences during the period between two  
3 successive sports seasons (or similar periods) if such individual  
4 performed such services in the first of such seasons (or similar  
5 periods) and there is a reasonable assurance that such individual  
6 will perform such services in the later of such seasons (or similar  
7 periods).

8 (i) (1) Benefits shall not be paid on the basis of services  
9 performed by an alien unless such alien is an individual who was  
10 lawfully admitted for permanent residence at the time the services  
11 were performed and was lawfully present for the purpose of  
12 performing the services or otherwise was permanently residing in  
13 the United States under color of law at the time the services were  
14 performed (including an alien who is lawfully present in the United  
15 States as a result of the application of the provisions of section  
16 212(d)(5) (8U.S.C. s.1182 (d)(5)) of the Immigration and  
17 Nationality Act (8U.S.C. s.1101 et seq.)); provided that any  
18 modifications of the provisions of section 3304(a)(14) of the  
19 Federal Unemployment Tax Act (28U.S.C. s.3304 (a)(14)), as  
20 provided by Pub.L.94-566, which specify other conditions or other  
21 effective dates than stated herein for the denial of benefits based on  
22 services performed by aliens and which modifications are required  
23 to be implemented under State law as a condition for full tax credit  
24 against the tax imposed by the Federal Unemployment Tax Act,  
25 shall be deemed applicable under the provisions of this section.

26 (2) Any data or information required of individuals applying for  
27 benefits to determine whether benefits are not payable to them  
28 because of their alien status shall be uniformly required from all  
29 applicants for benefits.

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

34 (j) Notwithstanding any other provision of this chapter, the  
35 director may, to the extent that it may be deemed efficient and  
36 economical, provide for consolidated administration by one or more  
37 representatives or deputies of claims made pursuant to subsection  
38 (f) of this section with those made pursuant to Article III (State  
39 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110  
40 (C.43:21-25 et seq.).

41 (cf: P.L.2006, c.47, s.187)

42

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

44 43:21-7. Contributions. Employers other than governmental  
45 entities, whose benefit financing provisions are set forth in section 4  
46 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations  
47 liable for payment in lieu of contributions on the basis set forth in  
48 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the

1 controller for the unemployment compensation fund, contributions  
2 as set forth in subsections (a), (b) and (c) hereof, and the provisions  
3 of subsections (d) and (e) shall be applicable to all employers,  
4 consistent with the provisions of the "unemployment compensation  
5 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110  
6 (C.43:21-25 et seq.).

7 (a) Payment.

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

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

20 (b) Rate of contributions. Each employer shall pay the  
21 following contributions:

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

26 (2) The "wages" of any individual, with respect to any one  
27 employer, as the term is used in this subsection (b) and in  
28 subsections (c), (d) and (e) of this section 7, shall include the first  
29 \$4,800.00 paid during calendar year 1975, for services performed  
30 either within or without this State; provided that no contribution  
31 shall be required by this State with respect to services performed in  
32 another state if such other state imposes contribution liability with  
33 respect thereto. If an employer (hereinafter referred to as a  
34 successor employer) during any calendar year acquires substantially  
35 all the property used in a trade or business of another employer  
36 (hereinafter referred to as a predecessor), or used in a separate unit  
37 of a trade or business of a predecessor, and immediately after the  
38 acquisition employs in his trade or business an individual who  
39 immediately prior to the acquisition was employed in the trade or  
40 business of such predecessors, then, for the purpose of determining  
41 whether the successor employer has paid wages with respect to  
42 employment equal to the first \$4,800.00 paid during calendar year  
43 1975, any wages paid to such individual by such predecessor during  
44 such calendar year and prior to such acquisition shall be considered  
45 as having been paid by such successor employer.

46 (3) For calendar years beginning on and after January 1, 1976,  
47 the "wages" of any individual, as defined in the preceding  
48 paragraph (2) of this subsection (b), shall be established and

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

16 (c) Future rates based on benefit experience.

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

1 such payment is being charged, shall show at least the name and  
2 social security account number of the claimant and shall specify the  
3 period of unemployment to which said check applies. If the total  
4 amount of benefits paid to a claimant and charged to the account of  
5 the appropriate employer exceeds 50% of the total base year, base  
6 week wages paid to the claimant by that employer, then such  
7 employer shall have canceled from his account such excess benefit  
8 charges as specified above.

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

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

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

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

37 (1)  $2 \frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
38 5%, of his average annual payroll (as defined in paragraph (2),  
39 subsection (a) of R.S.43:21-19);

40 (2)  $2 \frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less  
41 than 6%, of his average annual payroll;

42 (3)  $1 \frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
43 than 7%, of his average annual payroll;

44 (4)  $1 \frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
45 than 8%, of his average annual payroll;

46 (5)  $1 \frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
47 than 9%, of his average annual payroll;

1 (6) 1%, if such excess equals or exceeds 9%, but is less than  
2 10%, of his average annual payroll;

3 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less  
4 than 11%, of his average annual payroll;

5 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his  
6 average annual payroll.

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

11 (1) 4%, if such excess is less than 10% of his average annual  
12 payroll;

13 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less  
14 than 20%, of his average annual payroll;

15 (3) 4 6/10%, if such excess equals or exceeds 20% of his  
16 average annual payroll.

17 (C) Specially assigned rates.

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

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

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

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

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

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

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

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

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

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

1 paragraphs (3) and (4) of this subsection; provided that in no event  
2 shall the contribution rate of any employer be reduced to less than  
3 4/10 of 1%.

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

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

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

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

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

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

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

EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio <sup>1</sup>					
	2.50%	2.00%	1.50%	1.00%	0.99%
Employer Reserve Ratio <sup>2</sup>	and Over A	to B	to C	to D	and Under E
<b>Positive Reserve Ratio:</b>					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
<b>Deficit Reserve Ratio:</b>					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages). **】** (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_)(pending before the Legislature as this bill)

(vi) With respect to experience rating years beginning on or after July 1, 2004, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the

1 line with the Employer Reserve Ratio, as defined in paragraph 4 of  
 2 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
 3 table:

4

5 **EXPERIENCE RATING TAX TABLE**

6 **Fund Reserve Ratio<sup>1</sup>**

7

8	1.40%	1.00%	0.75%	0.50%	0.49%
9 Employer	and	to	to	to	and
10 Reserve	Over	1.39%	0.99%	0.74%	Under
11 Ratio <sup>2</sup>	A	B	C	D	E
12 Positive Reserve Ratio:					
13 17% and over	0.3	0.4	0.5	0.6	1.2
14 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
16 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
17 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
18 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
19 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
20 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
21 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
22 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
23 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
24 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
25 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
26 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
27 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
28 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
29 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
30 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
31 Deficit Reserve Ratio:					
32 -0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
33 -3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
34 -6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
35 -9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
36 -12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
37 -15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
38 -20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
39 -25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
40 -30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
41 -35.00% and under	5.4	5.4	5.8	6.4	7.0
42 New Employer Rate	2.8	2.8	2.8	3.1	3.4

43 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
 44 in the prior calendar year.

45 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
 46 percentage of employer's taxable wages).

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

1 (ii) ~~【With respect to experience rating years beginning on or~~  
2 ~~after July 1, 1997, if the fund reserve ratio, based on the fund~~  
3 ~~balance as of the prior March 31, is less than 1.00%, the~~  
4 ~~contribution rate for each employer liable to pay contributions, as~~  
5 ~~computed under subparagraph (E) of this paragraph (5), shall be~~  
6 ~~increased by a factor of 10% computed to the nearest multiple of~~  
7 ~~1/10% if not already a multiple thereof.】 (Deleted by amendment,~~  
8 ~~P.L. \_\_\_\_\_, c. \_\_\_\_\_)(pending before the Legislature as this bill)~~

9 (iii) With respect to experience rating years beginning on or after  
10 July 1, 2004, if the fund reserve ratio, based on the fund balance as  
11 of the prior March 31, is less than 0.50%, the contribution rate for  
12 each employer liable to pay contributions, as computed under  
13 subparagraph (E) of this paragraph (5), shall be increased by a  
14 factor of 10% computed to the nearest multiple of 1/10% if not  
15 already a multiple thereof.

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

27 (H) ~~【On or after January 1, 1993 until December 31, 1993,~~  
28 ~~notwithstanding any other provisions of this paragraph (5), the~~  
29 ~~contribution rate for each employer liable to pay contributions, as~~  
30 ~~computed under subparagraph (E) of this paragraph (5), shall be~~  
31 ~~decreased by a factor of 52.0% computed to the nearest multiple of~~  
32 ~~1/10%, except that, if an employer has a deficit reserve ratio of~~  
33 ~~negative 35.0% or under, the employer's rate of contribution shall~~  
34 ~~not be reduced pursuant to this subparagraph (H) to less than 5.4%.~~  
35 ~~The amount of the reduction in the employer contributions~~  
36 ~~stipulated by this subparagraph (H) shall be in addition to the~~  
37 ~~amount of the reduction in the employer contributions stipulated by~~  
38 ~~subparagraph (G) of this paragraph (5), except that the rate of~~  
39 ~~contribution of an employer who has a deficit reserve ratio of~~  
40 ~~negative 35.0% or under shall not be reduced pursuant to this~~  
41 ~~subparagraph (H) to less than 5.4% and the rate of contribution of~~  
42 ~~any other employer shall not be reduced to less than 0.0%. On or~~  
43 ~~after January 1, 1994 until December 31, 1995, except as provided~~  
44 ~~pursuant to subparagraph (I) of this paragraph (5), notwithstanding~~  
45 ~~any other provisions of this paragraph (5), the contribution rate for~~  
46 ~~each employer liable to pay contributions, as computed under~~  
47 ~~subparagraph (E) of this paragraph (5), shall be decreased by a~~  
48 ~~factor of 36.0% computed to the nearest multiple of 1/10%, except~~

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

12 On or after April 1, 1996 until December 31, 1996, the  
13 contribution rate for each employer liable to pay contributions, as  
14 computed under subparagraph (E) of this paragraph (5), shall be  
15 decreased by a factor of 25.0% computed to the nearest multiple of  
16 1/10%, except that, if an employer has a deficit reserve ratio of  
17 negative 35.0% or under, the employer's rate of contribution shall  
18 not be reduced pursuant to this subparagraph (H) to less than 5.4%.  
19 The amount of the reduction in the employer contributions  
20 stipulated by this subparagraph (H) shall be in addition to the  
21 amount of the reduction in the employer contributions stipulated by  
22 subparagraph (G) of this paragraph (5), except that the rate of  
23 contribution of an employer who has a deficit reserve ratio of  
24 negative 35.0% or under shall not be reduced pursuant to this  
25 subparagraph (H) to less than 5.4% and the rate of contribution of  
26 any other employer shall not be reduced to less than 0.0%.

27 On or after January 1, 1997 until December 31, 1997, the  
28 contribution rate for each employer liable to pay contributions, as  
29 computed under subparagraph (E) of this paragraph (5), shall be  
30 decreased by a factor of 10.0% computed to the nearest multiple of  
31 1/10%, except that, if an employer has a deficit reserve ratio of  
32 negative 35.0% or under, the employer's rate of contribution shall  
33 not be reduced pursuant to this subparagraph (H) to less than 5.4%.  
34 The amount of the reduction in the employer contributions  
35 stipulated by this subparagraph (H) shall be in addition to the  
36 amount of the reduction in the employer contributions stipulated by  
37 subparagraph (G) of this paragraph (5), except that the rate of  
38 contribution of an employer who has a deficit reserve ratio of  
39 negative 35.0% or under shall not be reduced pursuant to this  
40 subparagraph (H) to less than 5.4% and the rate of contribution of  
41 any other employer shall not be reduced to less than 0.0%. ]

42 On and after January 1, 1998 until December 31, 2000 and on or  
43 after January 1, 2002 until June 30, 2006, the contribution rate for  
44 each employer liable to pay contributions, as computed under  
45 subparagraph (E) of this paragraph (5), shall be decreased by a  
46 factor, as set out below, computed to the nearest multiple of 1/10%,  
47 except that, if an employer has a deficit reserve ratio of negative

1 35.0% or under, the employer's rate of contribution shall not be  
2 reduced pursuant to this subparagraph (H) to less than 5.4%:

- 3 From January 1, 1998 until December 31, 1998, a factor of 12%;
- 4 From January 1, 1999 until December 31, 1999, a factor of 10%;
- 5 From January 1, 2000 until December 31, 2000, a factor of 7%;
- 6 From January 1, 2002 until March 31, 2002, a factor of 36%;
- 7 From April 1, 2002 until June 30, 2002, a factor of 85%;
- 8 From July 1, 2002 until June 30, 2003, a factor of 15%;
- 9 From July 1, 2003 until June 30, 2004, a factor of 15%;
- 10 From July 1, 2004 until June 30, 2005, a factor of 7%;
- 11 From July 1, 2005 until December 31, 2005, a factor of 16%; and
- 12 From January 1, 2006 until June 30, 2006, a factor of 34%.

13 The amount of the reduction in the employer contributions  
14 stipulated by this subparagraph (H) shall be in addition to the  
15 amount of the reduction in the employer contributions stipulated by  
16 subparagraph (G) of this paragraph (5), except that the rate of  
17 contribution of an employer who has a deficit reserve ratio of  
18 negative 35.0% or under shall not be reduced pursuant to this  
19 subparagraph (H) to less than 5.4% and the rate of contribution of  
20 any other employer shall not be reduced to less than 0.0%.

21 (I) [If the fund reserve ratio decreases to a level of less than  
22 4.00% on March 31 of calendar year 1994 or calendar year 1995,  
23 the provisions of subparagraph (H) of this paragraph (5) shall cease  
24 to be in effect as of July 1 of that calendar year.

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

1 unemployment compensation fund, shall result, upon recalculation,  
2 in a fund reserve ratio used to determine employer contributions  
3 beginning July 1, 2000 of at least 3.00%. ] (Deleted by amendment,  
4 P.L. , c. )(pending before the Legislature as this bill)

5 (J) On or after July 1, 2001, notwithstanding any other  
6 provisions of this paragraph (5), the contribution rate for each  
7 employer liable to pay contributions, as computed under  
8 subparagraph (E) of this paragraph (5), shall be decreased by  
9 0.0175%, except that, during any experience rating year starting on  
10 or after July 1, 2001, in which the fund reserve ratio is equal to or  
11 greater than 3.5%, there shall be no decrease pursuant to this  
12 subparagraph (J) in the contribution of any employer who has a  
13 deficit reserve ratio of negative 35.00% or under. The amount of the  
14 reduction in the employer contributions stipulated by this  
15 subparagraph (J) shall be in addition to the amount of the reduction  
16 in the employer contributions stipulated by subparagraphs (G) and  
17 (H) of this paragraph (5), except that the rate of contribution of an  
18 employer who has a deficit reserve ratio of negative 35.0% or under  
19 shall not be reduced pursuant to this subparagraph (J) to less than  
20 5.4% and the rate of contribution of any other employer shall not be  
21 reduced to less than 0.0%.

22 (6) Additional contributions.

23 Notwithstanding any other provision of law, any employer who  
24 has been assigned a contribution rate pursuant to subsection (c) of  
25 this section for the year commencing July 1, 1948, and for any year  
26 commencing July 1 thereafter, may voluntarily make payment of  
27 additional contributions, and upon such payment shall receive a  
28 recomputation of the experience rate applicable to such employer,  
29 including in the calculation the additional contribution so made,  
30 except that, following a transfer as described under R.S.43:21-  
31 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
32 eligible to make a voluntary payment of additional contributions  
33 during the year the transfer occurs and the next full calendar year.  
34 Any such additional contribution shall be made during the 30-day  
35 period following the date of the mailing to the employer of the  
36 notice of his contribution rate as prescribed in this section, unless,  
37 for good cause, the time for payment has been extended by the  
38 controller for not to exceed an additional 60 days; provided that in  
39 no event may such payments which are made later than 120 days  
40 after the beginning of the year for which such rates are effective be  
41 considered in determining the experience rate for the year in which  
42 the payment is made. Any employer receiving any extended period  
43 of time within which to make such additional payment and failing  
44 to make such payment timely shall be, in addition to the required  
45 amount of additional payment, liable for a penalty of 5% thereof or  
46 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment  
47 under this subsection shall be made only in the form of credits  
48 against accrued or future contributions.

1 (7) Transfers.

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

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

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

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

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

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

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

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

42 (B) Effective January 1, 1978 there shall be no contributions by  
43 workers in the employ of any governmental or nongovernmental  
44 employer electing or required to make payments in lieu of  
45 contributions unless the employer is covered by the State plan under  
46 the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and  
47 in that case contributions shall be at the rate of 1/2 of 1%, except  
48 that commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments  
2 in lieu of contributions shall be required to make contributions to  
3 the fund at the same rate prescribed for workers of other  
4 nongovernmental employers.

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

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

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

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

11 Each worker shall, starting on January 1, 1996 and ending March  
12 31, 1996, contribute to the unemployment compensation fund  
13 0.60% of wages paid with respect to the worker's employment with  
14 a governmental employer electing or required to pay contributions  
15 or nongovernmental employer, including a nonprofit organization  
16 which is an employer as defined under paragraph (6) of subsection  
17 (h) of R.S.43:21-19, regardless of whether that nonprofit  
18 organization elects or is required to finance its benefit costs with  
19 contributions to the fund or by payments in lieu of contributions,  
20 after that employer has satisfied the conditions set forth in  
21 subsection (h) of R.S.43:21-19 with respect to becoming an  
22 employer, provided that the contributions shall be at the rate of  
23 0.10% of wages paid with respect to employment with the State of  
24 New Jersey or any other governmental entity or instrumentality  
25 electing or required to make payments in lieu of contributions.

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

41 Each worker shall, starting on January 1, 1999 until December  
42 31, 1999, contribute to the unemployment compensation fund  
43 0.15% of wages paid with respect to the worker's employment with  
44 a governmental employer electing or required to pay contributions  
45 or nongovernmental employer, including a nonprofit organization  
46 which is an employer as defined under paragraph (6) of subsection  
47 (h) of R.S.43:21-19, regardless of whether that nonprofit  
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,  
2 after that employer has satisfied the conditions set forth in  
3 subsection (h) of R.S.43:21-19 with respect to becoming an  
4 employer, provided that the contributions shall be at the rate of  
5 0.10% of wages paid with respect to employment with the State of  
6 New Jersey or any other governmental entity or instrumentality  
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on January 1, 2000 until December  
9 31, 2001, contribute to the unemployment compensation fund  
10 0.20% of wages paid with respect to the worker's employment with  
11 a governmental employer electing or required to pay contributions  
12 or nongovernmental employer, including a nonprofit organization  
13 which is an employer as defined under paragraph (6) of subsection  
14 (h) of R.S.43:21-19, regardless of whether that nonprofit  
15 organization elects or is required to finance its benefit costs with  
16 contributions to the fund or by payments in lieu of contributions,  
17 after that employer has satisfied the conditions set forth in  
18 subsection (h) of R.S.43:21-19 with respect to becoming an  
19 employer, provided that the contributions shall be at the rate of  
20 0.10% of wages paid with respect to employment with the State of  
21 New Jersey or any other governmental entity or instrumentality  
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,  
24 2004, contribute to the unemployment compensation fund 0.1825%  
25 of wages paid with respect to the worker's employment with a  
26 governmental employer electing or required to pay contributions or  
27 a nongovernmental employer, including a nonprofit organization  
28 which is an employer as defined under paragraph (6) of subsection  
29 (h) of R.S.43:21-19, regardless of whether that nonprofit  
30 organization elects or is required to finance its benefit costs with  
31 contributions to the fund or by payments in lieu of contributions,  
32 after that employer has satisfied the conditions set forth in  
33 subsection (h) of R.S.43:21-19 with respect to becoming an  
34 employer, provided that the contributions shall be at the rate of  
35 0.0825% of wages paid with respect to employment with the State  
36 of New Jersey or any other governmental entity or instrumentality  
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute  
39 to the unemployment compensation fund 0.3825% of wages paid  
40 with respect to the worker's employment with a governmental  
41 employer electing or required to pay contributions or  
42 nongovernmental employer, including a nonprofit organization  
43 which is an employer as defined under paragraph (6) of subsection  
44 (h) of R.S.43:21-19, regardless of whether that nonprofit  
45 organization elects or is required to finance its benefit costs with  
46 contributions to the fund or by payments in lieu of contributions,  
47 after that employer has satisfied the conditions set forth in  
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of  
2 0.0825% of wages paid with respect to employment with the State  
3 of New Jersey or any other governmental entity or instrumentality  
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law  
6 in this State to the contrary, withhold in trust the amount of his  
7 workers' contributions from their wages at the time such wages are  
8 paid, shall show such deduction on his payroll records, shall furnish  
9 such evidence thereof to his workers as the division or controller  
10 may prescribe, and shall transmit all such contributions, in addition  
11 to his own contributions, to the office of the controller in such  
12 manner and at such times as may be prescribed. If any employer  
13 fails to deduct the contributions of any of his workers at the time  
14 their wages are paid, or fails to make a deduction therefor at the  
15 time wages are paid for the next succeeding payroll period, he alone  
16 shall thereafter be liable for such contributions, and for the purpose  
17 of R.S.43:21-14, such contributions shall be treated as employer's  
18 contributions required from him.

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

22 (G) (i) Each worker shall, starting on July 1, 1994, contribute to  
23 the State disability benefits fund an amount equal to 0.50% of  
24 wages paid with respect to the worker's employment with a  
25 government employer electing or required to pay contributions to  
26 the State disability benefits fund or nongovernmental employer,  
27 including a nonprofit organization which is an employer as defined  
28 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
29 employer is covered by an approved private disability plan or is  
30 exempt from the provisions of the "Temporary Disability Benefits  
31 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that  
32 law (C.43:21-31) or any other provision of that law.

33 (ii) Each worker shall contribute to the State disability benefits  
34 fund, in addition to any amount contributed pursuant to  
35 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
36 during calendar year 2009, 0.09%, and during calendar year 2010  
37 and each subsequent calendar year, 0.12%, of wages paid with  
38 respect to the worker's employment with any covered employer,  
39 including a governmental employer which is an employer as defined  
40 under R.S.43:21-19(h)(5), unless the employer is covered by an  
41 approved private disability plan for benefits during periods of  
42 family temporary disability leave. The contributions made pursuant  
43 to this subparagraph (ii) to the State disability benefits fund shall be  
44 deposited into an account of that fund reserved for the payment of  
45 benefits during periods of family temporary disability leave as  
46 defined in section 3 of the "Temporary Disability Benefits Law,"  
47 P.L.1948, c.110 (C.43:21-27) and for the administration of those  
48 payments and shall not be used for any other purpose. This account

1 shall be known as the “Family Temporary Disability Leave  
2 Account.” Necessary administrative costs shall include the cost of  
3 an outreach program to inform employees of the availability of the  
4 benefits and the cost of issuing the reports required or permitted  
5 pursuant to section 13 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill). No monies, other than the funds in the  
7 “Family Temporary Disability Leave Account,” shall be used for  
8 the payment of benefits during periods of family ‘temporary’  
9 disability leave or for the administration of those payments, with  
10 the sole exception that, during calendar years 2008 and 2009, a total  
11 amount not exceeding \$25 million may be transferred to that  
12 account from the revenues received in the State disability benefits  
13 fund pursuant to subparagraph (i) of this paragraph (1)(G) and be  
14 expended for those payments and their administration, including the  
15 administration of the collection of contributions made pursuant to  
16 this subparagraph (ii) and any other necessary administrative costs.  
17 Any amount transferred to the account pursuant to this  
18 subparagraph (ii) shall be repaid during a period beginning not later  
19 than January 1, 2011 and ending not later than December 31, 2015.  
20 No monies, other than the funds in the “Family Temporary  
21 Disability Leave Account,” shall be used under any circumstances  
22 after December 31, 2009, for the payment of benefits during periods  
23 of family temporary disability leave or for the administration of  
24 those payments, including for the administration of the collection of  
25 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
41 1% of his average annual payroll;

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

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

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

1 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds  
2 1% of his average annual payroll.

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

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

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

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

35 (ii) If the percentage determined in accordance with paragraph  
36 (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less  
37 than 1 1/4 of 1%, the final employer rates shall be the preliminary  
38 employer rates.

39 (iii) If the percentage determined in accordance with paragraph  
40 (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4  
41 of 1%, the final employer rates shall be the preliminary employer  
42 rates determined as provided in (D) hereof increased by the  
43 difference between 3/4 of 1% and such percentage taken to the  
44 nearest 5/100 of 1%; provided, however, that no such final rate  
45 shall be more than 1/4 of 1% in the case of an employer whose  
46 preliminary rate is determined as provided in (D)(2) hereof, more  
47 than 1/2 of 1% in the case of an employer whose preliminary rate is  
48 determined as provided in (D)(1) and (D)(3) hereof, nor more than

1 3/4 of 1% in the case of an employer whose preliminary rate is  
2 determined as provided in (D)(4) hereof.

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

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

20 (i) No disability benefits have been paid with respect to periods  
21 of family temporary disability leave; '[and]'

22 (ii) No worker paid any contributions to the State disability  
23 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of  
24 this section<sup>1</sup>; and

25 (3) No amounts were transferred from the State disability  
26 benefits funds to the "Family Temporary Disability Leave Account"  
27 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section<sup>1</sup>.

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

29

30 16. (New Section) Gross income shall not include benefits for  
31 family temporary disability leave paid pursuant to P.L.1948, c.110  
32 (C.43:21-25 et seq.) and P.L. ,c. (C. ) (pending before the  
33 Legislature as this bill).

34

35 17. This act shall take effect immediately.