

## CHAPTER 37

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

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

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

C.34:11B-3 Definitions.

3. As used in this act:

- a. "Child" means a biological, adopted, foster child, or resource family child, stepchild, legal ward, or child of a parent, including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier.

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

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

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

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

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

- (1) (Deleted by amendment, P.L.2019, c.37);

- (2) (Deleted by amendment, P.L.2019, c.37);

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

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

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

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

- h. "Parent" means a person who is the biological parent, adoptive parent, foster parent, resource family parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody,

care, guardianship, or visitation with a child, or who became the parent of the child pursuant to a valid written agreement between the parent and a gestational carrier.

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

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

(2) the placement of a child into foster care with the employee or in connection with adoption of such child by the employee; or

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

j. "Family member" means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship.

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

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

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

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

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

2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to read as follows:

C.34:11B-4 Family leave; duration, frequency, payment, certification, denial.

4. An employee of an employer in this State subject to the provisions of this act shall be entitled to a family leave of 12 weeks in any 24-month period upon advance notice to the employer in the manner specified by the provisions of sections 11 and 12 of P.L.2008, c.17 (C.43:21-39.2 and 43:21-39.3), unless the employer denies family leave to the employee pursuant to subsection h. of this section.

a. In the case of a family member who has a serious health condition, the leave may be taken intermittently when medically necessary, in the manner specified by the provisions of section 11 of P.L.2008, c.17 (C.43:21-39.2).

b. In the case of the foster care placement, birth or adoption of a healthy child, the leave may be taken intermittently in the manner specified by the provisions of paragraph (2) of subsection a. of section 12 of P.L.2008, c.17 (C.43:21-39.3).

c. Leave taken because of the birth or placement for adoption of a child may commence at any time within a year after the date of the foster care placement, birth or placement for adoption.

d. Family leave required by this act may be paid, unpaid, or a combination of paid and unpaid leave. If an employer provides paid family leave for fewer than 12 workweeks, the additional weeks of leave added to attain the 12-workweek total required by this act may be unpaid.

e. An employer may require that any period of family leave be supported by certification issued by a duly licensed health care provider or any other health care provider determined by the director to be capable of providing adequate certification.

(1) Where the certification is for the serious health condition of a family member of the employee, the certification shall be sufficient if it states: (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; and (c) the medical facts within the provider's knowledge regarding the condition;

(2) Where the certification is for the birth or placement of the child, the certification need only state the date of birth or date of placement, whichever is appropriate.

In any case in which the employer has reason to doubt the validity of the certification provided pursuant to paragraph (1) of this subsection, the employer may require, at its own expense, that an employee obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the employer. If the second opinion differs from the certification provided pursuant to paragraph (1) of this subsection, the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the serious health condition. The opinion of the third health care provider shall be considered to be final and shall be binding on the employer and the employee.

f. In any case in which the necessity for leave under this act is foreseeable, based upon placement of a child into foster care an expected birth or placement of the child for adoption, the employee shall provide the employer with prior notice of the expected birth or placement of the child for adoption or foster care in the manner specified by the provisions of section 11 of P.L.2008, c.17 (C.43:21-39.2).

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

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

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

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

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

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

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

C.34:11B-5 Reduced leave schedule.

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

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

b. If the leave is taken upon the foster care placement, birth or adoption of a healthy child, the leave may be taken on an intermittent basis in the manner specified by the provisions of paragraph (2) of subsection a. of section 12 of P.L.2008, c.17 (C.43:21-39.3).

The employee shall make a reasonable effort to schedule reduced leave so as not to disrupt unduly the operations of the employer and the employee shall provide the employer with prior notice of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member, in a manner which is reasonable and practicable.

4. Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to read as follows:

C.34:11C-3 Regulations relative to unpaid leave for employees, family members affected by certain offenses.

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

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

(2) obtaining services from a victim services organization for the employee or the employee's parent-in-law, sibling, grandparent, grandchild, child, parent, spouse, domestic partner, or civil union partner individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent;

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

(4) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's parent-in-law, sibling, grandparent, grandchild, child, parent, spouse, domestic partner, or civil union partner individual, or any other individual related by blood to the employee, and any other individual

that the employee shows to have a close association with the employee which is the equivalent of a family relationship, from future domestic or sexual violence or to ensure economic security;

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

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

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

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

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

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

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

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

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

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

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

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

For the purposes of this subsection:

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

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

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

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

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

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

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

f. All information provided to an employer pursuant to subsection c. of this section, and any information regarding a leave taken pursuant to this section and any failure of an

employee to return to work, shall be retained in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is required by a federal or State law, rule, or regulation.

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

Benefit eligibility conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated



pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year

preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the

period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

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

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

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

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

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

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

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

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

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

Contributions.

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

(a) Payment.

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

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

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

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

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

calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

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

(4) For calendar years beginning on and after January 1, 2020, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b) for purposes of contributions of workers to the State disability benefits fund, including the "Family Temporary Disability Leave Account" pursuant to subsection (d) of this section, shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be 107 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used.

(c) Future rates based on benefit experience.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Specially assigned rates.

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

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

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

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

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

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

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

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

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than  $12\frac{1}{2}\%$  of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate



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

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

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

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

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

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

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

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

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

(vii) With respect to experience rating years beginning on or after July 1, 2011, 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 line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE

Employer Reserve Ratio 2	Fund Reserve Ratio 1				
	3.50% and Over	3.00% to 3.49% A	2.5% to 2.99% B	2.0% to 2.49% C	1.99% and Under D E
Positive Reserve Ratio:					
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
Deficit Reserve Ratio:					
-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

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

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

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

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

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

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

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

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

decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Equal to or greater than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof

except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

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

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

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

(6) Additional contributions.

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

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the

controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

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

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

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

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

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

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

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment

while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

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

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

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

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

which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

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

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

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

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

employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

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

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

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

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

(G) (i) Each worker, with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law, shall, for calendar year 2012 and each subsequent calendar year, make contributions to the State disability benefits fund at the annual rate of contribution necessary to obtain a total amount of contributions, which, when added to employer contributions made to the State disability benefits fund pursuant to subsection (e) of this section, is, for calendar years prior to calendar year 2018, equal to



120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding year, and is, for calendar year 2018 and year 2019, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for each of calendar years 2020 and 2021, equal to 120% of the benefits which the department anticipates will be paid for periods of disability, excluding periods of family temporary disability, during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for calendar year 2022 and any subsequent calendar year, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of disability caused by the increases in the weekly benefit rate commencing July 1, 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by contributions made by workers pursuant to this paragraph (i) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. The rates of employer contributions determined pursuant to subsection (e) of this section for any year shall be determined prior to the determination of the rate of employee contributions pursuant to this subparagraph (i) and any consideration of employee contributions in determining employer rates for any year shall be based on amounts of employee contributions made prior to the year to which the rate of employee contributions applies and shall not be based on any projection or estimate of the amount of employee contributions for the year to which that rate applies.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for

the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year until 2018, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be, for calendar years prior to calendar year 2018, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year, and shall be, for calendar year 2018 and calendar year 2019, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the account as of December 31 of the immediately preceding calendar year. For each of calendar years 2020 and 2021, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which the department anticipates will be paid for periods of family temporary disability leave during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. For 2022 and any subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which were paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of family temporary disability leave caused by the increases in the weekly benefit rate commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and increases in the maximum duration of benefits commencing July 1, 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions made by workers pursuant to this paragraph (ii) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding \$25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not

later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976 or, during calendar year 2012 or any subsequent calendar year, the total amount of his contributions for the year exceeds the amount set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (i) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law"

(C.43:21-25 et al.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of the refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in subparagraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

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

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

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

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

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

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

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

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

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

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

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

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

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

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

(iii) 1/10 of 1% if such excess over \$500.00 equals or exceeds 1 1/2% of his average annual payroll.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;

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

(iv) The total amount of benefits paid for periods of disability were not subject to the increases in the weekly benefit rate for those benefits commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40).

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

C.43:21-26 Purpose.

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

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

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

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

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

The foregoing facts and considerations require that there be a uniform minimum program providing in a systematic manner for the payment of reasonable benefits to replace partially such earnings loss and to meet the continuing need for benefits where an individual becomes disabled during unemployment or needs to care for family members incapable of self-care. In order to maintain consumer purchasing power, relieve the serious menace to health, morals and welfare of the people caused by insecurity and the loss of earnings, to reduce the necessity for public relief of needy persons, to increase workplace productivity and alleviate the enormous and growing stress on working families of balancing the demands of work and family needs, and in the interest of the health, welfare and security of the people of this



State, such a system, enacted under the police power, is hereby established, requiring the payment of reasonable cash benefits to eligible individuals who are subject to accident or illness which is not compensable under the worker's compensation law or who need to care for family members incapable of self-care.

While the Legislature recognizes the pressing need for benefits for workers taking leave to care for family members incapable of self-care, it also finds that the need of workers for leave during their own disability continues to be especially acute, as a disabled worker has less discretion about taking time off from work than a worker caring for a family member. Notwithstanding any interpretation of law which may be construed as providing a worker with rights to take action against an employer who fails or refuses to restore the worker to employment after the worker's own disability, the Legislature does not intend that the policy established by P.L.2008, c.17 (C.43:21-39.1 et al.) of providing benefits for workers during periods of family temporary disability leave to care for family members incapable of self-care be construed as granting any worker an entitlement to be restored by the employer to employment held by the worker prior to taking family temporary disability leave or any right to take action, in tort, or for breach of an implied provision of the employment agreement, or under common law, against an employer who fails or refuses to restore the worker to employment after the family temporary disability leave, and the Legislature does not intend that the policy of providing benefits during family temporary disability leave be construed as increasing, reducing or otherwise modifying any entitlement of a worker to return to employment or right of the worker to take action under the provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.).

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

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

C.43:21-27 Definitions.

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

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

date of this act, the State of New Jersey, including Rutgers, The State University and the New Jersey Institute of Technology, shall be deemed a covered employer, as defined herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) In the case of an individual who is laid off or furloughed by an employer curtailing operations because of a state of emergency declared after October 22, 2012, any week in which the individual is separated from employment due to that layoff or furlough, up to a maximum of 13 weeks, shall be regarded as a week which is a "base week" for the purpose of determining whether the individual becomes eligible for benefits pursuant to subsection (d)

or (e) of section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be regarded as a base week when calculating the "average weekly wage" pursuant to subsection (j) of this section.

(j) (1) "Average weekly wage" means, with respect to the payment of benefits commencing before the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), the amount derived by dividing a covered individual's total wages earned from the individual's most recent covered employer during the base weeks in the eight calendar weeks immediately preceding the calendar week in which a period of disability commenced, by the number of such base weeks, and, with respect to the payment of benefits commencing on or after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), the amount derived by dividing a covered individual's total wages earned from the individual's most recent covered employer during the base weeks in the base year immediately preceding the calendar week in which a period of disability commenced, or in which the individual submits a claim for the benefits pursuant to subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the number of base weeks.

(2) With respect to the payment of benefits commencing before the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the computation in paragraph (1) of this subsection (j) yields a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in such eight calendar weeks, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the base weeks in the eight calendar weeks immediately preceding the week in which the period of disability commenced, and, with respect to the payment of benefits commencing on or after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the computation in paragraph (1) of this subsection (j) yields a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in the base year, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the base weeks in the base year immediately preceding the week in which the period of disability commences, or in which the individual submits a claim for the benefits pursuant to subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49).

(3) For periods of disability commencing on or after July 1, 2009 and before the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), if the computations in paragraphs (1) and (2) of this subsection (j) both yield a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in the 26 calendar weeks immediately preceding the week in which the period of disability commenced, then the average weekly wage shall, upon a written request to the department by the individual on a form provided by the department, be computed by the department on the basis of earnings from all covered employers of the individual during the base weeks in those 26 calendar weeks, and, in the case of a claim for benefits from a private plan, that computation of the average weekly wage shall be provided by the department to the individual and the individual's employer.

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

(k) "Child" means a biological, adopted, or foster child, stepchild or legal ward of a covered individual, child of a domestic partner of the covered individual, or child of a civil

union partner of the covered individual, including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) "Base year" with respect to benefit years commencing on or after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), means the first four of the last five completed calendar quarters immediately preceding the period of disability, except that, if the individual does not have sufficient qualifying weeks or wages in the individual's base year to qualify for benefits, the individual shall have the option of designating that the individual's base year shall be the "alternative base year," which means the last four completed calendar quarters immediately preceding the period of disability; and except that if the individual also does not have sufficient qualifying weeks or wages in the last four completed calendar quarters immediately preceding the period of disability, "alternative base year" means the last three completed calendar quarters immediately preceding the individual's benefit year and, of the calendar quarter in which the period of disability commences, the portion of the quarter which occurs before the commencing of the period of disability. The division shall inform the individual of the individual's options under this subsection. If information regarding weeks and wages for the calendar quarter or quarters immediately preceding the period of disability is not available to the division from the regular quarterly reports of wage information and the division is not able to obtain the information using other means pursuant to State or federal law, the division may base the determination of eligibility for benefits on the affidavit of an individual with respect to weeks and wages for that calendar quarter. The individual shall furnish payroll documentation, if available, in support of the affidavit. A determination of benefits based on an alternative base year shall be adjusted when the quarterly report of wage information from the employer is received if that information causes a change in the determination.

9. Section 8 of P.L.1948, c.110 (C.43:21-32) is amended to read as follows:

C.43:21-32 Establishment of private plans.

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

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

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

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

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

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

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

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

Notice, in a form approved by the director, of the benefits provided by the private plan shall be furnished to the covered employees by the employer by a conspicuous and continuing posting at the place of employment, and by personal notice to each employee at the time of the establishment of the private plan, at any subsequent time of hire, and within three business days of when the employer knows or should know that the employee may have a need for disability benefits or family temporary disability benefits. This notice shall reflect current rates, eligibility requirements, benefit entitlements, and rights of the employees under a private plan pursuant to the provisions of P.L.1948, c.110 (C.43:21-25 et seq.), including appeal rights to the division, and shall include contact information for the private plan and instructions as to how to file for benefits with the private plan. The division shall permit any application for approval by the division of a private plan to be submitted to the division by means of electronic communication, and permit the use of an electronic signature for any signature required in the application, as the term electronic signature is defined in section 2 of P.L.2001, c.116 (C.12A:12-2).

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

C.43:21-33 Election of employees; deduction of contributions.

9. Election of employees; deduction of contributions. If employees who are subject to the provisions of a collective bargaining agreement are to be required to contribute toward

the cost of benefits under a private plan, such plan shall not become effective unless prior to the effective date a majority of the employees in the class or classes to be covered thereby have agreed thereto by written election, unless the collective bargaining agreement expressly waives the employees' right to a majority election as a condition for the private plan. In the case of employees not subject to a collective bargaining agreement, no employee consent or written election is required for the withdrawal from the State plan or the establishment of a private plan. Whether or not an election is required, the employer may during the continuance of the approved private plan collect the required contributions thereto by deduction from the wages paid to covered individuals under such plan, which deduction may be combined with that deduction required by Revised Statutes, section 43:21-7(d)(1) if reasonable notice is given covered individuals concerning such combined deduction by the employer; provided, that if any employer fails to deduct the contributions of any of his employees at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he may not thereafter collect a contribution with respect to such wages previously paid. Written elections held pursuant to this section may be conducted by electronic communications evidenced by the electronic signature of the employee, as the term electronic signature is defined in section 2 of P.L.2001, c.116 (C.12A:12-2), but shall not be conducted in a manner inconsistent with any applicable terms of a collective bargaining agreement. A covered individual shall not be entitled to any benefits from the State disability benefits fund with respect to any period of disability commencing while he is covered under an approved private plan.

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

C.43:21-38 Duration of benefits.

14. With respect to any period of disability for an individual's own disability commencing on or after January 1, 1953, disability benefits, not in excess of an individual's maximum benefits, shall be payable with respect to disability which commences while a person is a covered individual under the Temporary Disability Benefits Law, and shall be payable with respect to the eighth consecutive day of such disability and each day thereafter that such period of disability continues; and if benefits shall be payable for three consecutive weeks with respect to any period of disability commencing on or after January 1, 1968, then benefits shall also be payable with respect to the first seven days thereof. With respect to any period of family temporary disability leave commencing on or after July 1, 2009 and while an individual is a covered individual, family temporary disability benefits, not in excess of the individual's maximum benefits, shall be payable with respect to the first day of leave taken after the first one-week period following the commencement of the period of family temporary disability leave and each subsequent day of leave during that period of family temporary disability leave; and if benefits become payable on any day after the first three weeks in which leave is taken, then benefits shall also be payable with respect to any leave taken during the first one-week period in which leave is taken. With respect to any period of family temporary disability leave commencing on or after July 1, 2019 and while an individual is a covered individual, family temporary disability benefits, not in excess of the individual's maximum benefits, shall be payable with respect to the first day of leave taken upon the commencement of the period of family temporary disability leave and each subsequent day of leave during that period of family temporary disability leave. The maximum total benefits payable to any eligible individual for any period of disability of the individual commencing on or after January 1, 1968, shall be either 26 times his weekly



benefit amount or 1/3 of his total wages in his base year, whichever is the lesser; provided that such maximum amount shall be computed in the next lower multiple of \$1.00 if not already a multiple thereof. The maximum total benefits payable to any eligible individual for any period of family temporary disability leave commencing on or after July 1, 2009 and before July 1, 2020, shall be six times the individual's weekly benefit amount or 1/3 of his total wages in his base year, whichever is the lesser; provided that the maximum amount shall be computed in the next lower multiple of \$1.00, if not already a multiple thereof. The maximum total benefits payable to any eligible individual for any period of family temporary disability leave commencing on or after July 1, 2020, shall be twelve times the individual's weekly benefit amount; provided that the maximum amount shall be computed in the next lower multiple of \$1.00, if not already a multiple thereof.

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

C.43:21-39 Limitation of benefits.

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

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

(1) if benefits shall be payable for three consecutive weeks with respect to any period of disability, then benefits shall also be payable with respect to the first seven days thereof; and

(2) (Deleted by amendment, P.L.2019, c.37);

(3) in the case of an individual taking family temporary disability leave, there shall be no waiting period;

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

(2) for more than six weeks with respect to any one period of family temporary disability leave commencing before July 1, 2020 and more than 12 weeks if the period of leave commences on or after July 1, 2020, or for more than 42 days with respect to any one period of family temporary disability leave commencing before July 1, 2020 and more than 56 days if the period of leave commences on or after July 1, 2020, and is taken on an intermittent basis; and

(3) for more than six weeks of family temporary disability leave during any 12-month period commencing before July 1, 2020 and more than 12 weeks for any 12-month period commencing on or after July 1, 2020, or for more than 42 days of family temporary disability leave taken during any 12-month period commencing before July 1, 2020 and more than 56 days if the period of leave commences on or after July 1, 2020, on an intermittent basis, including family temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while unemployed;

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

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

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

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

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

(g) for any period during which the claimant performs any work for remuneration or profit, except that, in a case of a claim for benefits for a period of family temporary disability on or after July 1, 2020 in which the covered individual has more than one employer, the individual shall have the option of claiming benefits for leave taken from one employer, based on wages paid by that employer, on the condition that the individual does not, during the period for which the benefits are paid, increase the amount of employment time with any other employer;

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

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

(j) for any period during which the claimant receives any paid sick leave, vacation time or other leave at full pay from the employer of the individual; and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in this act.

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

C.43:21-39.1 Compensation for family temporary disability leave; conditions.

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

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

c. The employer of an individual may, notwithstanding any other provision of law, including the provisions of N.J.S.18A:30-1 et seq., permit the individual, during a period of family temporary disability leave, to use any paid sick leave, vacation time or other leave at full pay made available by the employer before the individual uses disability benefits for family temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as nullifying any provision of an existing collective bargaining agreement or employer policy, or preventing any new provision of a collective bargaining agreement or employer policy, which provides employees more generous leave or gives employees greater rights to select which kind of

leave is used or select the order in which the different kinds of leave are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as preventing an employer from providing more generous benefits than are provided under P.L.2008, c.17 (C.43:21-39.1 et al.) or providing benefits which supplement the benefits provided under P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all of the employer's employees.

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

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

f. In the event of a period of family temporary disability leave of any individual covered under the State plan, the employer shall, not later than the ninth day of the period of family temporary disability leave, or not later than the ninth day after the employee notifies the employer of an anticipated period of family temporary disability leave pursuant to subsection h. of this section, whichever comes first, including any time in which the employer provides sick leave, vacation or other fully paid leave, issue to the individual and to the division printed notices on division forms containing the name, address and Social Security number of the individual, such wage information as the division may require to determine the individual's eligibility for benefits, including any sick pay, vacation or other fully paid time off provided by the employer during the period of family temporary disability leave, and the name, address, and division identity number of the employer. Not later than 30 days after the commencement of the period of family temporary disability leave for which the notice is furnished by the employer, the individual shall furnish to the division a notice and claim for family temporary disability leave benefits. Upon the submission of the notices by the employer and the individual, and the commencement of the compensable portion of the

family temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), the division may issue benefit payments. In the case of family temporary disability leave taken to care for a family member with a serious health condition, the benefits may be paid for periods not exceeding three weeks pending the receipt of the certification required pursuant to subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish notice and certification in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the division not to have been reasonably possible to furnish the notice and certification and that the notice and certification was furnished as soon as reasonably possible.

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

h. With respect to any period of family temporary disability leave commencing on or after October 4, 2019 if an individual knows in advance when the period will commence, the individual may notify the employer of the anticipated period of family temporary disability leave and submit to the division a claim for benefits for that period, which shall include a statement of when the period will commence and any certification required pursuant to subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2), prior to, but not more than 60 days prior to, the date that the period will commence. The division shall process that claim immediately and, upon finding that the claim is valid, shall pay the benefit upon the commencement of the period of family temporary disability leave, except that if the division receives the claim less than 30 days before the commencement of the period, the division shall make the payment not more than 30 days after the receipt of the claim. The periods of family temporary disability leave to which the provisions of this subsection apply shall include, but not be limited to, any of the following if the commencement date of the leave is known in advance: periods of leave for care of a child of the individual after adoption, the placement of a child into foster care, or childbirth, including childbirth under a valid agreement between the individual and a gestational carrier; periods of leave for scheduled medical procedures, treatments, or appointments for a family member of the individual; and periods of leave for scheduled ongoing care of a family member of the individual. If the individual did not establish enough base weeks or have enough total earnings during the base year preceding the week the individual submits the claim, the division shall notify the individual that the individual may file the claim again upon or after the commencement of the period of family temporary disability leave and the division shall then reconsider the individual's eligibility for benefits based on the base year preceding the week in which the period of family temporary disability leave commences.

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

C.43:21-39.2 Duration of family temporary disability leave; continuous or intermittent; certification.

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

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

- (1) The date, if known, on which the serious health condition commenced;
- (2) The probable duration of the condition;
- (3) The medical facts within the knowledge of the provider of the certification regarding the condition;
- (4) A statement that the serious health condition warrants the participation of the covered individual in providing health care, as provided in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted pursuant to that act;
- (5) An estimate of the amount of time that the covered individual is needed for participation in the care of the family member;
- (6) If the leave is intermittent, a statement of the medical necessity for the intermittent leave and the expected duration of the intermittent leave; and
- (7) If the leave is intermittent and for planned medical treatment, the dates of the treatment.

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

d. Any period of family temporary disability leave to engage in activities for which unpaid leave may be taken pursuant to section 3 of the "New Jersey Security and Financial Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the individual's own behalf, if the individual is a victim of an incident of domestic violence or a sexually violent offense, or to assist a family member of the individual who has been a victim of an incident of domestic violence or a sexually violent offense, shall, if requested by the division, be supported with certification provided to the division which meets the standards regarding sufficient

documentation specified by subsection c. of section 3 of P.L.2013, c.82 (C.34:11C-3), whether or not the employer of the individual requires that documentation. Prior to taking the leave provided for in this subsection, an employee shall, if the necessity for the leave is foreseeable, and unless an emergency or other unforeseen circumstances precludes prior notice, provide the employer with written notice of the need for the leave, which shall be provided to the employer as far in advance as is reasonable and practical under the circumstances.

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

C.43:21-39.3 Payment of benefits for family temporary disability leave, continuous or intermittent.

12. a. (1) All of the disability benefits paid to a covered individual during a period of family temporary disability leave with respect to any one birth, placement in foster care, or adoption shall be for a single continuous period of time or during non-consecutive weeks or days on an intermittent basis pursuant to paragraph (2) of this subsection, which shall be disclosed to the division by the employer.

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

b. In the case of single continuous benefits for family temporary disability leave with respect to birth, placement in foster care, or adoption, the covered individual shall provide the employer with prior notice of the leave not less than 30 days before the leave commences, unless it commences while the individual is receiving unemployment benefits, in which case the covered individual shall notify the division. The amount of benefits shall be reduced by two weeks' worth of benefits if the individual does not provide notice to an employer as required by this subsection b., unless the time of the leave is unforeseeable or the time of the leave changes for unforeseeable reasons.

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

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

C.43:21-39.4 Availability of annual reports; contents.

13. a. (1) The Commissioner of Labor and Workforce Development shall issue and make available to the public, not later than December 31, 2010, and each subsequent year, annual reports providing data on temporary disability benefits, and, for each annual report issued not later than December 31 of 2019 and each subsequent year, all of the data required by this paragraph (1) as amended by P.L.2018, c.123, including separate data for claims involving pregnancy and childbirth, and family temporary disability benefits, including separate data for each of the following categories of claims: care of newborn children; care of newly adopted children; care of sick children; care of sick spouses, and care of other sick family

members. The reports shall include, for each category of claims, the occupations of the workers receiving the benefits, the regular weekly wages earned by the workers receiving the benefits, the number of workers receiving the benefits, the number of workers receiving the benefits that work full-time, the number of workers receiving the benefits that work part-time, the number of workers receiving the benefits that belong to a labor union or employee organization, the number of employers employing each worker in the worker's base year, the amount of benefits paid, the average duration of benefits, the average weekly benefit, the county in which the employer is located, whether the employer is private or a governmental entity, the employer size based on whether the employer employs less than 30 workers or employs 30 or more workers, and, in the case of family temporary disability benefits, any reported amount of sick leave, vacation or other fully paid time which resulted in reduced benefit duration, and the number of workers claiming intermittent benefits. The report shall provide data by: gender; race, ethnicity or national origin; level of educational attainment; and by any other demographic factors determined to be relevant by the commissioner. The reports shall also provide, for all temporary disability benefits and for all family temporary disability benefits, the number of workers claiming both temporary disability benefits and family temporary disability benefits in the same calendar year, the total costs of benefits and the total cost of administration, the portion of benefits for claims during unemployment, and the total revenues from: employer assessments, where applicable; employee assessments; and other sources.

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

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

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

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

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

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

17. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to read as follows:

C.43:21-40 Benefit rates, partial benefits.

16. a. For periods of disability commencing on or after October 1, 1984, an individual's weekly benefit rate shall be two-thirds of his average weekly wage, subject to a maximum of 53% of the Statewide average weekly remuneration paid to workers by employers, as determined under subsection (c) of R.S. 43:21-3, except as provided in subsection b. of this section.

b. For periods of disability commencing on or after July 1, 2020, and for periods of family temporary disability leave commencing on or after July 1, 2020, an individual's weekly benefit rate shall be 85% of the individual's average weekly wage, subject to a maximum of 70% of the Statewide average weekly remuneration paid to workers by employers.

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

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

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

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

(3) If the individual is able to return to work on a reduced basis but the employer is unable or otherwise chooses not to permit the individual to do so, the individual will continue to be eligible for benefits until the individual is fully recovered from the disability and able to perform the duties of employment, but nothing in this subsection shall be



construed as increasing the total number of weeks of disability benefits for which the individual is eligible.

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

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

C.43:21-41 Entitlement for disability benefits.

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

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

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

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

(2) With respect to periods of disability commencing on or after January 1, 2001 and before the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), no individual shall be entitled to benefits under this act unless the individual has, within the 52 calendar weeks preceding the week in which the individual's period of disability commenced, established at least 20 base weeks or earned not less than 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the disability commences, which amount shall be adjusted to the next higher multiple of \$100.00, if not already a multiple thereof.

(3) With respect to periods of disability commencing on or after the effective date of P.L.2019, c.37 (C.43:21-45.2 et al.), no individual shall be entitled to benefits under this act unless the individual has, within the base year preceding the week in which the individual's period of disability commenced, or within the base year preceding the week in which the individual submits a claim for benefits pursuant to subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49), established at least 20 base weeks or earned not less than 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the disability commences, which amount shall be adjusted to the next higher multiple of \$100.00, if not already a multiple thereof.

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

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

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

C.43:21-46 State disability benefits fund.

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

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

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

If the unemployment disability account shall show an accumulated deficit in excess of \$200,000.00 at the end of any calendar year after interest and other earnings have been credited as provided hereinabove, the division shall determine the ratio of such deficit to the total of all taxable wages paid during the preceding calendar year, and shall make an assessment against all employers in an amount equal to the taxable wages paid by them during such preceding calendar year to employees, multiplied by such ratio, but in no event shall any such assessment exceed 1/10 or 1% of such wages; provided, however, that the assessment made against the State (including Rutgers, The State University and the New Jersey Institute of Technology) shall not

exceed the sum of all benefits paid under the provisions of R.S.43:21-4(f) as the result of employment with the State. Such amounts shall be collectible by the division in the same manner as provided for the collection of employee contributions under this chapter (R.S.43:21-1 et seq.). In making this assessment, the division shall furnish to each affected employer a brief summary of the determination thereof. The amount of such assessments collected by the division shall be credited to the unemployment disability account.

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

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

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

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

C.43:21-49 Postings, notice and claims for disability benefits.

25. (a) (1) Every employer shall post, in prominent locations, notices to employees in the form provided by the division of whether the employer is permitted or required to participate in a temporary disability benefits program pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and whether the employer does or does not participate. For employers who participate in a temporary disability benefits program, the notice shall also describe the temporary disability benefits available to the employees and prominently disclose that pregnancy is regarded by law as a disability and that pregnant employees are regarded as disabled and entitled to temporary disability benefits to the same extent as other disabled employees. Upon the request of an employer, the division shall, without charge, provide the employer with a copy of each applicable notice, suitable for reproduction by the employer. Each employer participating in the State plan or a private plan shall give a printed copy of benefit instructions to any disabled employee as soon as the employer becomes aware of the disability.

(2) In addition, in the event of the disability of any individual covered under the State plan, the employer shall, not later than the ninth day of disability, or not later than the ninth day after the individual notifies the employer of an anticipated period of disability pursuant to paragraph (3) of this section, whichever comes first, issue to the individual and to the division printed notices on division forms containing the name, address and Social Security number of the individual, such wage information as the division may require to determine the individual's eligibility for benefits, and the name, address, and division identity number of the employer. Not later than 30 days after the commencement of the period of disability for which such notice is furnished, the individual shall furnish to the division a notice and claim for disability benefits under the State plan or for disability during unemployment. Upon the submission of such notices by the employer and the individual, and the commencement of the compensable portion of the disability leave pursuant to the "Temporary Disability

Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the division may issue benefit payments for periods not exceeding three weeks pending the receipt of medical proof. When requested by the division, such notice and proof shall include certification of total disability by the attending physician, or a record of hospital confinement. Failure to furnish notice and proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the division not to have been reasonably possible to furnish such notice and proof and that such notice and proof was furnished as soon as reasonably possible.

(3) With respect to any period of disability commencing on or after October 4, 2019, if an individual knows in advance when the period will commence, the individual may notify the employer of the anticipated period of disability and submit to the division a claim for benefits for that period, which shall include a statement of when the period will commence and any certification requested by the division pursuant to this section, prior to, but not more than 60 days prior to, the date on which the period will commence. The division shall process that claim immediately and, upon a finding that the claim is valid, shall pay the benefit upon the commencement of the period, except that if the division receives the claim less than 30 days before the commencement of the period, the division shall make the payment not more than 30 days after the receipt of the claim. The periods of disability leave to which the provisions of this paragraph apply shall include, but not be limited to, any of the following if the commencement date of the leave is known in advance: disability related to pregnancy or childbirth; disability related to scheduled medical procedures, treatments, or appointments for the individual; and disability related to scheduled ongoing care of the individual. If an individual did not establish enough base weeks or have enough total earnings during the base year preceding the week the individual submits the claim for benefits, the division shall notify the individual that the individual may file the claim again upon or after the commencement of the period of disability and the division shall then reconsider the individual's eligibility for benefits based on the base year preceding the week in which the period of disability commences.

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

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

C.43:21-45.2 Implementation of disability insurance goals for timely determination and prompt payment.

21. a. The division shall implement disability insurance goals for the timely determination and prompt payment of temporary disability benefits and family temporary disability benefits under the State plan, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(2) the number and percentage of claims received with insufficient information, what portion of those claims were because of failure of claimants to provide sufficient information, what portion of those claims were because of failures of medical providers of

claimants to provide sufficient information, and what portion of those claims were because of failures of employers to provide sufficient information;

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

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

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

(a) any increase in personnel needed to process claims and make benefit payments expeditiously and accurately;

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

(c) any measures needed to inform employers and employees of their responsibilities to facilitate the timely provision of benefits; (d) any improvements needed in data processing, telephone and other communications technology, staff training, and other administrative services and equipment;

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

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

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

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

c. (1) The division shall, during each fiscal year commencing on or after July 1, 2019, allocate not less than \$1,200,000 to disseminate information about the rights and responsibilities of employers and employees regarding temporary disability benefits and family temporary disability benefits by means of programs of educational outreach in

communities and workplaces. Of that annual allocation, not less than \$600,000 shall be used by the division to enter into contracts with community-based organizations to disseminate information to workers regarding temporary disability benefits and family temporary disability benefits. That allocation shall be regarded as a cost of administration of temporary disability and family temporary disability benefits and be charged to the administration account of the State disability benefit fund. Of the costs charged to the administration account of the State disability benefit fund pursuant to this subsection, the percentage which is charged to the Family Temporary Disability Leave Account shall be equal to the percentage that family temporary disability benefits represents of all temporary disability benefits paid from the State disability benefits fund during the preceding calendar year. The allocation made pursuant to this subsection, including any adjustments in the allocation specified in the plan provided pursuant to paragraph (2) of this subsection, shall not result in the total amount credited to administrative costs exceeding the maximum amount permitted pursuant to subsection (a) of section 22 of P.L.1948, c.110 (C.43:21-46).

(2) The commissioner shall, not later than September 30 of 2020 and September 30 of each subsequent year, issue, provide to the Legislature, and make available to the public on the department's webpage, a report regarding efforts made during the preceding calendar year by the division and by community-based organizations to disseminate information about the rights and responsibilities of employers and employees regarding temporary disability and family temporary disability benefits. Each report shall include, for that preceding calendar year:

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

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

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

C.43:21-45.3 Contract for technical and support services and equipment to adapt and increase functionality of the administrative system.

22. a. Notwithstanding the provisions of any other law to the contrary, a contract for technical and support services and equipment to increase the ability of the Department of Labor and Workforce Development to adapt and increase the functionality and dependability of the administrative system of the State plan for temporary disability and family temporary disability leave, provide accurate and timely reporting, increase customer accessibility, and implement timely payment of temporary disability and family temporary disability benefits in accordance with section 21 of P.L.2019, c.37 (C.43:21-45.2) may be procured in the most expeditious means possible and in the manner provided by this section.

b. The Division of Purchase and Property in the Department of the Treasury may procure, without the need for advertisement in accordance with subsections (b), (c), (d) and (e) of P.L.1954, c.48 (C.52:34-12), but through the solicitation of proposals from at least

three vendors, qualified vendors for technical and support services and, to the extent necessary, equipment based upon price and other factors. The Director of the Division of Purchase and Property shall award the contract(s) to the vendor whose proposal is most advantageous to the State, price and other factors considered.

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

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

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

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

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

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

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

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

C.43:21-55 Penalties.

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

(b) Any employer or any officer or agent of any employer or any other person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to prevent or reduce the benefits to any person entitled thereto, or to avoid



becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employer under this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, or who fails to provide any notification or disclosure to the division or the employee required by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or subsection f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at the time and in the manner required by those sections, including disclosure of the information the division requires for the processing of a claim, shall be liable for a fine of \$250 to be paid to the division. Upon refusal to pay such fine, the same shall be recovered in a civil action by the division in the name of the State of New Jersey.

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

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

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

C.43:21-55.2 Retaliation against employee for request, use of disability benefits prohibited; violations, penalties.

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

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

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

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

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

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

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

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

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

C.43:21-55.1 Liability for repayment of disability benefits overpayments.

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

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

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

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

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

26. This act shall take effect immediately upon enactment.

Approved February 19, 2019.