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| **2020 NJ A 4132** | **Author:** Taliaferro<br>**Version:** Enacted - Pamphlet Law<br>**Version Date:** 07/02/2020 |

CHAPTER 57

An Act concerning certain benefits provided to workers, and amending and supplementing various parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

C.11A:6-24.2 Furlough days taken on paid holiday.

1. Notwithstanding the provisions of section 25 of P.L.2008, c.89 (C.11A:6-24.1) or any other law or regulation to the contrary, a State employee participating in a furlough program may be required or elect to take a furlough day on a paid holiday granted to State government employees in calendar years 2020 and 2021. An employee who is required to or elects to take a furlough day on a paid holiday shall not receive pay for the holiday. An employee on furlough leave on the day before or on the day following a holiday shall receive pay for the holiday as long as the employee is not required, or does not elect, to take a furlough day on the paid holiday.

C.11A:6-24.3 Inapplicability of chapter 8 of Title 11A.

2. Notwithstanding the provisions of any other law or regulation to the contrary, the provisions of chapter 8 of Title 11A of the New Jersey Statutes shall not apply to employees who have their weekly hours of work reduced and receive short time compensation benefits under a shared work program approved pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.) or who participate in a furlough program, except the provisions of Title 11A of the New Jersey Statutes concerning the seniority rights of an employee who participates in a shared work program or furlough program shall continue and shall not be adversely affected by participation in such programs.

3. Section 9 of P.L.1996, c.138 (C.18A:7F-9) is amended to read as follows:

C.18A:7F-9 Receipt of State aid by school district; conditions.

9. a. In order to receive any State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), a school district, charter school, renaissance school project, county vocational school district, or county special services school district shall comply with the rules and standards for the equalization of opportunity which have been or may hereafter be prescribed by law or formulated by the commissioner pursuant to law, including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.), and shall further comply with any directive issued by the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6). The commissioner is hereby authorized to withhold all or part of a district's State aid for failure to comply with any rule, standard or directive. No State aid shall be paid to any district which has not provided public school facilities for at least 180 days during the preceding school year, but the commissioner, for good cause shown, may remit the penalty.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, in the event that a school district is required to close the schools of the district for more than three consecutive school days due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the commissioner shall allow the district to apply to the 180-day requirement established pursuant to subsection a. of this section, one or more days of virtual or remote instruction provided to students on the day or days the schools of the district were closed if the program of virtual or remote instruction meets such criteria as may be established by the commissioner. A district that wants to use a program of virtual or remote instruction to meet the 180-day requirement in accordance with this subsection shall, with board of education approval, submit its proposed program of virtual or remote instruction to the commissioner within 30 days of the effective date of P.L.2020, c.27 and annually thereafter, provided however that if the school district is unable to complete and submit its proposed program within the 30-day period and the district is required to close its schools for a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the commissioner may retroactively approve the program.

A day of virtual or remote instruction, if instituted under a program approved by the commissioner, shall be considered the equivalent of a full day of school attendance for the purposes of meeting State and local graduation requirements, the awarding of course credit, and such other matters as determined by the commissioner.

If a program of virtual or remote instruction is implemented for the general education students the same educational opportunities shall be provided to students with disabilities. Special education and related services, including speech language services, counseling services, physical therapy, occupational therapy, and behavioral services, may be delivered to students with disabilities through the use of electronic communication or a virtual or online platform and as required by the student's Individualized Education Program (IEP), to the greatest extent practicable.

c. In the event that the State or local health department determines that it is advisable to close or mandates closure of the schools of a school district due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the superintendent of schools shall have the authority to implement the school district's program of virtual or remote instruction. The superintendent shall consult with the board of education prior to such decision if practicable. The superintendent shall ensure that students, parents, staff, and the board of education or boards of education are informed promptly of the superintendent's decision.

d. The commissioner shall define virtual and remote instruction and establish guidance for its use. The guidance shall provide school districts with information on:

(1) providing instruction to students who may not have access to a computer or to sufficient broadband, or to any technology required for virtual or remote instruction;

(2) the required length of a virtual or remote instruction day;

(3) the impact of virtual or remote instruction on the school lunch and school breakfast programs;

(4) the impact of virtual or remote instruction on the schedule for administering State assessments; and

(5) such other topics as the commissioner deems necessary.

e. (1) Nothing in subsection b., c., or d. of this section shall be construed to limit, supersede or preempt the rights, privileges, compensation, remedies, and procedures afforded to public school employees or a collective bargaining unit under federal or State law or any provision of a collective bargaining agreement entered into by the school district. In the event of the closure of the schools of a school district due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure for a period longer than three consecutive school days, public school employees covered by a collective negotiations agreement shall be entitled to compensation, benefits, and emoluments as provided in the collective negotiations agreement as if the school facilities remained open for any purpose and for any time lost as a result of school closures or use of virtual or remote instruction, except that additional compensation, benefits, and emoluments may be negotiated for additional work performed.

(2) In the event of the closure of the schools of a school district due to a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure for a period longer than three consecutive school days, public school employees who are not covered by a collective negotiations agreement shall be entitled to any benefits, compensation, and emoluments to which they otherwise would be entitled as if they had performed the work for such benefits, compensation, and emoluments as if the school facilities remained open for any purpose and for any time lost as a result of school closures or use of virtual or remote instruction.

(3) If the schools of a school district are subject to a health-related closure for a period longer than three consecutive school days, which is the result of a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer, then the school district shall continue to make payments of benefits, compensation, and emoluments pursuant to the terms of a contract with a contracted service provider in effect on the date of the closure as if the services for such benefits, compensation, and emoluments had been provided, and as if the school facilities had remained open. Payments received by a contracted service provider pursuant to this paragraph shall be used to meet the payroll and fixed costs obligations of the contracted service provider, and employees of the contracted service provider shall be paid as if the school facilities had remained open and in full operation. A school district shall make all reasonable efforts to renegotiate a contract in good faith subject to this paragraph and may direct contracted service providers, who are a party to a contract and receive payments from the school district under this paragraph, to provide services on behalf of the school district which may reasonably be provided and are within the general expertise or service provision of the original contract. Negotiations shall not include indirect costs such as fuel or tolls. As a condition of negotiations, a contracted service provider shall reveal to the school district whether the entity has insurance coverage for business interruption covering work stoppages. A school district shall not be liable for the payment of benefits, compensation, and emoluments pursuant to the terms of a contract with a contracted service provider under this paragraph for services which otherwise would not have been provided had the school facilities remained open. Nothing in this paragraph shall be construed to require a school district to make payments to a party in material breach of a contract with a contracted service provider if the breach was not due to a closure resulting from a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer.

(4) If the schools of a school district are subject to a health-related closure for a period longer than three consecutive school days, which is the result of a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer, the school district shall be obligated to make payments for benefits, compensation, and emoluments and all payments required pursuant to P.L.1968, c.243 (C.18A:6-51 et seq.), to an educational services commission, county special services school district, and a jointure commission, and under any shared services agreement and cooperative contract entered into with any other public entity. An educational services commission, county special services school district, and jointure commission shall continue to make payments of benefits, compensation, and emoluments pursuant to the terms of a contract with a contracted service provider or a shared services agreement in effect on the date of the closure as if the services for such benefits, compensation, and emoluments had been provided, and as if the school facilities had remained open. Payments received by a contracted service provider or public entity pursuant to this paragraph shall be used to meet the payroll and fixed costs obligations of the contracted service provider or public entity, and employees of the contracted service provider or public entity shall be paid as if the school facilities had remained open and in full operation. Upon

request of the school district, the educational services commission, county special services school district, and a jointure commission shall certify, and provide any supporting documentation to a school district as may be necessary to verify, that payments received have been used solely to meet the payroll and fixed costs of the contracted service provider or public entity. Any portion of those payments not used to meet the payroll and fixed costs shall be returned to the school district. An educational services commission, county special services school district, jointure commission or any lead school district under a shared services agreement or cooperative contract, shall make all reasonable efforts to renegotiate a contract in good faith subject to this paragraph and may direct contracted service providers or public entities, who are a party to a contract and receive payments under this paragraph, to provide services which may reasonably be provided and are within the general expertise or service provision of the original contract. Negotiations shall not include indirect costs such as fuel or tolls. As a condition of negotiations, a contracted service provider or public entity shall reveal whether the entity has insurance coverage for business interruption covering work stoppages.

(5) The provisions of paragraphs (1) through (4) of this subsection e. shall not apply to any employee whose weekly hours of work are reduced, and to whom unemployment benefits are provided, pursuant to a shared work program approved pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.). A contracted service provider, educational services commission, county special services school district, or jointure commission shall notify any school district with which it has entered into a contract to provide services of its intent to reduce the hours of work of its employees pursuant to a shared work program approved pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.). Notwithstanding the provisions of paragraph (3) of this subsection e., if a contracted service provider reduces the amount that it pays to its employees providing services to a school district, and that reduction is the result of a reduction of workhours of those employees made pursuant to a shared work program approved pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.), then the amount paid by the public school district to the contracted service provider shall be reduced by the same amount. Notwithstanding the provisions of paragraph (4) of this subsection e., if an educational services commission, county special services school district, or jointure commission reduces the amount that it pays to its employees providing services to a school district, and that reduction is the result of a reduction of workhours of the those employees made pursuant to a shared work program approved pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.), then the amount paid by the public school district to the educational services commission, county special services school district, or jointure commission shall be reduced by the same amount.

f. For purposes of subsections b., c., d., and e. of this section, "school district" shall include a charter school and a renaissance school project.

C.43:21-20.12 Short title.

4. Sections 4 through 7 of this act shall be known and may be cited as the "Employee Job-Sharing Furlough Protection Act."

C.43:21-20.13 Actions of division.

5. To facilitate the providing of the maximum possible benefits for employees and savings for employers in the State from the federal financing of unemployment benefits provided in connection with short-time compensation programs pursuant to section 2108 of the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136 and from federal financing of emergency increases in unemployment benefits under section 2104 of that act, the division shall, during the period from the effective date of this act until December 31, 2020, undertake the following actions:

a. Make available to all employers who may be eligible to participate in a shared work program pursuant to P.L.2011, c.154 (C.43:21-20.3 et seq.) for which full federal funding of short-time unemployment benefits is available pursuant to section 2108 of the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136, a guidance document which explains:

(1) what the employer is required to do to establish, pursuant to P.L.2011, c.154 (C.43:21-20.3 et seq.), shared work programs eligible for the federal funding, including providing certification to the division that any union representing employees in collective bargaining has entered into a written agreement regarding the terms of the program and certification that the employer will continue providing any current health insurance and pension coverage, paid time off and other benefits in the manner required by P.L.2011, c.154 (C.43:21-20.3 et seq.);

(2) procedures for an employer to make an application for approval of a shared work program, including an explanation of how the employer may make preliminary calculations of benefits to be paid to participating employees to expedite the commencement of the payment of the benefits in the shortest possible time;

b. Provide any eligible employer with guidance in making an application;

c. Permit an application for approval of a shared work program to be submitted to, and approved by, the division in advance of the date on which reduced hours of employment are to commence to permit payment of benefits under the program immediately upon that commencement.

d. Permit employers who have fully laid off employees to resume employing those employees on a partial basis in a manner consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3 et seq.), and establish a shared work program to make short-time benefits available to those employees; and

e. Permit, upon the approval of a shared work program, of the payment of benefits retroactively back to the time that the shared work application was submitted and commenced in a manner consistent with the requirements of P.L.2011, c.154 (C.43:21-20.3 et seq.).

C.43:21-20.14 Contributions to system, fund.

6. A public employee enrolled in a State-administered retirement system or fund, and the employer of that employee, shall be required to make contributions to the system or fund during the period that the employee is participating in a shared work program pursuant to P.L.2011, c.154 (C.43:21-20.3 et seq.). The contributions shall be based on the base salary or compensation, as defined by

the retirement system or fund, that would have been paid to the employee if the employee had not been participating in a shared work program. No deduction for the payment of such contributions shall be made from the unemployment compensation or short-time compensation benefits of the employee. The employee's service credit as a member of the system or fund shall include the period during which the employee participated in a shared work program. For all purposes under the retirement system or fund, the period during which the employee participated in a shared work program and the base salary or compensation upon which contributions were made during such period shall be recognized by the retirement system or fund. The seniority rights and health benefits coverage of an employee who participates in a shared work program shall continue and shall not be adversely affected by participation. The employer shall enter into a written agreement with any collective bargaining agent representing the employees regarding the terms of the program, including terms regarding attendance in training programs while receiving short-time benefits, and provide certification, and the copy, of the agreement to the division as required by P.L.2011, c.154 (C.43:21-20.3 et seq.). This section shall not be construed to conflict with any applicable provisions of federal law.

C.43:21-20.15 Report on all shared work programs on website.

7. a. The division shall, not later than March 31, 2021, issue, make public on the website of the Department of Labor and Workforce Development, and submit to the Governor and Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report on all shared work programs approved during calendar year 2020 pursuant to P.L.2011, c.154 (C.43:21-20.3 et seq.) and the impact of federal financing of those programs pursuant to section 2108 of the "Coronavirus Aid, Relief, and Economic Security Act," Pub. Law 116-136 and of federal financing pursuant to section 2104 of that act of emergency increases in unemployment benefits for participants in approved shared work programs.

b. The report shall provide separately for governmental employers, for-profit private employers, and nonprofit employers, during calendar year 2020:

(1) The total number of participating employers and employees, the total amount of unemployment benefits paid to participants, the portion of those benefits that was pandemic unemployment compensation, the total wage compensation that was paid to participants during participation in the program, and the share, if any, of the benefit costs not paid or reimbursed by the federal government;

(2) The minimum, maximum, and average duration of programs, the average weekly benefit, and the average weekly wage paid during participation in the program;

(3) The number of participating employers who entered into agreements with collective bargaining agents regarding the terms of the program, and the total number of employees covered by those agreements; and

(4) The total reduction in payroll costs due to reduced hours of paid employment by participants.

c. The report shall provide, for each calendar year from 2012 through 2019, the total number of employers and employees participating in approved shared work programs and the total amount of unemployment benefits paid to participating employees.

8. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read as follows:

C.43:15A-7 Public Employees' Retirement System, established; membership.

7. There is hereby established the Public Employees' Retirement System of New Jersey in the Division of Pensions and Benefits of the Department of the Treasury. The membership of the retirement system shall include:

a. The members of the former "State Employees' Retirement System of New Jersey" enrolled as such as of December 30, 1954, who shall not have claimed for refund their accumulated deductions in said system as provided in this section;

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service. The membership of the retirement system shall not include those persons appointed to serve as described in paragraphs (2) and (3) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a person who was a member of the retirement system prior to the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) and continuously thereafter; and

c. Every employee veteran in the employ of the State or other employer on January 2, 1955, who is not a member of any retirement system supported wholly or partly by the State.

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Elected officials commencing service on or after the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible for membership in the retirement system based on service in the elective public office, except that an elected official enrolled in the retirement system as of that effective date who continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service shall be eligible to continue membership in the retirement system under the terms and conditions of enrollment. Service in the Legislature shall be considered a single elective public office. Any part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be

eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age.

(1) Before or on November 1, 2008, no person in employment, office or position, for which the annual salary or remuneration is fixed at less than $1,500.00, shall be eligible to become a member of the retirement system.

(2) After November 1, 2008, a person who was a member of the retirement system on that date and continuously thereafter shall be eligible to be a member of the retirement system in employment, office or position, for which the annual salary or remuneration is fixed at $1,500 or more.

(3) After November 1, 2008 and before or on the effective date of P.L.2010, c.1, a person who was not a member of the retirement system on November 1, 2008, or who was a member of the retirement system on that date but not continuously thereafter, and who is in employment, office or position, for which the annual salary or remuneration is certified by the applicable public entity at $7,500 or more, shall be eligible to become a member of the retirement system. The $7,500 minimum annual salary or remuneration amount shall be adjusted annually by the Director of the Division of Pensions and Benefits, by regulation, in accordance with changes in the Consumer Price Index but by no more than 4 percent. "Consumer Price Index" means the average of the annual increase, expressed as a percentage, in the consumer price index for all urban consumers in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor.

(4) After the effective date of P.L.2010, c.1, no person in an employment, office or position of the State, or an agency, board, commission, authority or instrumentality of the State, for which the hours of work are fixed at fewer than 35 per week shall be eligible to become a member of the retirement system; and no person in employment, office or position with a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a political subdivision of the State, for which the hours of work are fixed by an ordinance or resolution of the political subdivision, or agency, board, commission, authority or instrumentality thereof, at fewer than 32 per week shall be eligible to become a member of the retirement system. Any hour or part thereof, during which the person does not work due to the person's participation in a voluntary or mandatory furlough program shall not be deducted in determining if a person's hours of work are fixed at fewer than 35 or 32 per week, as appropriate, for the purpose of eligibility and the person's service credit as a member of the system or fund shall include the period of mandatory or voluntary furlough provided the person continues to make contributions based on the person's base salary or compensation. If the pay of a furloughed person is insufficient to withhold the entirety of the person's regular contributions, then the person shall remit the entirety of the regular contribution which was not withheld from the person's pay to the Division of Pensions and Benefits in the Department of the Treasury in a manner determined by the division, except that no deduction for the payment of such contributions shall be made from the unemployment compensation benefits of the employee.

e. Membership of any person in the retirement system shall cease if he shall discontinue his service for more than two consecutive years.

f. The accumulated deductions of the members of the former "State Employees' Retirement System" which have been set aside in a trust fund designated as Fund A as provided in section 5 of this act and which have not been claimed for refund prior to February 1, 1955 shall be transferred from said Fund A to the Annuity Savings Fund of the Retirement System, provided for in section 25 of this act. Each member whose accumulated deductions are so transferred shall receive the same prior service credit, pension credit, and membership credit in the retirement system as he previously had in the former "State Employees' Retirement System" and shall have such accumulated deductions credited to his individual account in the Annuity Savings Fund. Any outstanding obligations of such member shall be continued.

g. Any school crossing guard electing to terminate his membership in the retirement system pursuant to subsection d. of this section shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the position of school crossing guard. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

h. A temporary employee who is employed under the federal Workforce Investment Act shall not be eligible for membership in the system. Membership for temporary employees employed under the federal Job Training Partnership Act, Pub.L.97-300 (29 U.S.C.s.1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

i. Membership in the retirement system shall be optional for a special service employee who is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on the effective date of P.L.1996, c.139 may terminate membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contributions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

j. An employee of the South Jersey Port Corporation who was employed by the South Jersey Port Corporation as of the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-employed within 365 days of such effective date by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall be eligible to continue membership while an employee of such subsidiary or other corporation.

k. An employee of a renaissance school project established pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon commencement of employment.

9. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in P.L.1961, c.49 (C.52:14-17.26 et seq.):

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of P.L.1961, c.49 (C.52:14-17.27).

(c) (1) The term "employee" means an appointive or elective officer, a full-time employee of the State of New Jersey, or a full-time employee of an employer other than the State who appears on a regular payroll and receives a salary or wages for an average of the number of hours per week as prescribed by the governing body of the participating employer which number of hours worked shall be considered full-time, determined by resolution, and not less than 20.

(2) After the effective date of P.L.2010, c.2, the term "employee" means (i) a full-time appointive or elective officer whose hours of work are fixed at 35 or more per week, a full-time employee of the State, or a full-time employee of an employer other than the State who appears on a regular payroll and receives a salary or wages for an average of the number of hours per week as prescribed by the governing body of the participating employer which number of hours worked shall be considered full-time, determined by resolution, and not less than 25, or (ii) an appointive or elective officer, an employee of the State, or an employee of an employer other than the State who has or is eligible for health benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et seq.) or sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 et seq.) on that effective date and continuously thereafter provided the officer or employee is covered by the definition in paragraph (1) of this subsection. Any hour or part thereof, during which an employee does not work due to the employee's participation in a voluntary or mandatory furlough program shall not be deducted in determining if a person's hours of work are fixed at fewer than 35 or 32 per week, as appropriate, for the purpose of eligibility for health benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et seq.) provided the employee continues to pay contributions for coverage during the period of furlough. If the pay of a furloughed employee is insufficient to withhold the entirety of the employee's contribution, then the employee shall remit the portion of the contribution not withheld from the employee's pay to the Division of Pensions and Benefits in the Department of the Treasury in a manner determined by the division, except that no deduction for the payment of such contributions shall be made from the unemployment compensation benefits of the employee. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties, provided, however, that the term "employee" shall include persons employed on an intermittent basis to whom the State has agreed to provide coverage under P.L.1961, c.49 (C.52:14-17.25 et seq.) in accordance with a binding collective negotiations agreement. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) (1) The term "dependents" means an employee's spouse, partner in a civil union couple or an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Child Protection and Permanency in the Department of Children and Families, provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, partner in a civil union couple, domestic partner or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses, partners in a civil union couple or domestic partners of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary and subject to the provisions of paragraph (3) of this subsection, for the purposes of an employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term "dependents" means an employee's spouse or partner in a civil union couple and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Child Protection and Permanency in the Department of Children and Families provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, partner in a civil union couple or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses or partners in a civil union couple of retired persons who are otherwise eligible for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B.

(3) An employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34) may adopt a resolution providing that the term "dependents" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

(j) The term "successor plan" means a State managed care plan that shall replace the traditional plan and that shall provide benefits as set forth in subsection (B) of section 5 of P.L.1961, c.49 (C.52:14-17.29) with provisions regarding reimbursements and payments as set forth in paragraph (1) of subsection (C) of section 5 of P.L.1961, c.49 (C.52:14-17.29).

10. 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;

(5) With respect to services performed after the effective date of P.L.2020, c.57, and only upon written notification from the United States Department of Labor that the amendatory language added to this section by that act conforms to the "Between and Within Terms" denial provisions of 26 U.S.C. s.3304, as used in this subsection:

"Established and customary vacation period or holiday recess" includes those breaks scheduled during fall, winter, and spring recesses when those vacation periods occur within a term or semester. "Established and customary vacation period or holiday recess" does not include the summer term or semester, unless, based on objective criteria including enrollment and staffing, the summer is not in fact a part of the academic year for a particular institution.

"Reasonable assurance" means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term as in the first academic year or term. A person shall not be deemed to be performing services

"in the same capacity" unless those services are rendered under the same terms or conditions of employment in the ensuing year as in the first academic year or term.

An individual who is tenured or holds tenure track status is considered to have reasonable assurance, unless advised otherwise. For the purposes of this subsection, tenure track status means a probationary faculty employee having an opportunity to be reviewed for tenure.

A person is presumed not to have reasonable assurance under an offer that is conditioned on enrollment, funding, program changes, or other circumstances under the control of the employer. It is the employer's burden to provide sufficient documentation to overcome this presumption. Reasonable assurance shall be determined on a case-by-case basis considering the totality of circumstances rather than on the existence of any one factor. For an individual to be regarded as having reasonable assurance of employment, the totality of circumstances must show that it is highly probable that there is a job available for the employee in the following academic year or term. If any contingencies in the employment offer are within the employer's control, the claimant shall not be regarded as having a reasonable assurance of employment. Contingencies within the employer's control include, but are not limited to, enrollment, funding, including appropriations and the allocation of funding, program changes, final course offering, and facility availability.

(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.).

11. This act shall take effect on June 29, 2020.

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Approved July 2, 2020.

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