LAWS OF DELAWARE
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CHAPTER 365
152nd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 433

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 706, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 706. Continuation of labor contracts despite merger or other business combination.

(b) For purposes of this section:

(2) "Employment" shall have the meaning set forth in ~~§ 3302(10)(H) and (I)~~ § 3302(14)(H) and (I) of this title.

Section 2. Amend § 3166, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3166. Special Administration Fund.

(a) *Creation.* — There is created in the State Treasury a special fund to be known as The Special Administration Fund of the Department of Labor. This Fund shall consist of:

(5) All moneys collected pursuant to ~~§ 3350(9)(n)~~ § 3350B of this title.

Section 3. Amend § 3302, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3302. Definitions.

As used in this chapter, unless the context clearly requires otherwise, the following terms shall have the meanings designated in this section:

(1) "Assessments" means the money payments to the State Unemployment Compensation Fund required by this chapter.

(2) "Assessment rate year" means the calendar year for which an assessment rate is in effect.

~~(2)~~ (3) "Base period" means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year. However, if the claimant has earned insufficient wages in the first 4

of the last 5 completed calendar quarters to become eligible for benefits, then such claimant's "base period" shall be the 4 most recent completed calendar quarters immediately preceding the first day of the claimant's benefit year.

(4) "Benefit charges" means the amount of benefits paid by the Department to an individual that has been charged to an employer's experience merit rating account pursuant to § 3355 of this title.

~~(3)~~ (5) "Benefit year" with respect to any individual means the 1-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 1-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of the worker's last preceding benefit year. Provided that, when the last day of such 1-year period falls within a week with respect to which an individual has met the eligibility requirements of this chapter, the ending date of the benefit year may be extended for a period not to exceed 6 days, and provided further that, for the purpose of filing any subsequent claim for benefits, the extension of the benefit year as provided in this paragraph shall not change the benefit year ending date as established prior to such extension.

As used in this paragraph, a "valid claim" is any claim for benefits made in accordance with § 3317 of this title if the individual has been paid wages for employment required under § 3315(5) of this title.

~~(4)~~ (6) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to the individual's unemployment.

~~(5) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-service persons pursuant to 5 U.S.C. Chapter 85) other than additional and extended benefits.~~

~~(6)~~ (7) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the Department may by regulation prescribe.

(8) "Covered wages" means the aggregate amount of all remuneration with respect to employment paid to an individual by an employer or the employer's predecessor during a calendar year and which are required to be reported in the quarterly assessment reports submitted by an employer to the Division for the period covered by such calendar year, pursuant to §§ 3302(27) and 3302(28)(B) but not limited by the limits set forth in §

3302(28)(A) and excluding employers who pay reimbursement payments in lieu of assessments pursuant to § 3345(b).

(9) "Delinquency assessment rate" means the assessment rate the Department shall assign for the period of 12 months commencing January 1 of any assessment rate year to a delinquent employer. The delinquency assessment rate for rated employers shall be 6.3% multiplied by the taxable wages paid by the delinquent employer during any calendar quarter. The delinquency assessment rate for new employers shall be as set forth in § 3348(o)(4) of this title.

(10) "Delinquent employer" means a rated employer or new employer who is delinquent as of September 30 of the prior assessment rate year in filing any required reports or paying any assessments due on wages paid for employment for such employer during pay periods ending on or prior to June 30 of the prior assessment rate year.

~~(7)~~ (11) "Department" means the Department of Labor.

~~(8)~~ (12) "Employer" means:

(A) (i) Any employing unit which after December 31, 1971,

(I) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of $1,500 or more, or

(II) For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year, had in employment at least 1 individual (irrespective of whether the same individual was in employment in each such day);

(ii) Any employing unit for which agricultural labor as defined in paragraph ~~(11)(A)(vii)~~ (15)(A)(vii) of this section is performed after December 31, 1977;

(iii) Any employing unit for which domestic service as defined in paragraph ~~(11)(B)~~ (15)(B) of this section is performed after December 31, 1977;

(iv) (I) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraphs ~~(8)(A)(i)~~ (12)(A)(i) and (ii) of this section the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account;

(II) In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraphs ~~(8)(A)(i)~~ (12)(A)(i) and (iii) of this section, the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of paragraph ~~(8)(A)(i)~~ (12)(A)(i) of this section;

(B) Any employing unit for which service in employment as defined in paragraph ~~(10)(B)(iii)~~ (14)(B)(iii) of this section is performed;

(C) Any employing unit for which service in employment, as defined in paragraph ~~(10)(C)~~ (14)(C) of this section, is performed after December 31, 1971;

(D) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all of the assets thereof, of another employing unit which at the time of such acquisition was an employer subject to this chapter, or which acquired a part of the organization, trade or business of another employing unit which at the time of such acquisition was an employer subject to this chapter;

(E) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this chapter) and which would be an employer under paragraph ~~(8)(A)~~ (12)(A) of this section if, subsequent to such acquisition, it were treated as a single unit with such other employing unit;

(F) Any employing unit which, together with 1 or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls 1 or more other employing units (by legally enforceable means or otherwise), and which if treated as a single unit with such other employing units or interests or both would be an employer under paragraph ~~(8)(A)~~ (12)(A) of this section;

(G) Any employing unit not an employer by reason of any other paragraph of this ~~paragraph (8):~~paragraph:

(i) For which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for assessments required to be paid into a state unemployment fund; or

(ii) Which, as a condition for approval of this part for full tax credit against the tax imposed by the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.], is required, pursuant to such Act, to be an "employer" under this part;

(H) Any employing unit which, having become an employer under paragraph ~~(8)(A),~~ (12)(A), (B), (C), (D), (E), (F) or (G) of this section, has not under §§ ~~3341-3343~~ 3341 through 3343 of this title ceased to be an employer subject to this chapter; and

(I) For the effective period of its election pursuant to § 3343 of this title, any employing unit which has elected to become subject to this chapter.

(J) For purposes of this ~~paragraph (8),~~ paragraph (12), an employee leasing company, a professional employment organization (PEO) or any other similar entity shall not be considered to be the employer of any leased employees. The services performed by leased employees shall be considered to be services performed for the employer client company of the employee leasing company, professional employment organization (PEO) or any similar entity and the employer client company shall be considered to be the employer of its leased employees. An employer client company shall be responsible for reporting the gross wages of its leased employees to the Division of Unemployment Insurance on Form UC-8A (Quarterly Payroll Report) and for paying any assessments due on the taxable wages of its leased employees to the Division of Unemployment Insurance as reported on Form UC-8 (Quarterly Tax Report). The unemployment insurance assessment rate for an employer client company, as determined in accordance with §§ 3350 or 3350A of this title, shall include the unemployment insurance claims experience of the employer client company's leased employees. This paragraph does not apply to a temporary help firm as defined in § 3327 of this title unless such temporary help firm provides leased employees to an employer client company. In such cases, the employee leasing segment of the temporary help firm's business shall be subject to this paragraph. For the purpose of this ~~paragraph (8),~~ paragraph, an "employee leasing company," "professional employment organization (PEO)" or similar entity shall mean an employing unit established to engage in the business of providing leased employees to an employer client company. For the purpose of this paragraph, an "employer

client company" shall mean a company who enters into an agreement with an employee leasing company, professional employment organization (PEO) or similar entity to lease any or all of its regular employees.

For purposes of paragraphs ~~(8)(A)~~ (12)(A) and (C) of this section, employment shall include service which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into (in accordance with § 3131 of this title) by the Department and an agency charged with the administration of any other state or federal unemployment compensation law.

For purposes of paragraphs ~~(8)(A)(i)(II)~~ (12)(A)(i)(II) and (C) of this section, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed 1 calendar week and the days beginning January 1 another such week.

~~(9)~~ (13) (A) "Employing unit" means 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, which has or subsequent to January 1, 1936, had in its employ 1 or more individuals performing services for it within this State. Employing unit also means any governmental entity which has in its employ individuals performing services. All individuals performing services within this State for any employing unit which maintains 2 or more separate establishments within this State shall be deemed to be employed by a single employing unit for all other purposes of this chapter.

(B) Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession or business, such employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work and shall be liable for the employer assessments with respect to wages paid to such individuals by such contractor or subcontractor, except that any employing unit which becomes liable for and pays assessments with respect to individuals in the employ of any such contractor or subcontractor may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by

such agent or employee, providing the employing unit had actual or constructive knowledge of the work, except as provided in paragraph ~~(11)(A)(vii)~~ (15)(A)(vii) of this section.

~~(10)~~ (14) "Employment" means:

(A) Any service performed prior to January 1, 1978, which was employment as defined in this paragraph prior to such date and, subject to the other provisions of this paragraph, service performed after December 31, 1977, including service in interstate commerce, by

(i) Any officer of a corporation after December 31, 1995.

(ii) Any individual who, under paragraph ~~(10)(K)~~ (14)(K) of this section, has the status of an employee; or

(iii) Any individual other than an individual who is an employee under paragraph ~~(10)(A)(i)~~ (14)(A)(i) or (ii) of this section who performs services for remuneration for any person:

(I) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk) or laundry or dry cleaning services, for the driver's principal; or

(II) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, the person's principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(III) As a homeworker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by such person;

Provided, that for purposes of paragraph ~~(10)(A)(iii)~~ (14)(A)(iii) of this section, the term "employment" shall include services described in paragraphs ~~(10)(A)(iii)(I),~~ (14)(A)(iii)(I), (II) and (III) of this section, performed after December 31, 1977, only if:

1. The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

2. The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

3. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(B) (i) Service performed after December 31, 1971, by an individual in the employ of this State or any of its instrumentalities (or in the employ of this State and 1 or more other states or their instrumentalities) for a hospital or institution of higher education located in this State, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]; or

(ii) Service performed after June 30, 1972, and before January 1, 1978, by an individual in the employ of this State or any of its instrumentalities, provided that such service is classified by the State Personnel Commission. As used in this paragraph, a "classified employee" is a person holding a career job based on a merit system under a specific pay plan in accordance with merit system screening, regulation and law. Coverage is restricted to services of classified employees not employed on a seasonal or temporary basis.

(iii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than 1 of the foregoing or any instrumentality of any of the foregoing and 1 or more other states or political subdivisions, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by § 3306(c)(7) of that act [26 U.S.C. § 3306(c)(7)] and is not excluded from "employment" under paragraph ~~(10)(D)(iii)~~ (14)(D)(iii) of this section.

(C) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(i) The service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of § 3306(c)(8) of that act [26 U.S.C. § 3306(c)(8)]; and

(ii) The organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(D) For the purposes of paragraphs ~~(10)(B) and (C)~~ (14)(B) and (C) of this section, the term "employment" does not apply to service performed:

(i) In the employ ~~of~~ of:

(I) A church or convention or association of churches; or

(II) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or

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

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education; after December 31, 1977, in the employ of a governmental entity referred to in paragraph ~~(10)(B)(iii)~~ (14)(B)(iii) of this section if such service is performed by an individual in the exercise of duties:

(I) As an elected official;

(II) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(III) As a member of the State National Guard or Air National Guard;

(IV) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(V) In a position which, under or pursuant to the laws of this State, is designated as:

1. A major nontenured policymaking or advisory position, or

2. A policymaking or advisory position the performance of duties of which ordinarily does not require more than 8 hours per week; or

(iv) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or of providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, such service performed by an individual receiving such rehabilitation or remunerative work; or

(v) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or

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

(E) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada, and in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the United States Secretary of Labor approves the unemployed compensation law of the Virgin Islands under § 3304(a) [26 U.S.C. § 3304(a)] of the Internal Revenue Code of 1954), in the employ of an American employer (other than service which is deemed "employment" under paragraph ~~(10)(H)~~ (14)(H) or (I) of this section or the parallel provisions of another state's law), if:

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

(ii) The employer has no place of business in the United States, but

(I) The employer is an individual who is a resident of this State; or

(II) The employer is a corporation which is organized under the laws of this State; or

(III) The employer is a partnership or a trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of any 1 other state; or

(iii) None of the criteria of paragraphs ~~(10)(E)(i)~~ (14)(E)(i) and (ii) of this section is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the law of this State.

(iv) An "American employer" for purposes of this paragraph means a person who is:

(I) An individual who is a resident of the United States; or

(II) A partnership if $^{2}/_{3}$ or more of the partners are residents of the United States; or

(III) A trust, if all of the trustees are residents of the United States; or

(IV) A corporation organized under the laws of the United States or of any state.

(v) For purposes of this paragraph, the term "United States" includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

(F) Notwithstanding paragraph ~~(10)(H)~~ (14)(H) of this section, all service performed after December 31, 1971, by an officer or member of a crew of an American vessel on or in connection with such vessel if the operating office from which the operation of such vessel operating on navigable waters within, or within and without, the United States is ordinarily and regularly supervised, managed, directed and controlled is within this State.

(G) Notwithstanding any other provisions of this ~~paragraph (10),~~ paragraph (14), except as provided in paragraph ~~(10)(A)(i)~~ (14)(A)(i) of this section, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for assessments required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.] is required to be covered under this chapter.

(H) The term "employment" shall include an individual's entire service, performed within, or both within and without, this State if the service is localized in this State. Service shall be deemed to be localized within this State if:

(i) The service is performed entirely within this State; or

(ii) The service is performed both within and without this State but the service performed without this State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(I) The term "employment" shall include an individual's entire service, performed within, or both within or without, this State if the service is not localized in any state but some of the service is performed in this State and

(i) The individual's base of operation is in this State; or

(ii) If there is no base of operations, then the place from which such service is directed or controlled is in this State; or

(iii) The individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(J) Service covered by an election pursuant to § 3343 of this title shall be deemed to be employment during the effective period of the election.

(K) Notwithstanding any other provisions of this chapter and irrespective of whether the common-law relationship of employer and employee exists, services performed by an individual for wages, unless and until it is shown to the satisfaction of the Department that:

(i) Such individual has been and will continue to be free from control and direction in connection with the performance of such service, both under the individual's contract for the performance of services and in fact; and

(ii) Such service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and

(iii) Such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

~~(11)~~ (15) "Employment" does not include:

(A) Service performed by an individual in agricultural labor, except as provided in paragraph ~~(11)(A)(vii)~~ (15)(A)(vii) of this section. For purposes of this paragraph, the term "agricultural labor" means any service performed prior to January 1, 1972, which was agricultural labor as defined in this paragraph prior to such date, and remunerated service performed after December 31, 1971:

(i) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) In connection with the production or harvesting of any commodity defined as an agricultural commodity in § 15(g) of the Agricultural Marketing Act, as amended [12 U.S.C. § 1141j] or in connection with the ginning of cotton or in connection with the operation or maintenance of ditches,

canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv) (I) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than $^1/_2$ of the commodity with respect to which such service is performed;

(II) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in paragraph ~~(11)(A)(iv)(I)~~ (15)(A)(iv)(I) of this section but only if such operators produced more than $^1/_2$ of the commodity with respect to which such service is performed;

(III) Paragraphs ~~(11)(A)(iv)(I)~~ (15)(A)(iv)(I) and (II) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(vi) As used in paragraph ~~(11)(A)~~ (15)(A) of this section the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

(vii) The term "employment" shall include service performed after December 31, 1977, by an individual in agricultural labor when:

(I) Such service is performed for a person who:

1. During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000 or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph ~~(11)(A)(vii)(II)~~ (15)(A)(vii)(II) of this section, or

2. For some portion of a day in each of 20 different calendar weeks, whether or not such days were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph ~~(11)(A)(vii)(II) of this section)~~ (15)(A)(vii)(II) of this section) 10 or more individuals, regardless of whether they were employed at the same moment of time.

(II) Such service is not performed in agricultural labor if performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to §§ 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act [8 U.S.C. § 1184(c) and 8 U.S.C. § 1101(a)(15)(H)].

(III) For purposes of this paragraph, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

1. If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963 [former 7 U.S.C. § 2041 et seq. (See Revisor's note)]; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment or any other mechanized equipment, which is provided by such crew leader; and

2. If such individual is not an employee of such other person within the meaning of paragraph ~~(9)(A)~~ (13)(A)of this section.

(IV) For the purpose of this subparagraph in the case of an individual who is furnished by a crew leader to perform services in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph ~~(11)(A)(vii)(II)~~ (15)(A)(vii)(II) of this section:

1. Such other person and not the crew leader shall be treated as the employer of such individual; and

2. Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by

the crew leader (either on the person's own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.

(V) For the purposes of this subparagraph, the term "crew leader" means an individual who:

1. Furnishes individuals to perform services in agricultural labor for any other person;

2. Pays (either on the person's own behalf or on behalf of such other person) the individuals so furnished by the crew leader for the service in agricultural labor performed by them; and

3. Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(B) Domestic service in a private home performed prior to January 1, 1978. After December 31, 1977, the term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of $1,000 or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter.

(C) Service performed by an individual in the employ of the individual's child or spouse and service performed by a child under the age of 18 in the employ of the child's father or mother.

(D) Service performed after December 31, 1971, in the employ of this State, or of any political subdivision or of any instrumentality of this State or its political subdivision except as provided in paragraph ~~(10)(B)~~ (14)(B) of this section.

(E) Service performed after December 31, 1971, in the employ of a corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office, except as provided in paragraph ~~(10)(C)~~ (14)(C) of this section.

(F) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress. The Department shall enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective 10 days after publication thereof in the manner provided in § 3122 of this title for general rules and shall provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this chapter.

(G) Service performed by an officer of any building and loan association, fraternal order, society, labor union, political club or political organization service club, alumni association or any corporation, association, society or club organized and operated exclusively for social or civic purposes. The exemptions mentioned in this paragraph shall apply only when the service performed by the officer is a part-time service and only when the remuneration of the officer performing the part-time service does not exceed the sum of $75 in any calendar quarter in any calendar year.

(H) Service performed by an individual for an employer as an insurance agent or real estate agent, or as an insurance solicitor or real estate solicitor, if all such service performed by such individual for such employer is performed for remuneration solely by way of commissions.

(I) Service covered by an arrangement between the Department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state.

(J) Service performed after December 31, 1971, in the employ of a school, college or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university.

(K) Service performed after December 31, 1971, by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction

with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or a group of employers.

(L) Service performed after December 31, 1971, in the employ of a hospital if such service is performed by a patient of the hospital, as defined in paragraph ~~(14)~~ (18) of this section.

(M) Service performed after June 30, 1972, in the employ of this State or any of its political subdivisions by an elected official, an official appointed by the Governor or an official compensated on a fee basis.

(N) Service performed as a direct seller as defined in § 3508 of the Internal Revenue Code of 1954 [26 U.S.C. § 3508], as amended.

~~(12)~~ (16) "Employment office" means a free public employment office or branch thereof operated by this State or as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices.

~~(13)~~ (17) "Fund" means the Unemployment Compensation Fund established by this title to which all assessments required and from which all benefits provided under this chapter shall be paid.

~~(14)~~ (18) "Hospital" means an institution which has been licensed, certified or approved by the Department of Health and Social Services as a hospital.

~~(15)~~ (19) (A) "Institution of higher education," for the purposes of this section, means an educational institution which:

(i) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

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

(iii) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) Is a public or other nonprofit institution.

(v) Notwithstanding any of the foregoing provisions of this ~~paragraph (15),~~ paragraph (19), all colleges and universities in this State are institutions of higher education for purposes of this section.

(B) "Educational institution" (including an institution of higher education) is:

(i) One in which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher; and

(ii) Approved, licensed or issued a permit to operate as a school by the State Department of Education or other governmental agency that is authorized within the State to approve, license or issue a permit for the operations of a school; and

(iii) The courses of study or training which it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation.

(20) "New employer" means any employer from the time the employer first becomes subject to this chapter until the employer qualifies for an earned rate of assessment pursuant to §§ 3350 or 3350A of this title. "New employer" does not include an employer who pays reimbursement payments in lieu of assessments pursuant to § 3345(b) of this title.

(21) "New employer rate" means the rate of assessments assigned to a new employer under § 3348 of this title.

(22) "Rated employer" means an employer that is liable for an earned rate of assessment under §§ 3350 and 3350A of this title. "Rated employer" does not include an employer subject to a new employer rate under § 3348 of this title.

(23) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-service persons pursuant to 5 U.S.C. Chapter 85) other than additional and extended benefits.

~~(16)~~ (24) "States" includes, in addition to the states of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico and Virgin Islands.

(25) "Taxable wages" means the amount of remuneration with respect to employment paid to an individual by an employer or the employer's predecessor on which unemployment insurance assessments must

be paid, pursuant to §§ 3302(27) and 3302(28)(B) of this title, up to the limits set forth in § 3302(28)(A) of this title.

~~(17)~~ (26) "Unemployment" exists and an individual is "unemployed" in any week during which the individual performs no services and with respect to which no wages are payable to the individual, or in any week of less than full-time work if the wages payable to the individual with respect to such week are less than the individual's weekly benefit amount plus whichever is the greater of $10 or 50% of the individual's weekly benefit amount. The Department shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs and other forms of short-time work as the Department deems necessary.

~~(18)~~ (27) "Wages" means all remuneration for personal services, including commissions, bonuses, dismissal payments, holiday pay, back pay awards and the cash value of all remuneration in any medium other than cash.

Gratuities customarily received by an individual in the course of the individual's work from persons other than the individual's employing unit shall be treated as wages received from the individual's employing unit.

The reasonable cash value of remuneration in any medium other than cash and the reasonable amount of gratuities shall be estimated and determined in accordance with rules prescribed by the Department.

~~(19)~~ (28) "Wages" does not include:

(A) For the purpose of §§ 3345 and 3348 of this title:

(i) After December 31, 1982, that part of the remuneration which, after remuneration equal to $7,200 with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(ii) After December 31, 1983, that part of the remuneration which, after remuneration equal to $8,000 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(iii) After December 31, 1985, that part of the remuneration which, after remuneration equal to $8,250 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(iv) After December 31, 1986, that part of the remuneration which, after remuneration equal to $8,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(v) After December 31, 2007, that part of the remuneration which, after remuneration equal to $10,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar ~~year.~~ year; or

(vi) After December 31, 2013, that part of the remuneration which, after remuneration equal to $18,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is $125.0 million or less as of the preceding September 30; or that part of the remuneration which, after remuneration equal to $16,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is greater than $125.0 million, but less than $175.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to $14,500 (or such greater amount as may be specified

as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is at least $175.0 million, but no greater than $ 225.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to $12,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is greater than $225.0 million, but less than $275.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to $10,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is $275.0 million or greater as of the preceding September ~~30.~~ 30; or

(vii) After December 31, 2024, to December 31, 2025, that part of the remuneration which, after remuneration equal to $12,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(viii) After December 31, 2025, to December 31, 2026, that part of the remuneration which, after remuneration equal to $14,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(ix) After December 31, 2026, that part of the remuneration which, after remuneration equal to $16,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.]) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year.

~~(vii)~~ (x) For the purpose of this paragraph, the term "employment" shall include service constituting employment under any unemployment compensation law of another state.

~~(viii)~~ (xi) Notwithstanding any other provisions in this section, from July 1, 2019, to October 29, 2020, "wages" does not include that part of the remuneration which, after remuneration equal to $16,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year.

~~(ix)~~ (xii) Notwithstanding any other provisions in this section, from January 1, 2022, to December 31, 2022, "wages" does not include that part of the remuneration which, after remuneration equal to $14,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year.

(B) The amount of any payment with respect to services performed after December 31, 1940, to or on behalf of an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any such payment) on account of:

(i) Retirement; or

(ii) Sickness or accident disability; or

(iii) Medical and hospitalization expenses in connection with sickness or accident disability; or

(iv) Death, provided the individual in its employ:

(I) Has not the option to receive instead of provision for such death benefit any part of such payment or if such death benefit is insured any part of the premiums (or contributions to premiums) paid by the individual's employing unit, and

(II) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit either upon withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of the individual's services with such employing unit.

(C) The payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under § 3101 of the Federal Internal Revenue Code [26 U.S.C. § 3101] with respect to services performed after December 31, 1954.

(D) Vacation pay paid during or incident to any period of unemployment.

(E) Any attendance bonus paid during or incident to any period of unemployment.

(F) Payments to an employee under Chapter 19 of this title by an employer who has failed to provide the advance notice of a mass layoff, plant closing or relocation that is required by Chapter 19 of this title or the federal Worker Adjustment and Retraining Notification Act (29 U.S.C. § 2101 et seq.) shall not be construed as wages. Unemployment insurance benefits under this title may not be denied or reduced because of the receipt of payments related to an employer's violation of Chapter 19 of this title or the federal Worker Adjustment and Retraining Notification Act (29 U.S.C. § 2101 et seq.).

~~(20) [Repealed.]~~

~~(21)~~ (29) "Week" means calendar week, ending at midnight Saturday, but all work performed and wages earned during a working shift which starts before midnight Saturday shall be included in the week in which such shift begins. For purposes of partial claims and mass layoff claims, the Department may authorize the employer's payroll week.

~~(22)~~ (30) "Work" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

~~(23) "Statewide average weekly wage" shall be the amount computed annually as of July 1 by dividing the aggregate amount of wages irrespective of the limitation on the amount of wages subject to assessment under paragraph (19) of this section for services in employment reported by employers as paid during the first 4 of the last 6 completed calendar quarters immediately preceding the effective date of the computation, by a figure representing 52 times the 12-month average of the number of employees in the pay period containing the twelfth~~

~~day of each month during the same 4 calendar quarters as reported by such employers. The statewide average weekly wage shall be effective on July 1 of each year computed.~~

Section 4. Amend § 3313, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3313. Wages defined; weekly benefit amount; total annual amount of benefits; child support obligations.

(a) As used in this section "wages" means wages for employment by employers for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of § ~~3302(8)~~ 3302(12) of this title or § 3343 of this title with respect to becoming an employer.

Section 5. Amend § 3314, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3314. Disqualification for benefits.

An individual shall be disqualified for benefits:

(1) For the week in which the individual left work voluntarily without good cause attributable to such work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount. However, if an individual has left work involuntarily because of illness, no disqualification shall prevail after the individual becomes able to work and available for work and meets all other requirements under this title, but the Department shall require a doctor's certificate to establish such availability or if an individual has left work due to circumstances directly resulting from the individual's experience of domestic violence, as that term is defined in § 703A(a) of Title 13, no disqualification shall prevail. An individual's leaving work shall be treated as due to circumstances directly resulting from the individual's experience of domestic violence if the leaving work resulted from:

a. The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment;

b. The individual's wish to relocate to another geographic area in order to avoid future domestic violence against the individual or the individual's spouse, child under the age of 18, or parent; or

c. Any other circumstance in which domestic violence causes the individual to reasonably believe that leaving work is necessary for the future safety of the individual or the individual's spouse, child under the age of 18, or parent.

When determining whether an individual has experienced domestic violence for compensation purposes, the Division shall require the individual to provide documentation to the Division of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the Division of Unemployment Insurance unless consent for disclosure is given by the individual. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer. An individual who becomes unemployed solely as the result of completing a period of employment that was of a seasonal, durational, temporary or casual duration will not be considered as a matter of law to have left work voluntarily without good cause attributable to such work solely on the basis of the duration of such employment.

An individual who, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits the waiver of the right to retain employment when there is a temporary layoff due to lack of work, has elected to be separated for a temporary period not to exceed 30 calendar days and the employer has consented thereto will not be considered to have left work voluntarily without good cause attributable to such work.

An individual, who quits work in order to accompany that individual's spouse to a place from which it is impractical for such individual to commute and due to a change in location of that individual's spouse's employment, will not be considered to have left work voluntarily without good cause attributable to such work. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's ~~benefits~~

benefit wages in connection with §§ 3349-3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer.

An individual, who quits work to care for that individual's spouse, child under the age of 18, or parent with a verified illness or disability, will not be considered to have left work voluntarily without good cause attributable to such work. For the purposes of this paragraph, a "verified illness or disability" is defined as one that necessitates the care of the individual's ill or disabled spouse, child under the age of 18, or parent that lasts longer than the individual's employer is willing to grant leave for. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's ~~benefits~~ benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer.

(2) For the week in which the individual was discharged from the individual's work for just cause in connection with the individual's work and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's ~~benefits~~ benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer.

An individual, who is discharged from work because the individual has provided notice to that individual's employer of the intent to quit work to accompany that individual's spouse to a place from which it is impractical for such individual to commute and due to a change in location of the individual's spouse's employment, will not be considered to have been discharged from work for good cause attributable to such work. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall constitute employer's ~~benefits~~

benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title.

An individual, who is discharged from work because the individual is providing care for that individual's spouse, child under the age of 18, or parent with a verified illness or disability, will not be considered to have been discharged from work for good cause attributable to such work. For the purposes of this paragraph, a "verified illness or disability" is defined as one that necessitates the care of the individual's ill or disabled spouse, child under the age of 18, or parent that lasts longer than the individual's employer is willing to grant leave for. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall constitute employer's ~~benefits~~ benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title.

An individual, who is discharged from work due to circumstances directly resulting from the individual's experience of domestic violence, as that term is defined in § 703A (a) of Title 13, will not be considered to have been discharged from work for good cause attributable to such work. An individual's discharge from work shall be treated as due to circumstances directly resulting from the individual's experience of domestic violence if:

a. The individual had reasonable fear of future domestic violence at or en route to or from the individual's place of employment;

b. The individual relocated to another geographic area in order to avoid future domestic violence against the individual or the individual's spouse, child under the age of 18, or parent; or

c. Any other circumstance in which domestic violence causes the individual to reasonably believe that absence from work is necessary for the future safety of the individual or the individual's spouse, child under the age of 18, or parent.

When determining whether an individual has experienced domestic violence for compensation purposes, the Division shall require the individual to provide documentation to the Division of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought

assistance in addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the Division of Unemployment Insurance unless consent for disclosure is given by the individual. ~~Wage~~ Prior to January 1, 2027, wage credits earned in such work, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall constitute employer's ~~benefits~~ benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title.

(7) For any week with respect to which the Department finds that the individual has become unemployed by reason of commitment upon conviction and sentencing to any penal institution and for each week thereafter until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned wages in covered employment equal to not less than 4 times the weekly benefit amount. ~~Wage~~ Prior to January 1, 2027, wage credits earned in the individual's most recent employment prior to such commitment, if from employment under this title in the employ of any employer liable for assessments under § 3348 of this title, shall not constitute employer's benefit wages in connection with §§ ~~3349-3356~~ 3349 through 3356 of this title. Any employer liable for reimbursement payments in lieu of assessments shall reimburse the Unemployment Compensation Fund in accordance with § 3345 of this title when an individual becomes eligible for benefits upon separation from a subsequent employer.

Section 6. Amend § 3315, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3315. Eligibility for benefits.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the Department finds that the individual:

(6) a. Has, during the individual's base period, been paid wages for employment equal to not less than 36 times the individual's weekly benefit amount, and, as used in this paragraph (6), "wages" means wages for employment by employers for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has satisfied the conditions of § ~~3302(8)~~ 3302(12) or § 3343 of this title with respect to becoming an employer.

(7) Benefits based on service in employment defined in § ~~3302(10)(B)(iii)~~ 3302(14)(B)(iii) and (C) of this title shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this title, except that:

Section 7. Amend § 3317, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3317. Filing of claim for benefit; regulations of Department; posting [For application of this section, see 79 Del. Laws, c. 82, § 2].

(b) Whenever an individual files a claim for benefits, the Department shall forward to the employer by whom the claimant was most recently employed, hereafter the "last employer," or to the last employer's agent and to each base period employer or to each base period employer's agent relating to the individual's claim a separation notice. The last and base period employer(s) or agent(s) of the last and base period employer(s) shall return such notices completed, indicating the reason for the claimant's separation from work with them and the individual claimant's last date of work with them, within 15 days of the date contained on the separation notice. Any last or base period employer or any last or base period employer's agent who fails to timely return a separation notice or who fails to complete a separation notice or responds inadequately (which, for the purposes of this subsection, shall mean providing the Department insufficient information to make a determination of eligibility for the receipt of unemployment insurance benefits) within the period prescribed above shall be barred from claiming subsequently that the individual claimant to whom such separation notice applied shall be disqualified under any provisions of § 3314 of this title and shall be barred from seeking relief from benefit wage charges (prior to January 1, 2027) and benefit charges (January 1, 2027 and after) to its experience merit rating account under ~~§ § 3349-3356~~ §§ 3349 through 3356 of this title unless the Department for reasons found to constitute good cause, shall release such employer or the employer's agent from the default. If the last or base period employer or the last or base period employer's agent fails to timely submit a completed separation notice, the Department shall not be required to issue a determination on said claim or to make an examination of said claim or be required to follow the remaining procedures as set forth in §§ ~~3318-3320~~ 3318 through 3320 of this title.

(c) Upon receipt by the Department of a timely submitted and completed separation notice from the last or base period employer or the last or base period employer's agent, and if said employer's or employer agent's statement on the separation notice does not contest the claimant's entitlement to benefits by raising a potentially disqualifying

issue as the reason for the claimant's separation or indicates that the claimant was laid off due to lack of work, the employer shall be subject to benefit wage charges (prior to January 1, 2027) and benefit charges (January 1, 2027 and after) to its experience merit rating account in accordance with §§ ~~3349-3356~~ 3349 through 3356 of this title; and such employer and employer's agent shall not be entitled to any further appeal or relief of benefit wage charges (prior to January 1, 2027) or benefit charges (January 1, 2027 and after) on the basis of such claim. In such cases, the Department shall not be required to make an examination of said claim or of benefit wage charges (prior to January 1, 2027) or benefit charges (January 1, 2027 and after) to the employer's experience merit rating account, nor shall the Department be required to issue or send a determination to the last or base period employer or to the last or base period employer's agent or to the claimant on such claim for benefits, nor shall the Department be required to follow the remaining procedures for determination of such claims as set forth in §§ ~~3318-3320~~ 3318 through 3320 of this title. In addition, in such cases, benefits shall be paid unless it is later determined by the Division that such claimant is not otherwise qualified or eligible for benefits, but in no event, shall such employer or the employer's agent be entitled to be a party to such later determination or be entitled to benefit wage charge relief (prior to January 1, 2027) or benefit charge relief (January 1, 2027 and after) on such claim.

Section 8. Amend § 3318, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3318. Decision on claim by deputy; notice; appeal.

(a) If the last employer timely files a completed separation notice in accordance with § 3317 of this title and the employer's statement on the separation notice does raise a potentially disqualifying issue as to the reason for the claimant's separation, the claim shall be referred to a representative of the Department, hereinafter referred to as a Claims Deputy, who shall examine the claim and on the basis of the facts found by the Claims Deputy shall initially determine the individual's qualification and nonmonetary eligibility for benefits, and issue a determination in which it is determined whether or not such claim is valid. If valid, the Claims Deputy shall further determine the week with respect to which benefits shall commence. In lieu of making a determination, the Claims Deputy may elect to refer such claim or any question involved therein to an appeal tribunal which shall make its decision with respect thereto in accordance with the procedure described in subsection (c) of this section. In either case, the Claims Deputy shall promptly notify the claimant and the last employer of the Deputy's own determination and the reasons therefor. The Claims Deputy may for good cause reconsider a determination and shall promptly notify the claimant and the last

employer of the Deputy's amended determination and the reasons therefor, as the case may be. Base period employers who have submitted timely and completed separation notices in accordance with § 3317 of this title may seek relief from benefit ~~wages~~ wage charges (prior to January 1, 2027) and benefit charges (January 1, 2027 and after) charged to their experience merit rating accounts in accordance with § 3355 of this title except that for a claim in which the last employer is also a base period employer for such claim, the issue of benefit wage charge relief (prior to January 1, 2027) or benefit charge relief (January 1, 2027 and after) or such base period employer shall be determined in accordance with the determination on the issue of the claimant's last separation from such employer.

Section 9. Amend § 3326, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3326. Extended benefits.

(c) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the Department finds that with respect to such week:

(3) The individual has, during the individual's base period, been paid wages for employment equal to not less than 40 times the individual's weekly benefit amount and, as used in this paragraph, "wages" means wages for employment by employers for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employment unit by which such wages were paid has satisfied the conditions of § ~~3302(8)~~ 3302(12) of this title or § 3343 of this title with respect to becoming an employer.

Section 10. Amend § 3328, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3328. Self-Employment Assistance Program.

(c) The allowance described in subsection (a) of this section shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except that:

(3) An individual who meets the requirements of this section shall be considered to be unemployed under § ~~3302(17)~~ 3302 of this title; and

Section 11. Amend § 3342, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3342. Termination of employer's coverage.

Except as otherwise provided in § 3343 of this title, an employing unit shall cease to be an employer subject to this chapter only as of January 1 of any calendar year if it files with the Department, prior to January 5 of such year, a written application for termination of coverage and the Department finds that there was no employment as defined in §§ ~~3302(8)(A) and (10)(C)~~ 3302(12)(A) and (14)(C) of this title performed for an employing unit within the preceding calendar year.

For purposes of this section, the 2 or more employing units mentioned in § ~~3302(8)(D), (8)(E) or (8)(F)~~ 3302(12)(D), (12)(E) or (12)(F) of this title shall be treated as a single employing unit.

Section 12. Amend § 3345, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3345. Payment of employer's assessments.

(a) ~~Assessments~~ For calendar years prior to 2027, assessments shall accrue and become payable by each employer for each calendar year in which the employer is subject to this chapter, with respect to wages for employment. For calendar years 2027 and after, assessments shall accrue and become payable by each employer for each calendar year in which the employer is subject to this chapter, with respect to covered wages for employment. Such assessments shall become due and be paid by each employer to the Department for the Fund in accordance with such regulations as the Department prescribes. Except in the case of a false or fraudulent report with intent to evade tax, the amount of assessments imposed by this chapter shall be assessed within 4 years after the date of the filing of the report required by this chapter with respect to such assessments and no civil action or other proceeding to enforce the payment of such assessments shall be commenced more than 4 years after the date of the filing of such report.

(b) Liability for assessments and election of reimbursement:

(1) In lieu of assessments required of employers under § 3348 of this title, liable public employers defined in § ~~3302(8)(B)~~ 3302(12)(B) of this title shall pay into the Unemployment Compensation Fund an amount equal to the amount of the regular benefits and the extended benefits paid (whether paid due to immediate eligibility or eligibility upon separation from a subsequent employer) that is attributable to service in the employ of such liable public employer to individuals for weeks of unemployment which begin during the effective period of such election.

(2) For purposes of this section, employing units covered under § ~~3302(8)(B)~~ 3302(12)(B) of this title are considered liable public employers and shall be liable for reimbursement payments in lieu of assessments. Paragraphs (b)(4)a., b., c., d., e., f. and g. of this section shall apply to any liable public employer.

(3) Any nonprofit organization or group of organizations, described in § 501(c)(3) of the Internal Revenue Code [26 U.S.C. § 501(c)(3)] which is exempt from income tax under § 501(a) of such Code [26 U.S.C. § 501(a)], which, pursuant to § ~~3302(8)(C)~~ 3302(12)(C) of this title, is or becomes subject to this chapter on or after January 1, 1972, shall pay assessments under subsection (a) of this section and § 3348 of this title unless it elects, in accordance with this subsection, to pay to the Department for the Unemployment Compensation Fund an amount equal to the amount of the regular benefits and the first week of extended benefits paid and one half of the extended benefits paid in subsequent weeks (whether paid due to immediate eligibility or eligibility upon separation from a subsequent employer), that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(7) c. Any governmental entity or instrumentality electing the option for assessment financing will report and pay assessments in accordance with subsection (a) of this section and §§ ~~3348 and 3350~~ 3348, 3350, and 3350A of this title, except that notwithstanding the above sections, the assessment rate shall be 1 ~~percent~~ % for the entire calendar year 1978 and the assessment rate for any subsequent calendar years shall be the rate established for such governmental entity or instrumentality under paragraph (b)(7)d. of this section.

Section 13. Amend § 3348, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3348. Average employer assessment rate; average industry assessment rate; average construction industry assessment rate; new employer rate; standard rate of assessment.

(a) ~~On~~ For calendar years prior to 2025, on or before December 31 of each year, the Secretary of Labor shall establish an average employer assessment rate for the next succeeding calendar year. The average employer assessment rate shall be computed by multiplying total taxable wages paid by each employer, regardless of industrial classification category as listed in the North American Industry Classification System (NAICS) Manual furnished by the federal government, during the 12 consecutive months ending on June 30 by the employer's assessment rate established for the next calendar year and dividing the aggregate product for all employers by the total of taxable wages paid by all employers during the 12 consecutive months ending on June 30.

(b) ~~On~~ For calendar years prior to 2025, on or before December 31 of each year, the Secretary of Labor shall establish an average industry assessment rate for the next succeeding calendar year for industrial classification categories (carried to 6 places) 236, ~~237~~ 237, and 238 as listed in the North American Industry Classification System (NAICS) Manual furnished by the federal government. The average industry assessment rate for standard industrial classification categories 236, 237, and 238 shall be computed by multiplying total taxable wages paid by each employer in the industrial classification category during the 12 consecutive months ending on June 30 by the employer's assessment rate established for the next calendar year and dividing the aggregate product for all employers in the industrial classification category by the total of taxable wages paid by all employers in the industrial classification category during the 12 consecutive months ending on June 30.

(c) ~~On~~ For calendar years prior to 2025, on or before December 31 of each year, the Secretary of Labor shall establish an average construction industry assessment rate for the next succeeding calendar year for industrial classification categories (carried to 3 places) 236, ~~237~~ 237, and 238 as listed in the North American Industry Classification System (NAICS) Manual furnished by the federal government. The average construction industry assessment rate shall be computed by multiplying total taxable wages paid by each employer in the construction industry during the 12 consecutive months ending on June 30 by the employer's assessment rate established for the next calendar year and dividing the aggregate product for all employers by the total of taxable wages paid by all construction industry employers during the 12 consecutive months ending on June 30.

(d) For any employer, excluding those employers in NAICS categories 236, ~~237~~ 237, and 238, who first becomes subject to this chapter on or after January 1, 2003, through December 31, 2024, the new employer rate shall be the average employer assessment rate.

(e) For any employer in NAICS categories 236, 237 and 238 who first becomes subject to this chapter on or after January 1, 2003, through December 31, 2024, the new employer rate shall be the average industry assessment rate in the employer's particular NAICS category (carried to 6 places) or the average construction industry assessment rate, whichever is the greater.

(g) ~~Each~~ For calendar years prior to 2025, each employer subject to the new employer rate shall pay an assessment in an amount equal to the product of the new employer rate times wages paid by the employer during any calendar year, except as may be otherwise prescribed in this chapter.

(h) The standard rate of assessment shall be $2^{7}/_{10}$ percent for calendar years prior to 1985 and $5^{4}/_{10}$ percent for calendar year 1985 and subsequent years.

(n) Notwithstanding any other provisions in this section, for assessment rate year 2025 and 2026, the average employer assessment rate, the average industry assessment rate, and the average construction industry assessment rate shall each be 1.0%.

(o) New employer rates applicable to assessment rate year 2027 and after.

(1) Notwithstanding any other provisions of this section, any employer who first becomes subject to this chapter on or after January 1, 2027, shall be assigned a new employer rate pursuant to this subsection (o).

(2) Unless paragraph (o)(4) of this section applies, the new employer rate shall equal the sum of the following:

a. 1.0 %.

b. Any industry assessment rate assigned pursuant to § 3350E of this title to the NAICS Code that the Department assigns to the new employer.

(3) Each employer subject to the new employer rate shall pay an assessment to the Department in an amount equal to the product of the new employer rate times taxable wages paid by the new employer during any calendar quarter, except as may be otherwise prescribed in this chapter.

(4) a. Notwithstanding any other provisions in this chapter, for any employer subject to the new employer rate who is a delinquent employer, the employer's assessment rate for the assessment rate year shall be the following:

1. 0.25% of the delinquency assessment rate, if the new employer is delinquent as of September 30 of the first year such employer is assigned the new employer rate.

2. 0.50% of the delinquency assessment rate, if the new employer is delinquent as of September 30 of the second year such employer is assigned the new employer rate.

3. 0.75% of the delinquency assessment rate, if the new employer is delinquent as of September 30 of the third year such employer is assigned the new employer rate.

b. The Department shall have the authority, in its sole discretion, to waive the partial delinquency assessment rates set forth in this paragraph for good cause shown by a new employer.

(5) Any employer subject to this subsection shall also pay the operations and technology assessment rate set forth in § 3350B of this title.

(6) Notwithstanding anything to the contrary in this section, no employer assigned an assessment rate under this subsection shall have a new employer rate of less than 1.0 %.

Section 14. Amend § 3349, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3349. General limitations on reduction of new employer rate.

(a) For the purpose of this section:

~~(3) "Rated employer" means an employer who has met the requirements of subsection (b), (c) or (d) of this section.~~

(b) Prior to January 1, 1980, no employer's rate shall be reduced below the standard rate for any calendar year unless and until the employer has had employment in each of the 4 consecutive experience years immediately preceding the computation date, and no employer shall be eligible for a reduced rate if the employer has reported no employment for 5 or more consecutive calendar quarters in such 4 experience years.

(c) After December 31, ~~1979,~~ 1979 through July 1, 1986, no employer's rate shall be reduced below the standard rate for any calendar year unless and until the employer has had employment in each of the 3 consecutive experience years immediately preceding the computation date, and no employer shall be eligible for a reduced rate if the employer has reported no employment for 5 or more consecutive calendar quarters in such 3 experience years.

(d) After July 1, ~~1986,~~ 1986 through December 31, 2026, no employer's rate shall be reduced below the new employer rate for any calendar year unless and until the employer has had employment in each of the 2 consecutive experience years immediately preceding the computation date.

(e) For any assessment rate year after December 31, 2026, no employer receiving a new employer rate shall become subject to an earned rate of assessments unless and until the employer has submitted assessment reports to the Department in each of 12 or more consecutive quarters ending June 30 of the prior assessment rate year. The Department shall determine on or before December 31 of the prior assessment rate year if an employer is entitled to move from the new employer rate to an earned rate for any assessment rate year.

Section 15. Amend § 3350, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3350. Variations from new employer rate. (Prior to 2027)

(a) This section applies only to the assignment of assessment rates for assessment rate years prior to 2027. The assignment of assessment rates for assessment rate year 2027 and each assessment rate year thereafter shall be determined in accordance with §§ 3350A through 3350F of this chapter.

(b) Prior to the calendar year 1954, each employer's rate for any calendar year shall be determined on the basis of the employer's record as of December 31 of the preceding calendar year. For the year 1954 and each calendar year thereafter each employer's rate for any calendar year shall be determined on the basis of the employer's record as of September 30 of the preceding calendar year. Variations from the standard rate of assessments or new employer rates shall be determined in accordance with the following requirements:

(6) No employer's basic assessment rate or new employer rate for the period of 12 months commencing January 1 of any calendar year shall be less than $6^{3}/_{10}$% unless all required reports and all assessment due on wages paid for employment for such employer during pay periods ending on or prior to June 30 of the preceding year have been received by the Department on or prior to September 30 of such preceding year. If such required reports and assessments due are received by the Department after September 30 of the preceding year but prior to or on the last day of any calendar quarter of any calendar year, such employer's basic assessment rate or new employer rate for assessments on wages paid for employment for such employers during pay periods in the said calendar quarter and for wages paid for employment for such employer during pay periods in all succeeding calendar quarters in such calendar year shall be the basic assessment rate as determined for such employer under paragraph ~~(5)~~ (b)(5)of this section or the new employer rate as determined for such employer under § 3348 of this title, whichever the Department determines is applicable.

(7) Effective July 1, 1994, notwithstanding any inconsistent provisions of this chapter, if, after the last day of any claimant's benefit year but within the 90 days next following thereafter, an employer for whom benefit wage charges were made as a consequence of such claimant's receipt of benefits files a written notice in such manner as the Department shall prescribe, stating that the employer had reemployed such claimant within the claimant's benefit year, and the Department finds that such employee received in benefits a total amount aggregating not more than 25% of the maximum benefit payments to which the employee was entitled within such benefit year because of such reemployment, the employer's benefit wage record shall be credited with 75% of the benefit wages previously charged against the employer relating to such claimant's previous employment;

or if the Department finds that such employee received in benefits an amount aggregating more than 25% but not more than 50% of the maximum benefits to which the employee was entitled within such benefit year because of such reemployment, the employer's benefit wage record shall be credited with 50% of the benefit wages previously charged against the employer relating to such claimant's previous employment; or if the Department finds that such employee received in benefits a total amount aggregating more than 50% but not more than 75% of the maximum benefits to which the employee was entitled within such benefit year because of such reemployment, the employer's benefit wage record shall be credited with 25% of the benefit wages previously charged against the employer relating to such claimant's previous employment. In computing an employer's assessment rate for any calendar year, credits may be used only in connection with rehires of claimants whose benefit years ended no later than June 30 of the calendar year immediately preceding. Rehire credits shall be applied to the employer's benefit wage record in the calendar year and quarter in which the claimant's benefit year exhausted. An employer may apply for rehire credits relating to a claim for benefits, including benefits paid as a consequence of a claim for partial unemployment benefits, regardless of the number of separate periods of unemployment a claimant had during the claimant's benefit year.

Employer "rehire credits" as defined above shall not be used in the calculation of the "state experience factor" as determined in accordance with paragraph ~~(4)~~ (b)(4) of this section.

(8) For the last 3 calendar quarters of 1959, the 4 calendar quarters of 1960 and the first calendar quarter of 1961, every rated employer shall pay, in addition to the assessment set for such employer under paragraph ~~(5)~~ (b)(5) of this section, an additional assessment of $1^1/_2$% of wages paid by the employer in each of the aforesaid calendar quarters.

(9) Supplemental Assessment Rate.

h. For any calendar year beginning January 1, 1990, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than $130 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph ~~(9)a.~~ (b)(9)a. or b. of this section as determined by the balance in the Unemployment Insurance Trust Fund.

i. For any calendar year beginning January 1, 1996, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than $200 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph ~~(9)a.,~~ (b)(9)a., b. or c. of this section as determined by the balance in the Unemployment Insurance Trust Fund.

j. For any calendar year beginning January 1, 1998, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than $215 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph ~~(9)a.,~~ (b)(9)a., b., c. or d. of this section as determined by the balance in the Unemployment Insurance Trust Fund.

k. For any calendar year beginning January 1, 2000, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than $250 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph ~~(9)a.,~~ (b)(9)a., b., c., d. or e. of this section as determined by the balance in the Unemployment Insurance Trust Fund.

l. For any calendar year beginning January 1, 2002, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than $300 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph ~~(9)a.,~~ (b)(9)a., b., c., d., e. or f. of this section as determined by the balance in the Unemployment Insurance Trust Fund.

~~n. Notwithstanding any other provisions in this section, for any calendar year beginning January 1, 2024, and thereafter, in addition to all other payments to the State due under this title, each employer liable for assessments under Chapter 33 of this title shall also be liable for a "supplemental assessment" on all taxable wages, as defined in § 3302(19) of this title, payable by each such employer. The supplemental~~

~~assessment shall be levied at the rate of 0.2%. The supplemental assessment shall not affect the computation of any other assessments due under this title. Payments of supplemental assessments shall be made at the same time and in the same manner as prescribed for payment of assessments under § 3345 of this title and all regulations prescribed by the Department in support of that section. The restrictions in § 3345 of this title apply equally to the provisions of this section. Failure to make these payments shall be subject to interest, penalties, and all other collection actions provided for failure to pay assessments under this chapter. The amount of the supplemental assessment due shall be considered part of the total amount of contributions paid or payable by the employing unit for purposes of the penalties assessed in § 3125(c) of this title. All supplemental assessments, interest, and penalties collected under this section shall be deposited in the Special Administration Fund of the Department of Labor and shall be used only for the purposes set forth in § 3166(c)(1), (c)(3), (c)(5) and (c)(7) of this title. The Department will submit quarterly reports to the Director of the Office of Management and Budget, the Controller General, and the Unemployment Compensation Advisory Council members regarding the status of the supplemental assessments.~~

(10) ~~In any benefit year, the employee's "benefit wages" paid by each employer to such employee shall not exceed the "base of assessment" defined in § 3302(19)(A) of this title.~~ [Repealed.]

(11) Notwithstanding any other provision of this title to the contrary, no employee benefit wages, as defined in paragraph ~~(1)~~ (b)(1) of this section, for weeks of total or partial unemployment from March 15, 2020, through and including March 21, 2020, and no claims determined by the Department to be COVID-19 related claims, will be included in the employer's benefit wages for purposes of paragraph ~~(2),~~ (b)(2), (3) or (4) of this section, and no benefit payments made from the Unemployment Insurance Trust Fund based on claims filed from March 15, 2020, through and including March 21, 2020, and no benefit payments made from the Unemployment Insurance Trust Fund based on claims determined by the Department to be COVID-19 related claims, shall be included in the state experience factor calculated in paragraph ~~(4)~~ (b)(4) of this section. An employer's or agent of the employer's failure to timely or adequately respond to a separation notice for a claim filed from March 15, 2020, through and including March 21, 2020, and for a claim determined by the Department to be a COVID-19 related claim will not result in benefit wage charges being assessed to such employer's experience merit rating account under § 3317 or § 3318 of this title, unless the Department determines such failure has resulted in an

overpayment of benefits and the employer or agent of the employer has established a pattern of failing to respond timely or adequately.

(12) Notwithstanding the required computation of the employer assessment rate to be determined by the Department for the next succeeding calendar year pursuant to this section, for calendar year 2022, employers shall be assigned an assessment rate equal to the lowest of the rate determined by the Department pursuant to this section for the calendar year 2020, 2021, or 2022; except that employers who are determined for calendar year 2022 to have the delinquency rate of assessment pursuant to paragraph ~~(6)~~ (b)(6) of this section shall continue to be assigned the delinquency rate, subject to the administrative authority provided for in paragraph ~~(13)~~ (b)(13) of this section.

(13) Notwithstanding paragraph ~~(6)~~ (b)(6) of this section, the Department shall have the authority in its sole discretion to make changes to the delinquency assessment rate of any employer to take effect on the date determined by the Department, and to provide assessment credits to any employer, as necessary to correct administrative errors or address fraudulent claims charged to employers, except with respect to employers who are charged the delinquency assessment rate because they have not filed any quarterly ~~tax report owed to~~ report required by this chapter with respect to assessments with the Department.

(14) Notwithstanding any other provisions in this section, for calendar year 2023, effective January 1, 2023, employers shall be assigned a basic assessment rate in accordance with the following table:

2023 – Special One Year Schedule of Rates

Benefit Wage Ratio (%) Does Not Exceed:	Basic Assessment Rate:
20	0.1%
30	0.25%
40	0.50%
50	1.00%
55	2.00%
60	2.50%
70	3.50%
80	4.50%
90	5.00%

a. If the employer's benefit wage ratio exceeds the highest percentage in the table set forth in paragraph (14) of this section the employer's basic assessment rate shall be 5.40%.

b. Employers who are determined for calendar year 2023 to have the delinquency rate of assessment pursuant to paragraph (6) of this section shall continue to be assigned the delinquency rate.

(16) Notwithstanding any other provisions in this section, for assessment years 2025 and 2026, employers shall be assigned a basic assessment rate as follows:

a. The Department shall calculate the average high cost multiple as set forth in § 3350C of this title.

b. If the average high cost multiple is greater than or equal to 1.0, employers shall be assigned a basic assessment rate in accordance with Schedule A of the Assessment Rate Schedule table below. If the average high cost multiple is less than 1.0, employers shall be assigned a basic assessment rate in accordance with Schedule B of the Assessment Rate Schedule table below.

c. Assessment Rate Schedule for Assessment Rate Years 2025 and 2026

	Schedule A (AHCM greater than or equal to 1.0)	Schedule B (AHCM less than 1.0)
Benefit Wage Ratio (%) Does Not Exceed:	Basic Assessment Rate:	Basic Assessment Rate:
20.00	0.3%	0.4%
30.00	0.6%	0.8%
40.00	1.2%	1.3%
50.00	1.8%	1.9%
55.00	2.4%	2.5%
60.00	3.0%	3.1%
70.00	3.6%	3.7%
80.00	4.2%	4.3%
90.00	4.8%	4.9%
100.00	5.4%	5.4%

d. If the employer's benefit wage ratio exceeds the highest percentage in the Assessment Rate Schedule table set forth in paragraph (16) of this section, the employer's basic assessment rate shall be 5.4%.

e. Notwithstanding anything in this paragraph (16) to the contrary, employers who are determined for assessment rate year 2025 or 2026 to have the delinquency assessment rate pursuant to paragraph (6) of this section shall continue to be assigned the delinquency assessment rate. The Department shall have the authority, in its sole discretion, to waive the delinquency assessment rate set forth in this section for good cause shown by an employer.

Section 16. Amend Subchapter III, Chapter 33, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3350A. Variations from new employer; computation of earned rate of assessments (2027 and after).

(a) This section applies to the assignment of assessment rates for assessment rate year 2027 and each assessment rate year thereafter.

(b) An employer is subject to the earned rate of assessments set forth in this section for an assessment rate year once the employer has submitted assessment reports to the Department in 12 or more consecutive quarters ending June 30 of the prior assessment rate year.

(c) The Department shall calculate the earned rate of assessments for rated employers for an assessment rate year on or before December 31 of the prior assessment rate year. The Department shall mail, or send by other means of delivery, written notice to each rated employer of the earned rate of assessments assigned to that rated employer for the next assessment rate year on or before December 31 of the prior assessment rate year.

(d) The Department shall calculate the earned rate of assessments for each rated employer by adding together the following:

(1) The benefit ratio assessment rate set forth in § 3350D.

(2) The industry assessment rate set forth in § 3350E.

(3) The employer size assessment rate set forth in § 3350F.

(e) Each rated employer shall pay an assessment, pursuant to § 3345(a) of this title, in an amount equal to the product of the earned rate of assessments times taxable wages paid by the rated employer during any calendar quarter, except as may be otherwise prescribed in this chapter.

(f) All rated employers shall also pay the operations and technology assessment rate set forth in § 3350B of this title.

(g) Notwithstanding any other provisions in this chapter, the Department shall assign a rated employer who is a delinquent employer a delinquency assessment rate for the assessment rate year and any subsequent assessment rate year in which the delinquency remains, subject to the following:

(1) The Department shall have the authority, in its sole discretion, to waive the delinquency assessment rate for good cause shown by an employer.

(2) The Department shall have the authority, in its sole discretion, to make changes to the delinquency assessment rate of any rated employer to take effect on the date determined by the Department, and to provide assessment credits to any rated employer, as necessary to correct administrative errors or address fraudulent claims charged to rated employers, except with respect to rated employers who are charged the delinquency assessment rate because the employers have not filed any quarterly report required by this chapter with respect to assessments with the Department.

§ 3350B. Operations and technology assessment rate.

(a) Notwithstanding any other provisions in this chapter, for any assessment rate year beginning January 1, 2024, and thereafter, in addition to all other payments to the Department due under this title, each rated employer shall also be liable for an operations and technology assessment on all taxable wages paid by each such employer.

(b)(1) For the assessment rate year beginning on January 1, 2024, through the assessment rate year beginning on January 1, 2026, the operations and technology assessment shall be levied at the rate of 0.2% multiplied by the amount of taxable wages paid by the employer during any calendar quarter.

(2) For the assessment rate years beginning on January 1, 2027 and thereafter, the operations and technology assessment shall be levied at the rate of 0.175% multiplied by the amount of taxable wages paid by the employer during any calendar quarter.

(c) The operations and technology assessment shall not affect the computation of any other assessments due under this title.

(d) Payments of operations and technology assessments shall be made at the same time and in the same manner as prescribed for payment of assessments under § 3345 of this title and all regulations promulgated thereunder. The restrictions in § 3345 of this title apply equally to the provisions of this section.

(e) (1) Failure to make payments required under this section shall be subject to interest, penalties, and all other collection actions provided for failure to pay assessments under this chapter.

(2) The amount of the operations and technology assessment due shall be considered part of the total amount of contributions paid or payable by the employer for purposes of the penalties assessed in § 3125(c) of this title.

(f) All operations and technology assessments, interest, and penalties collected under this section shall be deposited in the Special Administration Fund of the Department of Labor and shall be used only for the purposes set forth in § 3166(c)(1), (c)(3), (c)(5), and (c)(7) of this title.

(f) The Department will submit quarterly reports to the Director of the Office of Management and Budget, the Controller General, and the Unemployment Compensation Advisory Council members regarding the status of the operations and technology assessments.

§ 3350C. Determination of schedule in effect for an assessment rate year.

(a) For purpose of this section:

(1) "Average high cost multiple" for an assessment rate year means the reserve ratio divided by the average high cost rate.

(2) "Average high cost rate" for an assessment rate year shall be calculated as follows:

a. For each of the 20 calendar years ending two calendar years prior to the assessment rate year, the "benefit cost rate" for each calendar year shall be calculated as follows:

1. Calculate the amount of benefits paid to all eligible individuals with respect to employment by any employer in that calendar year minus the amount of benefits paid to all eligible individuals with respect to employment by reimbursable employers in that calendar year;

2. Divide the figure derived in paragraph (a)(2)a.1. of this section by the covered wages during the four calendar quarters ending on December 31 in that calendar year.

b. From the calendar years used in paragraph (a)(2)a. of this section, add the three calendar years with the highest benefit cost rates and divide that total by 3. This result is the "average high cost rate."

(3) "Reserve ratio" means the Unemployment Trust Fund balance as of September 30 of the prior assessment rate year divided by the covered wages for the twelve months ending June 30 of the prior assessment rate year.

(b) The Department shall determine which schedule (Schedule A through Schedule H) will be in effect for an assessment rate year in the following manner:

(1) On or before December 31 of the prior assessment rate year, the Department shall calculate the average high cost multiple for the assessment rate year.

(2) Based on the value of the average high cost multiple, the Department shall use the following to determine which schedule will apply for the next assessment rate year:

a. Schedule A is in effect for any assessment rate year in which the average high cost multiple is greater than 1.40.

b. Schedule B is in effect for any assessment rate year in which the average high cost multiple is greater than 1.20 and less than or equal to 1.40.

c. Schedule C is in effect for any assessment rate year in which the average high cost multiple is greater than 1.0 and less than or equal to 1.20.

d. Schedule D is in effect for any assessment rate year in which the average high cost multiple is greater than 0.8 and less than or equal to 1.0.

e. Schedule E is in effect for any assessment rate year in which the average high cost multiple is greater than 0.6 and less than or equal to 0.8.

f. Schedule F is in effect for any assessment rate year in which the average high cost multiple is greater than 0.4 and less than or equal to 0.6.

g. Schedule G is in effect for any assessment rate year in which the average high cost multiple is greater than 0.2 and less than or equal to 0.4.

h. Schedule H is in effect for any assessment rate year in which the average high cost multiple is less than or equal to 0.2.

§ 3350D. Benefit ratio assessment rate.

(a) For purposes of this section "benefit ratio calculation period" means the 12 consecutive calendar quarters ending on June 30 of the calendar year prior to the assessment rate year.

(b) One time each assessment rate year, no later than December 31, the Department shall calculate the amount of the benefit ratio assessment rate to be assigned to a rated employer for the following assessment rate year, in accordance with the provisions of this section.

(c) The Department shall compute a rated employer's benefit ratio by:

(1) Adding the benefit charges that were charged to the rated employer's merit rating account during each of the 12 calendar quarters in the benefit ratio calculation period; and

(2) Dividing the figure calculated under paragraph (c)(1) of this section by the rated employer's aggregate taxable wages for the 12 calendar quarters in the benefit ratio calculation period.

(d) Benefit ratios shall be carried out to the sixth decimal place.

(e) Array Distribution.

(1) Once a benefit ratio has been calculated for each rated employer, the Department shall prepare a ranked list of all rated employers. The ranked list shall start with the rated employer having the lowest benefit ratio and progress through the rated employer having the highest benefit ratio.

(2) For each rated employer, the ranked list must include all of the following:

a. The benefit ratio computed for the employer under this section;

b. The aggregate taxable wages for the employer for the 12 calendar quarters in the benefit ratio calculation period;

c. A percent calculation of the employer's aggregate taxable wages for the 12 calendar quarters in the benefit ratio calculation period divided by the taxable wages of all employers on the ranked list for the 12 calendar quarters in the benefit ratio calculation period, carried out to the sixth decimal place; and

d. A cumulative total consisting of the sum of the percent calculated in paragraph (e)(2)(c.) of this section for each employer on the ranked list plus the percent calculated for all other preceding employers on the ranked list, carried out to the sixth decimal place, which represents the "cumulative taxable wage percentage" for each employer.

(3) The Department shall group all rated employers and place them in an assessment rate class based on the cumulative taxable wage percentage calculated in this section (e)(2)(d.).

a. Employers with cumulative taxable wage percentages from 0.000% but less than 20.000% will be placed in assessment rate class 1.

b. Employers with cumulative taxable wage percentages that fall within the range from 20.000% but less than 35.000% will be placed in assessment rate class 2.

c. Employers with cumulative taxable wage percentages that fall within the range of 35.000% but less than 50.000% will be placed in assessment rate class 3.

d. Employers with cumulative taxable wage percentages that fall within the range of 50.000% but less than 60.000% will be placed in assessment rate class 4.

e. Employers with cumulative taxable wage percentages that fall within the range of 60.000% but less than 70.000% will be placed in assessment rate class 5.

f. Employers with cumulative taxable wage percentages that fall within the range of 70.000% but less than 77.000% will be placed in assessment rate class 6.

g. Employers with cumulative taxable wage percentages that fall within the range of 77.000% but less than 84.000% will be placed in assessment rate class 7.

h. Employers with cumulative taxable wage percentages that fall within the range of 84.000% but less than 89.000% will be placed in assessment rate class 8.

i. Employers with cumulative taxable wage percentages that fall within the range of 89.000% but less than 92.000% will be placed in assessment rate class 9.

j. Employers with cumulative taxable wage percentages that fall within the range of 92.000% but less than 94.000% will be placed in assessment rate class 10.

k. Employers with cumulative taxable wage percentages that fall within the range of 94.000% but less than 96.000% will be placed in assessment rate class 11.

l. Employers with cumulative taxable wage percentages that fall within the range of 96.000% but less than 97.500% will be placed in assessment rate class 12.

m. Employers with cumulative taxable wage percentages that fall within the range of 97.500% but less than 98.500% will be placed in assessment rate class 13.

n. Employers with cumulative taxable wage percentages that fall within the range of 98.500% but less than 99.500% will be placed in assessment rate class 14.

o. Employers with cumulative taxable wage percentages that fall within the range of 99.500% but less than 99.900% will be placed in assessment rate class 15.

p. Employers with cumulative taxable wage percentages of 99.900% or greater will be placed in assessment rate class 16.

(4) Notwithstanding subsection (e)(3) of this section, the following rules shall apply to the placement of employers in assessment rate classes.

a. If the grouping results in the cumulative taxable wage percentage of a rated employer falling in two assessment rate classes, the rated employer and any other rated employer with the same benefit ratio shall be placed in the lower of the two applicable assessment rate classes.

b. All rated employers with the same benefit ratio shall be placed in the same assessment rate class.

c. If the grouping of employers with the same cumulative taxable wage percentage who are placed in the same assessment rate class results in the upper limit of that assessment rate class being exceeded, the next rated employer or employers on the ranked list shall be placed in the assessment rate class with the limits that correspond to their cumulative total wage percentages, even if no employer is placed in one or more assessment rate classes.

(5) Benefit ratio assessment rates shall be assigned to rated employers in the following manner:

a. The schedule that is determined pursuant to § 3350C of this title to be in effect for the next assessment rate year will determine which column of assessment rates on the Benefit Ratio Assessment Rate Table below are in effect for the next assessment rate year.

b. The rated employers placed in each assessment rate class, as determined pursuant to subsection (e) of this section, shall be assigned the benefit ratio assessment rate opposite the rate class number on the Benefit Ratio Assessment Rate Table below, in the column for the schedule in effect for the next assessment rate year.

Benefit Ratio Assessment Rate Table

Rate Class	Schedule H	Schedule G	Schedule F	Schedule E	Schedule D	Schedule C	Schedule B	Schedule A
1	1.21%	0.92%	0.64%	0.36%	0.20%	0.20%	0.20%	0.20%
2	1.41%	1.12%	0.84%	0.56%	0.24%	0.20%	0.20%	0.20%
3	1.61%	1.32%	1.04%	0.76%	0.44%	0.20%	0.20%	0.20%
4	1.81%	1.52%	1.24%	0.96%	0.64%	0.20%	0.20%	0.20%
5	2.11%	1.82%	1.54%	1.26%	0.94%	0.50%	0.20%	0.20%

6	2.41%	2.12%	1.84%	1.56%	1.24%	0.80%	0.20%	0.20%
7	2.61%	2.32%	2.04%	1.76%	1.44%	1.00%	0.21%	0.20%
8	2.81%	2.52%	2.24%	1.96%	1.64%	1.20%	0.41%	0.20%
9	3.11%	2.82%	2.54%	2.26%	1.94%	1.50%	0.71%	0.20%
10	3.31%	3.02%	2.74%	2.46%	2.14%	1.70%	0.91%	0.20%
11	3.51%	3.22%	2.94%	2.66%	2.34%	1.90%	1.11%	0.20%
12	3.71%	3.42%	3.14%	2.86%	2.54%	2.10%	1.31%	0.20%
13	3.91%	3.62%	3.34%	3.06%	2.74%	2.30%	1.51%	0.20%
14	4.11%	3.82%	3.54%	3.26%	2.94%	2.50%	1.71%	0.20%
15	4.51%	4.22%	3.94%	3.66%	3.34%	2.90%	2.11%	0.48%
16	5.40%	5.40%	5.40%	5.40%	5.40%	5.40%	5.40%	5.40%

(6) If the benefit ratio of a rated employer on the ranked list created in this subsection (e) is changed after the initial calculation of the ranked list, the employer will be moved into the assessment rate class that the employer would have occupied had that employer's benefit ratio as changed been used in determining that employer's position in the first instance. However, the change does not affect the position or assessment rate class of any other employer listed on the ranked list and does not affect the benefit ratio assessment rate determination of the employer for previous years.

(7) This section does not apply to setting benefit ratio assessment rates for any new employer governed by § 3348 of this title.

§ 3350E. Industry assessment rate.

(a) For purpose of this section:

(1) “Industry assessment rate level” means the level on the ranked list that corresponds to all NAICS Codes with the same percent of benefit charges, as calculated in this section (c).

(2) “Industry rate calculation period” means the 3 calendar years ending on December 31 of the second year prior to the assessment rate year.

(3) “NAICS Code” means the first two digits of the industry classification code assigned to each employer by the Department in accordance with established classification practices found in the most current

North American Industry Classification System (NAICS) Manual prepared by the United States Office of Management and Budget.

(b) Annual assignment of industry assessment rates to rated and new employers.

(1) When an employer first becomes liable under this chapter, the Department shall assign each employer a NAICS Code, in accordance with established classification practices found in the most current North American Industry Classification System (NAICS) Manual prepared by the United States Office of Management and Budget.

(2) The Department shall determine in its discretion which NAICS Code to assign to each rated and new employer. That assignment shall be reviewable only for abuse of discretion.

(3) Each assessment rate year, no later than December 31, the Department will assign each rated and new employer with any industry assessment rate in effect for the next assessment rate year for its assigned NAICS Code, calculated pursuant to subsection (c) of this section.

(c) Setting of industry assessment rate assignment table every 3 years.

(1) Beginning in 2026 and every third year thereafter, no later than December 31, the Department shall calculate the amount of the industry assessment rate to be in effect for each NAICS Code for the following assessment rate year and the next two successive assessment rate years in the following manner:

a. For each NAICS Code that has rated employers assigned to it, the Department shall calculate the aggregate amount of benefit charges for all rated employers assigned that NAICS Code during the industry rate calculation period.

b. The Department shall then divide the aggregate amount of benefit charges for all rated employers assigned each NAICS Code during the industry rate calculation period by the aggregate taxable wages for all rated employers during the industry rate calculation period to determine the "percentage of benefit charges" for each NAICS Code. The percentage of benefit charges shall be carried out to the sixth decimal place.

c. The Department shall then create a ranked list of the NAICS Codes that have rated employers assigned to them. The ranked list shall start with the NAICS Code with the highest percentage of benefit charges and progress through the NAICS Code with the lowest percentage of benefit charges.

(2) All NAICS Codes that have the same percent of benefit charges shall be in the same industry assessment rate level.

(3) Each industry assessment rate level will have at least one NAICS Code assigned to it.

(4) The industry assessment rate levels that have the 5 highest percentage of benefit charges in the ranking shall be assigned an industry assessment rate as follows:

a. The industry assessment rate for the NAICS Code(s) with the highest percent of benefit charges ("Industry Assessment Rate Level 5") will be 0.75%.

b. The industry assessment rate for the NAICS Code(s) with the second highest percent of benefit charges ("Industry Assessment Rate Level 4") will be 0.60%.

c. The industry assessment rate for the NAICS Code(s) with the third highest percent of benefit charges ("Industry Assessment Rate Level 3") will be 0.50%.

d. The industry assessment rate for the NAICS Code(s) with the fourth highest percent of benefit charges ("Industry Assessment Rate Level 2") will be 0.30%.

e. The industry assessment rate for the NAICS Code(s) with the fifth highest percent of benefit charges ("Industry Assessment Rate Level 1") will be 0.20%.

(5) All employers with NAICS Codes in the same industry assessment rate level shall be assigned the same industry assessment rate.

(6) NAICS Codes that are ranked lower than the 5 highest percentage benefit charges in the ranking shall be assigned an industry assessment rate of 0.00%.

§ 3350F. Employer size assessment rate.

(a) Beginning in 2026, no later than December 31, the Department shall calculate the amount of the employer size assessment rate to be assigned to each rated employer for the following assessment rate year, as set forth in this section.

(b) For purpose of this section, the following definitions shall apply:

(1) "Statewide average annual wage" means the figure published by the U.S. Bureau of Labor Statistics in the Quarterly Census of Employment and Wages report as the average weekly wage for the state of Delaware, as of the June 30 of the year prior to the assessment rate year, multiplied times 52.

(2) “Average annual wages” means the calculation set forth in subsection (c) of this section for each rated employer.

(c) The Division shall divide the amount of covered wages of each rated employer in the 12 consecutive quarters ending June 30 in the year prior to the assessment rate year by 4 to calculate the annual average wages for each rated employer.

(d) The Department shall place rated employers into one of three categories based on the following:

(1) Category 1 will contain rated employers with average annual wages that are less than or equal to 2.5 times the statewide average annual wage.

(2) Category 2 will contain rated employers with average annual wages that are greater than 2.5 times the statewide average annual wage and less than or equal to 15 times the statewide average annual wage.

(3) Category 3 will contain rated employers with average annual wages that are greater than 15 times the statewide average annual wage.

(e) Rated employers placed in each category shall be assigned an employer size assessment rate as follows:

(1) Employers in Category 1 will be assigned an employer size assessment rate of 0.00%.

(2) Employers in Category 2 will be assigned an employer size assessment rate of 0.25%.

(3) Employers in Category 3 will be assigned an employer size assessment rate of 0.35%.

Section 17. Amend § 3351, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3351. Assessment rates after termination of employer’s military service.

If the Department finds that an employer’s business is closed solely because of the entrance of 1 or more of the owners, officers, partners or the majority stockholder into the armed forces of the United States, after January 1, 1950, such employer’s experience-rating record shall not be terminated, and, if the business is resumed within 2 years after the discharge or release from active duty in the armed forces of such person or persons, the employer’s experience shall be deemed to have been continuous throughout such period. The ~~benefit-wage~~ benefit wage ratio or benefit ratio of any such employer for the calendar year in which the employer resumes business and the 3 calendar years immediately following shall be a percentage equal to the total of the employer’s benefit wages or benefit charges (including any benefit wages or benefit charges resulting from the payment of benefits to any individual during the period the employer was in the armed forces based upon wages paid by the employer prior to the employer’s entrance

into such forces) for the 3 most recently completed calendar years divided by that part of the employer's total payroll, with respect to which assessments have been paid to the Department, for the 3 most recent calendar years during the whole of which, respectively, such employer has been in business.

Section 18. Amend § 3355, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3355. Notice to employers of benefits paid and status of accounts; employer applications for review and redetermination of benefit wages and benefit charges charged to their experience merit rating accounts (relief from charges).

(a) The Department shall provide quarterly notification to base period employers of benefit wages for periods prior to January 1, 2027 and of benefit charges for periods from January 1, 2027 and after charged to their experience merit rating accounts hereafter referred to collectively as "benefit ~~wage~~ charge notices".

(b) Such benefit ~~wage~~ charge notices shall become conclusive and binding upon the base period employer unless, within 15 days after the mailing of the notice thereof to the last known address or in the absence of mailing within 15 days after the delivery of such notice, a base period employer who is subject to ~~tax rate~~ assessments under § 3345(a) of this title files an application for review seeking relief from benefit wages or benefit charges charged to its experience merit rating account. A § 3345(a) of this title base period employer who has filed a timely application for review of its benefit ~~wage~~ charge notice shall be entitled to relief from such benefit wage ~~charges~~ charge or benefit charges charge contained in such notice only on the basis that:

(2) The Department administratively erred in calculating the correct amount of certain benefit wages or benefit charges charged to its account.

However, as to paragraphs (b)(1) and (2) of this section above, any such base period or last employer who has failed to return a completed separation notice which is applicable to the benefit wage charge or benefit charges at issue in a timely manner in accordance with § 3317 of this title shall be barred from seeking benefit wage or benefit charges charge relief unless the Department for reasons found to constitute good cause should release the base period or last employer from the default. Regardless, no employer shall have standing to seek benefit wage or benefit charges charge relief pursuant to the procedure established in §§ ~~3317-3325~~ 3317 through 3325 of this title.

(c) Applications for review shall be referred to an individual designated by the Department, who shall examine the basis for each request for relief from benefit wage charges or benefit charges made to the employer's

experience merit rating account. After such review, the Department's representative shall promptly notify the base period employer and each claimant involved of the representative's decision on the base period employer's request for review, and such decision shall become final unless within 15 days after the mailing of notice thereof to the last known address or in the absence of mailing within 15 days after the delivery of such notice, the base period employer files ~~and~~ an application for redetermination with the Department.

(d) Unless the request for redetermination is withdrawn, an appeals tribunal, after affording the base period employer and the claimant, if a claimant is involved, and the Department a reasonable opportunity for fair hearing with regard to each benefit wage charge ~~charge,~~ or benefit charges charge, shall affirm, modify or reverse those portions of the benefit ~~wage~~ charge notice challenged by the employer. The base period employer, the Department, and a claimant, if involved, shall be duly notified of the appeal tribunal's decision on each benefit wage charge or benefit charges charge for which redetermination is requested, together with its reasons therefor, which shall be deemed to be final unless within 15 days after the delivery of such decision, a petition for judicial review is filed in the Superior Court. In any proceeding under this section the findings of the appeals tribunal as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of the Court shall be confined to the questions of law. No additional evidence shall be received by the Court, but the Court may order additional evidence to ~~fee~~ be taken before the appeals tribunal or the Department and the Department or appeals tribunal may, after hearing such evidence, modify its redetermination and file such modified redetermination, together with a transcribed copy of the additional record with the Court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under §§ ~~3317-3325~~ 3317 through 3325 of this title and the Workers' Compensation Law, Chapter 23 of this title.

(e) Such redeterminations of benefit ~~wage~~ charge notices which have become final and binding after notice and after providing the opportunity for hearing or appeal, and the findings of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of assessments of any employer for any calendar year and shall be entitled to the same finality as is provided in § 3354 of this title with respect to findings of fact made by the Department and proceedings to redetermine the assessment rate of an employer.

Section 19. Amend § 3356, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3356. Effect of amendment of Federal Unemployment Tax Act.

If the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.] is amended by the Congress of the United States to permit a maximum of credit against such federal tax higher than the 90 percent maximum rate of credit now permitted under § 3302(c) of the Internal Revenue Code [26 U.S.C. § 3302(c)] to an employer with respect to this chapter, then for any such employer, liable under the federal statute, the employer's contribution rate under this chapter shall be that determined in ~~§ 3350(5)~~ §§ 3350 or 3350A of this title plus the $^{3}/_{10}$ of 1 percent additional offset credit permitted under federal law.

Section 20. Amend § 3401, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3401. Determination and collection of special assessment.

(a) In addition to all other payments to the State due under this title, each employer liable for assessments under Chapter 33 of this title shall also be liable for a special assessment on all taxable wages as defined in § ~~3302(19)~~ 3302(28) of this title payable by each such employer. The special assessment shall be levied at the rate indicated below:

Approved August 15, 2024