LEGISLATIVE FISCAL ESTIMATE TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 671 and 495**

STATE OF NEW JERSEY

DATED: JANUARY 23, 1997

Assembly Committee Substitute for Assembly Bill Nos. 671 and 495 of 1996 establishes gross income tax advantages for employer or employee contributions to "medical savings accounts," defined identically as medical savings accounts pursuant to the federal "Health Insurance Portability and Affordability Act of 1996," Pub.L.104-191. The bill also authorizes the New Jersey Individual Health Coverage Program Board and the New Jersey Small Employer Health Benefits Program Board to establish a plan involving a medical savings account as one of the standard plans in each of the respective programs.

Recently enacted 26 U.S.C. §220 allows those employees of small employers and the self employed who are covered by a "high deductible" health plan to establish medical savings accounts. Some of the contributions to these savings accounts can be excluded or deducted from the federal taxable income of the employee, up to $1,462.50 for employees with single coverage and up to $3,750 for those with family coverage in 1997. Funds withdrawn to pay eligible medical expenses remain excluded from taxation; funds withdrawn for other purposes are subject to taxation and to penalties.

The federal program is a pilot program, limited so that the total number of employees allowed the tax advantages of medical savings accounts may not exceed 750,000. The bill provides exclusions and deductions for gross income tax purposes identical to the federal legislation. Only employees that enjoy the federal tax advantages may enjoy the New Jersey gross income tax exclusions and deductions. However, the bill also provides for the establishment of medical savings accounts that do not have the tax advantages. These non-tax advantaged plans have cost control benefits independent of their tax advantages.

No information was provided by the Office of Management and Budget on the fiscal impact of this bill, and no data are available to the Office of Legislative Services that would allow an estimate of the gross income tax revenue losses that might result from the allowance of the exclusions and deductions provided by the bill. While it is assumed that small employers, their employees and the self-employed will act rapidly to take advantage of the federal legislation, there is no way of determining how many of the 750,000 United States income tax payers who will be allowed the federal tax incentives will be New Jersey gross income tax payers who will be allowed the gross income tax exclusions or deductions.

However, a tentative estimate of the potential revenue loss can be made. As there seems to be no reason that New Jersey residents are in any better or worse position to take advantage of the federal incentives than the residents of any other state, assume that Jersey residents will qualify for the 750,000 federal exempt accounts in the same proportion as all other federal taxpayers. It would be expected that about 24,500 New Jersey residents would qualify for federal benefits and therefore for gross income tax benefits. If each of these taxpayers exempted the maximum amount of $3,750 in tax year 1997, then the revenue impact from enactment of the bill effective for that calendar year might be a gross income tax loss of as much as $3 million, which would be distributed between State fiscal years 1997 and 1998.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.