

ASSEMBLY, No. 1559

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Assemblyman KELLY

1 AN ACT providing hospital charity care subsidies and revising parts of
2 the statutory law.

3

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

6

7 1. Section 5 of P.L.1992, c.160 (C.26:2H-18.55) is amended to
8 read as follows:

9 5. The commissioner shall:

10 a. Administer the fund and establish a mechanism to allocate
11 monies received from the Commissioner of Labor pursuant to section
12 29 of P.L.1992, c.160 (C.43:21-7b) to the appropriate accounts in the
13 fund as specified in this act;

14 b. Establish eligibility determination and claims pricing systems for
15 the charity care component of the disproportionate share subsidy,
16 including the development of uniform forms for determining eligibility
17 and submitting claims. The commissioner may contract with a private
18 claims administrator or processor for the purpose of processing
19 hospital claims for charity care pursuant to this act;

20 c. Establish a schedule of payments for reimbursement of the
21 charity care component of the disproportionate share payment for
22 services provided to emergency room patients who do not require
23 those services on an emergency basis;

24 d. In cooperation with the Departments of Insurance and Human
25 Services, develop and provide for the implementation of the Health
26 Access New Jersey program pursuant to section 15 of [this act]
27 P.L.1992, c.160 (C.26:2H-18.65);

28 e. Study and, if feasible, establish hospital cost and outcome
29 reports to provide assistance to consumers of health care in this State
30 in making prudent health care choices;

31 f. Compile demographic information on recipients of, and types of
32 services paid for by, the charity care component of the
33 disproportionate share payment and periodically report a summary of
34 this information to the Governor and Legislature. The demographic

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

Matter underlined thus is new matter.

1 information shall include, at a minimum, the recipient's age, sex,
2 marital status, employment status, type of health insurance coverage,
3 if any, and if the recipient is a child under 18 years of age who does
4 not have health insurance coverage or a married person who does not
5 have health insurance coverage, whether the child's parent or the
6 married person's spouse, as the case may be, has health insurance;

7 g. (Deleted by amendment, P.L.1995, c.133.)

8 h. (Deleted by amendment, P.L.1995, c.133.)

9 I. (Deleted by amendment, P.L.1995, c.133.)

10 j. (Deleted by amendment, P.L.1995, c.133.)

11 k. (Deleted by amendment, P.L.1995, c.133.)

12 l. Encourage the use of centralized data storage and transmission
13 technology that utilizes personal and image identification systems as
14 well as identity verification technology for the purposes of enabling a
15 hospital to access medical history, insurance information and other
16 personal information, as appropriate;

17 m. (Deleted by amendment, P.L.1995, c.133.)

18 n. (Deleted by amendment, P.L.1995, c.133.)

19 o. Take such other actions as the commissioner deems necessary
20 and appropriate to carry out the provisions of P.L.1992, c.160
21 (C.26:2H-18.51 et al.); and

22 p. Report annually, by December 31 of each year, to the Governor
23 and the [Legislature] Senate and General Assembly standing reference
24 committees on budget and appropriations on the status of the fund and
25 shall include the amount of any balances in the fund and the expected
26 expenditures from the fund in the next calendar year.

27 (cf: P.L.1995,c.133,s.2)

28

29 2. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to
30 read as follows:

31 8. There is established the Health Care Subsidy Fund in the
32 Department of Health.

33 a. The fund shall be comprised of revenues from employee and
34 employer contributions made pursuant to section 29 of P.L.1992,
35 c.160 (C.43:21-7b), revenues pursuant to sections 8 and 10 of P.L. . . .
36 c. (C. . .)(pending before the Legislature as this bill), revenues from
37 the hospital assessment made pursuant to section 12 of [this act]
38 P.L.1992, c.160 (C.26:2H-18.62), revenues from interest and penalties
39 collected pursuant to [this act] P.L.1992, c.160 (C.26:2H-18.51 et al.)
40 and revenues from such other sources as the Legislature shall
41 determine. Interest earned on the monies in the fund shall be credited
42 to the fund.

43 The fund shall be a nonlapsing fund dedicated for use by the State
44 to: (1) distribute charity care disproportionate share payments to
45 hospitals, and other uncompensated care disproportionate share
46 payments to hospitals distributed pursuant to section 11 of P.L.1992,

1 c.160 (C.26:2H-18.61), and provide subsidies for the Health Access
2 New Jersey program established pursuant to section 15 of [this act]
3 P.L.1992, c.160 (C.26:2H-18.65); and (2) assist hospitals and other
4 health care facilities in the underwriting of innovative and necessary
5 health care services.

6 b. The fund shall be administered by a person appointed by the
7 commissioner.

8 The administrator of the fund is responsible for overseeing and
9 coordinating the collection and reimbursement of fund monies. The
10 administrator is responsible for promptly informing the commissioner
11 if monies are not or are not reasonably expected to be collected or
12 disbursed [or if the fund's reserve as established in subsection c. of this
13 section falls below the required level].

14 c. [The fund shall maintain a reserve in an amount not to exceed
15 \$20 million. The commissioner shall adopt rules and regulations to
16 govern the use of the reserve and to ensure the integrity of the fund,
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.)](Deleted by amendment, P.L. , c.)(pending
19 before the Legislature as this bill)

20 d. The administrator shall establish separate accounts for the
21 charity care component of the disproportionate share hospital subsidy,
22 other uncompensated care component of the disproportionate share
23 hospital subsidy for monies distributed pursuant to section 11 of
24 P.L.1992, c.160 (C.26:2H-18.61), hospital and other health care
25 initiatives funding and the payments for subsidies for insurance
26 premiums [to provide care in disproportionate share hospitals], known
27 as the Health Access New Jersey subsidy account, respectively.

28 e. In the event that the charity care component of the
29 disproportionate share hospital subsidy account has a surplus in a
30 given year after payments are distributed pursuant to the methodology
31 established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and
32 section 6 of P.L. , c. (C.)(pending before the Legislature as this
33 bill) and within the limitations provided in subsection e. of section 9
34 of P.L.1992, c.160 (C.26:2H-18.59), the [commissioner may
35 reallocate the surplus monies to the Health Access New Jersey subsidy
36 account] surplus funds shall lapse to the fund for use in subsequent
37 years to reduce the amount of revenue needed pursuant to section 8,
38 and the amount of revenue needed for appropriation from the General
39 Fund pursuant to section 10, of P.L. , c. (C.)(pending before the
40 Legislature as this bill).

41 (cf: P.L.1995, c.133, s.4)

42

43 3. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to
44 read as follows:

45 9. a. The commissioner shall allocate such funds as specified in
46 subsection e. of this section to the charity care component of the

1 disproportionate share hospital subsidy account. In a given year, the
2 department shall transfer from the fund to the Division of Medical
3 Assistance and Health Services in the Department of Human Services
4 such funds as may be necessary for the total approved charity care
5 disproportionate share payments to hospitals for that year.

6 b. For the period January 1, 1993 to December 31, 1993, the
7 commission shall allocate \$500 million to the charity care component
8 of the disproportionate share hospital subsidy account. The
9 Department of Health shall recommend the amount that the Division
10 of Medical Assistance and Health Services shall pay to an eligible
11 hospital on a provisional, monthly basis pursuant to paragraphs (1) and
12 (2) of this subsection. The department shall also advise the
13 commission and each eligible hospital of the amount a hospital is
14 entitled to receive.

15 (1) The department shall determine if a hospital is eligible to
16 receive a charity care subsidy in 1993 based on the following:

17 Hospital Specific Approved Uncompensated Care-1991
18
19 Hospital Specific Preliminary Cost Base-1992
20 = Hospital Specific % Uncompensated Care (% UC)

21 A hospital is eligible for a charity care subsidy in 1993 if, upon
22 establishing a rank order of the % UC for all hospitals, the hospital is
23 among the 80% of hospitals with the highest % UC.

24 (2) The maximum amount of the charity care subsidy an eligible
25 hospital may receive in 1993 shall be based on the following:

26 Hospital Specific Approved Uncompensated Care-1991
27
28 Total approved Uncompensated Care All Eligible Hospitals-1991
29 X \$500 million
30 = Maximum Amount of Hospital Specific
31 Charity Care Subsidy for 1993

32 (3) A hospital shall be required to submit all claims for charity care
33 cost reimbursement, as well as demographic information about the
34 persons who qualify for charity care, to the department in a manner
35 and time frame specified by the Commissioner of Health, in order to
36 continue to be eligible for a charity care subsidy in 1993 and in
37 subsequent years.

38 The demographic information shall include the recipient's age, sex,
39 marital status, employment status, type of health insurance coverage,
40 if any, and if the recipient is a child under 18 years of age who does
41 not have health insurance coverage or a married person who does not
42 have health insurance coverage, whether the child's parent or the
43 married person's spouse, as the case may be, has health insurance.

44 (4) A hospital shall be reimbursed for the cost of eligible charity
45 care at the same rate paid to that hospital by the Medicaid program;
46 except that charity care services provided to emergency room patients

1 who do not require those services on an emergency basis shall be
2 reimbursed at a rate appropriate for primary care, according to a
3 schedule of payments developed by the commission.

4 (5) The department shall provide for an audit of a hospital's charity
5 care for 1993 within a time frame established by the department.

6 c. For the period January 1, 1994 to December 31, 1994, a hospital
7 shall receive disproportionate share payments from the Division of
8 Medical Assistance and Health Services based on the amount of
9 charity care submitted to the commission or its designated agent, in a
10 form and manner specified by the commission. The commission or its
11 designated agent shall review and price all charity care claims and
12 notify the Division of Medical Assistance and Health Services of the
13 amount it shall pay to each hospital on a monthly basis based on actual
14 services rendered.

15 (1) (Deleted by amendment, P.L.1995, c.133.)

16 (2) If the commission is not able to fully implement the charity care
17 claims pricing system by January 1, 1994, the commission shall
18 continue to make provisional disproportionate share payments to
19 eligible hospitals, through the Division of Medical Assistance and
20 Health Services, based on the charity care costs incurred by all
21 hospitals in 1993, until such time as the commission is able to
22 implement the claims pricing system.

23 If there are additional charity care balances available after the 1994
24 distribution based on 1993 charity care costs, the department shall
25 transfer these available balances from the fund to the Division of
26 Medical Assistance and Health Services for an approved one-time
27 additional disproportionate share payment to hospitals according to
28 the methodology provided in section 12 of P.L.1995, c.133
29 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed
30 \$75.5 million.

31 (3) A hospital shall be reimbursed for the cost of eligible charity
32 care at the same rate paid to that hospital by the Medicaid program;
33 except that charity care services provided to emergency room patients
34 who do not require those services on an emergency basis shall be
35 reimbursed at a rate appropriate for primary care, according to a
36 schedule of payments developed by the commission.

37 (4) (Deleted by amendment, P.L.1995, c.133.)

38 d. (Deleted by amendment, P.L.1995, c.133.)

39 e. The total amount allocated for charity care subsidy payments
40 shall be: in 1994, \$450 million [and], in 1995, \$400 million and in
41 1996 and each year thereafter, no more than \$300 million each year.
42 Total payments to hospitals shall not exceed the amount allocated for
43 each given year.

44 f. Beginning January 1, 1995:

45 (1) The charity care subsidy shall be determined pursuant to
46 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

1 (2) A charity care claim shall be valued at the same rate paid to
2 that hospital by the Medicaid program, except that charity care
3 services provided to emergency room patients who do not require
4 those services on an emergency basis shall be valued at a rate
5 appropriate for primary care according to a schedule of payments
6 adopted by the commissioner.

7 (3) The department shall provide for an audit of a hospital's charity
8 care within a time frame established by the commissioner.
9 (cf: P.L.1995, c.133, s.5)

10
11 4. Section 15 of P.L.1992, c.160 (C.26:2H-18.65) is amended to
12 read as follows:

13 15. There is established in the Department of Health the Health
14 Access New Jersey program. The purpose of the program is to
15 provide subsidies for health benefits coverage, in order to provide for
16 health care [which shall be delivered in disproportionate share
17 hospitals and by other community-based health care providers] for
18 low-income, uninsured children, working people and those temporarily
19 unemployed, based on a sliding income scale with modest copayments
20 as determined by regulations adopted by the department. The program
21 shall include the provision of early preventive and primary care [to
22 help reduce costs for families and individuals].

23 The commissioner shall contract with health insurance carriers,
24 health maintenance organizations and other appropriate entities in the
25 State to administer the program.

26 (cf: P.L.1995, c.133, s.10)

27
28 5. Section 16 of P.L.1992, c.160 (C.26:2H-18.66) is amended to
29 read as follows:

30 16. The Health Access New Jersey subsidy account shall be
31 allocated \$50 million in 1995[,\$100] and \$75 million in 1996[, and
32 \$150 million in 1997] and each year thereafter.

33 (cf: P.L.1995, c.133, s.11)

34
35 6. (New section) a. Beginning January 1, 1996 and for each year
36 thereafter, the charity care subsidy shall be determined according to
37 the following methodology.

38 If the Statewide total of adjusted charity care is less than available
39 charity care funding, a hospital's charity care subsidy shall equal its
40 adjusted charity care.

41 If the Statewide total of adjusted charity care is greater than
42 available charity care funding, then the hospital-specific charity care
43 subsidy shall be determined by allocating available charity care funds
44 so as to equalize hospital-specific payer mix factors to the Statewide
45 target payer mix factor. Those hospitals with a payer mix factor
46 greater than the Statewide target payer mix factor shall be eligible to

1 receive a subsidy sufficient to reduce their factor to that Statewide
2 level; those hospitals with a payer mix factor that is equal to or less
3 than the Statewide target payer mix factor shall not be eligible to
4 receive a subsidy.

5 Charity care subsidy payments shall be based upon actual
6 documented hospital charity care.

7 As used in this section:

8 (1) The hospital-specific "documented charity care" shall be equal
9 to the dollar amount of charity care provided by the hospital that is
10 verified in the department's most recent charity care audit conducted
11 under the most recent charity care eligibility rules adopted by the
12 department and valued at the same rate paid to that hospital by the
13 Medicaid program;

14 For 1996, documented charity care shall equal the audited,
15 Medicaid-priced amounts reported for the first three quarters of 1995.
16 This amount shall be multiplied by 1.33 to determine the annualized
17 1995 charity care amount. For 1997 and subsequent years,
18 documented charity care shall be equal to the audited Medicaid-priced
19 amounts for the last quarter two years prior to the payment period and
20 the first three quarters of the year prior to the payment period.

21 (2) In 1996, the hospital-specific "operating margin" shall be equal
22 to: the hospital's 1993 and 1994 income from operations minus its
23 1993 and 1994 charity care subsidies divided by its 1993 and 1994
24 total operating revenue minus its 1993 and 1994 charity care subsidies.

25 In 1997 and each year thereafter, the hospital-specific "operating
26 margin" shall be calculated in the same manner as for 1996, but on the
27 basis of income from operations, total operating revenue and charity
28 care subsidies data from the three most current years;

29 After calculating each hospital's operating margin, the department
30 shall determine the Statewide median operating margin;

31 (3) The hospital-specific "profitability factor" shall be determined
32 annually as follows. Those hospitals that are equal to or below the
33 Statewide median operating margin shall be assigned a profitability
34 factor of "1". For those hospitals that are above the Statewide median
35 operating margin, the profitability factor shall be equal to:

36
37
$$.75 \times (\text{hospital specific operating}$$

38
$$\text{margin} - \text{Statewide median operating margin})$$

39
$$1 - \frac{\text{highest hospital specific operating}}{\text{margin} - \text{Statewide median operating margin}}$$

40
41
42

43 (4) The hospital-specific "adjusted charity care" shall be equal to
44 a hospital's documented charity care times its profitability factor;

45 (5) The hospital-specific "revenue from private payers" shall be
46 equal to the sum of the gross revenues, as reported to the department

1 in the hospital's most recently available New Jersey Hospital Cost
2 Reports for all non-governmental third party payers including, but not
3 limited to, Blue Cross and Blue Shield plans, commercial insurers and
4 health maintenance organizations;

5 (6) The hospital-specific "payer mix factor" shall be equal to a
6 hospital's adjusted charity care divided by its revenue from private
7 payers; and

8 (7) The "Statewide target payer mix factor" is the lowest payer mix
9 factor to which all hospitals receiving charity care subsidies can be
10 reduced by spending all available charity care subsidy funding for that
11 year.

12 b. For the purposes of this section, "income from operations" and
13 "total operating revenue" shall be defined by the department in
14 accordance with financial reporting requirements established pursuant
15 to N.J.A.C.8:31B-3.3.

16 c. Any charity care subsidy funds that are not distributed in a
17 given year pursuant to this section shall lapse to the Health Care
18 Subsidy Fund as provided in subsection e. of section 8 of P.L.1992,
19 c.160 (C.26:2H-18.58).

20
21 7. (New section) With the exception of the Catastrophic Illness in
22 Children Relief Fund, established pursuant to P.L.1987, c.370
23 (C.26:2-148 et seq.) and the Victims of Crime Compensation Board
24 established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), the
25 Health Care Subsidy Fund is the payer of last resort for persons who
26 otherwise qualify for charity care. A hospital shall not submit a claim
27 for charity care reimbursement on behalf of any individual otherwise
28 eligible for charity care for whom the hospital has received
29 reimbursement under any State or federal program not specifically
30 exempted in this section.

31
32 8. (New section) a. The Health Care Subsidy Fund shall be funded
33 in the following amounts with revenues deposited into the fund in
34 accordance with the provisions of subsection b. of this section: in
35 calendar year 1997, \$200 million; in calendar year 1998, \$210 million;
36 in calendar years 1999 through 2002, \$160 million annually; and in
37 calendar year 2003 and each calendar year thereafter, \$75 million.

38 b. Effective January 1, 1997, the Health Care Access Board
39 established pursuant to section 9 of P.L. , c. (C.)(pending
40 before the Legislature as this bill), shall assess each health care
41 facility and health care provider which is subject to the automated
42 transition incentive fee established for health care facilities and
43 providers pursuant to P.L. , c. (C.)(pending before the
44 Legislature as Senate Bill No. 45 or Assembly Bill No. 1480 of
45 1996), a health care access fee on every payment transaction with
46 respect to health care services provided by the facility or provider in

1 an amount to be determined by the Health Care Access Board, which
2 will ensure that sufficient revenue is derived from this fee to fund the
3 Health Care Subsidy Fund in accordance with the provisions of
4 subsection a. of this section, including the administrative expenses of
5 the Department of Health associated with providing assistance and
6 services to the Health Care Access Board pursuant to subsection c. of
7 section 9 of P.L. _____, c. _____ (C. _____) (pending before the
8 Legislature as this bill), which in each calendar year shall not exceed
9 2.5% of the revenues deposited in the Health Care Subsidy Fund
10 pursuant to subsection a. of this section. The amount of the health
11 care access fee assessed on paper-based payment transactions shall be
12 five times the amount imposed on electronically automated payment
13 transactions.

14 c. The provisions of subsection b. of this section are subject to the
15 granting of such waivers of federal government regulations as may be
16 required with respect to payment transactions in connection with
17 patients covered by the federal Medicare program established pursuant
18 to the federal Social Security Act, Pub.L. 89-97 (42 U.S.C. §1395 et
19 seq.) and the Medicaid program established pursuant to P.L.1968,
20 c.413 (C.30:4D-1 et seq.).

21 d. A health care facility or health care provider which is assessed
22 a health care access fee pursuant to subsection b. of this section shall
23 assume the cost of this fee in full and shall not pass along this cost to
24 a health insurer, health maintenance organization, employee or
25 employer self-insured health benefits plan, patient or other public or
26 private payer.

27 e. The Commissioner of Health shall transfer to the unemployment
28 compensation fund established pursuant to R.S.43:21-9 from the
29 Health Care Subsidy Fund, \$85 million annually in calendar years 1998
30 through 2002, according to a schedule to be determined by the
31 Commissioner of Health in consultation with the Commissioner of
32 Labor.

33
34 9. (New section) a. There is created the Health Care Access
35 Board, hereinafter in this section referred to as the board, which shall
36 consist of 25 members, as follows: the Commissioners of Health and
37 Insurance and the State Treasurer, or their designees, who shall serve
38 ex officio; and 22 public members to be appointed by the Governor,
39 with the advice and consent of the Senate, no more than 11 of whom
40 shall be of the same political party, as follows: one member upon the
41 recommendation of the New Jersey Hospital Association; one member
42 upon the recommendation of the Medical Society of New Jersey; one
43 member upon the recommendation of the New Jersey Business and
44 Industry Association; one member upon the recommendation of the
45 New Jersey State Chamber of Commerce; one member upon the
46 recommendation of the New Jersey State AFL-CIO; one member upon

1 the recommendation of the New Jersey Health Maintenance
2 Organization Association; one representative of a health insurer
3 domiciled in this State; one representative of a health insurer
4 authorized to transact business in this State, but not domiciled therein;
5 one member upon the recommendation of the New Jersey Chiropractic
6 Society; one member upon the recommendation of the New Jersey
7 Association of Health Care Facilities; one member upon the
8 recommendation of the New Jersey Pharmacists Association; one
9 member upon the recommendation of the New Jersey State Nurses
10 Association; three members, one each upon the recommendation of
11 a separate employee welfare arrangement established pursuant to a
12 collective bargaining agreement; three members, one each upon the
13 recommendation of a separate employer who provides a self-insured
14 health benefits plan to his employees; and four members of the public,
15 none of whom shall represent the sectors of business, labor, health
16 care providers or the professions or insurers hereinabove listed, but
17 who shall be consumers of health care services.

18 b. The board shall organize upon the appointment of its authorized
19 membership and annually shall select a chairman and vice chairman
20 from among its members.

21 The appointed members of the board shall serve for three-year
22 terms, except that, of the members first appointed, five shall be
23 appointed for terms of one year and five shall be appointed for terms
24 of two years.

25 Each member of the board shall serve for the term of appointment
26 and until a successor is appointed and qualified. All vacancies shall be
27 filled in the same manner as the original appointment. Members
28 appointed to fill a vacancy occurring for a reason other than the
29 expiration of the term shall serve for the unexpired term only. An
30 appointed member shall be eligible for reappointment. An appointed
31 member may be removed for cause.

32 Appointed members of the board shall serve without compensation,
33 but shall be reimbursed for necessary expenses incurred in the
34 performance of their duties.

35 Action may be taken and motions and resolutions shall be adopted
36 by the board by an affirmative vote of not less than 13 members,
37 including any action taken by the board to determine the amount of the
38 health care access fee pursuant to subsection d. of this section.

39 c. The Department of Health shall supply the board with such
40 assistance and services as it may require and as may be available to the
41 department to enable the board to carry out its responsibilities under
42 this section and section 8 of P.L. , c (C.)(pending
43 before the Legislature as this bill).

44 d. The board shall be responsible for determining the initial amount
45 of the health care access fee established pursuant to section 8 of
46 P.L. , c (C.)(pending before the Legislature as this bill)

1 in accordance with the provisions of that section, and for periodically
2 adjusting the amount of the fee in order to effectuate the purposes of
3 that section. In the event that surplus funds lapse to the Health Care
4 Subsidy Fund in accordance with the provisions of subsection e. of
5 section 8 of P.L.1992, c.160 (C.26:2H-18.58), the board shall reduce
6 the amount of the health care access fee in the following calendar year
7 to reflect the surplus.

8
9 10. (New section) The Health Care Subsidy Fund shall be funded
10 with General Fund revenues in the following amounts: in calendar year
11 1997, \$125 million; in calendar year 1998, \$250 million; and in
12 calendar year 1999 and each calendar year thereafter, \$300 million; or
13 in an annual amount, when combined with revenues deposited into the
14 Health Care Subsidy Fund from other sources pursuant to P.L. ,
15 c. (C.)(pending before the Legislature as this bill), that is
16 sufficient to fund charity care subsidies and the Health Access New
17 Jersey program pursuant to sections 9 and 16 of P.L.1992, c.160
18 (C.26:2H-18.59 and 26:2H-18.66), respectively, and to meet the
19 requirement for transferring funds to the unemployment compensation
20 fund pursuant to subsection e. of section 8 of P.L. , c.
21 (C.)(pending before the Legislature as this bill), whichever
22 amount is less. In order to provide funding for the Health Care
23 Subsidy Fund in these amounts, the Governor shall recommend and the
24 Legislature shall appropriate to the Health Care Subsidy Fund in Fiscal
25 Year 1998 and each Fiscal Year thereafter those revenues necessary
26 to effectuate the purposes of this section.

27
28 11. R.S.43:21-7 is amended to read as follows:

29 43:21-7. Contributions. Employers other than governmental
30 entities, whose benefit financing provisions are set forth in section 4
31 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
32 liable for payment in lieu of contributions on the basis set forth in
33 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller
34 for the unemployment compensation fund, contributions as set forth
35 in subsections (a), (b) and (c) hereof, and the provisions of subsections
36 (d) and (e) shall be applicable to all employers, consistent with the
37 provisions of the "unemployment compensation law" and the
38 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
39 seq.).

40 (a) Payment.

41 (1) Contributions shall accrue and become payable by each
42 employer for each calendar year in which he is subject to this chapter
43 (R.S.43:21-1 et seq.), with respect to having individuals in his employ
44 during that calendar year, at the rates and on the basis hereinafter set
45 forth. Such contributions shall become due and be paid by each
46 employer to the controller for the fund, in accordance with such

1 regulations as may be prescribed, and shall not be deducted, in whole
2 or in part, from the remuneration of individuals in his employ.

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

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

8 (1) For the calendar year 1947, and each calendar year thereafter,
9 $2\frac{7}{10}\%$ of wages paid by him during each such calendar year, except
10 as otherwise prescribed by subsection (c) of this section.

11 (2) The "wages" of any individual, with respect to any one
12 employer, as the term is used in this subsection (b) and in subsections
13 (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid
14 during calendar year 1975, for services performed either within or
15 without this State; provided that no contribution shall be required by
16 this State with respect to services performed in another state if such
17 other state imposes contribution liability with respect thereto. If an
18 employer (hereinafter referred to as a successor employer) during any
19 calendar year acquires substantially all the property used in a trade or
20 business of another employer (hereinafter referred to as a
21 predecessor), or used in a separate unit of a trade or business of a
22 predecessor, and immediately after the acquisition employs in his
23 trade or business an individual who immediately prior to the
24 acquisition was employed in the trade or business of such predecessor,
25 then, for the purpose of determining whether the successor employer
26 has paid wages with respect to employment equal to the first
27 \$4,800.00 paid during calendar year 1975, any wages paid to such
28 individual by such predecessor during such calendar year and prior to
29 such acquisition shall be considered as having been paid by such
30 successor employer.

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

1 calendar year.

2 (c) Future rates based on benefit experience.

3 (1) A separate account for each employer shall be maintained and
4 this shall be credited with all the contributions which he has paid on
5 his own behalf on or before January 31 of any calendar year with
6 respect to employment occurring in the preceding calendar year;
7 provided, however, that if January 31 of any calendar year falls on a
8 Saturday or Sunday, an employer's account shall be credited as of
9 January 31 of such calendar year with all the contributions which he
10 has paid on or before the next succeeding day which is not a Saturday
11 or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be
12 construed to grant any employer or individuals in his service prior
13 claims or rights to the amounts paid by him into the fund either on his
14 own behalf or on behalf of such individuals. Benefits paid with respect
15 to benefit years commencing on and after January 1, 1953, to any
16 individual on or before December 31 of any calendar year with respect
17 to unemployment in such calendar year and in preceding calendar years
18 shall be charged against the account or accounts of the employer or
19 employers in whose employment such individual established base
20 weeks constituting the basis of such benefits. Benefits paid under a
21 given benefit determination shall be charged against the account of the
22 employer to whom such determination relates. When each benefit
23 payment is made, either a copy of the benefit check or other form of
24 notification shall be promptly sent to the employer against whose
25 account the benefits are to be charged. Such copy or notification shall
26 identify the employer against whose account the amount of such
27 payment is being charged, shall show at least the name and social
28 security account number of the claimant and shall specify the period
29 of unemployment to which said check applies. If the total amount of
30 benefits paid to a claimant and charged to the account of the
31 appropriate employer exceeds 50% of the total base year, base week
32 wages paid to the claimant by that employer, then such employer shall
33 have canceled from his account such excess benefit charges as
34 specified above.

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

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

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

1 provision of this section to the contrary notwithstanding.

2 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
3 8/10%, except as otherwise provided in the following provisions. No
4 employer's rate for the 12 months commencing July 1 of any calendar
5 year shall be other than 2 8/10%, unless as of the preceding January 31
6 such employer shall have paid contributions with respect to wages paid
7 in each of the three calendar years immediately preceding such year,
8 in which case such employer's rate for the 12 months commencing July
9 1 of any calendar year shall be determined on the basis of his record up
10 to the beginning of such calendar year. If, at the beginning of such
11 calendar year, the total of all his contributions, paid on his own behalf,
12 for all past years exceeds the total benefits charged to his account for
13 all such years, his contribution rate shall be:

14 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
15 5%, of his average annual payroll (as defined in paragraph (2),
16 subsection (a) of R.S.43:21-19);

17 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less than
18 6%, of his average annual payroll;

19 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less than
20 7%, of his average annual payroll;

21 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less than
22 8%, of his average annual payroll;

23 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less than
24 9%, of his average annual payroll;

25 (6) 1%, if such excess equals or exceeds 9%, but is less than 10%,
26 of his average annual payroll;

27 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
28 than 11%, of his average annual payroll;

29 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
30 average annual payroll.

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

35 (1) 4%, if such excess is less than 10% of his average annual
36 payroll;

37 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less than
38 20%, of his average annual payroll;

39 (3) 4 6/10%, if such excess equals or exceeds 20% of his average
40 annual payroll.

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

46 (i) if the reserve balance in its account is positive, its assigned rate

1 shall be the highest rate in effect for positive balance accounts for that
2 period, or 5.4%, whichever is higher, and (ii) if the reserve balance in
3 its account is negative, its assigned rate shall be the highest rate in
4 effect for deficit accounts for that period.

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

9 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31
10 of any calendar year the balance in the unemployment trust fund equals
11 or exceeds 4% but is less than 7% of the total taxable wages reported
12 to the controller as of that date in respect to employment during the
13 preceding calendar year, the contribution rate, effective July 1
14 following, of each employer eligible for a contribution rate calculation
15 based upon benefit experience, shall be increased by 3/10 of 1% over
16 the contribution rate otherwise established under the provisions of
17 paragraph (3) or (4) of this subsection. If on March 31 of any
18 calendar year the balance of the unemployment trust fund exceeds 2
19 1/2% but is less than 4% of the total taxable wages reported to the
20 controller as of that date in respect to employment during the
21 preceding calendar year, the contribution rate, effective July 1
22 following, of each employer eligible for a contribution rate calculation
23 based upon benefit experience, shall be increased by 6/10 of 1% over
24 the contribution rate otherwise established under the provisions of
25 paragraph (3) or (4) of this subsection.

26 If on March 31 of any calendar year the balance of the
27 unemployment trust fund is less than 2 1/2% of the total taxable wages
28 reported to the controller as of that date in respect to employment
29 during the preceding calendar year, the contribution rate, effective July
30 1 following, of each employer (1) eligible for a contribution rate
31 calculation based upon benefit experience, shall be increased by (i)
32 6/10 of 1% over the contribution rate otherwise established under the
33 provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and
34 (ii) an additional amount equal to 20% of the total rate established
35 herein, provided, however, that the final contribution rate for each
36 employer shall be computed to the nearest multiple of 1/10% if not
37 already a multiple thereof; (2) not eligible for a contribution rate
38 calculation based upon benefit experience, shall be increased by 6/10
39 of 1% over the contribution rate otherwise established under the
40 provisions of paragraph (4) of this subsection. For the period
41 commencing July 1, 1984 and ending June 30, 1986, the contribution
42 rate for each employer liable to pay contributions under R.S.43:21-7
43 shall be increased by a factor of 10% computed to the nearest multiple
44 of 1/10% if not already a multiple thereof.

45 (B) If on March 31 of any calendar year the balance in the
46 unemployment trust fund equals or exceeds 10% but is less than 12

1 1/2% of the total taxable wages reported to the controller as of that
2 date in respect to employment during the preceding calendar year, the
3 contribution rate, effective July 1 following, of each employer eligible
4 for a contribution rate calculation based upon benefit experience, shall
5 be reduced by 3/10 of 1% under the contribution rate otherwise
6 established under the provisions of paragraphs (3) and (4) of this
7 subsection; provided that in no event shall the contribution rate of any
8 employer be reduced to less than 4/10 of 1%. If on March 31 of any
9 calendar year the balance in the unemployment trust fund equals or
10 exceeds 12 1/2% of the total taxable wages reported to the controller
11 as of that date in respect to employment during the preceding calendar
12 year, the contribution rate, effective July 1 following, of each
13 employer eligible for a contribution rate calculation based upon benefit
14 experience, shall be reduced by 6/10 of 1% if his account for all past
15 periods reflects an excess of contributions paid over total benefits
16 charged of 3% or more of his average annual payroll, otherwise by
17 3/10 of 1% under the contribution rate otherwise established under the
18 provisions of paragraphs (3) and (4) of this subsection; provided that
19 in no event shall the contribution rate of any employer be reduced to
20 less than 4/10 of 1%.

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

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

33 (E) With respect to experience rating years beginning on or after
34 July 1, 1986, the new employer rate or the unemployment experience
35 rate of an employer under this section shall be the rate which appears
36 in the column headed by the Unemployment Trust Fund Reserve Ratio
37 as of the applicable calculation date and on the line with the Employer
38 Reserve Ratio, as defined in paragraph 4 of this subsection
39 (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio ¹					
	10.00%	7.00%	4.00%	2.50%	2.49%
Employer	and	to	to	to	and
Reserve	Over	9.99%	6.99%	3.99%	Under
Ratio ²	A	B	C	D	E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

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

(F) With respect to experience rating years beginning on or after July 1, 1986, if the balance of the unemployment trust fund as of the prior March 31 is negative, the contribution rate for each employer liable to pay contributions, as computed under subparagraph E of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5),

1 shall be decreased by 0.1%, except that, during any experience rating year
2 in which the fund reserve ratio is equal to or greater than 7.00%, there
3 shall be no decrease pursuant to this subparagraph (G) in the contribution
4 of any employer who has a deficit reserve ratio of negative 35.00% or
5 under.

6 (H) On or after January 1, 1993 until December 31, 1993,
7 notwithstanding any other provisions of this paragraph (5), the
8 contribution rate for each employer liable to pay contributions, as
9 computed under subparagraph (E) of this paragraph (5), shall be decreased
10 by a factor of 52.0% computed to the nearest multiple of 1/10%, except
11 that, if an employer has a deficit reserve ratio of negative 35.0% or under,
12 the employer's rate of contribution shall not be reduced pursuant to this
13 subparagraph (H) to less than 5.4%. The amount of the reduction in the
14 employer contributions stipulated by this subparagraph (H) shall be in
15 addition to the amount of the reduction in the employer contributions
16 stipulated by subparagraph (G) of this paragraph (5), except that the rate
17 of contribution of an employer who has a deficit reserve ratio of negative
18 35.0% or under shall not be reduced pursuant to this subparagraph (H) to
19 less than 5.4% and the rate of contribution of any other employer shall not
20 be reduced to less than 0.0%.

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

37 On or after January 1, 1996 until December 31, 1996, the contribution
38 rate for each employer liable to pay contributions, as computed under
39 subparagraph (E) of this paragraph (5), shall be decreased by a factor of
40 23% computed to the nearest multiple of 1/10%, except that, if an
41 employer has a deficit reserve ratio of negative 35.0% or under, the
42 employer's rate of contribution shall not be reduced pursuant to this
43 subparagraph (H) to less than 5.4%. The amount of the reduction in the
44 employer contributions stipulated by this subparagraph (H) shall be in
45 addition to the amount of the reduction in the employer contributions
46 stipulated by subparagraph (G) of this paragraph (5), except that the rate

1 of contribution of an employer who has a deficit reserve ratio of negative
2 35.0% or under shall not be reduced pursuant to this subparagraph (H) to
3 less than 5.4% and the rate of contribution of any other employer shall not
4 be reduced to less than 0.0%.

5 On or after January 1, 1997 until December 31, 1997, the contribution
6 rate for each employer liable to pay contributions, as computed under
7 subparagraph (E) of this paragraph (5), shall be decreased by a factor of
8 3.0% computed to the nearest multiple of 1/10%, except that, if an
9 employer has a deficit reserve ratio of negative 35.0% or under, the
10 employer's rate of contribution shall not be reduced pursuant to this
11 subparagraph (H) to less than 5.4%. The amount of the reduction in the
12 employer contributions stipulated by this subparagraph (H) shall be in
13 addition to the amount of the reduction in the employer contributions
14 stipulated by subparagraph (G) of this paragraph (5), except that the rate
15 of contribution of an employer who has a deficit reserve ratio of negative
16 35.0% or under shall not be reduced pursuant to this subparagraph (H) to
17 less than 5.4% and the rate of contribution of any other employer shall not
18 be reduced to less than 0.0%.

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

23 If, upon calculating the unemployment compensation fund reserve ratio
24 pursuant to R.S.43:21-7(c)(5)(D) prior to July 1, 1997, the controller
25 finds that the fund reserve ratio has decreased to a level of less than
26 4.00%, the Commissioner of Labor shall notify the State Treasurer of this
27 fact and of the dollar amount necessary to bring the fund reserve ratio up
28 to a level of 4.00%. The State Treasurer, upon receipt of this notice, shall
29 transfer from the General Fund to the unemployment compensation fund,
30 revenues in the amount specified by the commissioner and which, upon
31 deposit in the unemployment compensation fund, shall result, upon
32 recalculation, in a fund reserve ratio used to determine employer
33 contributions beginning July 1, 1997 of at least 4.00%.

34 (6) Additional contributions.

35 Notwithstanding any other provision of law, any employer who has
36 been assigned a contribution rate pursuant to subsection (c) of this section
37 for the year commencing July 1, 1948, and for any year commencing July
38 1 thereafter, may voluntarily make payment of additional contributions,
39 and upon such payment shall receive a recomputation of the experience
40 rate applicable to such employer, including in the calculation the additional
41 contribution so made. Any such additional contribution shall be made
42 during the 30-day period following the date of the mailing to the
43 employer of the notice of his contribution rate as prescribed in this
44 section, unless, for good cause, the time for payment has been extended
45 by the controller for not to exceed an additional 60 days; provided that in
46 no event may such payments which are made later than 120 days after the

1 beginning of the year for which such rates are effective be considered in
2 determining the experience rate for the year in which the payment is made.
3 Any employer receiving any extended period of time within which to make
4 such additional payment and failing to make such payment timely shall be,
5 in addition to the required amount of additional payment, a penalty of 5%
6 thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any
7 adjustment under this subsection shall be made only in the form of credits
8 against accrued or future contributions.

9 (7) Transfers.

10 (A) Upon the transfer of the organization, trade or business, or
11 substantially all the assets of an employer to a successor in interest,
12 whether by merger, consolidation, sale, transfer, descent or otherwise, the
13 controller shall transfer the employment experience of the predecessor
14 employer to the successor in interest, including credit for past years,
15 contributions paid, annual payrolls, benefit charges, et cetera, applicable
16 to such predecessor employer, pursuant to regulation, if it is determined
17 that the employment experience of the predecessor employer with respect
18 to the organization, trade, assets or business which has been transferred
19 may be considered indicative of the future employment experience of the
20 successor in interest. Unless the predecessor employer was owned or
21 controlled (by legally enforceable means or otherwise), directly or
22 indirectly, by the successor in interest, or the predecessor employer and
23 the successor in interest were owned or controlled (by legally enforceable
24 means or otherwise), directly or indirectly, by the same interest or
25 interests, the transfer of the employment experience of the predecessor
26 shall not be effective if such successor in interest, within four months of
27 the date of such transfer of the organization, trade, assets or business, or
28 thereafter upon good cause shown, files a written notice protesting the
29 transfer of the employment experience of the predecessor employer.

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

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

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

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

25 (B) Effective January 1, 1978 there shall be no contributions by
26 workers in the employ of any governmental or nongovernmental employer
27 electing or required to make payments in lieu of contributions unless the
28 employer is covered by the State plan under the "Temporary Disability
29 Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be
30 at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers
31 in the employ of any nongovernmental employer electing or required to
32 make payments in lieu of contributions shall be required to make
33 contributions to the fund at the same rate prescribed for workers of other
34 nongovernmental employers.

35 (C) (i) Notwithstanding the above provisions of this paragraph (1),
36 during the period starting July 1, 1986 and ending December 31, 1992,
37 each worker shall contribute to the fund 1.125% of wages paid with
38 respect to his employment with a governmental employer electing or
39 required to pay contributions or nongovernmental employer, including a
40 nonprofit organization which is an employer as defined under
41 R.S.43:21-19(h)(6), regardless of whether that nonprofit organization
42 elects or is required to finance its benefit costs with contributions to the
43 fund or by payments in lieu of contributions, after that employer has
44 satisfied the conditions set forth in subsection R.S.43:21-19(h) with
45 respect to becoming an employer. Contributions, however, shall be at the
46 rate of 0.625% while the worker is covered by an approved private plan

1 under the "Temporary Disability Benefits Law" while the worker is
2 exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
3 other provision of that law; provided that such contributions shall be at the
4 rate of 0.625% of wages paid with respect to employment with the State
5 of New Jersey or any other governmental entity or instrumentality electing
6 or required to make payments in lieu of contributions and which is
7 covered by the State plan under the "Temporary Disability Benefits Law,"
8 except that, while the worker is exempt from the provisions of the
9 "Temporary Disability Benefits Law" under section 7 of that law,
10 P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is
11 covered for disability benefits by an approved private plan of the
12 employer, the contributions to the fund shall be 0.125%.

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

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

39 Each worker shall, starting on January 1, 1996 and ending December
40 31, 1996, contribute to the unemployment compensation fund [0.60%]
41 0.46% of wages paid with respect to the worker's employment with a
42 governmental employer electing or required to pay contributions or
43 nongovernmental employer, including a nonprofit organization which is an
44 employer as defined under paragraph 6 of subsection (h) of R.S.43:21-19,
45 regardless of whether that nonprofit organization elects or is required to
46 finance its benefit costs with contributions to the fund or by payments in

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

7 Each worker shall, starting on January 1, 1997 and ending December
8 31, 1997, contribute to the unemployment compensation fund 0.58% of
9 wages paid with respect to the worker's employment with a governmental
10 employer electing or required to pay contributions or nongovernmental
11 employer, including a nonprofit organization which is an employer as
12 defined under paragraph 6 of subsection (h) of R.S.43:21-19, regardless
13 of whether that nonprofit organization elects or is required to finance its
14 benefit costs with contributions to the unemployment compensation fund
15 or by payments in lieu of contributions, after that employer has satisfied
16 the conditions set forth in subsection (h) of R.S.43:21-19 with respect to
17 becoming an employer, provided that the contributions shall be at the rate
18 of 0.10% of wages paid with respect to employment with the State of New
19 Jersey or any other governmental entity or instrumentality electing or
20 required to make payments in lieu of contributions.

21 On and after January 1, 1998, each worker shall contribute to the
22 unemployment compensation fund 0.60% of wages paid with respect to
23 the worker's employment with a governmental employer electing or
24 required to pay contributions or nongovernmental employer, including a
25 nonprofit organization which is an employer as defined under paragraph
26 6 of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit
27 organization elects or is required to finance its benefit costs with
28 contributions to the unemployment compensation fund or by payments in
29 lieu of contributions, after that employer has satisfied the conditions set
30 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
31 employer, provided that the contributions shall be at the rate of 0.10% of
32 wages paid with respect to employment with the State of New Jersey or
33 any other governmental entity or instrumentality electing or required to
34 make payments in lieu of contributions.

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

1 contributions required from him.

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

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

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

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

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

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

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

20 (ii) [Notwithstanding any other provision of this paragraph (2), with
21 respect to wages paid during the period beginning on January 1, 1993 and
22 ending June 30, 1994, there shall be deposited in and credited to the State
23 disability benefits fund all worker contributions received by the
24 controller.](Deleted by amendment, P.L. , c.).

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

26 (3) If an employee receives wages from more than one employer
27 during any calendar year, and either the sum of his contributions deposited
28 in and credited to the State disability benefits fund [(in accordance with
29 paragraph (2) of this subsection)] plus the amount of his contributions, if
30 any, required towards the costs of benefits under one or more approved
31 private plans under the provisions of section 9 of the "Temporary
32 Disability Benefits Law" (C.43:21-33) and deducted from his wages, or
33 the sum of such latter contributions, if the employee is covered during
34 such calendar year only by two or more private plans, exceeds an amount
35 equal to 1/2 of 1% of the "wages" determined in accordance with the
36 provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or
37 after January 1, 1976, the employee shall be entitled to a refund of the
38 excess if he makes a claim to the controller within two years after the end
39 of the calendar year in which the wages are received with respect to which
40 the refund is claimed and establishes his right to such refund. Such refund
41 shall be made by the controller from the State disability benefits fund. No
42 interest shall be allowed or paid with respect to any such refund. The
43 controller shall, in accordance with prescribed regulations, determine the
44 portion of the aggregate amount of such refunds made during any calendar
45 year which is applicable to private plans for which deductions were made
46 under section 9 of the "Temporary Disability Benefits Law," such

1 determination to be based upon the ratio of the amount of such wages
2 exempt from contributions to such fund, as provided in subparagraph (B)
3 of paragraph (1) of this subsection with respect to coverage under private
4 plans, to the total wages so exempt plus the amount of such wages subject
5 to contributions to the disability benefits fund, as provided in
6 subparagraph [(B)] G of paragraph [(2)] 1 of this subsection. The
7 controller shall, in accordance with prescribed regulations, prorate the
8 amount so determined among the applicable private plans in the
9 proportion that the wages covered by each plan bear to the total private
10 plan wages involved in such refunds, and shall assess against and recover
11 from the employer, or the insurer if the insurer has indemnified the
12 employer with respect thereto, the amount so prorated. The provisions of
13 R.S.43:21-14 with respect to collection of employer contributions shall
14 apply to such assessments. The amount so recovered by the controller
15 shall be paid into the State disability benefits fund.

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

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

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

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

41 (1) Except as hereinafter provided, each employer shall, in addition to
42 the contributions required by subsections (a), (b), and (c) of this section,
43 contribute 1/2 of 1% of the wages paid by such employer to workers with
44 respect to employment unless he is not a covered employer as defined in
45 section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)),
46 except that the rate for the State of New Jersey shall be 1/10 of 1% for the

1 calendar year 1980 and for the first six months of 1981. Prior to July 1,
2 1981 and prior to July 1 each year thereafter, the controller shall review
3 the experience accumulated in the account of the State of New Jersey and
4 establish a rate for the next following fiscal year which, in combination
5 with worker contributions, will produce sufficient revenue to keep the
6 account in balance; except that the rate so established shall not be less
7 than 1/10 of 1%. Such contributions shall become due and be paid by the
8 employer to the controller for the State disability benefits fund as
9 established by law, in accordance with such regulations as may be
10 prescribed, and shall not be deducted, in whole or in part, from the
11 remuneration of individuals in his employ. In the payment of any
12 contributions, a fractional part of a cent shall be disregarded unless it
13 amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

21 (B) A separate disability benefits account shall be maintained for each
22 employer required to contribute to the State disability benefits fund and
23 such account shall be credited with contributions deposited in and credited
24 to such fund with respect to employment occurring on and after January
25 1, 1949. Each employer's account shall be credited with all contributions
26 paid on or before January 31 of any calendar year on his own behalf and
27 on behalf of individuals in his service with respect to employment
28 occurring in preceding calendar years; provided, however, that if January
29 31 of any calendar year falls on a Saturday or Sunday an employer's
30 account shall be credited as of January 31 of such calendar year with all
31 the contributions which he has paid on or before the next succeeding day
32 which is not a Saturday or Sunday. But nothing in this act shall be
33 construed to grant any employer or individuals in his service prior claims
34 or rights to the amounts paid by him to the fund either on his own behalf
35 or on behalf of such individuals. Benefits paid to any covered individual
36 in accordance with Article III of the "Temporary Disability Benefits Law"
37 on or before December 31 of any calendar year with respect to disability
38 in such calendar year and in preceding calendar years shall be charged
39 against the account of the employer by whom such individual was
40 employed at the commencement of such disability or by whom he was last
41 employed, if out of employment.

42 (C) The controller may prescribe regulations for the establishment,
43 maintenance, and dissolution of joint accounts by two or more employers,
44 and shall, in accordance with such regulations and upon application by two
45 or more employers to establish such an account, or to merge their several
46 individual accounts in a joint account, maintain such joint account as if it

1 constituted a single employer's account.

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

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

11 (2) If the minimum requirements in (1) above have been fulfilled and
12 the credited contributions exceed the benefits charged by more than
13 \$500.00, such preliminary rate shall be as follows:

14 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is less than
15 $1\frac{1}{4}$ % of his average annual payroll (as defined in this chapter
16 (R.S.43:21-1 et seq.));

17 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds 1
18 $\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

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

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

26 (4) If the minimum requirements in (1) above have been fulfilled and
27 the benefits charged exceed the contributions credited by more than
28 \$500.00, such preliminary rate shall be as follows:

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

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

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

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

37 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds 1%
38 of his average annual payroll.

39 (5) Determination of the preliminary rate as specified in (2), (3) and
40 (4) above shall be subject, however, to the condition that it shall in no
41 event be decreased by more than $\frac{1}{10}$ of 1% of wages or increased by
42 more than $\frac{2}{10}$ of 1% of wages from the preliminary rate determined for
43 the preceding year in accordance with (1), (2), (3) or (4), whichever shall
44 have been applicable.

45 (E) (1) Prior to July 1 of each calendar year the controller shall
46 determine the amount of the State disability benefits fund as of December

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

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

16 (i) If the percentage determined in accordance with paragraph (E)(1)
17 of this subsection equals or exceeds $1\frac{1}{4}\%$, the final employer rates shall
18 be the preliminary rates determined as provided in (D) hereof, except that
19 if the employer's preliminary rate is determined as provided in (D)(2) or
20 (D)(3) hereof, the final employer rate shall be the preliminary employer
21 rate decreased by such percentage of excess taken to the nearest $\frac{5}{100}$ of
22 1%, but in no case shall such final rate be less than $\frac{1}{10}$ of 1%.

23 (ii) If the percentage determined in accordance with paragraph (E)(1)
24 of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less than $1\frac{1}{4}$ of
25 1%, the final employer rates shall be the preliminary employer rates.

26 (iii) If the percentage determined in accordance with paragraph (E)(1)
27 of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$ of 1%, the
28 final employer rates shall be the preliminary employer rates determined as
29 provided in (D) hereof increased by the difference between $\frac{3}{4}$ of 1% and
30 such percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however, that
31 no such final rate shall be more than $\frac{1}{4}$ of 1% in the case of an employer
32 whose preliminary rate is determined as provided in (D)(2) hereof, more
33 than $\frac{1}{2}$ of 1% in the case of an employer whose preliminary rate is
34 determined as provided in (D)(1) and (D)(3) hereof, nor more than $\frac{3}{4}$ of
35 1% in the case of an employer whose preliminary rate is determined as
36 provided in (D)(4) hereof.

37 (iv) If the amount of the State disability benefits fund determined as
38 provided in paragraph (E)(1) of this subsection is equal to or less than $\frac{1}{4}$
39 of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of an employer
40 whose preliminary rate is determined as provided in (D)(2) hereof, $\frac{7}{10}$
41 of 1% in the case of an employer whose preliminary rate is determined as
42 provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer
43 whose preliminary rate is determined as provided in (D)(4) hereof.
44 Notwithstanding any other provision of law or any determination made by
45 the controller with respect to any 12-month period commencing on July
46 1, 1970, the final rates for all employers for the period beginning January

1 1, 1971, shall be as set forth herein.

2 (cf: P.L.1995, c.422, s.1)

3

4 12. Section 29 of P.L.1992, c.160 (C.43:21-7b) is amended to read as
5 follows:

6 29. a. Beginning January 1, 1993 until December 31, 1995, except as
7 provided pursuant to subsection b. of this section, each employee shall, in
8 such a manner and at such times as determined by the commissioner,
9 contribute to the fund an amount equal to 0.6% of the employee's taxable
10 wages.

11 Beginning January 1, 1996 until December 31, 1996, each employee
12 shall, in such a manner and at such times as determined by the
13 commissioner, contribute to the fund an amount equal to 0.14% of the
14 employee's taxable wages.

15 Beginning January 1, 1997 until December 31, 1997, each employee
16 shall, in such a manner and at such times as determined by the
17 commissioner, contribute to the fund an amount equal to 0.02% of the
18 employee's taxable wages.

19 Also beginning on January 1, 1993 until [December 31, 1995, except
20 as provided pursuant to subsection b. of this section] December 31, 1997,
21 each employer shall, in such a manner and at such times as determined by
22 the commissioner, contribute to the fund an amount equal to the amount
23 that the employer's contribution to the unemployment compensation fund
24 is decreased pursuant to subparagraph (H) of paragraph (5) of subsection
25 (c) of R.S.43:21-7.

26 b. If the unemployment compensation fund reserve ratio, as determined
27 pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to
28 a level of less than 4.00% on March 31 of calendar year 1994 or calendar
29 year 1995, the provisions of subsection a. of this section shall cease to be
30 in effect as of July 1 of that calendar year and each employer who would
31 be subject to making the contributions pursuant to subsection a. of this
32 section if that subsection were in effect shall, beginning on July 1 of that
33 calendar year, contribute to the fund an amount equal to 0.62% of the
34 total wages paid by the employer and shall continue to contribute that
35 amount until December 31, 1995.

36 c. If the total amount of contributions to the fund pursuant to this
37 section during the calendar year 1993 exceeds \$600 million, all
38 contributions which exceed \$600 million shall be deposited in the
39 unemployment compensation fund. If the total amount of contributions
40 to the fund pursuant to this section during calendar year 1994 or calendar
41 year 1995 exceeds \$500 million, all contributions which exceed \$500
42 million shall be deposited in the unemployment compensation fund. If the
43 total amount of contributions made to the fund pursuant to this section for
44 the calendar year 1996 exceeds \$375 million, all contributions which
45 exceed \$375 million in a calendar year shall be deposited in the
46 unemployment compensation fund. If the total amount of contributions

1 made to the fund pursuant to this section for the calendar year 1997
2 exceeds \$50 million, all contributions which exceed \$50 million shall be
3 deposited in the unemployment compensation fund.

4 d. All necessary administrative costs related to the collection of
5 contributions pursuant to this section shall be paid from the contributions.
6 (cf: P.L.1992, c.160, s.29)

7
8 13. Section 32 of P.L.1992, c.160 (C.43:21-7e) is amended to read as
9 follows:

10 32. a. If an employee receives wages from more than one employer
11 during any calendar year, and the sum of the employee's contributions
12 deposited in the fund exceeds an amount equal to 0.6% of the wages
13 determined in accordance with the provisions of paragraph (3) of
14 subsection (b) of R.S.43:21-7 during calendar year 1993, calendar year
15 1994 or calendar year 1995, the employee shall be entitled to a refund of
16 the excess if a claim establishing the employee's right to the refund is made
17 within two years after the end of the respective calendar year in which the
18 wages are received and are the subject of the claim. The commissioner
19 shall refund any overpayment from the fund without interest.

20 If an employee receives wages from more than one employer during the
21 calendar year 1996, and the sum of the employee's contributions
22 deposited in the fund exceeds an amount equal to 0.14% of the wages
23 determined in accordance with the provisions of paragraph (3) of
24 subsection (b) of R.S.43:21-7 during calendar year 1996 or 1997, the
25 employee shall be entitled to a refund of the excess if a claim establishing
26 the employee's right to the refund is made within two years after the end
27 of the respective calendar year in which the wages are received and are the
28 subject of the claim. The commissioner shall refund any overpayment
29 from the fund without interest.

30 If an employee receives wages from more than one employer during the
31 calendar year 1997, and the sum of the employee's contributions
32 deposited in the fund exceeds an amount equal to 0.02% of the wages
33 determined in accordance with the provisions of paragraph (3) of
34 subsection (b) of R.S.43:21-7 during calendar year 1998, the employee
35 shall be entitled to a refund of the excess if a claim establishing the
36 employee's right to the refund is made within two years after the end of
37 the respective calendar year in which the wages are received and are the
38 subject of the claim. The commissioner shall refund any overpayment
39 from the fund without interest.

40 b. Any employee who is a taxpayer and entitled, pursuant to the
41 provisions of subsection a. of this section, to a refund of contributions
42 deducted during a tax year from his wages shall, in lieu of the refund, be
43 entitled to a credit in the full amount thereof against the tax otherwise due
44 on his New Jersey gross income for that tax year if he submits his claim
45 for the credit and accompanies that claim with evidence of his right to the
46 credit in the manner provided by regulation by the Director of the Division

1 of Taxation. In any case in which the amount, or any portion thereof, of
2 any credit allowed hereunder results in or increases an excess of income
3 tax payment over income tax liability, the amount of the new or increased
4 excess shall be considered an overpayment and shall be refunded to the
5 taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.
6 (cf: P.L.1992, c.160, s.32)

7
8 14. Section 4 of P.L.1971, c.346 (C.43:21-7.3) is amended to read as
9 follows:

10 4. (a) Notwithstanding any other provisions of the "unemployment
11 compensation law" for the payment of contributions, benefits paid to
12 individuals based upon wages earned in the employ of any governmental
13 entity or instrumentality which is an employer defined under
14 R.S.43:21-19(h)(5) shall, to the extent that such benefits are chargeable
15 to the account of such governmental entity or instrumentality in
16 accordance with the provisions of R.S.43:21-1 et seq., be financed by
17 payments in lieu of contributions.

18 (b) Any governmental entity or instrumentality may, as an alternative
19 to financing benefits by payments in lieu of contributions, elect to pay
20 contributions beginning with the date on which its subjectivity begins by
21 filing written notice of its election with the department no later than 120
22 days after such subjectivity begins, provided that such election shall be
23 effective for at least two full calendar years; or it may elect to pay
24 contributions for a period of not less than two calendar years beginning
25 January 1 of any year if written notice of such election is filed with the
26 department not later than February 1 of such year; provided, further, that
27 such governmental entity or instrumentality shall remain liable for
28 payments in lieu of contributions with respect to all benefits paid based on
29 base year wages earned in the employ of such entity or instrumentality in
30 the period during which it financed its benefits by payments in lieu of
31 contributions.

32 (c) Any governmental entity or instrumentality may terminate its
33 election to pay contributions as of January 1 of any year by filing written
34 notice not later than February 1 of any year with respect to which
35 termination is to become effective. It may not revert to a contributions
36 method of financing for at least two full calendar years after such
37 termination.

38 (d) Any governmental entity or instrumentality electing the option for
39 contributions financing shall report and pay contributions in accordance
40 with the provisions of R.S.43:21-7 except that, notwithstanding the
41 provisions of that section, the contribution rate for such governmental
42 entity or instrumentality shall be 1% for the entire calendar year 1978 and
43 the contribution rate for any subsequent calendar years shall be the rate
44 established for governmental entities or instrumentalities under subsection
45 (e) of this section.

46 (e) On or before September 1 of each year, the Commissioner of Labor

1 shall review the composite benefit cost experience of all governmental
2 entities and instrumentalities electing to pay contributions and, on the
3 basis of that experience, establish the contribution rate for the next
4 following calendar year which can be expected to yield sufficient revenue
5 in combination with worker contributions to equal or exceed the projected
6 costs for that calendar year.

7 (f) Any covered governmental entity or instrumentality electing to pay
8 contributions shall each year appropriate, out of its general funds, moneys
9 to pay the projected costs of benefits at the rate determined under
10 subsection (e) of this section. These funds shall be held in a trust fund
11 maintained by the governmental entity for this purpose. Any surplus
12 remaining in this trust fund may be retained in reserve for payment of
13 benefit costs for subsequent years either by contributions or payments in
14 lieu of contributions.

15 (g) Any governmental entity or instrumentality electing to finance
16 benefit costs with payments in lieu of contributions shall pay into the fund
17 an amount equal to all benefit costs for which it is liable pursuant to the
18 provisions of the "unemployment compensation law." Each subject
19 governmental entity or instrumentality shall require payments from its
20 workers in the same manner and amount as prescribed under
21 R.S.43:21-7(d) for governmental entities and instrumentalities financing
22 their benefit costs with contributions. No such payment shall be used for
23 a purpose other than to meet the benefits liability of such governmental
24 entity or instrumentality. In addition, each subject governmental entity or
25 instrumentality shall appropriate out of its general funds sufficient moneys
26 which, in addition to any worker payments it requires, are necessary to
27 pay its annual benefit costs estimated on the basis of its past benefit cost
28 experience; provided that for its first year of coverage, its benefit costs
29 shall be deemed to require an appropriation equal to 1% of the projected
30 total of its taxable wages for the year. These appropriated moneys and
31 worker payments shall be held in a trust fund maintained by the
32 governmental entity or instrumentality for this purpose. Any surplus
33 remaining in this trust fund shall be retained in reserve for payment of
34 benefit costs in subsequent years. If a governmental entity or
35 instrumentality requires its workers to make payments as authorized
36 herein, such workers shall not be subject to the contributions required in
37 R.S.43:21-7(d).

38 (h) Notwithstanding the provisions of the above subsection (g),
39 commencing July 1, 1986 worker contributions to the unemployment trust
40 fund with respect to wages paid by any governmental entity or
41 instrumentality electing or required to make payments in lieu of
42 contributions, including the State of New Jersey, shall be made in
43 accordance with the provisions of R.S.43:21-7(d)(1)(C) or
44 R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each governmental
45 entity or instrumentality electing or required to make payments in lieu of
46 contributions shall, except during the period starting January 1, 1993 and

1 ending December 31, 1995 or, if the unemployment compensation fund
2 reserve ratio, as determined pursuant to paragraph (5) of subsection (c)
3 of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of
4 calendar year 1994 or calendar year 1995, ending July 1 of that calendar
5 year, require payments from its workers at the [rate of 0.50%] following
6 rates of wages paid, which amounts are to be held in the trust fund
7 maintained by the governmental entity or instrumentality for payment of
8 benefit costs: for calendar year 1996, 0.36%; for calendar year 1997,
9 0.48%; and for each calendar year starting in 1998 and after, 0.50%.

10 (cf: P.L 1992, c.205, s.1)

11

12 15. Section 1 of P.L.1944, c. 81(C.43:21-14.1) is amended to read as
13 follows:

14 1. Any employee who is paid wages by two or more employers
15 aggregating more than [\$3,000.00 during any calendar year prior to
16 January 1, 1968, \$3,600.00 during any calendar year commencing on or
17 after January 1, 1968 and prior to January 1, 1972, \$4,200.00 during any
18 calendar year commencing on or after January 1, 1972 and prior to
19 January 1, 1975, or \$4,800.00 during any calendar year commencing on
20 or after January 1, 1975, and prior to January 1, 1976, and thereafter] the
21 amount of "wages" determined in accordance with the provisions of R.S.
22 43:21-7(b)(3) shall be entitled to a refund of the amount of contributions
23 deducted from such wages and paid to the Division of Employment
24 Security in excess of the contribution which is determined pursuant to
25 R.S.43:21-7(d)(1)(D) required on [\$3,000.00 of such wages paid during
26 any calendar year prior to January 1, 1968, \$3,600.00 during any calendar
27 year commencing on or after January 1, 1968 and prior to January 1,
28 1972, \$4,200.00 during any calendar year commencing on or after January
29 1, 1972 and prior to January 1, 1975, or \$4,800.00 during any calendar
30 year commencing on or after January 1, 1975, and prior to January 1,
31 1976, and thereafter] the amount of "wages" determined in accordance
32 with the provisions of R.S.establishing his right thereto, within 2 years
33 after the calendar year in which the wages are paid with respect to which
34 refund of contribution is claimed. No interest shall be allowed or paid
35 with respect to any such refund.

36 (cf: P. L.1974, c.86, s.6)

37

38 16. R.S.43:21-19 is amended to read as follows:

39 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et seq.),
40 unless the context clearly requires otherwise:

41 (a) (1) "Annual payroll" means the total amount of wages paid during
42 a calendar year (regardless of when earned) by an employer for
43 employment.

44 (2) "Average annual payroll" means the average of the annual payrolls
45 of any employer for the last three or five preceding calendar years,
46 whichever average is higher, except that any year or years throughout

1 which an employer has had no "annual payroll" because of military service
2 shall be deleted from the reckoning; the "average annual payroll" in such
3 case is to be determined on the basis of the prior three or five calendar
4 years in each of which the employer had an "annual payroll" in the
5 operation of his business, if the employer resumes his business within 12
6 months after separation, discharge or release from such service, under
7 conditions other than dishonorable, and makes application to have his
8 "average annual payroll" determined on the basis of such deletion within
9 12 months after he resumes his business; provided, however, that "average
10 annual payroll" solely for the purposes of paragraph (3) of subsection (e)
11 of R.S.43:21-7 means the average of the annual payrolls of any employer
12 on which he paid contributions to the State disability benefits fund for the
13 last three or five preceding calendar years, whichever average is higher;
14 provided further that only those wages be included on which employer
15 contributions have been paid on or before January 31 (or the next
16 succeeding day if such January 31 is a Saturday or Sunday) immediately
17 preceding the beginning of the 12-month period for which the employer's
18 contribution rate is computed.

19 (b) "Benefits" means the money payments payable to an individual, as
20 provided in this chapter (R.S.43:21-1 et seq.), with respect to his
21 unemployment.

22 (c) (1) "Base year" with respect to benefit years commencing on or
23 after July 1, 1986, shall mean the first four of the last five completed
24 calendar quarters immediately preceding an individual's benefit year.

25 With respect to a benefit year commencing on or after July 1, 1995, if
26 an individual does not have sufficient qualifying weeks or wages in his
27 base year to qualify for benefits, the individual shall have the option of
28 designating that his base year shall be the "alternative base year," which
29 means the last four completed calendar quarters immediately preceding the
30 individual's benefit year; except that, with respect to a benefit year
31 commencing on or after October 1, 1995, if the individual also does not
32 have sufficient qualifying weeks or wages in the last four completed
33 calendar quarters immediately preceding his benefit year to qualify for
34 benefits, "alternative base year" means the last three completed calendar
35 quarters immediately preceding his benefit year and, of the calendar
36 quarter in which the benefit year commences, the portion of the quarter
37 which occurs before the commencing of the benefit year.

38 The division shall inform the individual of his options under this section
39 as amended by P.L.1995, c.234. If information regarding weeks and
40 wages for the calendar quarter or quarters immediately preceding the
41 benefit year is not available to the division from the regular quarterly
42 reports of wage information and the division is not able to obtain the
43 information using other means pursuant to State or federal law, the
44 division may base the determination of eligibility for benefits on the
45 affidavit of an individual with respect to weeks and wages for that
46 calendar quarter. The individual shall furnish payroll documentation, if

1 available, in support of the affidavit. A determination of benefits based on
2 an alternative base year shall be adjusted when the quarterly report of
3 wage information from the employer is received if that information causes
4 a change in the determination.

5 (2) With respect to a benefit year commencing on or after June 1, 1990
6 for an individual who immediately preceding the benefit year was subject
7 to a disability compensable under the provisions of the "Temporary
8 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), "base
9 year" shall mean the first four of the last five completed calendar quarters
10 immediately preceding the individual's period of disability, if the
11 employment held by the individual immediately preceding the period of
12 disability is no longer available at the conclusion of that period and the
13 individual files a valid claim for unemployment benefits after the
14 conclusion of that period. For the purposes of this paragraph, "period of
15 disability" means the period defined as a period of disability by section 3
16 of the "Temporary Disability Benefits Law," P.L.1948, c.110
17 (C.43:21-27). An individual who files a claim under the provisions of this
18 paragraph (2) shall not be regarded as having left work voluntarily for the
19 purposes of subsection (a) of R.S.43:21-5.

20 (3) With respect to a benefit year commencing on or after June 1, 1990
21 for an individual who immediately preceding the benefit year was subject
22 to a disability compensable under the provisions of the workers'
23 compensation law (chapter 15 of Title 34 of the Revised Statutes), "base
24 year" shall mean the first four of the last five completed calendar quarters
25 immediately preceding the individual's period of disability, if the period of
26 disability was not longer than two years, if the employment held by the
27 individual immediately preceding the period of disability is no longer
28 available at the conclusion of that period and if the individual files a valid
29 claim for unemployment benefits after the conclusion of that period. For
30 the purposes of this paragraph, "period of disability" means the period
31 from the time at which the individual becomes unable to work because of
32 the compensable disability until the time that the individual becomes able
33 to resume work and continue work on a permanent basis. An individual
34 who files a claim under the provisions of this paragraph (3) shall not be
35 regarded as having left work voluntarily for the purposes of subsection (a)
36 of R.S.43:21-5.

37 (d) "Benefit year" with respect to any individual means the 364
38 consecutive calendar days beginning with the day on, or as of, which he
39 first files a valid claim for benefits, and thereafter beginning with the day
40 on, or as of, which the individual next files a valid claim for benefits after
41 the termination of his last preceding benefit year. Any claim for benefits
42 made in accordance with subsection (a) of R.S.43:21-6 shall be deemed
43 to be a "valid claim" for the purpose of this subsection if (1) he is
44 unemployed for the week in which, or as of which, he files a claim for
45 benefits; and (2) he has fulfilled the conditions imposed by subsection (e)
46 of R.S.43:21-4.

1 (e) (1) "Division" means the Division of Unemployment and
2 Temporary Disability Insurance of the Department of Labor, and any
3 transaction or exercise of authority by the director of the division
4 thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed
5 to be performed by the division.

6 (2) "Controller" means the Office of the Assistant Commissioner for
7 Finance and Controller of the Department of Labor, established by the
8 1982 Reorganization Plan of the Department of Labor.

9 (f) "Contributions" means the money payments to the State
10 Unemployment Compensation Fund, required by R.S.43:21-7. "Payments
11 in lieu of contributions" means the money payments to the State
12 Unemployment Compensation Fund by employers electing or required to
13 make payments in lieu of contributions, as provided in section 3 or section
14 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

15 (g) "Employing unit" means the State or any of its instrumentalities or
16 any political subdivision thereof or any of its instrumentalities or any
17 instrumentality of more than one of the foregoing or any instrumentality
18 of any of the foregoing and one or more other states or political
19 subdivisions or any individual or type of organization, any partnership,
20 association, trust, estate, joint-stock company, insurance company or
21 corporation, whether domestic or foreign, or the receiver, trustee in
22 bankruptcy, trustee or successor thereof, or the legal representative of a
23 deceased person, which has or subsequent to January 1, 1936, had in its
24 employ one or more individuals performing services for it within this
25 State. All individuals performing services within this State for any
26 employing unit which maintains two or more separate establishments
27 within this State shall be deemed to be employed by a single employing
28 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
29 individual employed to perform or to assist in performing the work of any
30 agent or employee of an employing unit shall be deemed to be employed
31 by such employing unit for all the purposes of this chapter (R.S.43:21-1
32 et seq.), whether such individual was hired or paid directly by such
33 employing unit or by such agent or employee; provided the employing unit
34 had actual or constructive knowledge of the work.

35 (h) "Employer" means:

36 (1) Any employing unit which in either the current or the preceding
37 calendar year paid remuneration for employment in the amount of
38 \$1,000.00 or more;

39 (2) Any employing unit (whether or not an employing unit at the time
40 of acquisition) which acquired the organization, trade or business, or
41 substantially all the assets thereof, of another which, at the time of such
42 acquisition, was an employer subject to this chapter (R.S.43:21-1 et seq.);

43 (3) Any employing unit which acquired the organization, trade or
44 business, or substantially all the assets thereof, of another employing unit
45 and which, if treated as a single unit with such other employing unit,
46 would be an employer under paragraph (1) of this subsection;

- 1 (4) Any employing unit which together with one or more other
2 employing units is owned or controlled (by legally enforceable means or
3 otherwise), directly or indirectly by the same interests, or which owns or
4 controls one or more other employing units (by legally enforceable means
5 or otherwise), and which, if treated as a single unit with such other
6 employing unit or interest, would be an employer under paragraph (1) of
7 this subsection;
- 8 (5) Any employing unit for which service in employment as defined in
9 R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as
10 defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31,
11 1977;
- 12 (6) Any employing unit for which service in employment as defined in
13 R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and which
14 in either the current or the preceding calendar year paid remuneration for
15 employment in the amount of \$1,000.00 or more;
- 16 (7) Any employing unit not an employer by reason of any other
17 paragraph of this subsection (h) for which, within either the current or
18 preceding calendar year, service is or was performed with respect to which
19 such employing unit is liable for any federal tax against which credit may
20 be taken for contributions required to be paid into a state unemployment
21 fund; or which, as a condition for approval of the "unemployment
22 compensation law" for full tax credit against the tax imposed by the
23 Federal Unemployment Tax Act, is required pursuant to such act to be an
24 employer under this chapter (R.S.43:21-1 et seq.);
- 25 (8) (Deleted by amendment; P.L.1977, c.307.)
- 26 (9) (Deleted by amendment; P.L.1977, c.307.)
- 27 (10) (Deleted by amendment; P.L.1977, c.307.)
- 28 (11) Any employing unit subject to the provisions of the Federal
29 Unemployment Tax Act within either the current or the preceding calendar
30 year, except for employment hereinafter excluded under paragraph (7) of
31 subsection (i) of this section;
- 32 (12) Any employing unit for which agricultural labor in employment
33 as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31,
34 1977;
- 35 (13) Any employing unit for which domestic service in employment as
36 defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;
- 37 (14) Any employing unit which having become an employer under the
38 "unemployment compensation law" (R.S.43:21-1 et seq.), has not under
39 R.S.43:21-8 ceased to be an employer; or for the effective period of its
40 election pursuant to R.S.43:21-8, any other employing unit which has
41 elected to become fully subject to this chapter (R.S.43:21-1 et seq.).
- 42 (i) (1) "Employment" means:
- 43 (A) Any service performed prior to January 1, 1972, which was
44 employment as defined in the "unemployment compensation law"
45 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
46 provisions of this subsection, service performed on or after January 1,

1 1972, including service in interstate commerce, performed for
2 remuneration or under any contract of hire, written or oral, express or
3 implied.

4 (B) (i) Service performed after December 31, 1971 by an individual in
5 the employ of this State or any of its instrumentalities or in the employ of
6 this State and one or more other states or their instrumentalities for a
7 hospital or institution of higher education located in this State, if such
8 service is not excluded from "employment" under paragraph (D) below.

9 (ii) Service performed after December 31, 1977, in the employ of this
10 State or any of its instrumentalities or any political subdivision thereof or
11 any of its instrumentalities or any instrumentality of more than one of the
12 foregoing or any instrumentality of the foregoing and one or more other
13 states or political subdivisions, if such service is not excluded from
14 "employment" under paragraph (D) below.

15 (C) Service performed after December 31, 1971 by an individual in the
16 employ of a religious, charitable, educational, or other organization, which
17 is excluded from "employment" as defined in the Federal Unemployment
18 Tax Act, solely by reason of section 3306 (c) (8) of that act, if such
19 service is not excluded from "employment" under paragraph (D) below.

20 (D) For the purposes of paragraphs (B) and (C), the term
21 "employment" does not apply to services performed:

22 (i) In the employ of (I) a church or convention or association of
23 churches, or (II) an organization, or school which is operated primarily for
24 religious purposes and which is operated, supervised, controlled or
25 principally supported by a church or convention or association of
26 churches;

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

30 (iii) Prior to January 1, 1978, in the employ of a school which is not
31 an institution of higher education, and after December 31, 1977, in the
32 employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B),
33 if such service is performed by an individual in the exercise of duties:

34 (aa) as an elected official;

35 (bb) as a member of a legislative body, or a member of the judiciary,
36 of a state or political subdivision;

37 (cc) as a member of the State National Guard or Air National Guard;

38 (dd) as an employee serving on a temporary basis in case of fire, storm,
39 snow, earthquake, flood or similar emergency;

40 (ee) in a position which, under or pursuant to the laws of this State, is
41 designated as a major nontenured policy making or advisory position, or
42 a policy making or advisory position, the performance of the duties of
43 which ordinarily does not require more than eight hours per week;

44 (iv) By an individual receiving rehabilitation or remunerative work in
45 a facility conducted for the purpose of carrying out a program of
46 rehabilitation of individuals whose earning capacity is impaired by age or

1 physical or mental deficiency or injury or providing remunerative work for
2 individuals who because of their impaired physical or mental capacity
3 cannot be readily absorbed in the competitive labor market;

4 (v) By an individual receiving work-relief or work-training as part of
5 an unemployment work-relief or work-training program assisted in whole
6 or in part by any federal agency or an agency of a state or political
7 subdivision thereof; or

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

12 (E) The term "employment" shall include the services of an individual
13 who is a citizen of the United States, performed outside the United States
14 after December 31, 1971 (except in Canada and in the case of the Virgin
15 Islands, after December 31, 1971 and prior to January 1 of the year
16 following the year in which the U.S. Secretary of Labor approves the
17 unemployment compensation law of the Virgin Islands, under section 3304
18 (a) of the Internal Revenue Code of 1986 (26 U.S.C. §3304 (a)) in the
19 employ of an American employer (other than the service which is deemed
20 employment under the provisions of R.S.43:21-19 (i) (2) or (5) of the
21 parallel provisions of another state's unemployment compensation law), if:

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

24 (ii) The American employer has no place of business in the United
25 States, but (I) the American employer is an individual who is a resident of
26 this State; or (II) the American employer is a corporation which is
27 organized under the laws of this State; or (III) the American employer is
28 a partnership or trust and the number of partners or trustees who are
29 residents of this State is greater than the number who are residents of
30 another state; or

31 (iii) None of the criteria of divisions (i) and (ii) of this subparagraph
32 (E) is met but the American employer has elected to become an employer
33 subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in
34 this State, or the American employer having failed to elect to become an
35 employer in any state, the individual has filed a claim for benefits, based
36 on such service, under the law of this State;

37 (iv) An "American employer," for the purposes of this subparagraph
38 (E), means (I) an individual who is a resident of the United States; or (II)
39 a partnership, if two-thirds or more of the partners are residents of the
40 United States; or (III) a trust, if all the trustees are residents of the United
41 States; or (IV) a corporation organized under the laws of the United
42 States or of any state.

43 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after
44 January 1, 1972 by an officer or member of the crew of an American
45 vessel or American aircraft on or in connection with such vessel or
46 aircraft, if the operating office from which the operations of such vessel

1 or aircraft operating within, or within and without, the United States are
2 ordinarily and regularly supervised, managed, directed, and controlled, is
3 within this State.

4 (G) Notwithstanding any other provision of this subsection, service in
5 this State with respect to which the taxes required to be paid under any
6 federal law imposing a tax against which credit may be taken for
7 contributions required to be paid into a state unemployment fund or which
8 as a condition for full tax credit against the tax imposed by the Federal
9 Unemployment Tax Act is required to be covered under the
10 "unemployment compensation law" (R.S.43:21-1 et seq.).

11 (H) The term "United States" when used in a geographical sense in
12 subsection R.S.43:21-19 (i) includes the states, the District of Columbia,
13 the Commonwealth of Puerto Rico and, effective on the day after the day
14 on which the U.S. Secretary of Labor approves for the first time under
15 section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C §3304
16 (a)) an unemployment compensation law submitted to the Secretary by the
17 Virgin Islands for such approval, the Virgin Islands.

18 (I) (i) Service performed after December 31, 1977 in agricultural labor
19 in a calendar year for an entity which is an employer as defined in the
20 "unemployment compensation law," (R.S.43:21-1 et seq.) as of January
21 1 of such year; or for an employing unit which:

22 (aa) during any calendar quarter in either the current or the preceding
23 calendar year paid remuneration in cash of \$20,000.00 or more for
24 individuals employed in agricultural labor, or

25 (bb) for some portion of a day in each of 20 different calendar weeks,
26 whether or not such weeks were consecutive, in either the current or the
27 preceding calendar year, employed in agricultural labor 10 or more
28 individuals, regardless of whether they were employed at the same
29 moment in time.

30 (ii) For the purposes of this subsection any individual who is a member
31 of a crew furnished by a crew leader to perform service in agricultural
32 labor for any other entity shall be treated as an employee of such crew
33 leader:

34 (aa) if such crew leader holds a certification of registration under the
35 Migrant and Seasonal Agricultural Worker Protection Act, Pub.L.97-470
36 (29 U.S.C.§1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or
37 substantially all the members of such crew operate or maintain tractors,
38 mechanized harvesting or cropdusting equipment, or any other mechanized
39 equipment, which is provided by such crew leader; and

40 (bb) if such individual is not an employee of such other person for
41 whom services were performed.

42 (iii) For the purposes of subparagraph (I) (i) in the case of any
43 individual who is furnished by a crew leader to perform service in
44 agricultural labor or any other entity and who is not treated as an
45 employee of such crew leader under (I) (ii):

46 (aa) such other entity and not the crew leader shall be treated as the

- 1 employer of such individual; and
- 2 (bb) such other entity shall be treated as having paid cash remuneration
3 to such individual in an amount equal to the amount of cash remuneration
4 paid to such individual by the crew leader (either on his own behalf or on
5 behalf of such other entity) for the service in agricultural labor performed
6 for such other entity.
- 7 (iv) For the purpose of subparagraph (I) (i), the term "crew leader"
8 means an individual who
- 9 (aa) furnishes individuals to perform service in agricultural labor for
10 any other entity;
- 11 (bb) pays (either on his own behalf or on behalf of such other entity)
12 the individuals so furnished by him for the service in agricultural labor
13 performed by them; and
- 14 (cc) has not entered into a written agreement with such other entity
15 under which such individual is designated as an employee of such other
16 entity.
- 17 (J) Domestic service after December 31, 1977 performed in the private
18 home of an employing unit which paid cash remuneration of \$1,000.00 or
19 more to one or more individuals for such domestic service in any calendar
20 quarter in the current or preceding calendar year.
- 21 (2) The term "employment" shall include an individual's entire service
22 performed within or both within and without this State if:
- 23 (A) The service is localized in this State; or
- 24 (B) The service is not localized in any state but some of the service is
25 performed in this State, and (i) the base of operations, or, if there is no
26 base of operations, then the place from which such service is directed or
27 controlled, is in this State; or (ii) the base of operations or place from
28 which such service is directed or controlled is not in any state in which
29 some part of the service is performed, but the individual's residence is in
30 this State.
- 31 (3) Services performed within this State but not covered under
32 paragraph (2) of this subsection shall be deemed to be employment subject
33 to this chapter (R.S.43:21-1 et seq.) if contributions are not required and
34 paid with respect to such services under an unemployment compensation
35 law of any other state or of the federal government.
- 36 (4) Services not covered under paragraph (2) of this subsection and
37 performed entirely without this State, with respect to no part of which
38 contributions are required and paid under an unemployment compensation
39 law of any other state or of the federal government, shall be deemed to be
40 employment subject to this chapter (R.S.43:21-1 et seq.) if the individual
41 performing such services is a resident of this State and the employing unit
42 for whom such services are performed files with the division an election
43 that the entire service of such individual shall be deemed to be
44 employment subject to this chapter (R.S.43:21-1 et seq.).
- 45 (5) Service shall be deemed to be localized within a state if:
- 46 (A) The service is performed entirely within such state; or

1 (B) The service is performed both within and without such state, but
2 the service performed without such state is incidental to the individual's
3 service within the state; for example, is temporary or transitory in nature
4 or consists of isolated transactions.

5 (6) Services performed by an individual for remuneration shall be
6 deemed to be employment subject to this chapter (R.S.43:21-1 et seq.)
7 unless and until it is shown to the satisfaction of the division that:

8 (A) Such individual has been and will continue to be free from control
9 or direction over the performance of such service, both under his contract
10 of service and in fact; and

11 (B) Such service is either outside the usual course of the business for
12 which such service is performed, or that such service is performed outside
13 of all the places of business of the enterprise for which such service is
14 performed; and

15 (C) Such individual is customarily engaged in an independently
16 established trade, occupation, profession or business.

17 (7) [Provided that such services are also exempt under the Federal
18 Unemployment Tax Act, as amended, or that contributions with respect
19 to such services are not required to be paid into a state unemployment
20 fund as a condition for a tax offset credit against the tax imposed by the
21 Federal Unemployment Tax Act, as amended, the term "employment" shall
22 not include:

23 (A) Agricultural labor performed prior to January 1, 1978; and after
24 December 31, 1977, only if performed in a calendar year for an entity
25 which is not an employer as defined in the "unemployment compensation
26 law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless
27 performed for an employing unit which:

28 (i) during a calendar quarter in either the current or the preceding
29 calendar year paid remuneration in cash of \$20,000.00 or more to
30 individuals employed in agricultural labor, or

31 (ii) for some portion of a day in each of 20 different calendar weeks,
32 whether or not such weeks were consecutive, in either the current or the
33 preceding calendar year, employed in agricultural labor 10 or more
34 individuals, regardless of whether they were employed at the same
35 moment in time;

36 (B) Domestic service in a private home performed prior to January 1,
37 1978; and after December 31, 1977, unless performed in the private home
38 of an employing unit which paid cash remuneration of \$1,000.00 or more
39 to one or more individuals for such domestic service in any calendar
40 quarter in the current or preceding calendar year;

41 (C) Service performed by an individual in the employ of his son,
42 daughter or spouse, and service performed by a child under the age of 18
43 in the employ of his father or mother;

44 (D) Service performed prior to January 1, 1978, in the employ of this
45 State or of any political subdivision thereof or of any instrumentality of
46 this State or its political subdivisions, except as provided in R.S.43:21-19

- 1 (i) (1) (B) above, and service in the employ of the South Jersey Port
2 Corporation or its successors;
- 3 (E) Service performed in the employ of any other state or its political
4 subdivisions or of an instrumentality of any other state or states or their
5 political subdivisions to the extent that such instrumentality is with respect
6 to such service exempt under the Constitution of the United States from
7 the tax imposed under the Federal Unemployment Tax Act, as amended,
8 except as provided in R.S.43:21-19 (i) (1) (B) above;
- 9 (F) Service performed in the employ of the United States Government
10 or of any instrumentality of the United States except under the
11 Constitution of the United States from the contributions imposed by the
12 "unemployment compensation law," except that to the extent that the
13 Congress of the United States shall permit states to require any
14 instrumentalities of the United States to make payments into an
15 unemployment fund under a state unemployment compensation law, all of
16 the provisions of this act shall be applicable to such instrumentalities, and
17 to service performed for such instrumentalities, in the same manner, to the
18 same extent and on the same terms as to all other employers, employing
19 units, individuals and services; provided that if this State shall not be
20 certified for any year by the Secretary of Labor of the United States under
21 section 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C.
22 §3304), the payments required of such instrumentalities with respect to
23 such year shall be refunded by the division from the fund in the same
24 manner and within the same period as is provided in R.S.43:21-14 (f) with
25 respect to contributions erroneously paid to or collected by the division;
- 26 (G) Services performed in the employ of fraternal beneficiary societies,
27 orders, or associations operating under the lodge system or for the
28 exclusive benefit of the members of a fraternity itself operating under the
29 lodge system and providing for the payment of life, sick, accident, or other
30 benefits to the members of such society, order, or association, or their
31 dependents;
- 32 (H) Services performed as a member of the board of directors, a board
33 of trustees, a board of managers, or a committee of any bank, building and
34 loan, or savings and loan association, incorporated or organized under the
35 laws of this State or of the United States, where such services do not
36 constitute the principal employment of the individual;
- 37 (I) Service with respect to which unemployment insurance is payable
38 under an unemployment insurance program established by an Act of
39 Congress;
- 40 (J) Service performed by agents of mutual fund brokers or dealers in
41 the sale of mutual funds or other securities, by agents of insurance
42 companies, exclusive of industrial insurance agents or by agents of
43 investment companies, if the compensation to such agents for such
44 services is wholly on a commission basis;
- 45 (K) Services performed by real estate salesmen or brokers who are
46 compensated wholly on a commission basis;

1 (L) Services performed in the employ of any veterans' organization
2 chartered by Act of Congress or of any auxiliary thereof, no part of the net
3 earnings of which organization, or auxiliary thereof, inures to the benefit
4 of any private shareholder or individual;

5 (M) Service performed for or in behalf of the owner or operator of any
6 theatre, ballroom, amusement hall or other place of entertainment, not in
7 excess of 10 weeks in any calendar year for the same owner or operator,
8 by any leader or musician of a band or orchestra, commonly called a
9 "name band," entertainer, vaudeville artist, actor, actress, singer or other
10 entertainer;

11 (N) Services performed after January 1, 1973 by an individual for a
12 labor union organization, known and recognized as a union local, as a
13 member of a committee or committees reimbursed by the union local for
14 time lost from regular employment, or as a part-time officer of a union
15 local and the remuneration for such services is less than \$1,000.00 in a
16 calendar year;

17 (O) Services performed in the sale or distribution of merchandise by
18 home-to-home salespersons or in-the-home demonstrators whose
19 remuneration consists wholly of commissions or commissions and
20 bonuses;

21 (P) Service performed in the employ of a foreign government,
22 including service as a consular, nondiplomatic representative, or other
23 officer or employee;

24 (Q) Service performed in the employ of an instrumentality wholly
25 owned by a foreign government if (i) the service is of a character similar
26 to that performed in foreign countries by employees of the United States
27 Government or of an instrumentality thereof, and (ii) the division finds
28 that the United States Secretary of State has certified to the United States
29 Secretary of the Treasury that the foreign government, with respect to
30 whose instrumentality exemption is claimed, grants an equivalent
31 exemption with respect to similar services performed in the foreign
32 country by employees of the United States Government and of
33 instrumentalities thereof;

34 (R) Service in the employ of an international organization entitled to
35 enjoy the privileges, exemptions and immunities under the International
36 Organizations Immunities Act (22 U.S.C. §288 et seq.);

37 (S) Service covered by an election duly approved by an agency
38 charged with the administration of any other state or federal
39 unemployment compensation or employment security law, in accordance
40 with an arrangement pursuant to R.S.43:21-21 during the effective period
41 of such election;

42 (T) Service performed in the employ of a school, college, or university
43 if such service is performed (i) by a student enrolled at such school,
44 college, or university on a full-time basis in an educational program or
45 completing such educational program leading to a degree at any of the
46 severally recognized levels, or (ii) by the spouse of such a student, if such

1 spouse is advised at the time such spouse commences to perform such
2 service that (I) the employment of such spouse to perform such service is
3 provided under a program to provide financial assistance to such student
4 by such school, college, or university, and (II) such employment will not
5 be covered by any program of unemployment insurance;

6 (U) Service performed by an individual who is enrolled at a nonprofit
7 or public educational institution which normally maintains a regular faculty
8 and curriculum and normally has a regularly organized body of students
9 in attendance at the place where its educational activities are carried on,
10 as a student in a full-time program, taken for credit at such institution,
11 which combines academic instruction with work experience, if such
12 service is an integral part of such program, and such institution has so
13 certified to the employer, except that this subparagraph shall not apply to
14 service performed in a program established for or on behalf of an employer
15 or group of employers;

16 (V) Service performed in the employ of a hospital, if such service is
17 performed by a patient of the hospital; service performed as a student
18 nurse in the employ of a hospital or a nurses' training school by an
19 individual who is enrolled and regularly attending classes in a nurses'
20 training school approved under the laws of this State; and service
21 performed as an intern in the employ of a hospital by an individual who
22 has completed a four-year course in a medical school approved pursuant
23 to the laws of this State;

24 (W) Services performed after the effective date of this amendatory act
25 by agents of mutual benefit associations if the compensation to such
26 agents for such services is wholly on a commission basis;

27 (X) Services performed by operators of motor vehicles weighing
28 18,000 pounds or more, licensed for commercial use and used for the
29 highway movement of motor freight, who own their equipment or who
30 lease or finance the purchase of their equipment through an entity which
31 is not owned or controlled directly or indirectly by the entity for which the
32 services were performed and who were compensated by receiving a
33 percentage of the gross revenue generated by the transportation move or
34 by a schedule of payment based on the distance and weight of the
35 transportation move;

36 (Y) Services performed by a certified shorthand reporter certified
37 pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third
38 party by the reporter who is referred to the third party pursuant to an
39 agreement with another certified shorthand reporter or shorthand
40 reporting service, on a freelance basis, compensation for which is based
41 upon a fee per transcript page, flat attendance fee, or other flat minimum
42 fee, or combination thereof, set forth in the agreement;

43 (Z) Services performed, using facilities provided by a travel agent, by
44 a person, commonly known as an outside travel agent, who acts as an
45 independent contractor, is paid on a commission basis, sets his own work
46 schedule and receives no benefits, sick leave, vacation or other leave from

1 the travel agent owning the facilities.] (Deleted by amendment, P.L. , c.
2 .)

3 (8) [If one-half or more of the services in any pay period performed by
4 an individual for an employing unit constitutes employment, all the
5 services of such individual shall be deemed to be employment; but if more
6 than one-half of the service in any pay period performed by an individual
7 for an employing unit does not constitute employment, then none of the
8 service of such individual shall be deemed to be employment. As used in
9 this paragraph, the term "pay period" means a period of not more than 31
10 consecutive days for which a payment for service is ordinarily made by an
11 employing unit to individuals in its employ.] (Deleted by amendment,
12 P.L. , c. .)

13 (9) [Services performed by the owner of a limousine franchise
14 (franchisee) shall not be deemed to be employment subject to the
15 "unemployment compensation law," R.S.43:21-1 et seq., with regard to
16 the franchisor if:

17 (A) The limousine franchisee is incorporated;

18 (B) The franchisee is subject to regulation by the Interstate Commerce
19 Commission;

20 (C) The limousine franchise exists pursuant to a written franchise
21 arrangement between the franchisee and the franchisor as defined by
22 section 3 of P.L.1971, c.356 (C.56:10-3); and

23 (D) The franchisee registers with the Department of Labor and
24 receives an employer registration number.] (Deleted by amendment,
25 P.L. , c. .)

26 (j) "Employment office" means a free public employment office, or
27 branch thereof operated by this State or maintained as a part of a
28 State-controlled system of public employment offices.

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

30 (l) "State" includes, in addition to the states of the United States of
31 America, the District of Columbia, the Virgin Islands and Puerto Rico.

32 (m) "Unemployment."

33 (1) An individual shall be deemed "unemployed" for any week during
34 which :

35 (A) The individual is not engaged in full-time work and with respect
36 to which his remuneration is less than his weekly benefit rate, including
37 any week during which he is on vacation without pay; provided such
38 vacation is not the result of the individual's voluntary action, except that
39 for benefit years commencing on or after July 1, 1984, an officer of a
40 corporation, or a person who has more than a 5% equitable or debt
41 interest in the corporation, whose claim for benefits is based on wages
42 with that corporation shall not be deemed to be unemployed in any week
43 during the individual's term of office or ownership in the corporation; or

44 (B) The individual is eligible for and receiving a self-employment
45 assistance allowance pursuant to the requirements of P.L. 1995, c. 394

46 (C. 43:21-67 et al).

1 (2) The term "remuneration" with respect to any individual for benefit
2 years commencing on or after July 1, 1961, and as used in this subsection,
3 shall include only that part of the same which in any week exceeds 20%
4 of his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00,
5 whichever is the larger.

6 (3) An individual's week of unemployment shall be deemed to
7 commence only after the individual has filed a claim at an unemployment
8 insurance claims office, except as the division may by regulation otherwise
9 prescribe.

10 (n) "Unemployment compensation administration fund" means the
11 unemployment compensation administration fund established by this
12 chapter (R.S.43:21-1 et seq.), from which administrative expenses under
13 this chapter (R.S.43:21-1 et seq.) shall be paid.

14 (o) "Wages" means remuneration paid by employers for employment.
15 If a worker receives gratuities regularly in the course of his employment
16 from other than his employer, his "wages" shall also include the gratuities
17 so received, if reported in writing to his employer in accordance with
18 regulations of the division, and if not so reported, his "wages" shall be
19 determined in accordance with the minimum wage rates prescribed under
20 any labor law or regulation of this State or of the United States, or the
21 amount of remuneration actually received by the employee from his
22 employer, whichever is the higher.

23 (p) "Remuneration" means all compensation for personal services,
24 including commission and bonuses and the cash value of all compensation
25 in any medium other than cash.

26 (q) "Week" means for benefit years commencing on or after October
27 1, 1984, the calendar week ending at midnight Saturday, or as the division
28 may by regulation prescribe.

29 (r) "Calendar quarter" means the period of three consecutive calendar
30 months ending March 31, June 30, September 30, or December 31.

31 (s) "Investment company" means any company as defined in subsection
32 a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

33 (t) (1) "Base week" for a benefit year commencing on or after October
34 1, 1985 and before January 1, 1996 means, any calendar week of an
35 individual's base year during which the individual earned in employment
36 from an employer remuneration equal to not less than 20% of the
37 Statewide average weekly remuneration defined in subsection (c) of
38 R.S.43:21-3 which shall be adjusted to the next higher multiple of \$1.00
39 if not already a multiple thereof; provided if in any calendar week an
40 individual is in employment with more than one employer, he may in such
41 calendar week establish a base week with respect to each such employer
42 from whom the individual earns remuneration equal to not less than the
43 amount defined in this paragraph (1) during such week.

44 (2) "Base week," for a benefit year commencing on or after January 1,
45 1996, means:

46 (A) Any calendar week of an individual's base year during which the

1 individual earned in employment from an employer remuneration not less
2 than an amount which is 20% of the Statewide average weekly
3 remuneration defined in subsection (c) of R.S.43:21-3 which amount shall
4 be adjusted to the next higher multiple of \$1.00 if not already a multiple
5 thereof, except that if in any calendar week an individual subject to this
6 subparagraph (A) is in employment with more than one employer, the
7 individual may in that calendar week establish a base week with respect to
8 each of the employers from whom the individual earns remuneration equal
9 to not less than the amount defined in this subparagraph (A) during that
10 week ; or

11 (B) If the individual does not establish in his base year 20 or more base
12 weeks as defined in subparagraph (A) of this paragraph (2), any calendar
13 week of an individual's base year during which the individual earned in
14 employment from an employer remuneration not less than an amount 20
15 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
16 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar
17 year in which the benefit year commences, which amount shall be adjusted
18 to the next higher multiple of \$1.00 if not already a multiple thereof,
19 except that if in any calendar week an individual subject to this
20 subparagraph (B) is in employment with more than one employer, the
21 individual may in that calendar week establish a base week with respect to
22 each of the employers from whom the individual earns remuneration not
23 less than the amount defined in this subparagraph (B) during that week.

24 (u) "Average weekly wage" means the amount derived by dividing an
25 individual's total wages received during his base year base weeks (as
26 defined in subsection (t) of this section) from that most recent base year
27 employer with whom he has established at least 20 base weeks, by the
28 number of base weeks in which such wages were earned. In the event that
29 such claimant had no employer in his base year with whom he had
30 established at least 20 base weeks, then such individual's average weekly
31 wage shall be computed as if all of his base week wages were received
32 from one employer and as if all his base weeks of employment had been
33 performed in the employ of one employer.

34 For the purpose of computing the average weekly wage, the monetary
35 alternative in subparagraph (B) of paragraph (2) of subsection (e) of
36 R.S.43:21-4 shall only apply in those instances where the individual did
37 not have at least 20 base weeks in the base year. For benefit years
38 commencing on or after July 1, 1986, "average weekly wage" means the
39 amount derived by dividing an individual's total base year wages by the
40 number of base weeks worked by the individual during the base year;
41 provided that for the purpose of computing the average weekly wage, the
42 maximum number of base weeks used in the divisor shall be 52.

43 (v) "Initial determination" means, subject to the provisions of
44 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as measured
45 by an eligible individual's base year employment with a single employer
46 covering all periods of employment with that employer during the base

1 year. For benefit years commencing prior to July 1, 1986, subject to the
2 provisions of R.S.43:21-3(d)(3), if an individual has been in employment
3 in his base year with more than one employer, no benefits shall be paid to
4 that individual under any successive initial determination until his benefit
5 rights have been exhausted under the next preceding initial determination.

6 (w) "Last date of employment" means the last calendar day in the base
7 year of an individual on which he performed services in employment for
8 a given employer.

9 (x) "Most recent base year employer" means that employer with whom
10 the individual most recently, in point of time, performed service in
11 employment in the base year.

12 (y) (1) "Educational institution" means any public or other nonprofit
13 institution (including an institution of higher education):

14 (A) In which participants, trainees, or students are offered an
15 organized course of study or training designed to transfer to them
16 knowledge, skills, information, doctrines, attitudes or abilities from, by or
17 under the guidance of an instructor (s) or teacher (s);

18 (B) Which is approved, licensed or issued a permit to operate as a
19 school by the State Department of Education or other government agency
20 that is authorized within the State to approve, license or issue a permit for
21 the operation of a school; and

22 (C) Which offers courses of study or training which may be academic,
23 technical, trade, or preparation for gainful employment in a recognized
24 occupation.

25 (2) "Institution of higher education" means an educational institution
26 which:

27 (A) Admits as regular students only individuals having a certificate of
28 graduation from a high school, or the recognized equivalent of such a
29 certificate;

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

32 (C) Provides an educational program for which it awards a bachelor's
33 or higher degree, or provides a program which is acceptable for full credit
34 toward such a degree, a program of post-graduate or post-doctoral
35 studies, or a program of training to prepare students for gainful
36 employment in a recognized occupation; and

37 (D) Is a public or other nonprofit institution.

38 Notwithstanding any of the foregoing provisions of this subsection, all
39 colleges and universities in this State are institutions of higher education
40 for purposes of this section.

41 (z) "Hospital" means an institution which has been licensed, certified
42 or approved under the law of this State as a hospital.

43 (cf: P.L.1995, c.394, s.9)

44

45 17. This act shall take effect immediately and be retroactive to January
46 1, 1996.

STATEMENT

1

2

3 This bill establishes a methodology for the distribution of charity care
4 subsidies to hospitals and provides a funding mechanism for these
5 subsidies and the Health Access New Jersey subsidized insurance program.

6 The subsidy distribution methodology for 1996 and each year thereafter
7 is similar to that used in 1995. The hospital-specific charity care subsidy
8 shall be determined by allocating available charity care funds so as to
9 equalize hospital-specific payer mix factors (as defined in the bill) to the
10 Statewide target payer mix factor; except that, if the Statewide total of
11 adjusted charity care is less than available charity care funding, a hospital's
12 subsidy shall equal its adjusted charity care. The Statewide target payer
13 mix factor is the lowest payer mix factor to which all hospitals receiving
14 charity care subsidies can be reduced by spending all of the amount
15 allocated in each year (\$300 million each year) for charity care subsidies.
16 Those hospitals with a payer mix factor greater than the Statewide target
17 payer mix factor shall be eligible to receive a subsidy sufficient to bring
18 their factor down to that Statewide level; those hospitals with a payer mix
19 factor that is less than or equal to the Statewide target payer mix factor
20 shall not be eligible to receive a subsidy.

21 The charity care subsidy distribution methodology is based on
22 documented (actual) charity care as verified by the Department of Health's
23 most recent charity care audit, and valued at the same rate paid to that
24 hospital by the Medicaid program.

25 The bill provides that the Health Care Subsidy Fund will be funded at
26 \$375 million in 1996 and each year thereafter. Of that amount, \$300
27 million will be allocated for charity care subsidies and \$75 million for
28 Health Access New Jersey each year. This amount will be funded in part
29 by a reduced assessment on employers and employees, to be phased out
30 over two years, for a total of \$375 million in 1996 and \$50 million in
31 1997. The bill amends the "unemployment compensation law," R.S.43:21-
32 1 et seq., to include certain services presently exempt from the definition
33 of employment and therefore exempt from contributions and coverage
34 under the law.

35 The remainder of the \$375 million will be funded from: (1) revenues
36 derived from a health care access fee on payment transactions by health
37 care facilities and providers, beginning in calendar year 1997 and (2)
38 appropriations from the General Fund, beginning in calendar year 1997.
39 The amount of the health care access fee will be determined by a new
40 Health Care Access Board, but shall be set at a five-to-one ratio between
41 the amount of the fee imposed on paper-based payment transactions and
42 that imposed on electronically automated payment transactions. This
43 funding source will provide funding for hospital charity care subsidies and
44 the Health Access program in the following amounts: \$200 million in
45 1997, \$125 million in 1998, and \$75 million a year in 1999 and each year
46 thereafter, while General Fund appropriations will provide \$125 million in

1 1997, \$250 million in 1998, and \$300 million a year in 1999 and each
2 year thereafter. The bill specifies that any charity care funds not
3 distributed in a given year shall lapse to the Health Care Subsidy Fund for
4 use in subsequent years to reduce the required use of health care access
5 fee revenues and appropriations from the General Fund. Under current
6 law, the Commissioner of Health is authorized to transfer any surplus
7 funds to the Health Access New Jersey program. The bill also specifies
8 that the commissioner shall report to the Governor and the Legislature by
9 December 31 of each year on the status of the Health Care Subsidy Fund,
10 including any remaining balances in the fund.

11 The bill also provides that the health care access fee will provide
12 funding in the amount of \$425 million to be deposited in the
13 unemployment insurance fund (by transfer from the Health Care Subsidy
14 Fund) as follows: \$85 million a year during the five-year period from
15 1998 through 2002.

16 In addition, the bill specifically precludes a health care facility or
17 provider from passing along the cost of the health care access fee to a
18 health insurer, health maintenance organization, employee or employer
19 self-insured health benefits plan, patient or other public or private payer.

20 Finally, the bill reduces the allocation for the Health Access New Jersey
21 program for 1997 and each year thereafter (from \$150 million to \$75
22 million) and keeps the annual appropriation at \$75 million. The bill also
23 clarifies that the purpose of the program shall be to provide health
24 insurance coverage for low-income, uninsured children as well as working
25 people and those temporarily unemployed.

26

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28

29

30 Provides subsidies for hospital charity care costs.

WITHDRAWN