

ASSEMBLY, No. 1818

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1996

By Assemblymen JONES, DORIA and Stanley

1 AN ACT providing funding for hospital charity care subsidies and other  
2 purposes, revising parts of the statutory law, and making an  
3 appropriation.

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

7  
8 1. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended to  
9 read as follows:

10 2. As used in sections 1 through 17 of [this act and] P.L.1992,  
11 c.160 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15  
12 of P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d) and  
13 sections 7 through 10 of P.L. , c. (C. )(pending before the  
14 Legislature as this bill):

15 "Administrator" means the administrator of the Health Care Subsidy  
16 Fund appointed by the commissioner.

17 "Charity care" means care provided at disproportionate share  
18 hospitals that may be eligible for a charity care subsidy pursuant to this  
19 act.

20 "Charity care subsidy" means the component of the  
21 disproportionate share payment that is attributable to care provided at  
22 a disproportionate share hospital to persons unable to pay for that  
23 care, as provided in this act.

24 "Commission" means the New Jersey Essential Health Services  
25 Commission established pursuant to section 4 of this act.

26 "Commissioner" means the Commissioner of Health.

27 "Department" means the Department of Health.

28 "Disproportionate share hospital" means a hospital designated by  
29 the Commissioner of Human Services pursuant to Pub.L.89-97 (42  
30 U.S.C.§1396a et seq.) and Pub.L.102-234.

31 "Disproportionate share payment" means those payments made by  
32 the Division of Medical Assistance and Health Services in the  
33 Department of Human Services to hospitals defined as  
34 disproportionate share hospitals by the Commissioner of Human

**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 Services in accordance with federal laws and regulations applicable to  
2 hospitals serving a disproportionate number of low income patients.

3 "Fund" means the Health Care Subsidy Fund established pursuant  
4 to section 8 of this act.

5 "Hospital" means an acute care hospital licensed by the Department  
6 of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).

7 "Medicaid" means the New Jersey Medical Assistance and Health  
8 Services Program in the Department of Human Services established  
9 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

10 "Medicare" means the program established pursuant to Pub.L.89-97  
11 (42 U.S.C.§1395 et seq.).

12 "Other uncompensated care" means all costs not reimbursed by  
13 hospital payers excluding charity care, graduate medical education,  
14 discounts, bad debt and reduction in Medicaid payments.

15 "Poverty level" means the official poverty level based on family size  
16 established and adjusted under Section 673(2) of Subtitle B, the  
17 "Community Services Block Grant Act," Pub.L. 97-35 (42  
18 U.S.C.§9902(2)).

19 "Preliminary cost base" means the preliminary cost base defined in  
20 section 2 of P.L.1971, c.136 (C.26:2H-2), as determined by the  
21 Hospital Rate Setting Commission.

22 (cf: P.L.1995, c.133, s.1)

23

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

26 5. The commissioner shall:

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

31 b. Establish eligibility determination and claims pricing systems for  
32 the charity care component of the disproportionate share subsidy,  
33 including the development of uniform forms for determining eligibility  
34 and submitting claims. The commissioner may contract with a private  
35 claims administrator or processor for the purpose of processing  
36 hospital claims for charity care pursuant to this act;

37 c. Establish a schedule of payments for reimbursement of the  
38 charity care component of the disproportionate share payment for  
39 services provided to emergency room patients who do not require  
40 those services on an emergency basis;

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

45 e. Study and, if feasible, establish hospital cost and outcome  
46 reports to provide assistance to consumers of health care in this State

- 1 in making prudent health care choices;
- 2 f. Compile demographic information on recipients of, and types of  
3 services paid for by, the charity care component of the  
4 disproportionate share payment and periodically report a summary of  
5 this information to the Governor and Legislature. The demographic  
6 information shall include, at a minimum, the recipient's age, sex,  
7 marital status, employment status, type of health insurance coverage,  
8 if any, and if the recipient is a child under 18 years of age who does  
9 not have health insurance coverage or a married person who does not  
10 have health insurance coverage, whether the child's parent or the  
11 married person's spouse, as the case may be, has health insurance;
- 12 g. (Deleted by amendment, P.L.1995, c.133.)
- 13 h. (Deleted by amendment, P.L.1995, c.133.)
- 14 i. (Deleted by amendment, P.L.1995, c.133.)
- 15 j. (Deleted by amendment, P.L.1995, c.133.)
- 16 k. (Deleted by amendment, P.L.1995, c.133.)
- 17 l. Encourage the use of centralized data storage and transmission  
18 technology that utilizes personal and image identification systems as  
19 well as identity verification technology for the purposes of enabling a  
20 hospital to access medical history, insurance information and other  
21 personal information, as appropriate;
- 22 m. (Deleted by amendment, P.L.1995, c.133.)
- 23 n. (Deleted by amendment, P.L.1995, c.133.)
- 24 o. Take such other actions as the commissioner deems necessary  
25 and appropriate to carry out the provisions of P.L.1992, c.160  
26 (C.26:2H-18.51 et al.); and
- 27 p. Report annually, by December 31 of each year, to the Governor  
28 and the [Legislature] Senate and General Assembly standing reference  
29 committees on budget and appropriations on the status of the fund and  
30 include the amount of any balances in the fund and the expected  
31 expenditures from the fund in the next calendar year.  
32 (cf: P.L.1995, c.133, s.2)
- 33
- 34 3. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to  
35 read as follows:
- 36 8. There is established the Health Care Subsidy Fund in the  
37 Department of Health.
- 38 a. The fund shall be comprised of revenues from employee and  
39 employer contributions made pursuant to section 29 of P.L.1992,  
40 c.160 (C.43:21-7b), revenues pursuant to sections 9, 10 and 14 of  
41 P.L. , c. (C. )(pending before the Legislature as this bill),  
42 revenues from the hospital assessment made pursuant to section 12 of  
43 [this act] P.L.1992, c.160 (C.26:2H-18.62), revenues from interest  
44 and penalties collected pursuant to [this act] P.L.1992, c.160  
45 (C.26:2H-18.51 et al.) and revenues from such other sources as the  
46 Legislature shall determine. Interest earned on the monies in the fund

1 shall be credited to the fund.

2 The fund shall be a nonlapsing fund dedicated for use by the State  
3 to: (1) distribute charity care disproportionate share payments to  
4 hospitals, [and] distribute other uncompensated care disproportionate  
5 share payments to hospitals pursuant to section 11 of P.L.1992, c.160  
6 (C.26:2H-18.61), and provide subsidies for the Health Access New  
7 Jersey program established pursuant to section 15 of [this act]  
8 P.L.1992, c.160 (C.26:2H-18.65); and (2) assist hospitals and other  
9 health care facilities in the underwriting of innovative and necessary  
10 health care services.

11 b. The fund shall be administered by a person appointed by the  
12 commissioner.

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

19 c. [The fund shall maintain a reserve in an amount not to exceed  
20 \$20 million.] The commissioner shall adopt rules and regulations to  
21 [govern the use of the reserve and to] ensure the integrity of the fund,  
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
23 (C.52:14B-1 et seq.).

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

32 e. In the event that the charity care component of the  
33 disproportionate share hospital subsidy account has a surplus in a  
34 given year after payments are distributed pursuant to the methodology  
35 established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and  
36 section 7 of P.L. , c. (C. )(pending before the Legislature as this  
37 bill) and within the limitations provided in subsection e. of section 9  
38 of P.L.1992, c.160 (C.26:2H-18.59), the [commissioner may  
39 reallocate the surplus monies to the Health Access New Jersey subsidy  
40 account] surplus funds shall lapse to the fund for use in subsequent  
41 years to reduce the amount of revenue needed for appropriation from  
42 the General Fund pursuant to section 10 of P.L. , c. (C. )(pending  
43 before the Legislature as this bill).

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

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

3 9. a. The commissioner shall allocate such funds as specified in  
4 subsection e. of this section to the charity care component of the  
5 disproportionate share hospital subsidy account. In a given year, the  
6 department shall transfer from the fund to the Division of Medical  
7 Assistance and Health Services in the Department of Human Services  
8 such funds as may be necessary for the total approved charity care  
9 disproportionate share payments to hospitals for that year.

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

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

21 Hospital Specific Approved Uncompensated Care-1991  
22 .....  
23 Hospital Specific Preliminary Cost Base-1992  
24 = Hospital Specific % Uncompensated Care (% UC)

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

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

30 Hospital Specific Approved Uncompensated Care-1991  
31 .....  
32 Total approved Uncompensated Care All Eligible Hospitals-1991  
33 X \$500 million  
34 = Maximum Amount of Hospital Specific  
35 Charity Care Subsidy for 1993

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

42 The demographic information shall include the recipient's age, sex,  
43 marital status, employment status, type of health insurance coverage,  
44 if any, and if the recipient is a child under 18 years of age who does  
45 not have health insurance coverage or a married person who does not  
46 have health insurance coverage, whether the child's parent or the

1 married person's spouse, as the case may be, has health insurance.

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

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

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

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

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

27 If there are additional charity care balances available after the 1994  
28 distribution based on 1993 charity care costs, the department shall  
29 transfer these available balances from the fund to the Division of  
30 Medical Assistance and Health Services for an approved one-time  
31 additional disproportionate share payment to hospitals according to  
32 the methodology provided in section 12 of P.L.1995, c.133  
33 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed  
34 \$75.5 million.

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

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

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

43 e. The total amount allocated for charity care subsidy payments  
44 shall be: in 1994, \$450 million [and]; and in 1995 and each year  
45 thereafter, \$400 million. Total payments to hospitals shall not exceed  
46 the amount allocated for each given year.

1 f. Beginning January 1, 1995:

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

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

10 (3) The department shall provide for an audit of a hospital's charity  
11 care within a time frame established by the commissioner.

12 (cf: P.L.1995, c.133, s.5)

13

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

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

25 The commissioner shall adopt regulations pursuant to the  
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
27 that determine eligibility for the program and the allocation of all  
28 funds in this account.

29 The commissioner shall contract with health insurance carriers,  
30 health maintenance organizations and other appropriate entities in the  
31 State to administer the program.

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

33

34 6. Section 16 of P.L.1992, c.160 (C.26:2H-18.66) is amended to  
35 read as follows:

36 16. The Health Access New Jersey subsidy account shall be  
37 allocated \$50 million in 1995, [~~\$100~~] \$25 million in 1996, and [~~\$150~~]  
38 \$50 million in 1997 and each year thereafter.

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

40

41 7. (New section) a. Beginning January 1, 1996 and for each year  
42 thereafter, the charity care subsidy shall be determined according to  
43 the following methodology.

44 If the Statewide total of adjusted charity care is less than available  
45 charity care funding, a hospital's charity care subsidy shall equal its  
46 adjusted charity care.

1 If the Statewide total of adjusted charity care is greater than  
 2 available charity care funding, then the hospital-specific charity care  
 3 subsidy shall be determined by allocating available charity care funds  
 4 so as to equalize hospital-specific payer mix factors to the Statewide  
 5 target payer mix factor. Those hospitals with a payer mix factor  
 6 greater than the Statewide target payer mix factor shall be eligible to  
 7 receive a subsidy sufficient to reduce their factor to that Statewide  
 8 level; those hospitals with a payer mix factor that is equal to or less  
 9 than the Statewide target payer mix factor shall not be eligible to  
 10 receive a subsidy.

11 Charity care subsidy payments shall be based upon actual  
 12 documented hospital charity care.

13 As used in this section:

14 (1) The hospital-specific "documented charity care" shall be equal  
 15 to the dollar amount of charity care provided by the hospital that is  
 16 verified in the department's most recent charity care audit conducted  
 17 under the most recent charity care eligibility rules adopted by the  
 18 department and valued at the same rate paid to that hospital by the  
 19 Medicaid program.

20 For 1996, documented charity care shall equal the audited,  
 21 Medicaid-priced amounts reported for the first three quarters of 1995.  
 22 This amount shall be multiplied by 1.33 to determine the annualized  
 23 1995 charity care amount. For 1997 and subsequent years,  
 24 documented charity care shall be equal to the audited Medicaid-priced  
 25 amounts for the last quarter two years prior to the payment period and  
 26 the first three quarters of the year prior to the payment period;

27 (2) In 1996, the hospital-specific "operating margin" shall be equal  
 28 to: the hospital's 1993 and 1994 income from operations minus its  
 29 1993 and 1994 charity care subsidies divided by its 1993 and 1994  
 30 total operating revenue minus its 1993 and 1994 charity care subsidies.

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

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

37 (3) The hospital-specific "profitability factor" shall be determined  
 38 annually as follows. Those hospitals that are equal to or below the  
 39 Statewide median operating margin shall be assigned a profitability  
 40 factor of "1". For those hospitals that are above the Statewide median  
 41 operating margin, the profitability factor shall be equal to:

$$\begin{aligned}
 & .75 \times (\text{hospital specific operating} \\
 & \text{margin} - \text{Statewide median operating margin}) \\
 44 \quad 1 - & \dots\dots\dots \\
 & \text{highest hospital specific operating} \\
 46 \quad & \text{margin} - \text{Statewide median operating margin}
 \end{aligned}$$

- 1 (4) The hospital-specific "adjusted charity care" shall be equal to  
2 a hospital's documented charity care times its profitability factor;
- 3 (5) The hospital-specific "revenue from private payers" shall be  
4 equal to the sum of the gross revenues, as reported to the department  
5 in the hospital's most recently available New Jersey Hospital Cost  
6 Reports for all non-governmental third party payers including, but not  
7 limited to, Blue Cross and Blue Shield plans, commercial insurers and  
8 health maintenance organizations;
- 9 (6) The hospital-specific "payer mix factor" shall be equal to a  
10 hospital's adjusted charity care divided by its revenue from private  
11 payers; and
- 12 (7) The "Statewide target payer mix factor" is the lowest payer mix  
13 factor to which all hospitals receiving charity care subsidies can be  
14 reduced by spending all available charity care subsidy funding for that  
15 year.
- 16 b. For the purposes of this section, "income from operations" and  
17 "total operating revenue" shall be defined by the department in  
18 accordance with financial reporting requirements established pursuant  
19 to N.J.A.C.8:31B-3.3.
- 20 c. Any charity care subsidy funds that are not distributed in a given  
21 year pursuant to this section shall lapse to the Health Care Subsidy  
22 Fund as provided in subsection e. of section 8 of P.L.1992, c.160  
23 (C.26:2H-18.58).
- 24
- 25 8. (New section) With the exception of the Catastrophic Illness in  
26 Children Relief Fund, established pursuant to P.L.1987, c.370  
27 (C.26:2-148 et seq.) and the Victims of Crime Compensation Board  
28 established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), the  
29 Health Care Subsidy Fund is the payer of last resort for persons who  
30 otherwise qualify for charity care. A hospital shall not submit a claim  
31 for charity care reimbursement on behalf of any individual otherwise  
32 eligible for charity care for whom the hospital is eligible to receive  
33 reimbursement under any State or federal program not specifically  
34 exempted in this section.
- 35
- 36 9. (New section) There is appropriated \$200 million from the  
37 General Fund to the Department of Health for deposit in the Health  
38 Care Subsidy Fund.
- 39
- 40 10. (New section) In addition to the amounts provided pursuant to  
41 section 9 of this act, the Health Care Subsidy Fund shall be funded  
42 with General Fund revenues in the following amounts: in calendar year  
43 1996, \$35 million; in calendar year 1997, \$70 million; and in calendar  
44 year 1998 and each calendar year thereafter, \$370 million. In order to

1 provide funding for the Health Care Subsidy Fund in these amounts,  
2 the Governor shall recommend and the Legislature shall appropriate  
3 to the Health Care Subsidy Fund in Fiscal Year 1997 and each fiscal  
4 year thereafter those revenues necessary to effectuate the purposes of  
5 this section.

6  
7 11. (New section) a. In Fiscal Year 1997 and each fiscal year  
8 thereafter, the Governor shall recommend and the Legislature shall  
9 appropriate \$71.5 million from the General Fund to the Hospital  
10 Health Care Subsidy account in the Division of Medical Assistance and  
11 Health Services of the Department of Human Services.

12 b. In Fiscal Year 1997 and each fiscal year thereafter, the Governor  
13 shall recommend and the Legislature shall appropriate to the Hospital  
14 Health Care Subsidy account those federal funds received in  
15 connection with the provision of hospital services which are  
16 reimbursed from that account, or, in the absence of any such federal  
17 funds, an additional amount in revenues from the General Fund equal  
18 to the amount of federal funds which would be required to match the  
19 \$71.5 million appropriated pursuant to subsection a. of this section.

20  
21 12. (New section) In Fiscal Years 1999 through 2003, the  
22 Governor shall recommend and the Legislature shall appropriate to the  
23 Department of Labor for deposit in the unemployment compensation  
24 fund established pursuant to R.S.43:21-9, \$90 million in each fiscal  
25 year.

26  
27 13. (New section) As used in sections 13 through 17 of P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill):

29 "Director" means the Director of the Division of Taxation in the  
30 Department of the Treasury.

31 "Gross Receipts" means all consideration given or contracted to be  
32 given, on a prepaid or copayment basis, to a health maintenance  
33 organization. Gross receipts shall not include consideration for  
34 services provided outside of this State to an individual who is not a  
35 resident of this State.

36 "Health maintenance organization" means a health maintenance  
37 organization, as defined pursuant to section 2 of P.L.1973, c.337  
38 (C.26:2J-2), that has obtained, or is a required to obtain, a certificate  
39 of authority pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

40  
41 14. (New section) a. There is imposed a tax of 3.7% on the gross  
42 receipts of a health maintenance organization.

43 b. A health maintenance organization that has paid a legally due tax  
44 to any other state on its gross receipts from services provided in this  
45 State to individuals who are residents of that other state shall be  
46 allowed a credit against the tax imposed by this section in an amount

1 equal to the lesser of that tax paid to the other state or the amount of  
2 tax imposed by this State on those gross receipts subject to tax in the  
3 other taxing state; provided, however, that the other state allows a  
4 corresponding credit or equivalent to this credit with respect to taxes,  
5 if any, imposed by that state on gross receipts.

6  
7 15. (New section) The Commissioner of Insurance shall take such  
8 action, pursuant to the commissioner's authority under subsection b.  
9 of section 8 of P.L.1973, c.337 (C.26:2J-8), as is necessary to ensure  
10 that neither parties contracting with a health maintenance organization  
11 or an organization's enrollees shall pay for the gross receipts tax  
12 imposed pursuant to section 14 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill).

14  
15 16. (New section) a. A taxpayer shall, on or before February 1 of  
16 each year, make and file with the director a return for the preceding  
17 calendar year in such form as the director shall prescribe and pay the  
18 tax due under section 14 of P.L. , c. (C. ) (pending before  
19 the Legislature as this bill), on the gross receipts for coverage in the  
20 preceding calendar year.

21 b. In addition to the tax due pursuant to subsection a. of this  
22 section, a taxpayer shall, on or before the 15th day of each month,  
23 make a partial payment of the tax due pursuant to subsection a. of this  
24 section equal to the amount of tax due on the gross receipts for  
25 coverage in the preceding month. In the calculation of the tax due in  
26 accordance with subsection a. of this section, a taxpayer shall be  
27 allowed a credit in the amount of the tax paid under this subsection.

28 c. The director may require payment of tax liability and the making  
29 of returns at such other intervals and based upon such classifications  
30 as the director may prescribe. In prescribing any other period to be  
31 covered by the return or intervals or classifications for payment of tax  
32 liability, the director shall take into account the dollar volume of tax  
33 revenues involved as well as the need for ensuring the prompt and  
34 orderly collection of the taxes imposed.

35 d. All taxes collected by the State Treasurer pursuant to section 14  
36 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
37 including any penalties, interest or fines collected under the provisions  
38 of this act, shall be deposited in the Health Care Subsidy Fund  
39 established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).  
40 If the amount deposited exceeds \$40 million for the period from July  
41 1 through December 31, 1996, or \$80 million for any calendar year  
42 thereafter, the excess amount shall be used to reduce by an equal  
43 amount the appropriation from the General Fund to fund the Health  
44 Care Subsidy Fund in the following fiscal year pursuant to section 10  
45 of P.L. , c. (C. )(pending before the Legislature as this  
46 bill).

1 17. (New section) If a return of the taxpayer shows an  
2 overpayment of the taxes imposed pursuant to section 14 of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill), the amount  
4 of the overpayment shall be applied as a credit against the partial  
5 payment next due or any subsequent payment.

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

8 43:21-7. Contributions. Employers other than governmental  
9 entities, whose benefit financing provisions are set forth in section 4  
10 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations  
11 liable for payment in lieu of contributions on the basis set forth in  
12 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller  
13 for the unemployment compensation fund, contributions as set forth  
14 in subsections (a), (b) and (c) hereof, and the provisions of subsections  
15 (d) and (e) shall be applicable to all employers, consistent with the  
16 provisions of the "unemployment compensation law" and the  
17 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et  
18 seq.).

19 (a) Payment.

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

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

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

33 (1) For the calendar year 1947, and each calendar year thereafter,  
34 2 7/10% of wages paid by him during each such calendar year, except  
35 as otherwise prescribed by subsection (c) of this section.

36 (2) The "wages" of any individual, with respect to any one  
37 employer, as the term is used in this subsection (b) and in subsections  
38 (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid  
39 during calendar year 1975, for services performed either within or  
40 without this State; provided that no contribution shall be required by  
41 this State with respect to services performed in another state if such  
42 other state imposes contribution liability with respect thereto. If an  
43 employer (hereinafter referred to as a successor employer) during any  
44 calendar year acquires substantially all the property used in a trade or  
45 business of another employer (hereinafter referred to as a  
46 predecessor), or used in a separate unit of a trade or business of a

1 predecessor, and immediately after the acquisition employs in his trade  
2 or business an individual who immediately prior to the acquisition was  
3 employed in the trade or business of such predecessor, then, for the  
4 purpose of determining whether the successor employer has paid  
5 wages with respect to employment equal to the first \$4,800.00 paid  
6 during calendar year 1975, any wages paid to such individual by such  
7 predecessor during such calendar year and prior to such acquisition  
8 shall be considered as having been paid by such successor employer.

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

26 (c) Future rates based on benefit experience.

27 (1) A separate account for each employer shall be maintained and  
28 this shall be credited with all the contributions which he has paid on  
29 his own behalf on or before January 31 of any calendar year with  
30 respect to employment occurring in the preceding calendar year;  
31 provided, however, that if January 31 of any calendar year falls on a  
32 Saturday or Sunday, an employer's account shall be credited as of  
33 January 31 of such calendar year with all the contributions which he  
34 has paid on or before the next succeeding day which is not a Saturday  
35 or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be  
36 construed to grant any employer or individuals in his service prior  
37 claims or rights to the amounts paid by him into the fund either on his  
38 own behalf or on behalf of such individuals. Benefits paid with respect  
39 to benefit years commencing on and after January 1, 1953, to any  
40 individual on or before December 31 of any calendar year with respect  
41 to unemployment in such calendar year and in preceding calendar years  
42 shall be charged against the account or accounts of the employer or  
43 employers in whose employment such individual established base  
44 weeks constituting the basis of such benefits. Benefits paid under a  
45 given benefit determination shall be charged against the account of the  
46 employer to whom such determination relates. When each benefit

1 payment is made, either a copy of the benefit check or other form of  
2 notification shall be promptly sent to the employer against whose  
3 account the benefits are to be charged. Such copy or notification shall  
4 identify the employer against whose account the amount of such  
5 payment is being charged, shall show at least the name and social  
6 security account number of the claimant and shall specify the period  
7 of unemployment to which said check applies. If the total amount of  
8 benefits paid to a claimant and charged to the account of the  
9 appropriate employer exceeds 50% of the total base year, base week  
10 wages paid to the claimant by that employer, then such employer shall  
11 have canceled from his account such excess benefit charges as  
12 specified above.

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

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

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

26 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2  
27 8/10%, except as otherwise provided in the following provisions. No  
28 employer's rate for the 12 months commencing July 1 of any calendar  
29 year shall be other than 2 8/10%, unless as of the preceding January 31  
30 such employer shall have paid contributions with respect to wages paid  
31 in each of the three calendar years immediately preceding such year,  
32 in which case such employer's rate for the 12 months commencing July  
33 1 of any calendar year shall be determined on the basis of his record up  
34 to the beginning of such calendar year. If, at the beginning of such  
35 calendar year, the total of all his contributions, paid on his own behalf,  
36 for all past years exceeds the total benefits charged to his account for  
37 all such years, his contribution rate shall be:

38 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than  
39 5%, of his average annual payroll (as defined in paragraph (2),  
40 subsection (a) of R.S.43:21-19);

41 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less than  
42 6%, of his average annual payroll;

43 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less than  
44 7%, of his average annual payroll;

45 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less than  
46 8%, of his average annual payroll;

1 (5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less than  
2 9%, of his average annual payroll;

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

5 (7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less  
6 than 11%, of his average annual payroll;

7 (8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his  
8 average annual payroll.

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

13 (1) 4%, if such excess is less than 10% of his average annual  
14 payroll;

15 (2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less than  
16 20%, of his average annual payroll;

17 (3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his average  
18 annual payroll.

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

24 (i) if the reserve balance in its account is positive, its assigned rate  
25 shall be the highest rate in effect for positive balance accounts for that  
26 period, or 5.4%, whichever is higher, and (ii) if the reserve balance in  
27 its account is negative, its assigned rate shall be the highest rate in  
28 effect for deficit accounts for that period.

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

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

1 based upon benefit experience, shall be increased by 6/10 of 1% over  
2 the contribution rate otherwise established under the provisions of  
3 paragraph (3) or (4) of this subsection.

4 If on March 31 of any calendar year the balance of the  
5 unemployment trust fund is less than 2 1/2% of the total taxable wages  
6 reported to the controller as of that date in respect to employment  
7 during the preceding calendar year, the contribution rate, effective July  
8 1 following, of each employer (1) eligible for a contribution rate  
9 calculation based upon benefit experience, shall be increased by (i)  
10 6/10 of 1% over the contribution rate otherwise established under the  
11 provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and  
12 (ii) an additional amount equal to 20% of the total rate established  
13 herein, provided, however, that the final contribution rate for each  
14 employer shall be computed to the nearest multiple of 1/10% if not  
15 already a multiple thereof; (2) not eligible for a contribution rate  
16 calculation based upon benefit experience, shall be increased by 6/10  
17 of 1% over the contribution rate otherwise established under the  
18 provisions of paragraph (4) of this subsection. For the period  
19 commencing July 1, 1984 and ending June 30, 1986, the contribution  
20 rate for each employer liable to pay contributions under R.S.43:21-7  
21 shall be increased by a factor of 10% computed to the nearest multiple  
22 of 1/10% if not already a multiple thereof.

23 (B) If on March 31 of any calendar year the balance in the  
24 unemployment trust fund equals or exceeds 10% but is less than 12  
25 1/2% of the total taxable wages reported to the controller as of that  
26 date in respect to employment during the preceding calendar year, the  
27 contribution rate, effective July 1 following, of each employer eligible  
28 for a contribution rate calculation based upon benefit experience, shall  
29 be reduced by 3/10 of 1% under the contribution rate otherwise  
30 established under the provisions of paragraphs (3) and (4) of this  
31 subsection; provided that in no event shall the contribution rate of any  
32 employer be reduced to less than 4/10 of 1%. If on March 31 of any  
33 calendar year the balance in the unemployment trust fund equals or  
34 exceeds 12 1/2% of the total taxable wages reported to the controller  
35 as of that date in respect to employment during the preceding calendar  
36 year, the contribution rate, effective July 1 following, of each  
37 employer eligible for a contribution rate calculation based upon benefit  
38 experience, shall be reduced by 6/10 of 1% if his account for all past  
39 periods reflects an excess of contributions paid over total benefits  
40 charged of 3% or more of his average annual payroll, otherwise by  
41 3/10 of 1% under the contribution rate otherwise established under the  
42 provisions of paragraphs (3) and (4) of this subsection; provided that  
43 in no event shall the contribution rate of any employer be reduced to  
44 less than 4/10 of 1%.

45 (C) The "balance" in the unemployment trust fund, as the term is  
46 used in subparagraphs (A) and (B) above, shall not include moneys

1 credited to the State's account under section 903 of the Social Security  
2 Act, as amended (42 U.S.C. §1103), during any period in which such  
3 moneys are appropriated for the payment of expenses incurred in the  
4 administration of the "unemployment compensation law."

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

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

EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio <sup>1</sup>				
Employer Reserve Ratio <sup>2</sup>	10.00% and Over A	7.00% to 9.99% B	4.00% to 6.99% C	2.50% to 3.99% D	2.49% and Under 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

1	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
2	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
3	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
4	-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
5	-35.00% and under	5.4	5.4	5.8	6.4	7.0
6	New Employer Rate	2.8	2.8	2.8	3.1	3.4

7 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar  
8 year.

9 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's  
10 taxable wages).

11 (F) With respect to experience rating years beginning on or after July  
12 1, 1986, if the balance of the unemployment trust fund as of the prior  
13 March 31 is negative, the contribution rate for each employer liable to pay  
14 contributions, as computed under subparagraph E of this paragraph (5),  
15 shall be increased by a factor of 10% computed to the nearest multiple of  
16 1/10% if not already a multiple thereof.

17 (G) On or after January 1, 1993, notwithstanding any other provisions  
18 of this paragraph (5), the contribution rate for each employer liable to pay  
19 contributions, as computed under subparagraph (E) of this paragraph (5),  
20 shall be decreased by 0.1%, except that, during any experience rating year  
21 in which the fund reserve ratio is equal to or greater than 7.00%, there  
22 shall be no decrease pursuant to this subparagraph (G) in the contribution  
23 of any employer who has a deficit reserve ratio of negative 35.00% or  
24 under.

25 (H) On or after January 1, 1993 until December 31, 1993,  
26 notwithstanding any other provisions of this paragraph (5), the  
27 contribution rate for each employer liable to pay contributions, as  
28 computed under subparagraph (E) of this paragraph (5), shall be decreased  
29 by a factor of 52.0% computed to the nearest multiple of 1/10%, except  
30 that, if an employer has a deficit reserve ratio of negative 35.0% or under,  
31 the employer's rate of contribution shall not be reduced pursuant to this  
32 subparagraph (H) to less than 5.4%. The amount of the reduction in the  
33 employer contributions stipulated by this subparagraph (H) shall be in  
34 addition to the amount of the reduction in the employer contributions  
35 stipulated by subparagraph (G) of this paragraph (5), except that the rate  
36 of contribution of an employer who has a deficit reserve ratio of negative  
37 35.0% or under shall not be reduced pursuant to this subparagraph (H) to  
38 less than 5.4% and the rate of contribution of any other employer shall not  
39 be reduced to less than 0.0%.

40 On or after January 1, 1994 until December 31, 1995, except as  
41 provided pursuant to subparagraph (I) of this paragraph (5),  
42 notwithstanding any other provisions of this paragraph (5), the  
43 contribution rate for each employer liable to pay contributions, as  
44 computed under subparagraph (E) of this paragraph (5), shall be decreased  
45 by a factor of 36.0% computed to the nearest multiple of 1/10%, except  
46 that, if an employer has a deficit reserve ratio of negative 35.0% or under,  
47 the employer's rate of contribution shall not be reduced pursuant to this  
48 subparagraph (H) to less than 5.4%. The amount of the reduction in the

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

8 On or after January 1, 1996 until December 31, 1996, the contribution  
9 rate for each employer liable to pay contributions, as computed under  
10 subparagraph (E) of this paragraph (5), shall be decreased by a factor of  
11 10.0% computed to the nearest multiple of 1/10%, except that, if an  
12 employer has a deficit reserve ratio of negative 35.0% or under, the  
13 employer's rate of contribution shall not be reduced pursuant to this  
14 subparagraph (H) to less than 5.4%. The amount of the reduction in the  
15 employer contributions stipulated by this subparagraph (H) shall be in  
16 addition to the amount of the reduction in the employer contributions  
17 stipulated by subparagraph (G) of this paragraph (5), except that the rate  
18 of contribution of an employer who has a deficit reserve ratio of negative  
19 35.0% or under shall not be reduced pursuant to this subparagraph (H) to  
20 less than 5.4% and the rate of contribution of any other employer shall not  
21 be reduced to less than 0.0%.

22 On or after January 1, 1997 until December 31, 1997, the contribution  
23 rate for each employer liable to pay contributions, as computed under  
24 subparagraph (E) of this paragraph (5), shall be decreased by a factor of  
25 20.0% computed to the nearest multiple of 1/10%, except that, if an  
26 employer has a deficit reserve ratio of negative 35.0% or under, the  
27 employer's rate of contribution shall not be reduced pursuant to this  
28 subparagraph (H) to less than 5.4%. The amount of the reduction in the  
29 employer contributions stipulated by this subparagraph (H) shall be in  
30 addition to the amount of the reduction in the employer contributions  
31 stipulated by subparagraph (G) of this paragraph (5), except that the rate  
32 of contribution of an employer who has a deficit reserve ratio of negative  
33 35.0% or under shall not be reduced pursuant to this subparagraph (H) to  
34 less than 5.4% and the rate of contribution of any other employer shall not  
35 be reduced to less than 0.0%.

36 (I) If the fund reserve ratio decreases to a level of less than 4.00% on  
37 March 31 of calendar year 1994 or calendar year 1995, the provisions of  
38 subparagraph (H) of this paragraph (5) shall cease to be in effect as of July  
39 1 of that calendar year.

40 If, upon calculating the unemployment compensation fund reserve ratio  
41 pursuant to R.S.43:21-7(c)(5)(D) prior to July 1, 1997, the controller  
42 finds that the fund reserve ratio has decreased to a level of less than  
43 4.00%, the Commissioner of Labor shall notify the State Treasurer of this  
44 fact and of the dollar amount necessary to bring the fund reserve ratio up  
45 to a level of 4.00%. The State Treasurer shall, prior to July 1, 1997,  
46 transfer from the General Fund to the unemployment compensation fund,

1 revenues in the amount specified by the commissioner and which, upon  
2 deposit in the unemployment compensation fund, shall result, upon  
3 recalculation, in a fund reserve ratio used to determine employer  
4 contributions beginning July 1, 1997 of at least 4.00%.

5 If, upon calculating the unemployment compensation fund reserve ratio  
6 pursuant to R.S.43:21-7(c)(5)(D) prior to July 1, 1998, the controller  
7 finds that the fund reserve ratio has decreased to a level of less than  
8 4.00%, the Commissioner of Labor shall notify the State Treasurer of this  
9 fact and of the dollar amount necessary to bring the fund reserve ratio up  
10 to a level of 4.00%. The State Treasurer shall, prior to July 1, 1998,  
11 transfer from the General Fund to the unemployment compensation fund,  
12 revenues in the amount specified by the commissioner and which, upon  
13 deposit in the unemployment compensation fund, shall result, upon  
14 recalculation, in a fund reserve ratio used to determine employer  
15 contributions beginning July 1, 1998 of at least 4.00%.

16 (6) Additional contributions.

17 Notwithstanding any other provision of law, any employer who has  
18 been assigned a contribution rate pursuant to subsection (c) of this section  
19 for the year commencing July 1, 1948, and for any year commencing July  
20 1 thereafter, may voluntarily make payment of additional contributions,  
21 and upon such payment shall receive a recomputation of the experience  
22 rate applicable to such employer, including in the calculation the additional  
23 contribution so made. Any such additional contribution shall be made  
24 during the 30-day period following the date of the mailing to the employer  
25 of the notice of his contribution rate as prescribed in this section, unless,  
26 for good cause, the time for payment has been extended by the controller  
27 for not to exceed an additional 60 days; provided that in no event may  
28 such payments which are made later than 120 days after the beginning of  
29 the year for which such rates are effective be considered in determining  
30 the experience rate for the year in which the payment is made. Any  
31 employer receiving any extended period of time within which to make  
32 such additional payment and failing to make such payment timely shall be,  
33 in addition to the required amount of additional payment, a penalty of 5%  
34 thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any  
35 adjustment under this subsection shall be made only in the form of credits  
36 against accrued or future contributions.

37 (7) Transfers.

38 (A) Upon the transfer of the organization, trade or business, or  
39 substantially all the assets of an employer to a successor in interest,  
40 whether by merger, consolidation, sale, transfer, descent or otherwise, the  
41 controller shall transfer the employment experience of the predecessor  
42 employer to the successor in interest, including credit for past years,  
43 contributions paid, annual payrolls, benefit charges, et cetera, applicable  
44 to such predecessor employer, pursuant to regulation, if it is determined  
45 that the employment experience of the predecessor employer with respect  
46 to the organization, trade, assets or business which has been transferred

1 may be considered indicative of the future employment experience of the  
2 successor in interest. Unless the predecessor employer was owned or  
3 controlled (by legally enforceable means or otherwise), directly or  
4 indirectly, by the successor in interest, or the predecessor employer and  
5 the successor in interest were owned or controlled (by legally enforceable  
6 means or otherwise), directly or indirectly, by the same interest or  
7 interests, the transfer of the employment experience of the predecessor  
8 shall not be effective if such successor in interest, within four months of  
9 the date of such transfer of the organization, trade, assets or business, or  
10 thereafter upon good cause shown, files a written notice protesting the  
11 transfer of the employment experience of the predecessor employer.

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

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

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

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

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

7 (B) Effective January 1, 1978 there shall be no contributions by  
8 workers in the employ of any governmental or nongovernmental employer  
9 electing or required to make payments in lieu of contributions unless the  
10 employer is covered by the State plan under the "Temporary Disability  
11 Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be  
12 at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers  
13 in the employ of any nongovernmental employer electing or required to  
14 make payments in lieu of contributions shall be required to make  
15 contributions to the fund at the same rate prescribed for workers of other  
16 nongovernmental employers.

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

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

42 (D) Notwithstanding any other provisions of this paragraph (1), during  
43 the period starting January 1, 1993 and ending June 30, 1994, each worker  
44 shall contribute to the unemployment compensation fund 0.5% of wages  
45 paid with respect to the worker's employment with a governmental  
46 employer electing or required to pay contributions or nongovernmental

1 employer, including a nonprofit organization which is an employer as  
2 defined under paragraph 6 of subsection (h) of R.S.43:21-19, regardless  
3 of whether that nonprofit organization elects or is required to finance its  
4 benefit costs with contributions to the fund or by payments in lieu of  
5 contributions, after that employer has satisfied the conditions set forth in  
6 subsection (h) of R.S.43:21-19 with respect to becoming an employer. No  
7 contributions, however, shall be made by the worker while the worker is  
8 covered by an approved private plan under the "Temporary Disability  
9 Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker  
10 is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other  
11 provision of that law; provided that the contributions shall be at the rate  
12 of 0.50% of wages paid with respect to employment with the State of New  
13 Jersey or any other governmental entity or instrumentality electing or  
14 required to make payments in lieu of contributions and which is covered  
15 by the State plan under the "Temporary Disability Benefits Law," except  
16 that, while the worker is exempt from the provisions of the "Temporary  
17 Disability Benefits Law" under section 7 of that law, P.L.1948, c.110  
18 (C.43:21-31) or any other provision of that law, or is covered for  
19 disability benefits by an approved private plan of the employer, no  
20 contributions shall be made to the fund.

21 Each worker shall, starting on January 1, 1996 and ending December  
22 31, 1996, contribute to the unemployment compensation fund [0.60%]  
23 0.54% of wages paid with respect to the worker's employment with a  
24 governmental employer electing or required to pay contributions or  
25 nongovernmental employer, including a nonprofit organization which is an  
26 employer as defined under paragraph 6 of subsection (h) of R.S.43:21-19,  
27 regardless of whether that nonprofit organization elects or is required to  
28 finance its benefit costs with contributions to the 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 Each worker shall, starting on January 1, 1997 and ending December  
36 31, 1997, contribute to the unemployment compensation fund 0.48% of  
37 wages paid with respect to the worker's employment with a governmental  
38 employer electing or required to pay contributions or nongovernmental  
39 employer, including a nonprofit organization which is an employer as  
40 defined under paragraph 6 of subsection (h) of R.S.43:21-19, regardless  
41 of whether that nonprofit organization elects or is required to finance its  
42 benefit costs with contributions to the unemployment compensation fund  
43 or by payments in lieu of contributions, after that employer has satisfied  
44 the conditions set forth in subsection (h) of R.S.43:21-19 with respect to  
45 becoming an employer, provided that the contributions shall be at the rate  
46 of 0.10% of wages paid with respect to employment with the State of New

1 Jersey or any other governmental entity or instrumentality electing or  
2 required to make payments in lieu of contributions.

3 On and after January 1, 1998, each worker shall contribute to the  
4 unemployment compensation fund 0.60% of wages paid with respect to  
5 the worker's employment with a governmental employer electing or  
6 required to pay contributions or nongovernmental employer, including a  
7 nonprofit organization which is an employer as defined under paragraph  
8 6 of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit  
9 organization elects or is required to finance its benefit costs with  
10 contributions to the unemployment compensation fund or by payments in  
11 lieu of contributions, after that employer has satisfied the conditions set  
12 forth in subsection (h) of R.S.43:21-19 with respect to becoming an  
13 employer, provided that the contributions shall be at the rate of 0.10% of  
14 wages paid with respect to employment with the State of New Jersey or  
15 any other governmental entity or instrumentality electing or required to  
16 make payments in lieu of contributions.

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

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

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

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

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

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

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

- 1 (E) (i) (Deleted by amendment, P.L.1994, c.112.)
- 2 (ii) [Notwithstanding any other provision of this paragraph (2), with  
3 respect to wages paid during the period beginning on January 1, 1993 and  
4 ending June 30, 1994, there shall be deposited in and credited to the State  
5 disability benefits fund all worker contributions received by the  
6 controller.](Deleted by amendment, P.L. , c. ).
- 7 (iii) (Deleted by amendment, P.L.1994, c.112.)
- 8 (3) If an employee receives wages from more than one employer  
9 during any calendar year, and either the sum of his contributions deposited  
10 in and credited to the State disability benefits fund [(in accordance with  
11 paragraph (2) of this subsection)] plus the amount of his contributions, if  
12 any, required towards the costs of benefits under one or more approved  
13 private plans under the provisions of section 9 of the "Temporary  
14 Disability Benefits Law" (C.43:21-33) and deducted from his wages, or  
15 the sum of such latter contributions, if the employee is covered during  
16 such calendar year only by two or more private plans, exceeds an amount  
17 equal to 1/2 of 1% of the "wages" determined in accordance with the  
18 provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or  
19 after January 1, 1976, the employee shall be entitled to a refund of the  
20 excess if he makes a claim to the controller within two years after the end  
21 of the calendar year in which the wages are received with respect to which  
22 the refund is claimed and establishes his right to such refund. Such refund  
23 shall be made by the controller from the State disability benefits fund. No  
24 interest shall be allowed or paid with respect to any such refund. The  
25 controller shall, in accordance with prescribed regulations, determine the  
26 portion of the aggregate amount of such refunds made during any calendar  
27 year which is applicable to private plans for which deductions were made  
28 under section 9 of the "Temporary Disability Benefits Law," such  
29 determination to be based upon the ratio of the amount of such wages  
30 exempt from contributions to such fund, as provided in subparagraph (B)  
31 of paragraph (1) of this subsection with respect to coverage under private  
32 plans, to the total wages so exempt plus the amount of such wages subject  
33 to contributions to the disability benefits fund, as provided in  
34 subparagraph [(B)] (G) of paragraph [(2)] (1) of this subsection. The  
35 controller shall, in accordance with prescribed regulations, prorate the  
36 amount so determined among the applicable private plans in the  
37 proportion that the wages covered by each plan bear to the total private  
38 plan wages involved in such refunds, and shall assess against and recover  
39 from the employer, or the insurer if the insurer has indemnified the  
40 employer with respect thereto, the amount so prorated. The provisions of  
41 R.S.43:21-14 with respect to collection of employer contributions shall  
42 apply to such assessments. The amount so recovered by the controller  
43 shall be paid into the State disability benefits fund.
- 44 (4) If an individual does not receive any wages from the employing  
45 unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated  
46 as his employer, or receives his wages from some other employing unit,

1 such employer shall nevertheless be liable for such individual's  
2 contributions in the first instance; and after payment thereof such  
3 employer may deduct the amount of such contributions from any sums  
4 payable by him to such employing unit, or may recover the amount of such  
5 contributions from such employing unit, or, in the absence of such an  
6 employing unit, from such individual, in a civil action; provided  
7 proceedings therefor are instituted within three months after the date on  
8 which such contributions are payable. General rules shall be prescribed  
9 whereby such an employing unit may recover the amount of such  
10 contributions from such individuals in the same manner as if it were the  
11 employer.

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

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

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

23 (1) Except as hereinafter provided, each employer shall, in addition to  
24 the contributions required by subsections (a), (b), and (c) of this section,  
25 contribute 1/2 of 1% of the wages paid by such employer to workers with  
26 respect to employment unless he is not a covered employer as defined in  
27 section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)),  
28 except that the rate for the State of New Jersey shall be 1/10 of 1% for the  
29 calendar year 1980 and for the first six months of 1981. Prior to July 1,  
30 1981 and prior to July 1 each year thereafter, the controller shall review  
31 the experience accumulated in the account of the State of New Jersey and  
32 establish a rate for the next following fiscal year which, in combination  
33 with worker contributions, will produce sufficient revenue to keep the  
34 account in balance; except that the rate so established shall not be less  
35 than 1/10 of 1%. Such contributions shall become due and be paid by the  
36 employer to the controller for the State disability benefits fund as  
37 established by law, in accordance with such regulations as may be  
38 prescribed, and shall not be deducted, in whole or in part, from the  
39 remuneration of individuals in his employ. In the payment of any  
40 contributions, a fractional part of a cent shall be disregarded unless it  
41 amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

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

46 (3) (A) The rates of contribution as specified in subparagraph (1)

1 above shall be subject to modification as provided herein with respect to  
2 employer contributions due on and after July 1, 1951.

3 (B) A separate disability benefits account shall be maintained for each  
4 employer required to contribute to the State disability benefits fund and  
5 such account shall be credited with contributions deposited in and credited  
6 to such fund with respect to employment occurring on and after January  
7 1, 1949. Each employer's account shall be credited with all contributions  
8 paid on or before January 31 of any calendar year on his own behalf and  
9 on behalf of individuals in his service with respect to employment  
10 occurring in preceding calendar years; provided, however, that if January  
11 31 of any calendar year falls on a Saturday or Sunday an employer's  
12 account shall be credited as of January 31 of such calendar year with all  
13 the contributions which he has paid on or before the next succeeding day  
14 which is not a Saturday or Sunday. But nothing in this act shall be  
15 construed to grant any employer or individuals in his service prior claims  
16 or rights to the amounts paid by him to the fund either on his own behalf  
17 or on behalf of such individuals. Benefits paid to any covered individual  
18 in accordance with Article III of the "Temporary Disability Benefits Law"  
19 on or before December 31 of any calendar year with respect to disability  
20 in such calendar year and in preceding calendar years shall be charged  
21 against the account of the employer by whom such individual was  
22 employed at the commencement of such disability or by whom he was last  
23 employed, if out of employment.

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

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

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

39 (2) If the minimum requirements in (1) above have been fulfilled and  
40 the credited contributions exceed the benefits charged by more than  
41 \$500.00, such preliminary rate shall be as follows:

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

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

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

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

8 (4) If the minimum requirements in (1) above have been fulfilled and  
9 the benefits charged exceed the contributions credited by more than  
10 \$500.00, such preliminary rate shall be as follows:

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

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

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

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

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

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

27 (E) (1) Prior to July 1 of each calendar year the controller shall  
28 determine the amount of the State disability benefits fund as of December  
29 31 of the preceding calendar year, increased by the contributions paid  
30 thereto during January of the current calendar year with respect to  
31 employment occurring in the preceding calendar year. If such amount  
32 exceeds the net amount withdrawn from the unemployment trust fund  
33 pursuant to section 23 of the "Temporary Disability Benefits Law,"  
34 P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such  
35 preceding calendar year of the unemployment disability account (as  
36 defined in section 22 of said law (C.43:21-46)), such excess shall be  
37 expressed as a percentage of the wages on which contributions were paid  
38 to the State disability benefits fund on or before January 31 with respect  
39 to employment in the preceding calendar year.

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

44 (i) If the percentage determined in accordance with paragraph (E)(1)  
45 of this subsection equals or exceeds 1 1/4%, the final employer rates shall  
46 be the preliminary rates determined as provided in (D) hereof, except that

1 if the employer's preliminary rate is determined as provided in (D)(2) or  
2 (D)(3) hereof, the final employer rate shall be the preliminary employer  
3 rate decreased by such percentage of excess taken to the nearest 5/100 of  
4 1%, but in no case shall such final rate be less than 1/10 of 1%.

5 (ii) If the percentage determined in accordance with paragraph (E)(1)  
6 of this subsection equals or exceeds 3/4 of 1% and is less than 1 1/4 of  
7 1%, the final employer rates shall be the preliminary employer rates.

8 (iii) If the percentage determined in accordance with paragraph (E)(1)  
9 of this subsection is less than 3/4 of 1%, but in excess of 1/4 of 1%, the  
10 final employer rates shall be the preliminary employer rates determined as  
11 provided in (D) hereof increased by the difference between 3/4 of 1% and  
12 such percentage taken to the nearest 5/100 of 1%; provided, however, that  
13 no such final rate shall be more than 1/4 of 1% in the case of an employer  
14 whose preliminary rate is determined as provided in (D)(2) hereof, more  
15 than 1/2 of 1% in the case of an employer whose preliminary rate is  
16 determined as provided in (D)(1) and (D)(3) hereof, nor more than 3/4 of  
17 1% in the case of an employer whose preliminary rate is determined as  
18 provided in (D)(4) hereof.

19 (iv) If the amount of the State disability benefits fund determined as  
20 provided in paragraph (E)(1) of this subsection is equal to or less than 1/4  
21 of 1%, then the final rate shall be 2/5 of 1% in the case of an employer  
22 whose preliminary rate is determined as provided in (D)(2) hereof, 7/10  
23 of 1% in the case of an employer whose preliminary rate is determined as  
24 provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer  
25 whose preliminary rate is determined as provided in (D)(4) hereof.  
26 Notwithstanding any other provision of law or any determination made by  
27 the controller with respect to any 12-month period commencing on July  
28 1, 1970, the final rates for all employers for the period beginning January  
29 1, 1971, shall be as set forth herein.

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

31

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

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

39 Beginning January 1, 1996 until December 31, 1996, each employee  
40 shall, in such a manner and at such times as determined by the  
41 commissioner, contribute to the fund an amount equal to 0.06% of the  
42 employee's taxable wages.

43 Beginning January 1, 1997 until December 31, 1997, each employee  
44 shall, in such a manner and at such times as determined by the  
45 commissioner, contribute to the fund an amount equal to 0.12% of the  
46 employee's taxable wages.

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

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

18 c. If the total amount of contributions to the fund pursuant to this  
19 section during the calendar year 1993 exceeds \$600 million, all  
20 contributions which exceed \$600 million shall be deposited in the  
21 unemployment compensation fund. If the total amount of contributions  
22 to the fund pursuant to this section during calendar year 1994 or calendar  
23 year 1995 exceeds \$500 million, all contributions which exceed \$500  
24 million shall be deposited in the unemployment compensation fund. If the  
25 total amount of contributions made to the fund pursuant to this section for  
26 the calendar year 1996 exceeds \$150 million, all contributions which  
27 exceed \$150 million in a calendar year shall be deposited in the  
28 unemployment compensation fund. If the total amount of contributions  
29 made to the fund pursuant to this section for the calendar year 1997  
30 exceeds \$300 million, all contributions which exceed \$300 million shall be  
31 deposited in the unemployment compensation fund.

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

35  
36 20. Section 32 of P.L.1992, c.160 (C.43:21-7e) is amended to read as  
37 follows:

38 32. a. If an employee receives wages from more than one employer  
39 during any calendar year, and the sum of the employee's contributions  
40 deposited in the fund exceeds an amount equal to 0.6% of the wages  
41 determined in accordance with the provisions of paragraph (3) of  
42 subsection (b) of R.S.43:21-7 during calendar year 1993, calendar year  
43 1994 or calendar year 1995, the employee shall be entitled to a refund of  
44 the excess if a claim establishing the employee's right to the refund is made  
45 within two years after the end of the respective calendar year in which the  
46 wages are received and are the subject of the claim. The commissioner

1 shall refund any overpayment from the fund without interest.

2 If an employee receives wages from more than one employer during the  
3 calendar year 1996, and the sum of the employee's contributions  
4 deposited in the fund exceeds an amount equal to 0.06% of the wages  
5 determined in accordance with the provisions of paragraph (3) of  
6 subsection (b) of R.S.43:21-7 during calendar year 1996, the employee  
7 shall be entitled to a refund of the excess if a claim establishing the  
8 employee's right to the refund is made within two years after the end of  
9 the respective calendar year in which the wages are received and are the  
10 subject of the claim. The commissioner shall refund any overpayment  
11 from the fund without interest.

12 If an employee receives wages from more than one employer during the  
13 calendar year 1997, and the sum of the employee's contributions deposited  
14 in the fund exceeds an amount equal to 0.12% of the wages determined in  
15 accordance with the provisions of paragraph (3) of subsection (b) of  
16 R.S.43:21-7 during calendar year 1997, the employee shall be entitled to  
17 a refund of the excess if a claim establishing the employee's right to the  
18 refund is made within two years after the end of the respective calendar  
19 year in which the wages are received and are the subject of the claim. The  
20 commissioner shall refund any overpayment from the fund without  
21 interest.

22 b. Any employee who is a taxpayer and entitled, pursuant to the  
23 provisions of subsection a. of this section, to a refund of contributions  
24 deducted during a tax year from his wages shall, in lieu of the refund, be  
25 entitled to a credit in the full amount thereof against the tax otherwise due  
26 on his New Jersey gross income for that tax year if he submits his claim  
27 for the credit and accompanies that claim with evidence of his right to the  
28 credit in the manner provided by regulation by the Director of the Division  
29 of Taxation. In any case in which the amount, or any portion thereof, of  
30 any credit allowed hereunder results in or increases an excess of income  
31 tax payment over income tax liability, the amount of the new or increased  
32 excess shall be considered an overpayment and shall be refunded to the  
33 taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.  
34 (cf: P.L.1992, c.160, s.32)

35  
36 21. Section 4 of P.L.1971, c.346 (C.43:21-7.3) is amended to read as  
37 follows:

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

46 (b) Any governmental entity or instrumentality may, as an alternative

1 to financing benefits by payments in lieu of contributions, elect to pay  
2 contributions beginning with the date on which its subjectivity begins by  
3 filing written notice of its election with the department no later than 120  
4 days after such subjectivity begins, provided that such election shall be  
5 effective for at least two full calendar years; or it may elect to pay  
6 contributions for a period of not less than two calendar years beginning  
7 January 1 of any year if written notice of such election is filed with the  
8 department not later than February 1 of such year; provided, further, that  
9 such governmental entity or instrumentality shall remain liable for  
10 payments in lieu of contributions with respect to all benefits paid based on  
11 base year wages earned in the employ of such entity or instrumentality in  
12 the period during which it financed its benefits by payments in lieu of  
13 contributions.

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

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

28 (e) On or before September 1 of each year, the Commissioner of Labor  
29 shall review the composite benefit cost experience of all governmental  
30 entities and instrumentalities electing to pay contributions and, on the  
31 basis of that experience, establish the contribution rate for the next  
32 following calendar year which can be expected to yield sufficient revenue  
33 in combination with worker contributions to equal or exceed the projected  
34 costs for that calendar year.

35 (f) Any covered governmental entity or instrumentality electing to pay  
36 contributions shall each year appropriate, out of its general funds, moneys  
37 to pay the projected costs of benefits at the rate determined under  
38 subsection (e) of this section. These funds shall be held in a trust fund  
39 maintained by the governmental entity for this purpose. Any surplus  
40 remaining in this trust fund may be retained in reserve for payment of  
41 benefit costs for subsequent years either by contributions or payments in  
42 lieu of contributions.

43 (g) Any governmental entity or instrumentality electing to finance  
44 benefit costs with payments in lieu of contributions shall pay into the fund  
45 an amount equal to all benefit costs for which it is liable pursuant to the  
46 provisions of the "unemployment compensation law." Each subject

1 governmental entity or instrumentality shall require payments from its  
2 workers in the same manner and amount as prescribed under  
3 R.S.43:21-7(d) for governmental entities and instrumentalities financing  
4 their benefit costs with contributions. No such payment shall be used for  
5 a purpose other than to meet the benefits liability of such governmental  
6 entity or instrumentality. In addition, each subject governmental entity or  
7 instrumentality shall appropriate out of its general funds sufficient moneys  
8 which, in addition to any worker payments it requires, are necessary to  
9 pay its annual benefit costs estimated on the basis of its past benefit cost  
10 experience; provided that for its first year of coverage, its benefit costs  
11 shall be deemed to require an appropriation equal to 1% of the projected  
12 total of its taxable wages for the year. These appropriated moneys and  
13 worker payments shall be held in a trust fund maintained by the  
14 governmental entity or instrumentality for this purpose. Any surplus  
15 remaining in this trust fund shall be retained in reserve for payment of  
16 benefit costs in subsequent years. If a governmental entity or  
17 instrumentality requires its workers to make payments as authorized  
18 herein, such workers shall not be subject to the contributions required in  
19 R.S.43:21-7(d).

20 (h) Notwithstanding the provisions of the above subsection (g),  
21 commencing July 1, 1986 worker contributions to the unemployment trust  
22 fund with respect to wages paid by any governmental entity or  
23 instrumentality electing or required to make payments in lieu of  
24 contributions, including the State of New Jersey, shall be made in  
25 accordance with the provisions of R.S.43:21-7(d)(1)(C) or  
26 R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each governmental  
27 entity or instrumentality electing or required to make payments in lieu of  
28 contributions shall, except during the period starting January 1, 1993 and  
29 ending December 31, 1995 or, if the unemployment compensation fund  
30 reserve ratio, as determined pursuant to paragraph (5) of subsection (c)  
31 of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of  
32 calendar year 1994 or calendar year 1995, ending July 1 of that calendar  
33 year, require payments from its workers at the [rate of 0.50%] following  
34 rates of wages paid, which amounts are to be held in the trust fund  
35 maintained by the governmental entity or instrumentality for payment of  
36 benefit costs: for calendar year 1996, 0.44%; for calendar year 1997,  
37 0.38%; and for calendar year 1998 and each calendar year thereafter,  
38 0.50%.

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

40

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

43 1. Any employee who is paid wages by two or more employers  
44 aggregating more than [\$3,000.00 during any calendar year prior to  
45 January 1, 1968, \$3,600.00 during any calendar year commencing on or  
46 after January 1, 1968 and prior to January 1, 1972, \$4,200.00 during any

1 calendar year commencing on or after January 1, 1972 and prior to  
2 January 1, 1975, or \$4,800.00 during any calendar year commencing on  
3 or after January 1, 1975, and prior to January 1, 1976, and thereafter] the  
4 amount of "wages" determined in accordance with the provisions of R.S.  
5 43:21-7(b)(3) shall be entitled to a refund of the amount of contributions  
6 deducted from such wages and paid to the Division of Employment  
7 Security in excess of the contribution which is determined pursuant to  
8 R.S.43:21-7(d)(1)(D) required on [\$3,000.00 of such wages paid during  
9 any calendar year prior to January 1, 1968, \$3,600.00 during any calendar  
10 year commencing on or after January 1, 1968 and prior to January 1,  
11 1972, \$4,200.00 during any calendar year commencing on or after January  
12 1, 1972 and prior to January 1, 1975, or \$4,800.00 during any calendar  
13 year commencing on or after January 1, 1975, and prior to January 1,  
14 1976, and thereafter] the amount of "wages" determined in accordance  
15 with the provisions of R.S. 43:21-7(b)(3) except that no such refund shall  
16 be made unless the employee makes a claim, establishing his right thereto,  
17 within 2 years after the calendar year in which the wages are paid with  
18 respect to which refund of contribution is claimed. No interest shall be  
19 allowed or paid with respect to any such refund.

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

21

22 23. This act shall take effect immediately and be retroactive to January  
23 1, 1996, except that sections 13 through 17 shall take effect immediately  
24 and apply to gross receipts for coverage by a health maintenance  
25 organization on and after July 1, 1996.

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28

#### STATEMENT

29

30 This bill establishes a methodology for the distribution of charity care  
31 subsidies to hospitals and provides a funding mechanism for these  
32 subsidies and the Health Access New Jersey subsidized insurance program,  
33 as well as providing funding for other purposes.

34 The charity care subsidy distribution methodology for 1996 and each  
35 year thereafter is similar to that used in 1995. The hospital-specific  
36 charity care subsidy shall be determined by allocating available charity care  
37 funds so as to equalize hospital-specific payer mix factors (as defined in  
38 the bill) to the Statewide target payer mix factor; except that, if the  
39 Statewide total of adjusted charity care is less than available charity care  
40 funding, a hospital's subsidy shall equal its adjusted charity care. The  
41 Statewide target payer mix factor is the lowest payer mix factor to which  
42 all hospitals receiving charity care subsidies can be reduced by spending  
43 all of the amount allocated in each year for charity care subsidies. Those  
44 hospitals with a payer mix factor greater than the Statewide target payer  
45 mix factor shall be eligible to receive a subsidy sufficient to bring their  
46 factor down to that Statewide level; those hospitals with a payer mix

1 factor that is less than or equal to the Statewide target payer mix factor  
2 shall not be eligible to receive a subsidy.

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

7 The bill provides that the Health Care Subsidy Fund will be funded at  
8 \$425 million in 1996, and at \$450 million in 1997 and each succeeding  
9 year.

10 The monies in the Health Care Subsidy Fund will be allocated as  
11 follows:

12 -- for charity care subsidies, \$400 million in 1996 and each succeeding  
13 year; and

14 -- for the Health Access New Jersey program, \$25 million in 1996 and  
15 \$50 million in 1997 and each succeeding year.

16 The bill also appropriates to the Hospital Health Care Subsidy account  
17 in the Division of Medical Assistance and Health Services (Medicaid), to  
18 fund services at hospitals with high numbers of AIDS, tuberculosis,  
19 substance abuse, neonatal and mental health patients, \$71.5 million (State  
20 share) in Fiscal Year 1997 and each succeeding fiscal year, plus the  
21 available federal match, or, in the absence of any such federal funds, up to  
22 an additional \$71.5 million in State funds as necessary to replace any  
23 unavailable federal funds.

24 This bill funds the Health Care Subsidy Fund in part by a reduced  
25 assessment on employers and employees, to be phased out over two years,  
26 for a total of \$150 million in 1996 and \$300 million in 1997; however, the  
27 bill requires that an equivalent amount (\$450 million) be appropriated  
28 from the General Fund for deposit in the unemployment insurance fund as  
29 follows: \$90 million annually during the five-year period from Fiscal  
30 Years 1999 through 2003.

31 The balance of the funding for the Health Care Subsidy Fund will be  
32 derived from:

33 -- a \$200 million appropriation from the General Fund in Fiscal Year  
34 1996, to be taken from the FY 1996 anticipated budget surplus (which  
35 represents unexpended monies from the Medicaid program);

36 -- additional appropriations from the General Fund, beginning in  
37 calendar year 1996; and

38 -- revenues generated from a 3.7% gross receipts tax on health  
39 maintenance organizations, beginning July 1, 1996.

40 The bill also specifies that any charity care funds not distributed in a  
41 given year shall lapse to the Health Care Subsidy Fund for use in  
42 subsequent years to reduce the required use of appropriations from the  
43 General Fund. Under current law, the Commissioner of Health is  
44 authorized to transfer any surplus funds to the Health Access New Jersey  
45 program. The bill also specifies that the commissioner shall report to the  
46 Governor and the Legislature by December 31 of each year on the status

1 of the Health Care Subsidy Fund, including any remaining balances in the  
2 fund.

3 Finally, the bill clarifies that the purpose of the Health Access New  
4 Jersey program shall be to provide health insurance coverage for low-  
5 income, uninsured children as well as working people and those  
6 temporarily unemployed.

7

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10

11 Provides funding for hospital charity care subsidies and other programs;  
12 appropriates \$200 million to Health Care Subsidy Fund.

WITHDRAWN