

SENATE, No. 2300

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator BASSANO

1 AN ACT concerning charity care health services and revising parts of  
2 statutory law.

3

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

6

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

9 2. As used in sections 1 through 17 of P.L.1992, c.160  
10 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15 of  
11 P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d) and  
12 sections 7 through 12 of P.L.1996, c.28 (C.26:2H-18.59e et al.):

13 "Administrator" means the administrator of the Health Care Subsidy  
14 Fund appointed by the commissioner.

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

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

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

24 "Commissioner" means the Commissioner of Health and Senior  
25 Services.

26 "Department" means the Department of Health and Senior Services.

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

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

**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 hospitals serving a disproportionate number of low income patients.

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

4 "Hospital" means an acute care hospital licensed by the Department  
5 of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1  
6 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 U.S.C.  
18 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.1996,c.28,s.1)

23

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

26 8. There is established the Health Care Subsidy Fund in the  
27 Department of Health and Senior Services.

28 a. The fund shall be comprised of revenues from employee and  
29 employer contributions made pursuant to section 29 of P.L.1992,  
30 c.160 (C.43:21-7b), revenues from the hospital assessment made  
31 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues  
32 pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues  
33 from interest and penalties collected pursuant to this act and revenues  
34 from such other sources as the Legislature shall determine. Interest  
35 earned on the monies in the fund shall be credited to the fund. The  
36 fund shall be a nonlapsing fund dedicated for use by the State to: (1)  
37 distribute charity care and other uncompensated care disproportionate  
38 share payments to hospitals and other eligible providers, and provide  
39 subsidies for the Health Access New Jersey program established  
40 pursuant to section 15 of P.L.1992, c.160 (C.26:2H-18.65); and (2)  
41 assist hospitals and other health care facilities in the underwriting of  
42 innovative and necessary health care services.

43 b. The fund shall be administered by a person appointed by the  
44 commissioner.

45 The administrator of the fund is responsible for overseeing and  
46 coordinating the collection and reimbursement of fund monies. The

1 administrator is responsible for promptly informing the commissioner  
2 if monies are not or are not reasonably expected to be collected or  
3 disbursed.

4 c. The commissioner shall adopt rules and regulations to ensure the  
5 integrity of the fund, pursuant to the "Administrative Procedure Act,"  
6 P.L.1968, c.410 (C.52:14B-1 et seq.).

7 d. The administrator shall establish separate accounts for the  
8 charity care component of the disproportionate share hospital subsidy,  
9 other uncompensated care component of the disproportionate share  
10 hospital subsidy, hospital and other health care initiatives funding and  
11 the payments for subsidies for insurance premiums to provide care in  
12 disproportionate share hospitals, known as the Health Access New  
13 Jersey subsidy account, respectively.

14 e. In the event that the charity care component of the  
15 disproportionate share hospital subsidy account has a surplus in a  
16 given year after payments are distributed pursuant to the methodology  
17 established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and  
18 section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the  
19 limitations provided in subsection e. of section 9 of P.L.1992, c.160  
20 (C.26:2H-18.59), the surplus monies in calendar years 1996 [and],  
21 1997, 1998 and 1999 shall lapse to the unemployment compensation  
22 fund established pursuant to R.S.43:21-9, and each year thereafter  
23 shall lapse to the charity care component of the disproportionate share  
24 hospital subsidy account for distribution in subsequent years.

25 (cf: P.L.1996,c.28,s.3)

26

27 3. Section 11 of P.L.1996, c.28 (C.26:2H-18.58c) is amended to  
28 read as follows:

29 11. a. The Health Care Subsidy Fund shall be funded with \$15  
30 million in General Fund revenues in calendar year 1996 and \$41  
31 million in General Fund revenues each year in calendar [year]years  
32 1997, 1998 and 1999.

33 b. [In calendar year 1998, the Health Care Subsidy Fund shall be  
34 supported with revenues derived from efficiencies achieved by State  
35 use of an electronic data interchange system for health care claims and  
36 related information, in amounts necessary to provide funding for the  
37 health care program pursuant to section 8 of P.L.1996, c.28  
38 (C.26:2H-18.59f).](Deleted by amendment, P.L. , c. )

39 (cf: P.L.1996,c.28,s.11)

40

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

43 9. a. The commissioner shall allocate such funds as specified in  
44 subsection e. of this section to the charity care component of the  
45 disproportionate share hospital subsidy account. In a given year, the  
46 department shall transfer from the fund to the Division of Medical

1 Assistance and Health Services in the Department of Human Services  
 2 such funds as may be necessary for the total approved charity care  
 3 disproportionate share payments to hospitals for that year.

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

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

15 Hospital Specific Approved Uncompensated Care-1991

16 \_\_\_\_\_  
 17 Hospital Specific Preliminary Cost Base-1992

18  
 19 = Hospital Specific % Uncompensated Care (%UC)

20  
 21 A hospital is eligible for a charity care subsidy in 1993 if, upon  
 22 establishing a rank order of the %UC for all hospitals, the hospital is  
 23 among the 80% of hospitals with the highest %UC.

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

26  
 27 Hospital Specific Approved Uncompensated Care-1991

28 \_\_\_\_\_  
 29 Total approved Uncompensated Care All Eligible Hospitals-1991

30  
 31 X \$500 million

32  
 33 = Maximum Amount of Hospital Specific Charity Care  
 34 Subsidy for 1993

35  
 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 and Senior  
 40 Services, in order to continue to be eligible for a charity care subsidy  
 41 in 1993 and in 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; in 1995, \$400 million; in 1996, \$310  
45 million; and in 1997, 1998 and 1999, \$300 million each year. Total  
46 payments to hospitals shall not exceed the amount allocated for each

1 given year.

2 f. Beginning January 1, 1995:

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

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

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

13 (cf: P.L.1996,c.28,s.4)

14

15 5. Section 7 of P.L.1996, c.28 (C.26:2H-18.59e) is amended to  
16 read as follows:

17 7. a. Beginning January 1, 1996 through December 31, [1997]  
18 1999, and except as provided in section 8 of P.L.1996, c.28  
19 (C.26:2H-18.59f), the charity care subsidy shall be determined  
20 according to the following methodology.

21 If the Statewide total of adjusted charity care is less than available  
22 charity care funding, a hospital's charity care subsidy shall equal its  
23 adjusted charity care.

24 If the Statewide total of adjusted charity care is greater than  
25 available charity care funding, then the hospital-specific charity care  
26 subsidy shall be determined by allocating available charity care funds  
27 so as to equalize hospital-specific payer mix factors to the Statewide  
28 target payer mix factor. Those hospitals with a payer mix factor  
29 greater than the Statewide target payer mix factor shall be eligible to  
30 receive a subsidy sufficient to reduce their factor to that Statewide  
31 level; those hospitals with a payer mix factor that is equal to or less  
32 than the Statewide target payer mix factor shall not be eligible to  
33 receive a subsidy.

34 Charity care subsidy payments shall be based upon actual  
35 documented hospital charity care.

36 As used in this section:

37 (1) The hospital-specific "documented charity care" shall be equal  
38 to the dollar amount of charity care provided by the hospital that is  
39 verified in the department's most recent charity care audit conducted  
40 under the most recent charity care eligibility rules adopted by the  
41 department and valued at the same rate paid to that hospital by the  
42 Medicaid program.

43 For 1996, documented charity care shall equal the audited,  
44 Medicaid-priced amounts reported for the first three quarters of 1995.  
45 This amount shall be multiplied by 1.33 to determine the annualized  
46 1995 charity care amount. For 1997, 1998 and 1999, documented

1 charity care shall be equal to the audited Medicaid-priced amounts for  
 2 the last quarter two years prior to the payment period and the first  
 3 three quarters of the year prior to the payment period;

4 (2) In 1996, the hospital-specific "operating margin" shall be equal  
 5 to: the hospital's 1993 and 1994 income from operations minus its  
 6 1993 and 1994 charity care subsidies divided by its 1993 and 1994  
 7 total operating revenue minus its 1993 and 1994 charity care subsidies.  
 8 After calculating each hospital's operating margin, the department shall  
 9 determine the Statewide median operating margin.

10 In 1997, 1998 and 1999, the hospital-specific "operating margin"  
 11 shall be calculated in the same manner as for 1996, but on the basis of  
 12 income from operations, total operating revenue and charity care  
 13 subsidies data from the three most current years;

14 (3) The hospital-specific "profitability factor" shall be determined  
 15 annually as follows. Those hospitals that are equal to or below the  
 16 Statewide median operating margin shall be assigned a profitability  
 17 factor of "1." For those hospitals that are above the Statewide median  
 18 operating margin, the profitability factor shall be equal to:

$$19 \quad .75 \times (\text{hospital specific operating} \\ 20 \quad \text{margin} - \text{Statewide median operating margin}) \\ 21 \quad 1 - \frac{\quad}{\quad} \\ 22 \quad \quad \quad \text{highest hospital specific operating} \\ 23 \quad \quad \quad \text{margin} - \text{Statewide median operating margin} \\ 24$$

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

27 (5) The hospital-specific "revenue from private payers" shall be  
 28 equal to the sum of the gross revenues, as reported to the department  
 29 in the hospital's most recently available New Jersey Hospital Cost  
 30 Reports for all non-governmental third party payers including, but not  
 31 limited to, Blue Cross and Blue Shield plans, commercial insurers and  
 32 health maintenance organizations;

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

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

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

44 c. Charity care subsidy payments shall commence on or after the  
 45 date of enactment of P.L.1996, c.28 and the full calendar year 1996

1 allocation shall be disbursed by January 31, 1997.

2 (cf: P.L.1996,c.28,s.7)

3

4 6. (New section) a. The Commissioner of Health and Senior  
5 Services shall transfer to the Hospital Health Care Subsidy account,  
6 known as the Hospital Relief Fund, in the Division of Medical  
7 Assistance and Health Services in the Department of Human Services  
8 from the Health Care Subsidy Fund, \$71 million each year in calendar  
9 years 1998 and 1999, according to a schedule to be determined by the  
10 Commissioner of Health and Senior Services in consultation with the  
11 Commissioner of Human Services. These funds shall be distributed to  
12 eligible disproportionate share hospitals according to a methodology  
13 adopted by the Commissioner of Human Services pursuant to  
14 N.J.A.C.10:52-8.2, using hospital expenditure data for the most recent  
15 calendar year available for reimbursements from these funds.

16 b. In calendar years 1998 and 1999, the Governor shall recommend  
17 and the Legislature shall appropriate to the Hospital Health Care  
18 Subsidy account for distribution to disproportionate share hospitals  
19 which are eligible for reimbursement pursuant to subsection a. of this  
20 section, those federal funds received in connection with the provision  
21 of hospital reimbursements from that account.

22

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

24 43:21-7. Contributions. Employers other than governmental  
25 entities, whose benefit financing provisions are set forth in section 4  
26 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations  
27 liable for payment in lieu of contributions on the basis set forth in  
28 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller  
29 for the unemployment compensation fund, contributions as set forth  
30 in subsections (a), (b) and (c) hereof, and the provisions of subsections  
31 (d) and (e) shall be applicable to all employers, consistent with the  
32 provisions of the "unemployment compensation law" and the  
33 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et  
34 seq.).

35 (a) Payment.

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

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



1 (b) Rate of contributions. Each employer shall pay the following  
2 contributions:

3 (1) For the calendar year 1947, and each calendar year thereafter,  
4  $2\frac{7}{10}\%$  of wages paid by him during each such calendar year, except  
5 as otherwise prescribed by subsection (c) of this section.

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

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

43 (c) Future rates based on benefit experience.

44 (1) A separate account for each employer shall be maintained and  
45 this shall be credited with all the contributions which he has paid on  
46 his own behalf on or before January 31 of any calendar year with

1 respect to employment occurring in the preceding calendar year;  
2 provided, however, that if January 31 of any calendar year falls on a  
3 Saturday or Sunday, an employer's account shall be credited as of  
4 January 31 of such calendar year with all the contributions which he  
5 has paid on or before the next succeeding day which is not a Saturday  
6 or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be  
7 construed to grant any employer or individuals in his service prior  
8 claims or rights to the amounts paid by him into the fund either on his  
9 own behalf or on behalf of such individuals. Benefits paid with respect  
10 to benefit years commencing on and after January 1, 1953, to any  
11 individual on or before December 31 of any calendar year with respect  
12 to unemployment in such calendar year and in preceding calendar years  
13 shall be charged against the account or accounts of the employer or  
14 employers in whose employment such individual established base  
15 weeks constituting the basis of such benefits, except that, with respect  
16 to benefit years commencing after January 4, 1998, an employer's  
17 account shall not be charged for benefits paid to a claimant if the  
18 claimant's employment by that employer was ended in any way which,  
19 pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5,  
20 would have disqualified the claimant for benefits if the claimant had  
21 applied for benefits at the time when that employment ended. Benefits  
22 paid under a given benefit determination shall be charged against the  
23 account of the employer to whom such determination relates. When  
24 each benefit payment is made, either a copy of the benefit check or  
25 other form of notification shall be promptly sent to the employer  
26 against whose account the benefits are to be charged. Such copy or  
27 notification shall identify the employer against whose account the  
28 amount of such payment is being charged, shall show at least the name  
29 and social security account number of the claimant and shall specify  
30 the period of unemployment to which said check applies. If the total  
31 amount of benefits paid to a claimant and charged to the account of  
32 the appropriate employer exceeds 50% of the total base year, base  
33 week wages paid to the claimant by that employer, then such employer  
34 shall have canceled from his account such excess benefit charges as  
35 specified above.

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

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

44 (3) No employer's rate shall be lower than 5.4% unless assignment  
45 of such lower rate is consistent with the conditions applicable to  
46 additional credit allowance for such year under section 3303(a)(1) of

1 the Internal Revenue Code of 1986 (26 U.S.C. s.3303(a)(1)), any  
2 other provision of this section to the contrary notwithstanding.

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

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

18 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less than  
19 6%, of his average annual payroll;

20 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less than  
21 7%, of his average annual payroll;

22 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less than  
23 8%, of his average annual payroll;

24 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less than  
25 9%, of his average annual payroll;

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

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

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

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

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

38 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less than  
39 20%, of his average annual payroll;

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

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

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

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

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

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

46 (B) If on March 31 of any calendar year the balance in the

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

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

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

34 (E)(i) With respect to experience rating years beginning on or after  
35 July 1, 1986 and before July 1, 1997, the new employer rate or the  
36 unemployment experience rate of an employer under this section shall  
37 be the rate which appears in the column headed by the Unemployment  
38 Trust Fund Reserve Ratio as of the applicable calculation date and on  
39 the line with the Employer Reserve Ratio, as defined in paragraph 4 of  
40 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

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

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

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

(ii) With respect to experience rating years beginning on or after July 1, 1997, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio

1 as of the applicable calculation date and on the line with the Employer  
 2 Reserve Ratio, as defined in paragraph 4 of this subsection  
 3 (R.S.43:21-7 (c)(4)), as set forth in the following table:

4

5 **EXPERIENCE RATING TAX TABLE**

6 **Fund Reserve Ratio<sup>1</sup>**

7

8 6.00% 4.00% 3.00% 2.50% 2.49%

9 Employer and to to to and  
 10 Reserve Over 5.99% 3.99% 2.99% Under  
 11 Ratio<sup>2</sup> A B C D E

12 **Positive Reserve Ratio:**

13 17% and over 0.3 0.4 0.5 0.6 1.2

14 16.00% to 16.99% 0.4 0.5 0.6 0.6 1.2

15 15.00% to 15.99% 0.4 0.6 0.7 0.7 1.2

16 14.00% to 14.99% 0.5 0.6 0.7 0.8 1.2

17 13.00% to 13.99% 0.6 0.7 0.8 0.9 1.2

18 12.00% to 12.99% 0.6 0.8 0.9 1.0 1.2

19 11.00% to 11.99% 0.7 0.8 1.0 1.1 1.2

20 10.00% to 10.99% 0.9 1.1 1.3 1.5 1.6

21 9.00% to 9.99% 1.0 1.3 1.6 1.7 1.9

22 8.00% to 8.99% 1.3 1.6 1.9 2.1 2.3

23 7.00% to 7.99% 1.4 1.8 2.2 2.4 2.6

24 6.00% to 6.99% 1.7 2.1 2.5 2.8 3.0

25 5.00% to 5.99% 1.9 2.4 2.8 3.1 3.4

26 4.00% to 4.99% 2.0 2.6 3.1 3.4 3.7

27 3.00% to 3.99% 2.1 2.7 3.2 3.6 3.9

28 2.00% to 2.99% 2.2 2.8 3.3 3.7 4.0

29 1.00% to 1.99% 2.3 2.9 3.4 3.8 4.1

30 0.00% to 0.99% 2.4 3.0 3.6 4.0 4.3

31 **Deficit Reserve Ratio:**

32 -0.00% to -2.99% 3.4 4.3 5.1 5.6 6.1

33 -3.00% to -5.99% 3.4 4.3 5.1 5.7 6.2

34 -6.00% to -8.99% 3.5 4.4 5.2 5.8 6.3

35 -9.00% to -11.99% 3.5 4.5 5.3 5.9 6.4

36 -12.00% to -14.99% 3.6 4.6 5.4 6.0 6.5

37 -15.00% to -19.99% 3.6 4.6 5.5 6.1 6.6

38 -20.00% to -24.99% 3.7 4.7 5.6 6.2 6.7

39 -25.00% to -29.99% 3.7 4.8 5.6 6.3 6.8

40 -30.00% to -34.99% 3.8 4.8 5.7 6.3 6.9

41 -35.00% and under 5.4 5.4 5.8 6.4 7.0

42 **New Employer Rate** 2.8 2.8 2.8 3.1 3.4

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

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

1 (F)(i) With respect to experience rating years beginning on or after  
2 July 1, 1986 and before July 1, 1997, if the balance of the  
3 unemployment trust fund as of the prior March 31 is negative, the  
4 contribution rate for each employer liable to pay contributions, as  
5 computed under subparagraph (E) of this paragraph (5), shall be  
6 increased by a factor of 10% computed to the nearest multiple of  
7 1/10% if not already a multiple thereof.

8 (ii) With respect to experience rating years beginning on or after  
9 July 1, 1997, if the fund reserve ratio, based on the fund balance as of  
10 the prior March 31, is less than 1.00%, the contribution rate for each  
11 employer liable to pay contributions, as computed under subparagraph  
12 (E) of this paragraph (5), shall be increased by a factor of 10%  
13 computed to the nearest multiple of 1/10% if not already a multiple  
14 thereof.

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

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

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



1 be reduced pursuant to this subparagraph (H) to less than 5.4%. The  
2 amount of the reduction in the employer contributions stipulated by  
3 this subparagraph (H) shall be in addition to the amount of the  
4 reduction in the employer contributions stipulated by subparagraph (G)  
5 of this paragraph (5), except that the rate of contribution of an  
6 employer who has a deficit reserve ratio of negative 35.0% or under  
7 shall not be reduced pursuant to this subparagraph (H) to less than  
8 5.4% and the rate of contribution of any other employer shall not be  
9 reduced to less than 0.0%.

10 On or after April 1, 1996 until December 31, 1996, the contribution  
11 rate for each employer liable to pay contributions, as computed under  
12 subparagraph (E) of this paragraph (5), shall be decreased by a factor  
13 of 25.0% computed to the nearest multiple of 1/10%, except that, if  
14 an employer has a deficit reserve ratio of negative 35.0% or under, the  
15 employer's rate of contribution shall not be reduced pursuant to this  
16 subparagraph (H) to less than 5.4%. The amount of the reduction in  
17 the employer contributions stipulated by this subparagraph (H) shall  
18 be in addition to the amount of the reduction in the employer  
19 contributions stipulated by subparagraph (G) of this paragraph (5),  
20 except that the rate of contribution of an employer who has a deficit  
21 reserve ratio of negative 35.0% or under shall not be reduced pursuant  
22 to this subparagraph (H) to less than 5.4% and the rate of contribution  
23 of any other employer shall not be reduced to less than 0.0%.

24 On or after January 1, 1997 until December 31, 1997, the  
25 contribution rate for each employer liable to pay contributions, as  
26 computed under subparagraph (E) of this paragraph (5), shall be  
27 decreased by a factor of 10.0% computed to the nearest multiple of  
28 1/10%, except that, if an employer has a deficit reserve ratio of  
29 negative 35.0% or under, the employer's rate of contribution shall not  
30 be reduced pursuant to this subparagraph (H) to less than 5.4%. The  
31 amount of the reduction in the employer contributions stipulated by  
32 this subparagraph (H) shall be in addition to the amount of the  
33 reduction in the employer contributions stipulated by subparagraph (G)  
34 of this paragraph (5), except that the rate of contribution of an  
35 employer who has a deficit reserve ratio of negative 35.0% or under  
36 shall not be reduced pursuant to this subparagraph (H) to less than  
37 5.4% and the rate of contribution of any other employer shall not be  
38 reduced to less than 0.0%.

39 On or after January 1, 1998 until December 31, 1999, the  
40 contribution rate for each employer liable to pay contributions, as  
41 computed under subparagraph (E) of this paragraph (5), shall be  
42 decreased by a factor of 20.0% computed to the nearest multiple of  
43 1/10%, except that, if an employer has a deficit reserve ratio of  
44 negative 35.0% or under, the employer's rate of contribution shall not  
45 be reduced pursuant to this subparagraph (H) to less than 5.4%. The  
46 amount of the reduction in the employer contributions stipulated by

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

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

12 If, upon calculating the unemployment compensation fund reserve  
13 ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997,  
14 March 31, 1998 or March 31, 1999, the controller finds that the fund  
15 reserve ratio has decreased to a level of less than 3.00%, the  
16 Commissioner of Labor shall notify the State Treasurer of this fact and  
17 of the dollar amount necessary to bring the fund reserve ratio up to a  
18 level of 3.00%. The State Treasurer shall, prior to March 31, 1997,  
19 March 31, 1998 or March 31, 1999, as applicable, transfer from the  
20 General Fund to the unemployment compensation fund, revenues in  
21 the amount specified by the commissioner and which, upon deposit in  
22 the unemployment compensation fund, shall result, upon recalculation,  
23 in a fund reserve ratio used to determine employer contributions  
24 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of  
25 at least 3.00%.

26 If, upon calculating the unemployment compensation fund reserve  
27 ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, [1998]  
28 2000, the controller finds that the fund reserve ratio has decreased to  
29 a level of less than 3.00%, the Commissioner of Labor shall notify the  
30 State Treasurer of this fact and of the dollar amount necessary to bring  
31 the fund reserve ratio up to a level of 3.00%. The State Treasurer  
32 shall, prior to March 31, [1998] 2000, transfer from the General Fund  
33 to the unemployment compensation fund, revenues in the amount  
34 specified by the commissioner and which, upon deposit in the  
35 unemployment compensation fund, shall result, upon recalculation, in  
36 a fund reserve ratio used to determine employer contributions  
37 beginning July 1, [1998] 2000 of at least 3.00%.

38 (6) Additional contributions.

39 Notwithstanding any other provision of law, any employer who has  
40 been assigned a contribution rate pursuant to subsection (c) of this  
41 section for the year commencing July 1, 1948, and for any year  
42 commencing July 1 thereafter, may voluntarily make payment of  
43 additional contributions, and upon such payment shall receive a  
44 recomputation of the experience rate applicable to such employer,  
45 including in the calculation the additional contribution so made. Any  
46 such additional contribution shall be made during the 30-day period

1 following the date of the mailing to the employer of the notice of his  
2 contribution rate as prescribed in this section, unless, for good cause,  
3 the time for payment has been extended by the controller for not to  
4 exceed an additional 60 days; provided that in no event may such  
5 payments which are made later than 120 days after the beginning of  
6 the year for which such rates are effective be considered in  
7 determining the experience rate for the year in which the payment is  
8 made. Any employer receiving any extended period of time within  
9 which to make such additional payment and failing to make such  
10 payment timely shall be, in addition to the required amount of  
11 additional payment, a penalty of 5% thereof or \$5.00, whichever is  
12 greater, not to exceed \$50.00. Any adjustment under this subsection  
13 shall be made only in the form of credits against accrued or future  
14 contributions.

15 (7) Transfers.

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

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

1 experience of the predecessor employer with respect to the portion of  
2 the organization, trade, assets or business which has been transferred  
3 may be considered indicative of the future employment experience of  
4 the successor in interest. Credit shall be given to the successor in  
5 interest only for the years during which contributions were paid by the  
6 predecessor employer with respect to that part of the organization,  
7 trade, assets or business transferred.

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

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

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

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

43 (C) (i) Notwithstanding the above provisions of this paragraph (1),  
44 during the period starting July 1, 1986 and ending December 31, 1992,  
45 each worker shall contribute to the fund 1.125% of wages paid with  
46 respect to his employment with a governmental employer electing or

1 required to pay contributions or nongovernmental employer, including  
2 a nonprofit organization which is an employer as defined under  
3 R.S.43:21-19(h)(6), regardless of whether that nonprofit organization  
4 elects or is required to finance its benefit costs with contributions to  
5 the fund or by payments in lieu of contributions, after that employer  
6 has satisfied the conditions set forth in subsection R.S.43:21-19(h)  
7 with respect to becoming an employer. Contributions, however, shall  
8 be at the rate of 0.625% while the worker is covered by an approved  
9 private plan under the "Temporary Disability Benefits Law" while the  
10 worker is exempt under section 7 of that law, P.L.1948, c.110  
11 (C.43:21-31) or any other provision of that law; provided that such  
12 contributions shall be at the rate of 0.625% of wages paid with respect  
13 to employment with the State of New Jersey or any other  
14 governmental entity or instrumentality electing or required to make  
15 payments in lieu of contributions and which is covered by the State  
16 plan under the "Temporary Disability Benefits Law," except that, while  
17 the worker is exempt from the provisions of the "Temporary Disability  
18 Benefits Law" under section 7 of that law, P.L.1948, c.110  
19 (C.43:21-31) or any other provision of that law, or is covered for  
20 disability benefits by an approved private plan of the employer, the  
21 contributions to the fund shall be 0.125%.

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

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

1 other provision of that law, or is covered for disability benefits by an  
2 approved private plan of the employer, no contributions shall be made  
3 to the fund.

4 Each worker shall, starting on January 1, 1996 and ending March  
5 31, 1996, contribute to the unemployment compensation fund 0.60%  
6 of wages paid with respect to the worker's employment with a  
7 governmental employer electing or required to pay contributions or  
8 nongovernmental employer, including a nonprofit organization which  
9 is an employer as defined under paragraph (6) of subsection (h) of  
10 R.S.43:21-19, regardless of whether that nonprofit organization elects  
11 or is required to finance its benefit costs with contributions to the fund  
12 or by payments in lieu of contributions, after that employer has  
13 satisfied the conditions set forth in subsection (h) of R.S.43:21-19  
14 with respect to becoming an employer, provided that the contributions  
15 shall be at the rate of 0.10% of wages paid with respect to  
16 employment with the State of New Jersey or any other governmental  
17 entity or instrumentality electing or required to make payments in lieu  
18 of contributions.

19 Each worker shall, starting on January 1, [1998] 2000 contribute  
20 to the unemployment compensation fund 0.40% of wages paid with  
21 respect to the worker's employment with a governmental employer  
22 electing or required to pay contributions or nongovernmental  
23 employer, including a nonprofit organization which is an employer as  
24 defined under paragraph (6) of subsection (h) of R.S.43:21-19,  
25 regardless of whether that nonprofit organization elects or is required  
26 to finance its benefit costs with contributions to the fund or by  
27 payments in lieu of contributions, after that employer has satisfied the  
28 conditions set forth in subsection (h) of R.S.43:21-19 with respect to  
29 becoming an employer, provided that the contributions shall be at the  
30 rate of 0.10% of wages paid with respect to employment with the  
31 State of New Jersey or any other governmental entity or  
32 instrumentality electing or required to make payments in lieu of  
33 contributions.

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

1 from him.

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

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

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

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

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

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

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

21 (ii) (Deleted by amendment, P.L.1996, c.28.)

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

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

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

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

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

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

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

40 (1) Except as hereinafter provided, each employer shall, in addition  
41 to the contributions required by subsections (a), (b), and (c) of this  
42 section, contribute 1/2 of 1% of the wages paid by such employer to  
43 workers with respect to employment unless he is not a covered  
44 employer as defined in section 3 of the "Temporary Disability Benefits  
45 Law" (C.43:21-27 (a)), except that the rate for the State of New  
46 Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first



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

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

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

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

44 (C) The controller may prescribe regulations for the establishment,  
45 maintenance, and dissolution of joint accounts by two or more  
46 employers, and shall, in accordance with such regulations and upon

1 application by two or more employers to establish such an account, or  
2 to merge their several individual accounts in a joint account, maintain  
3 such joint account as if it constituted a single employer's account.

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

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

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

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

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

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

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

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

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

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

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

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

39 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
40 1% of his average annual payroll.

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

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

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

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

27 (ii) If the percentage determined in accordance with paragraph  
28 (E)(1) of this subsection equals or exceeds  $\frac{3}{4}$  of 1% and is less than  
29  $1\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer  
30 rates.

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

42 (iv) If the amount of the State disability benefits fund determined  
43 as provided in paragraph (E)(1) of this subsection is equal to or less  
44 than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case of an  
45 employer whose preliminary rate is determined as provided in (D)(2)  
46 hereof,  $\frac{7}{10}$  of 1% in the case of an employer whose preliminary rate

1 is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the  
2 case of an employer whose preliminary rate is determined as provided  
3 in (D)(4) hereof. Notwithstanding any other provision of law or any  
4 determination made by the controller with respect to any 12-month  
5 period commencing on July 1, 1970, the final rates for all employers  
6 for the period beginning January 1, 1971, shall be as set forth herein.  
7 (cf: P.L.1997, c.255, s.2.

8

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

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

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

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

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

1 or instrumentalities under subsection (e) of this section.

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

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

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

42 (h) Notwithstanding the provisions of the above subsection (g),  
43 commencing July 1, 1986 worker contributions to the unemployment  
44 trust fund with respect to wages paid by any governmental entity or  
45 instrumentality electing or required to make payments in lieu of  
46 contributions, including the State of New Jersey, shall be made in

1 accordance with the provisions of R.S.43:21-7(d)(1)(C) or  
2 R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each  
3 governmental entity or instrumentality electing or required to make  
4 payments in lieu of contributions shall, except during the period  
5 starting January 1, 1993 and ending December 31, 1995 and the period  
6 starting April 1, 1996 and ending December 31, [1997] 1999 or, if the  
7 unemployment compensation fund reserve ratio, as determined  
8 pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases  
9 to a level of less than 4.00% on March 31 of calendar year 1994 or  
10 calendar year 1995, ending July 1 of that calendar year, require  
11 payments from its workers at the following rates of wages paid, which  
12 amounts are to be held in the trust fund maintained by the  
13 governmental entity or instrumentality for payment of benefit costs:  
14 for calendar year [1998] 2000 and each calendar year thereafter,  
15 0.30%.

16 (cf: P.L.1996, c.30, s.7)

17

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

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

25 Beginning April 1, 1996 through December 31, 1996, each  
26 employee shall, in such a manner and at such times as determined by  
27 the commissioner, contribute to the fund an amount equal to 0.6% of  
28 the employee's taxable wages, except that the total amount contributed  
29 to the fund when combined with the employee's contribution made  
30 pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996  
31 through March 31, 1996, shall not exceed 0.6% of the employee's  
32 taxable wages for the 1996 calendar year.

33 Beginning January 1, 1997 through December 31, 1997, each  
34 employee shall, in such a manner and at such times as determined by  
35 the commissioner, contribute to the fund an amount equal to 0.5% of  
36 the employee's taxable wages.

37 Beginning January 1, 1998 through December 31, 1999, each  
38 employee shall, in such a manner and at such times as determined by  
39 the commissioner, contribute to the fund an amount equal to 0.4% of  
40 the employee's taxable wages.

41 Also beginning on January 1, 1993 until December 31, 1995 and  
42 beginning April 1, 1996 until December 31, [1997] 1999, each  
43 employer shall, in such a manner and at such times as determined by  
44 the commissioner, contribute to the fund an amount equal to the  
45 amount that the employer's contribution to the unemployment  
46 compensation fund is decreased pursuant to subparagraph (H) of

1 paragraph (5) of subsection (c) of R.S.43:21-7.

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

13 c. If the total amount of contributions to the fund pursuant to this  
14 section during the calendar year 1993 exceeds \$600 million, all  
15 contributions which exceed \$600 million shall be deposited in the  
16 unemployment compensation fund. If the total amount of  
17 contributions to the fund pursuant to this section during calendar year  
18 1994 or calendar year 1995 exceeds \$500 million, all contributions  
19 which exceed \$500 million shall be deposited in the unemployment  
20 compensation fund. If the total amount of contributions made to the  
21 fund pursuant to this section for the calendar year 1996 [or 1997] ,  
22 1997, 1998 or 1999 exceeds \$330 million, all contributions which  
23 exceed \$330 million in calendar year 1996 [or 1997] , 1997, 1998 or  
24 1999 shall be deposited in the unemployment compensation fund.

25 d. All necessary administrative costs related to the collection of  
26 contributions pursuant to this section shall be paid from the  
27 contributions.

28 (cf: P.L.1996, c.28, s.14.)

29

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

32 32. a. If an employee receives wages from more than one  
33 employer during any calendar year, and the sum of the employee's  
34 contributions deposited in the fund exceeds an amount equal to 0.6%  
35 of the wages determined in accordance with the provisions of  
36 paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year  
37 1993, calendar year 1994 or calendar year 1995, the employee shall be  
38 entitled to a refund of the excess if a claim establishing the employee's  
39 right to the refund is made within two years after the end of the  
40 respective calendar year in which the wages are received and are the  
41 subject of the claim. The commissioner shall refund any overpayment  
42 from the fund without interest.

43 If an employee receives wages from more than one employer during  
44 the calendar year 1996 and the sum of the employee's contributions  
45 deposited in the unemployment compensation fund during the period  
46 January 1, 1996 through March 31, 1996 and the employee's

1 contributions deposited in the health care subsidy fund during the  
2 period April 1, 1996 through December 31, 1996 exceeds an amount  
3 equal to 0.6% of the wages determined in accordance with the  
4 provisions of paragraph (3) of subsection (b) of R.S.43:21-7 which  
5 wages are received during the period January 1, 1996 through  
6 December 31, 1996, the employee shall be entitled to a refund of the  
7 excess if a claim establishing the employee's right to the refund is made  
8 within two years after the end of the respective calendar year in which  
9 the wages are received and are the subject of the claim. The  
10 commissioner shall refund any overpayment without interest from the  
11 unemployment compensation fund or the health care subsidy fund, or  
12 both, as appropriate.

13 If an employee receives wages from more than one employer during  
14 the calendar year 1997, and the sum of the employee's contributions  
15 deposited in the fund exceeds an amount equal to 0.5% of the wages  
16 determined in accordance with the provisions of paragraph (3) of  
17 subsection (b) of R.S.43:21-7 during calendar year 1997, the employee  
18 shall be entitled to a refund of the excess if a claim establishing the  
19 employee's right to the refund is made within two years after the end  
20 of the respective calendar year in which the wages are received and are  
21 the subject of the claim. The commissioner shall refund any  
22 overpayment from the fund without interest.

23 If an employee receives wages from more than one employer during  
24 the calendar year 1998 or 1999, and the sum of the employee's  
25 contributions deposited in the fund exceeds an amount equal to 0.4%  
26 of the wages determined in accordance with the provisions of  
27 paragraph (3) of subsection (b) of R.S.43:21-7 during the calendar  
28 year 1998 or 1999, the employee shall be entitled to a refund of the  
29 excess if a claim establishing the employee's right to the refund is made  
30 within two years after the end of the respective calendar year in which  
31 the wages are received and are the subject of the claim. The  
32 commissioner shall refund any overpayment from the fund without  
33 interest.

34 b. Any employee who is a taxpayer and entitled, pursuant to the  
35 provisions of subsection a. of this section, to a refund of contributions  
36 deducted during a tax year from his wages shall, in lieu of the refund,  
37 be entitled to a credit in the full amount thereof against the tax  
38 otherwise due on his New Jersey gross income for that tax year if he  
39 submits his claim for the credit and accompanies that claim with  
40 evidence of his right to the credit in the manner provided by regulation  
41 by the Director of the Division of Taxation. In any case in which the  
42 amount, or any portion thereof, of any credit allowed hereunder results  
43 in or increases an excess of income tax payment over income tax  
44 liability, the amount of the new or increased excess shall be considered  
45 an overpayment and shall be refunded to the taxpayer in the manner



1 provided by subsection (a) of N.J.S.54A:9-7.  
2 (cf: P.L.1996, c.28, s.15.)

3

4 11. This act shall take effect January 1, 1998, and if enacted after  
5 that date, shall be retroactive to January 1, 1998.

6

7

8

#### STATEMENT

9

10 This bill provides for a continuation of funding for charity care  
11 subsidies to hospitals for two years at \$300 million each year, using  
12 the same methodology and requirements established in P.L.1996, c.28.  
13 The bill also continues funding for the Hospital Relief Fund for 1998  
14 and 1999 at \$71 million in State funds each year, which amount is  
15 matched annually by \$71 million in federal funds. Also, as in 1997, the  
16 bill provides that the funding source for the charity care subsidies and  
17 Hospital Relief Fund will be a combination of monies from the  
18 unemployment compensation fund (\$330 million each year) and the  
19 General Fund (\$41 million each year).

20

21

22

23

24 Provides for charity care subsidies for 1998 and 1999.