



**ANALYSIS OF THE NEW JERSEY BUDGET**

**DEPARTMENT OF LABOR  
AND  
WORKFORCE DEVELOPMENT**

**FISCAL YEAR**

**2016 - 2017**

**PREPARED BY OFFICE OF LEGISLATIVE SERVICES  
NEW JERSEY LEGISLATURE • MAY 2016**

# NEW JERSEY STATE LEGISLATURE

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This report was prepared by the Commerce, Labor and Industry Section of the Office of Legislative Services under the direction of the Legislative Budget and Finance Officer. The primary author was Sarah M. Schmidt. The background paper "Temporary Disability Insurance and Family Leave Insurance: Benefits and Funding" was authored by Gregory L. Williams.

Questions or comments may be directed to the OLS Commerce, Labor and Industry Section (Tel: 609-847-3845) or the Legislative Budget and Finance Office (Tel: 609-847-3105).

# DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Budget Pages..... C-5, C-12 to C-13, C-19 to C-20, C-23,  
D-219 to D-239

## **Fiscal Summary (\$000)**

	Expended FY 2015	Adjusted Appropriation FY 2016	Recommended FY 2017	Percent Change 2016-17
State Budgeted	\$209,237	\$167,338	\$167,338	0.0%
Federal Funds	\$384,017	\$490,237	\$490,237	0.0%
<u>Other</u>	<u>\$213,894</u>	<u>\$293,816</u>	<u>\$290,621</u>	<u>(1.1%)</u>
Grand Total	\$807,148	\$951,391	\$948,196	(0.3%)

## **Personnel Summary - Positions By Funding Source**

	Actual FY 2015	Revised FY 2016	Funded FY 2017	Percent Change 2016-17
State	444	451	454	0.7%
Federal	2,260	2,200	2,198	(0.1%)
<u>Other</u>	<u>345</u>	<u>322</u>	<u>332</u>	<u>3.1%</u>
Total Positions	3,049	2,973	2,984	0.4%

FY 2015 (as of December) and revised FY 2016 (as of January) personnel data reflect actual payroll counts. FY 2017 data reflect the number of positions funded.

Link to Website: <http://www.njleg.state.nj.us/legislativepub/finance.asp>

## Highlights

- The Governor's FY 2017 Budget recommends \$948.2 million in State, dedicated, and federal funds be appropriated for the Department of Labor and Workforce Development in FY 2017, which is a \$3.195 million (0.3 percent) decrease from the current year's adjusted appropriations. The Executive anticipates the department receiving \$490.2 million in federal funds, comprising over half, or 51.7 percent, of the department's funding. The remainder of funding consists of \$290.6 million (30.6 percent) in dedicated revenues; \$165.1 million (17.4 percent) in State General Fund appropriations; and \$2.2 million (0.02 percent) in Casino Revenue Fund appropriations. Both the dedicated revenues and the State General Fund appropriations include transfers from special revenue funds, including the State Disability Benefits Fund, the Unemployment Compensation Auxiliary Fund, the Workforce Development Partnership Fund, and the Supplemental Workforce Fund for Basic Skills.
- The FY 2017 Budget Recommendation anticipates State and federal funding identical to the FY 2016 adjusted appropriations. However, estimated FY 2017 appropriations from dedicated revenues are \$3.195 million less (1.1 percent) than the FY 2016 adjusted funding of \$293.8 million. This funding decline is reflective of a \$195,000 (100 percent) decrease in "All Other Funds" appropriations attributable to the Office of Research and Information and a \$3 million (18.6 percent) decrease in "All Other Funds" appropriations attributable to Unemployment Insurance (UI) collection activities.
- The Executive recommends a total of \$47.794 million in Grants-in-Aid funding for Vocational Rehabilitation Services, an amount equal to the FY 2016 Appropriations Act. Various language provisions allocate a portion of this funding to specific program components, as follows: \$6.168 million for Extended Employment client slots transferred from the Department of Human Services (DHS); \$24.012 million for Extended Employment (Center based jobs) client slots funded by the department prior to the transfer of client slots from DHS; and \$5 million for Extended Employment, Extended Employment Transportation, and Long-Term Follow Along Services. The FY 2017 Budget Recommendation deletes language that requires certain of those allocations to be paid out in twelve equal monthly amounts. The removed language, along with the existing language, was inserted in the FY 2016 Appropriations Act by the Legislature to ensure that extended employment service providers received funding in a timely manner.
- The FY 2017 Budget Recommendation includes new language that authorizes additional appropriations as necessary from the Workforce Development Partnership Fund (WDPF) to provide the State match for federal funding of Vocational Rehabilitation (VR) Services. While appropriations used for State match requirements have remained relatively level since FY 2003, the department has indicated that federal grant awards for VR Services have slowly increased, requiring the department to have greater access to funds for State match purposes in order to avoid the loss of federal VR funding.

The Executive anticipates approximately \$56 million in federal funding in FY 2017 for VR Services (page D-234). Funding for VR Services is provided on a matching basis, with approximately 79 percent provided by the federal government and 21 percent

## Highlights (Cont'd)

provided by the State, leaving the department responsible for a State match of approximately \$14.9 million in FY 2017. The Executive recommends approximately \$4.3 million for State match purposes of federal funds for VR Services in FY 2017 (page D-234), \$10.6 million less than the amount needed to secure the total \$56 million in federal VR funding.

- The Executive recommends a \$3 million reduction in the support of UI collection activities in FY 2017. This decline reflects an equal decrease in appropriated dedicated receipts from the Unemployment Compensation Auxiliary Fund (UCAF), triggered by a limited fund balance in the UCAF for expenditures and transfers to other funds in FY 2017. According to the department, this appropriation reduction is offset by federal carryforward funds from the American Recovery and Reinvestment Act of 2009, higher than expected federal grant dollars for UI activities, and lower Information Technology costs in FY16, all of which will permit the UI program to operate without a deficit in FY 2017.
- Supplementary budget information (contained in the "Other Governmental Funds and Proprietary Funds" section of the FY 2017 Budget Recommendation, available in the online version only) indicates that the Workforce Development Partnership Fund (WDFP) will open FY 2017 with an estimated balance of \$34.8 million, and generate \$115.9 million in payroll tax revenues plus investment earnings while expending \$35.8 million on statutorily designated purposes and transferring \$93.6 million to the General Fund and other funds to support job training and employment programs, including: \$1.85 million to the New Jersey Youth Corps (page D-236); \$64.69 million total to the Work First New Jersey Programs (pages D-236 and D-211); and \$19 million to Vocational Rehabilitation Services (page D-236). These amounts are equal to the appropriations from the WDPF in the FY 2016 Appropriations Act. The fund balance for the end of FY 2017 is estimated to be \$21.3 million.

Supplementary budget information indicates the Supplemental Workforce Fund for Basic Skills (SWFBS) will open FY 2017 with an estimated balance of \$9.7 million, and generate \$32.5 million in payroll tax revenues plus investment earnings while expending \$30.5 million on statutorily designated purposes and transferring \$2 million to other funds. The FY 2017 Budget Recommendation includes multiple language provisions allocating a total of \$23 million of the SWFBS's revenue to specific purposes in FY 2017, including: \$2 million for the Workforce Literacy and Basic Skills Program (page D-235), \$2.2 million to the New Jersey Youth Corps (page D-236), and \$18.8 million to county colleges for operating aid in association with remedial courses (page D-374). These amounts are equal to the appropriations from the SWFBS in the FY 2016 Appropriations Act. The fund balance for the end of FY 2017 is estimated to be \$9.8 million.

The WDPF was created pursuant to P.L.1992, c.43 (N.J.S.A.34:15D-1 et seq.) to provide training grants to disadvantaged and displaced workers, and to employers to offer training to their employees. The SWFBS was created pursuant to P.L.2001, c.152 (N.J.S.A.34:15D-21 et seq.) to provide basic skills training to the workforce. Both the WDPF and the SWFBS are funded by a dedicated assessment on workers and their employers.

## Highlights (Cont'd)

### Background Paper:

- Temporary Disability Insurance and Family Leave Insurance:  
Benefits and Funding.....p. 13

**Fiscal and Personnel Summary**

**AGENCY FUNDING BY SOURCE OF FUNDS (\$000)**

	Expended FY 2015	Adj. Approp. FY 2016	Recom. FY 2017	Percent Change	
				2015-17	2016-17
<b>General Fund</b>					
Direct State Services	\$134,156	\$94,468	\$94,468	(29.6%)	0.0%
Grants-In-Aid	\$72,885	\$70,674	\$70,674	(3.0%)	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
<b>Sub-Total</b>	<b>\$207,041</b>	<b>\$165,142</b>	<b>\$165,142</b>	<b>(20.2%)</b>	<b>0.0%</b>
<b>Property Tax Relief Fund</b>					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
<b>Sub-Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>Casino Revenue Fund</b>	\$2,196	\$2,196	\$2,196	0.0%	0.0%
<b>Casino Control Fund</b>	\$0	\$0	\$0	0.0%	0.0%
<b>State Total</b>	<b>\$209,237</b>	<b>\$167,338</b>	<b>\$167,338</b>	<b>(20.0%)</b>	<b>0.0%</b>
<b>Federal Funds</b>	\$384,017	\$490,237	\$490,237	27.7%	0.0%
<b>Other Funds</b>	\$213,894	\$293,816	\$290,621	35.9%	(1.1%)
<b>Grand Total</b>	<b>\$807,148</b>	<b>\$951,391</b>	<b>\$948,196</b>	<b>17.5%</b>	<b>(0.3%)</b>

**PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE**

	Actual FY 2015	Revised FY 2016	Funded FY 2017	Percent Change	
				2015-17	2016-17
State	444	451	454	2.3%	0.7%
Federal	2,260	2,200	2,198	(2.7%)	(0.1%)
All Other	345	322	332	(3.8%)	3.1%
<b>Total Positions</b>	<b>3,049</b>	<b>2,973</b>	<b>2,984</b>	<b>(2.1%)</b>	<b>0.4%</b>

FY 2015 (as of December) and revised FY 2016 (as of January) personnel data reflect actual payroll counts. FY 2017 data reflect the number of positions funded.

**AFFIRMATIVE ACTION DATA**

Total Minority Percent - Department	45.7%	47.2%	---	---	---
Total Minority Percent - Civil Service Commission	41.5%	40.4%	---	---	---

**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2016</u>	<u>Recomm.</u> <u>FY 2017</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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**ECONOMIC PLANNING AND DEVELOPMENT**

**ALL OTHER FUNDS**

<b>Research and Information</b>	<b>\$195</b>	<b>\$0</b>	<b>(\$195)</b>	<b>(100.0%)</b>	<b>D-225</b>
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This “All Other Funds” appropriations line indicates the non-recurrence of \$195,000 in dedicated grant revenue utilized by the department’s Office of Research and Information and awarded through the Center for Employment Security Education and Research’s (CESER) Information Technology Support Center (ITSC) from the United States Department of Labor (USDOL) Employment and Training Administration.

In July 2014, the department was awarded \$710,500 in federal funding from the ITSC to fully implement the Integrated Workforce Registration System (IWRS) and Workforce Integrated Profile Page (WIPP). The IWRS is a single integrated online registration system that serves as the entry point for all job seekers to a state’s reemployment services, while the WIPP is an individualized webpage that provides job seekers with real time information on local career center events, job matches, training opportunities and labor market information, as well as unemployment insurance claim status. These tools were developed by ITSC and the states of Mississippi and New York as part of the Workforce Connectivity Pilot Program. This program is funded by the USDOL; however, oversight of all sub-grants awarded to individual states is managed by the ITSC.

Under this grant, the ITSC retained certain funds which it used to pay the vendor it contracted with and for the procurement of computer hardware and a software license. The FY 2016 dedicated revenue of \$195,000 reflects the balance appropriated to the department for costs it would incur directly. According to the department, the Office of Research and Information is using these funds to make the State system compatible with the IWRS and WIPP. Furthermore, according to documents received by the Office of Legislative Services, approximately \$23,500 is to be returned to the ITSC to cover costs shifted from the department to ITSC vendors. As of April 26, 2016, the division has expended approximately \$161,000 of the funds.

**ECONOMIC ASSISTANCE AND SECURITY**

**ALL OTHER FUNDS**

<b>Unemployment Insurance</b>	<b>\$16,150</b>	<b>\$13,150</b>	<b>(\$3,000)</b>	<b>(18.6%)</b>	<b>D-229</b>
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This “All Other Funds” appropriations line marks a \$3 million reduction in support of Unemployment Insurance (UI) collection activities in FY 2017. This decline reflects an equivalent decrease in appropriated dedicated receipts from the Unemployment Compensation Auxiliary Fund (UCAF; page C-12), triggered by a limited fund balance in the UCAF for expenditures and transfers to other funds in FY 2017.



**Significant Changes/New Programs (\$000) (Cont'd)**

<u>Budget Item</u>	<u>Adj. Approp. FY 2016</u>	<u>Recomm. FY 2017</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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The UCAF, established in subsection (g) of N.J.S.A.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of unemployment insurance regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI trust fund, for the repayment of any interest bearing advances made for the federal unemployment account, and for essential and necessary expenditures in connection with programs, as determined by the commissioner.

Supplementary budget information (contained in the “Other Governmental Funds and Proprietary Funds” section of the FY 2017 Budget Recommendation, available in the online version only) indicates that the UCAF will open FY 2017 with an estimated balance of \$803,824, and accrue \$26.342 million in revenue while transferring \$27.144 million, including \$13 million for UI collection activities and \$150,000 for unemployment compensation earned income tax credit costs, to other funds in FY 2017. The fund balance for the end of FY 2017 is estimated to be \$1,824.

Proposed budget language in the FY 2017 Budget Recommendation, however, authorizes the following \$30.144 million, \$3 million more than the amount identified in the supplementary material, in transfers to other funds from the UCAF in FY 2017: \$1.088 million for administrative and support services (page D-226); \$150,000 for unemployment compensation earned income tax credit costs (page D-229); \$16 million for certain UI collection activities (page D-229); \$11.818 million for the Division of Vocational Rehabilitation (pages D-235 and D-236); \$50,000 for the Disadvantaged Youth Employment Opportunities Council (page D-236); \$491,000 for the State Board of Mediation (page D-235); \$72,000 for the Council on Gender Parity (page D-235); and \$475,000 for the New Jersey Youth Corps (page D-236). These amounts are equal to the appropriations from the UCAF in the FY 2016 Appropriations Act.

According to the department, this appropriation reduction is offset by federal carryforward funds from the American Recovery and Reinvestment Act of 2009, higher than expected federal grant dollars for UI activities, and lower information technology costs in FY16, all of which will permit the UI program to operate without a deficit in FY 2017.

## Significant Language Changes

### Vocational Rehabilitation Services Grants – Payment Schedule

Revision

2016 Handbook: p. B-123  
2017 Budget: p. D-236

Of the amounts hereinabove appropriated for Vocational Rehabilitation Services, an amount not less than \$6,168,000 shall be allocated for the Extended Employment client slots transferred to the Department of Labor and Workforce Development from the Department of Human Services ~~and shall be paid in twelve equal monthly payments of \$514,000, commencing July 2015. These funds shall be contracted in July and the first payment shall be paid to providers in July 2015.~~

#### Explanation

*According to the department, the FY 2017 Budget Recommendation revises language to provide the department with flexibility in disbursing the FY 2017 allocation of \$6.168 million in Vocational Rehabilitation Services grants for extended employment services, also referred to as sheltered workshop services. The removed language, along with the existing language, was inserted in the FY 2016 Appropriations Act by the Legislature to ensure that extended employment service providers received funding in a timely manner. Under the new budget language, the department can allocate the funds in any amount, at any time throughout the fiscal year. According to the department, the language revision will allow for the necessary staff time to finalize contracts and more efficiently manage cash flow throughout the fiscal year. The change in language may result in less predictable and less favorable cash flow for providers.*

*The funds in this language provision support the extended employment client slots transferred to the department from the Department of Human Services (DHS) beginning in FY 2015. Extended employment services, through 100 percent State funds, provide long-term employment services in occupation-oriented facilities operated by non-profit service providers, which, except for staff, employ only individuals with significant disabilities at subminimum wages.*

*The existing FY 2017 budget language reflects the implementation of a plan to transition extended employment services and related ancillary services from the DHS to the department as required by language included in the FY 2014 Appropriations Act (see page B-117 of the FY 2014 Appropriations Handbook). The FY 2014 language was necessary because DHS had developed new guidelines that proposed eliminating the funding for clients who chose to be employed in extended employment programs, as opposed to community settings during the day. The FY 2014 language required that all clients currently choosing to be employed in extended employment programs and receiving services from DHS had to continue to be able to access extended employment programs and be provided transportation to these programs. Additionally, any new clients served by*

EXPLANATION: FY 2016 language not recommended for FY 2017 denoted by strikethrough.  
Recommended FY 2017 language that did not appear in FY 2016 denoted by underlining.

**Significant Language Changes (Cont'd)**

*DHS had to be provided with the opportunity to access extended employment programs and be provided transportation to these programs.*

*The FY 2015 Appropriations Act included a \$5.54 million shift in Grants-in-Aid funding for Vocational Rehabilitation Services from the Division of Developmental Disabilities in DHS to the Division of Vocational Rehabilitation Services in the department. Budget language in the FY 2016 Appropriations Act and FY 2017 Budget Recommendation increased this amount to \$6.168 million, approximately 13 percent of the total FY 2017 Grants-in-Aid funding for Vocational Rehabilitation Services.*

*The Governor’s FY 2017 Budget Recommendation provides a total of \$47.794 million in Grants-in-Aid funding for Vocational Rehabilitation Services, of which \$19 million is from the Workforce Development Partnership Fund, \$9.114 million is from the Unemployment Compensation Auxiliary Fund (see language provisions, page D-236), and the balance of \$19.68 million is from the General Fund. Various language provisions allocate a portion of this funding to specific program components, as follows: \$6.168 million for Extended Employment client slots transferred from the DHS; \$24.012 million for Extended Employment (Center based jobs) client slots; and \$5 million for Extended Employment, Extended Employment Transportation, and Long-Term Follow Along Services.*

*Grants-In-Aid funding for Vocational Rehabilitation Services is awarded to service providers to support programs and services that assist persons with disabilities to prepare for, obtain, and maintain employment, such as: extended employment services; supported employment services; and independent living centers.*

**Vocational Rehabilitation Services Grants – Payment Schedule**

Revision

2016 Handbook: p. B-123  
2017 Budget: p. D-236

Of the amounts hereinabove appropriated for Vocational Rehabilitation Services, an amount not less than \$24,012,000 shall be allocated for the Division of Vocational Rehabilitation Extended Employment client slots, ~~and shall be paid in twelve equal monthly payments of \$2,001,000, commencing July 2015. These funds shall be contracted in July and the first payment shall be paid to providers in July 2015.~~

**Explanation**

*According to the department, the FY 2017 Budget Recommendation revises language to provide the department with flexibility in disbursing the FY 2017 allocation of \$24.012 million in Vocational Rehabilitation Services grants for extended employment services. The removed language, along with the existing language, was inserted in the FY 2016 Appropriations Act by the Legislature to*

EXPLANATION: FY 2016 language not recommended for FY 2017 denoted by strikethrough. Recommended FY 2017 language that did not appear in FY 2016 denoted by underlining.

## Significant Language Changes (Cont'd)

*ensure that extended employment service providers received funding in a timely manner. Under the new budget language, the department can allocate the funds in any amount, at any time throughout the fiscal year. According to the department, the language revision will allow for the necessary staff time to finalize contracts and more efficiently manage cash flow throughout the fiscal year. The change in language may result in less predictable and less favorable cash flow for providers.*

*The \$24.012 million allocated in this language provision accounts for approximately 50 percent of the total FY 2017 Grants-in-Aid funding for Vocational Rehabilitation Services. These funds support Extended Employment client slots funded by the department prior to the transfer of clients from DHS. Together with the previous language provision change, this language provision guaranteed levels of funding for each group of clients. In addition, another language provision (page D-235) requires the department to consult with providers and to give prior notice to the Joint Budget Oversight Committee before revising funding allocations, in the interest of fairness and adequacy of services.*

### Vocational Rehabilitation Services – Additional Matching Funds

Addition

2016 Handbook: -  
2017 Budget: p. D-236

[In addition to the amount hereinabove appropriated for Vocational Rehabilitation Services, such sums as may be necessary to allow for the matching of federal funds made available pursuant to 29 USC § 730 are hereby appropriated from the Workforce Development Partnership fund, subject to the approval of the Director of the Division of Budget and Accounting.](#)

### Explanation

*The FY 2017 Budget Recommendation includes new language that authorizes additional appropriations to the department if necessary from the Workforce Development Partnership Fund (WDPF) to provide the State match for federal funding of Vocational Rehabilitation (VR) Services. While appropriations used for State match requirements have remained relatively level since FY 2003, the department has indicated that federal grant awards for VR Services have slowly increased, requiring the department to have greater access to funds for State match purposes in order to avoid the loss of federal VR funding.*

*The Executive anticipates approximately \$56 million in federal funding in FY 2017 for VR Services (page D-234). Funding for VR Services is provided on a matching basis, with approximately 79 percent provided by the federal government and 21 percent provided by the State, leaving the department responsible for a State match of approximately \$14.9 million in FY 2017. The Executive recommends*

EXPLANATION: FY 2016 language not recommended for FY 2017 denoted by strikethrough. Recommended FY 2017 language that did not appear in FY 2016 denoted by underlining.

**Significant Language Changes (Cont'd)**

*approximately \$4.3 million explicitly for purposes of matching federal funds for VR Services in FY 2017 (page D-234), \$10.6 million less than the amount needed to secure the total \$56 million in federal VR funding.*

*Furthermore, pursuant to federal requirements, State funding of traditional extended employment services within the Division of Vocational Rehabilitation Services cannot be used as a State match for federal VR funding. The Executive anticipates using approximately 74 percent, or \$35.180 million, of the \$47.794 million Grants-in-Aid funding for Vocational Rehabilitation Services in FY 2017 for extended employment activities.*

*The WDPF was created pursuant to P.L.1992, c.43 (N.J.S.A.34:15D-1 et seq.) to provide training grants to disadvantaged and displaced workers, and to employers to offer training to their employees. The WDPF is funded by a dedicated assessment on workers and their employers. Supplementary budget information (contained in the “Other Governmental Funds and Proprietary Funds” section of the FY 2017 Budget Recommendation, available in the online version only) indicates that the WDPF will open FY 2017 with an estimated balance of \$34.8 million, and generate \$115.9 million in payroll tax revenues plus investment earnings while expending \$35.8 million on statutorily designated purposes and transferring \$93.6 million to the General Fund and other funds to support job training and employment programs. The fund balance for the end of FY 2017 is estimated to be \$21.3 million. This balance should be adequate to support any need for additional State matching funds during FY 2017.*

**New Jersey Community College Consortium – State Agency Contracts**

Revision

2016 Handbook: p. E-3  
2017 Budget: p. F-6

29. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), amounts appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Sea Grant Consortium ~~as if it~~ or the New Jersey Community College Consortium for Workforce and Economic Development as if each were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

**Explanation**

*This language revision allows the department or other State agencies to expend State funds for the purchase of contract services from the New Jersey Community College Consortium for Workforce and Economic Development (Consortium) without publically requesting bids for such services. According to the department, this language provision allows the Consortium to avoid a lengthy bidding process when providing basic skills training to employees of a State department or agency.*

EXPLANATION: FY 2016 language not recommended for FY 2017 denoted by strikethrough. Recommended FY 2017 language that did not appear in FY 2016 denoted by underlining.

## Significant Language Changes (Cont'd)

*The Consortium provides employers with skills training for incumbent or prospective employees. In addition, the Consortium helps veterans, the unemployed, and the underemployed receive training that coincides with skills needed by the State's businesses. Pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21), 13 percent of the funds in the Supplemental Workforce Fund for Basic Skills (SWFBS) are allocated for a non-competitive grant to the Consortium each fiscal year.*

*The SWFBS was created pursuant to P.L.2001, c.152 (N.J.S.A.34:15D-21 et seq.) and is funded from a portion of employer and employee tax contributions. Pursuant to the statute, workers are taxed 0.0175 percent on wages subject to the Unemployment Insurance (UI) tax (\$32,600 in CY2016), while employers are taxed based upon their contribution to the UI trust fund. In addition to the Consortium, the funds collected are statutorily allocated in the following manner: 24 percent to support basic skills training delivered at the State's One-Stop Career Centers; 28 percent to fund basic skills training grants provided by Workforce Investment Boards; 25 percent to Customized Training to fund grants to consortia of labor, business, and community groups providing basic skills training; and 10 percent for administrative costs.*

EXPLANATION: FY 2016 language not recommended for FY 2017 denoted by strikethrough.  
Recommended FY 2017 language that did not appear in FY 2016 denoted by underlining.

## **Background Paper: Temporary Disability Insurance and Family Leave Insurance: Benefits and Funding**

New Jersey is one of five states operating a program of temporary disability insurance (TDI). New Jersey's program provides workers up to 26 weeks of benefits when they are unable to work due to non-occupational, short-term disabilities. New Jersey is also one of three states with a program of paid family leave, also known as "Family Leave Insurance" (FLI). The FLI program provides workers in New Jersey up to six weeks of FLI benefits when taking leave to care for a newborn or newly adopted child or a sick family member. Both programs are administered by the State Department of Labor and Workforce Development ("DOLWD").

### **History of the TDI program**

New Jersey's TDI program was established in 1949 to provide up to 26 weeks of benefits to workers who cannot work due to non-occupational illness or injury. New Jersey was one of only four states, along with California, New York and Rhode Island, that enacted TDI programs in the 1940's. However, the enactment of TDI in these four states, which at the time represented almost one quarter of the nation's population, had a major impact. Because large, national corporations located in those states were required to establish TDI programs for their employees, TDI benefits spread across the United States. This resulted in access to TDI benefits for a majority of all workers in the country, even though only five states required it, Hawaii being the fifth state to adopt a TDI law in 1969.

New Jersey's TDI program provides weekly benefits equal to two thirds of a worker's weekly wage, up to a maximum of 53% of the average wage for all workers, with the maximum benefit now \$615 per week. Historically, more than 100,000 workers received benefits each year (although the number is declining), with benefits exceeding \$400 million in each year since 2000. The average duration of a claim has consistently been ten weeks. When the program started, coverage was given for all disabling conditions except pregnancy, which was added in 1961. Pregnancy, childbirth, and complications of childbirth currently account for about one quarter of all claims and benefits.

Most New Jersey employers participate in the State-operated plan ("State plan"), but some employers use the "private plan" option of purchasing insurance from private insurance companies. Employers may use a private plan only if: (1) workers receive benefits at least equal to State plan benefits; (2) workers pay no more to the employer than they would pay in TDI taxes under the State plan; and (3) eligibility standards for the private plan benefits are no more stringent than State plan standards.

Currently, 98% of employers, employing four out of five workers in the State, use the State plan. This was not always the case: when the TDI program started, more than a quarter of all employers opted for private plans, covering more than 70% of all workers. As the cost of private plan coverage increased and many insurers chose not to compete with the State plan, a growing number of employers, especially small employers, switched to State plan coverage.

### **TDI program finances**

The TDI program is funded entirely by worker and employer payroll taxes, with the revenues deposited into the State Disability Benefits Fund (SDBF, or "TDI fund"). Until 2012, the taxes were set as follows: a "tax base" of all earnings of a worker up to 28 times the average weekly wage for all workers was subject to a worker tax of 0.5%. In 2011, the tax base was the first \$29,600 of a workers' pay, making the maximum annual worker tax \$148. Employers

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paid from 0.1% to 0.75% of the tax base, from \$30 to \$222, based on the employer's "experience rating," that is, the amount of benefits paid to the employer's employees compared to TDI taxes paid on behalf of those employees, adjusted further based on the condition of the TDI fund. In most years, workers paid a majority of the TDI taxes.

As tax revenues usually exceeded benefit costs, by the end of FY 1996 the TDI fund year-end balance had built up to \$346 million, an amount almost equal to total TDI benefits paid out that year. In 1994, under P.L.1994, c.112, \$100 million was "borrowed" from the TDI fund to repay a 1989 diversion from the unemployment insurance (UI) fund which had been ruled illegal by the U.S. Department of Labor. This was followed by the enactment of P.L.1996, c.47, which "repaid" the \$100 million to the TDI fund, but simultaneously transferred \$250 million out of the TDI fund with no payback provision, leaving the fund balance reduced to \$149 million at the end of FY1997.

This diversion from the TDI fund, and the diversions that followed, caused no increase in employer taxes, because the diversion laws required that employer TDI taxes be calculated as if the diverted moneys were still in the fund. As a result, employer TDI taxes declined for the first four years after the diversions began, and remained substantially lower than the worker TDI taxes, with worker taxes providing approximately 60% of revenues from 2000 to 2010.

This was followed by a series of eight transfers of moneys out of the TDI fund over a ten year period, mostly authorized by provisions in annual appropriations acts. The transfers resulted in a total diversion of \$773 million from the TDI fund. Combined with the much larger \$4.7 billion diverted from the UI fund, and \$70 million diverted from a workers' compensation fund, a total of \$5.5 billion was diverted from worker benefit funds to the General Fund from 1992 through 2010.

The Legislature responded to those massive diversions of worker benefit funds, and declining balances in the funds, by passing SCR-60 of 2009. SCR-60 put a ballot initiative before the State's voters amending the State Constitution to require that all payroll taxes be dedicated to worker benefits and ban any diversion of those taxes from the purpose of paying benefits. A large majority voted in the 2010 election to enact that constitutional amendment. (Article VIII, Section II, paragraph 8.)

With the diversions ended by the constitutional amendment and the TDI fund balance again growing, the Legislature enacted P.L.2011, c.88, which provided that TDI worker tax rates would be set based on anticipated need. That law required that the worker TDI tax rate be set anew each year at a level needed to raise revenues equal to 120% of anticipated benefit payments and 100% of anticipated administration cost, minus the remaining balance in the TDI fund from the previous year. This had two effects: (1) ending accumulations in the TDI fund beyond what is needed for benefits; and (2) reducing worker TDI taxes. The history of those tax reductions are discussed further below in connection with worker FLI taxes.

### **TDI Program Staffing Levels and Administrative Efficiency**

Efficiency in processing TDI claims has declined in recent years. The most recent report from the DOWLD shows the average number of days to process a TDI claim rose from 12.7 days in 2010 to 18.5 days in 2014 (See Table 1). In 2010, 72% of TDI eligibility determinations were made within 14 days. By 2014, that percentage had fallen to 53%.



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**Table 1**  
**Average Length of Time to make original TDI**  
**Benefit Eligibility Determination under the State plan, 2010 to 2014**

Number of days to make to make original eligibility determinations	2010 Claims		2011 Claims		2012 Claims		2013 Claims		2014 Claims	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
14 or less	88,456	72.4%	77,525	65.1%	72,529	62.4%	68,191	58.8%	59,091	52.7%
15 - 21	11,927	9.8%	12,474	10.5%	12,866	11.1%	12,620	10.9%	10,445	9.3%
22 - 28	10,920	8.9%	13,399	11.3%	13,473	11.6%	16,864	14.5%	16,605	14.8%
29 - 35	4,692	3.8%	7,325	6.2%	8,205	7.1%	8,470	7.3%	12,371	11.0%
36 - 43	2,700	2.2%	3,163	2.7%	3,604	3.1%	3,886	3.3%	6,125	5.5%
44 - 49	1,526	1.2%	2,134	1.8%	2,287	2.0%	2,535	2.2%	3,024	2.7%
50 - 56	1,040	0.9%	1,473	1.2%	1,493	1.3%	1,815	1.6%	2,108	1.9%
57 or more	903	0.7%	1,527	1.3%	1,790	1.5%	1,687	1.5%	2,349	2.1%
<b>Total</b>	<b>122,164</b>	<b>100.0%</b>	<b>119,020</b>	<b>100.0%</b>	<b>116,247</b>	<b>100.0%</b>	<b>116,068</b>	<b>100.0%</b>	<b>112,118</b>	<b>100.0%</b>
Average number of days	12.7		14.7		15.4		16.2		18.5	

Source "Temporary Disability Insurance Workload in 2014 Summary Report" Table 2. October 2015, NJDOLWD.

The slowing of the processing of claims may be related to staff reductions. The number of personnel administering the State TDI plan declined from 170 in FY 2008 to 135 in FY 2015, a decline of 21%. This is part of a longer term decline since the personnel for the State plan peaked at 203 in 1990. Personnel for the regulation of private TDI plans also declined, from a peak strength of 99 in FY1987 down to 42 in FY 2015.

There has also been a significant decline in the rate of use of TDI benefits. There were 144,618 eligible TDI claims in 1987, which was the peak year for the number of TDI claims. That represented 5.9% of the 2,449,200 workers covered by TDI that year. In the following years, the number of claims declined even as the number of covered workers increased. By 2012, 98,082 claims were filed out of a covered worker population that had risen to 2,741,300, reducing the percentage of covered workers with eligible claims to 3.6%, which is 39% less than in 1987.

**Table 2**  
**Share of TDI-Covered Workers with Claims**

CY	Number of TDI-Covered Workers	Eligible TDI Claims	Percent of workers with claims
1987	2,449,200	144,618	5.9%
1994	2,459,500	122,400	5.0%
2000	2,805,600	122,561	4.4%
2007	2,870,500	116,218	4.0%
2012	2,741,300	98,082	3.6%

Sources: NJDOL Statistical Review and answers to OLS Questions

As noted before, all TDI program administrative costs are supported by TDI payroll taxes, at no cost to the General Fund. This includes all costs of personnel and publicizing the program. Total administrative costs have consistently been below 10% of benefits costs and far below the limit placed on those costs by the TDI law. That limit on administrative costs is

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0.1% of total wages subject to TDI taxes, allowing more than \$60 million per year from 2005 forward. In that time period, annual TDI administrative expenditures have never reached the level of \$40 million. Administrative expenditures for TDI could have been increased by more than \$20 million per year at no cost to the General Fund and with no change in the TDI law.

### History of the FLI Program

Interest in family leave legislation in this State dates back at least to the enactment of P.L.1989, c.261, the New Jersey "Family Leave Act" ("FLA"). The FLA provides a worker with 12 weeks of unpaid leave to care for a newborn or newly adopted child or sick family member. The FLA's major limitations are: (1) that it does not cover employees of an employer with less than 50 employees; and (2) it does not provide time off for a worker's own disability, including pregnancy. New Jersey workers obtained unpaid leave for their own disabilities four years later, with the enactment in 1993 of the federal Family and Medical Leave Act ("FMLA"). The FMLA, however, continued to exclude employees of any employer with less than 50 employees.

The borrowing of \$100 million from the TDI fund in 1994, followed by the permanent transfer of \$250 million out of the fund in 1995, as described above, led legislators to consider the use of those diverted funds to finance paid family leave (later called family leave insurance – "FLI"). The first New Jersey FLI bill, A-3016 of 1997, would have funded FLI benefits by requiring the repayment to the TDI fund of the diverted \$250 million. It was expected that the \$250 million could have funded FLI benefits on a five-year trial basis, from 1998 through 2002, while possible long-range, alternative funding sources were explored.

Various FLI bills were proposed over the next nine years, each offering 12 weeks of FLI benefits funded through a combination of worker and employer taxes. The bills proved controversial with respect to anticipated costs. While survey and demographic data were used by the Office of Legislative Services to estimate that the cost of FLI would be about one third of the cost of the existing TDI program, concerns persisted that the cost would be higher. Those concerns were largely alleviated as the OLS estimates were found to be consistent the actual costs of the California FLI program, which went into effect in 2004.

The New Jersey FLI program was established in 2009 with the enactment of P.L.2008, c.17. The New Jersey program provides a worker up to six weeks of FLI benefits at a rate equal to the TDI rate of two thirds of the workers' weekly wage up to a maximum of 53% of the average weekly wage in the State, or \$615 per week. Unlike TDI, the FLI program is funded by worker taxes only, with no charge to employers. The six-week benefit duration and the exclusive reliance on worker taxes of New Jersey's TDI program are the same as the other two existing FLI state programs: California's program established in 2004, and Rhode Island's program established in 2014.

Eligible FLI claims rose from 30,200 in 2010 to 32,200 in 2014, while total FLI benefits rose from \$71.9 million to \$83.9 million. More than 80% of claims were for care of newborn and newly adopted children, with the remaining claims for care of sick family members. While permitted, private plans for FLI are rare compared to TDI private plans, with less than half of one percent of FLI-covered workers in private plans.

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**FLI program finances**

P.L.2008, c.17 provided for the funding of the FLI program through a FLI tax paid by workers on the same “tax base” as used for the TDI tax: all earnings of a worker up to 28 times the average weekly wage for all workers, or \$29,700 in 2010. That law provided a tax rate of 0.09% in 2009, the first year of the program, in which FLI benefits would be paid only during the second half of that year, and a rate of 0.12% in 2011 and all years after. As illustrated in Table 3, this resulted in maximum annual FLI taxes on a worker of \$26 in 2009 and \$36 in 2010. The FLI taxes are deposited in an FLI account of the TDI fund dedicated to the exclusive use of the FLI program.

By 2010, it was apparent that, notwithstanding earlier concerns that FLI benefit costs may exceed FLI revenues, revenues in fact greatly exceeded benefits. According to the 2010 DOLWD report on the TDI and FLI programs, total FLI income from 2009 and 2010 was \$185.2 million, compared to total expenses of \$116.9 million.

**Table 3  
TDI and FLI worker taxes 2008 to 2016**

Calendar Year	UI/TDI/FLI tax base	TDI tax rate	FLI tax rate	Combined Tax Rate	TDI Tax	FLI Tax	Combined Tax	Maximum Weekly Benefit Rate
2008	\$27,700	0.50%	0.00%	0.50%	\$139	\$0	\$139	\$524
2009	\$28,900	0.50%	0.09%	0.59%	\$145	\$26	\$171	\$546
2010	\$29,700	0.50%	0.12%	0.62%	\$149	\$36	\$184	\$561
2011	\$29,600	0.50%	0.06%	0.56%	\$148	\$18	\$166	\$559
2012	\$30,300	0.20%	0.08%	0.28%	\$61	\$24	\$85	\$572
2013	\$30,900	0.36%	0.10%	0.46%	\$111	\$31	\$142	\$584
2014	\$31,500	0.38%	0.10%	0.48%	\$120	\$32	\$151	\$595
2015	\$32,000	0.25%	0.09%	0.34%	\$80	\$29	\$109	\$604
2016	\$32,600	0.20%	0.08%	0.28%	\$65	\$26	\$91	\$615

As FLI revenues exceeded the amount of the funds needed for FLI benefits, the Legislature responded by enacting P.L.2009, c.195. That law required that the worker FLI tax rate be set anew each year at a level needed to raise revenues equal to 120% of anticipated benefit payments and 100% of anticipated administration costs, minus the remaining balance in the FLI account from the previous year. P.L.2009, c.195, by setting a flexible recalculation of FLI taxes based on need, was the model for P.L.2011, c.88, which used the same formula to set worker TDI taxes. Both laws had the same effects on their respective programs of ending excessive accumulations and reducing worker taxes.

Once both adjustable taxes were implemented in 2012, the total worker tax rate that year for the TDI and FLI programs combined, 0.28%, was substantially lower than the 0.5% annual tax that had been imposed on workers for TDI alone in the years before 2012.

This 0.28% tax rate in 2012 was particularly low because it reflected a one-time reduction in taxes caused by the subtraction of a surplus accumulated over a number of years. In the years that followed, total rate of worker taxes increased, but not enough to ever exceed the earlier 0.5% worker tax. Even if the especially low 2012 tax rate is not counted, the

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average combined TDI/FLI annual tax rate for the period from 2013 to 2016 is 0.39%, more than 20% lower than the tax rate workers had paid for TDI alone, before FLI taxes were added. In fact, if workers were still paying the 0.5% tax rate, the revenues would be sufficient to support two times as much in FLI benefits as are currently being provided.

In sum, an extended process occurring over decades has resulted in bringing the system of financing the TDI program and the associated FLI program into closer alignment with the actual amount of revenue needed to fund the benefits offered by those programs.

# OFFICE OF LEGISLATIVE SERVICES

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