


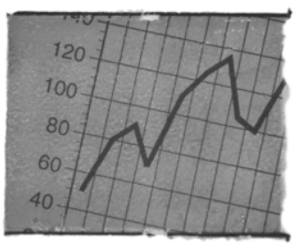



ANALYSIS OF THE NEW JERSEY BUDGET

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

FISCAL YEAR 2017-2018

PREPARED BY OFFICE OF LEGISLATIVE SERVICES
NEW JERSEY LEGISLATURE • APRIL 2017

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Budget Pages....... C-5, C-12 to C-13, C-20, C-23, D-221 to D-242

Fiscal Summary ($000)

	Expended FY 2016	Adjusted Appropriation FY 2017	Recommended FY 2018	Percent Change 2017-18
State Budgeted	$189,700	$168,226	$167,806	(0.2%)
Federal Funds	$371,868	$496,862	$496,862	0.0%
Other	$219,635	$294,115	$293,115	(0.3%)
Grand Total	$781,203	$959,203	$957,783	(0.1%)

Personnel Summary - Positions By Funding Source

	Actual FY 2016	Revised FY 2017	Funded FY 2018	Percent Change 2017-18
State	445	433	437	0.9%
Federal	2,173	2,197	2,189	(0.4%)
Other	323	312	324	3.8%
Total Positions	2,941	2,942	2,950	0.3%

FY 2016 (as of December) and revised FY 2017 (as of January) personnel data reflect actual payroll counts. FY 2018 data reflect the number of positions funded.

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

Highlights

- The Governor's FY 2018 Budget recommends $957.8 million in State, dedicated, and federal funds be appropriated to the Department of Labor and Workforce Development in FY 2018, which is a $1.4 million (0.1 percent) decrease from the current year's adjusted appropriations. The Executive anticipates the department receiving $496.9 million in federal funds, comprising over half, or 51.9 percent, of the department's funding. The remainder of funding consists of $293.1 million (30.6 percent) in dedicated revenues; $165.6 million (17.2 percent) in State General Fund appropriations; and $2.2 million (0.2 percent) in Casino Revenue Fund appropriations. Both the dedicated revenues and the State General Fund appropriations include transfers from special revenue funds, including the Unemployment Compensation Auxiliary Fund, the State Disability Benefits Fund, the Workforce Development Partnership Fund, and the Supplemental Workforce Fund for Basic Skills.

- The FY 2018 Budget Recommendation anticipates federal funding identical to the FY 2017 adjusted appropriations.

- Estimated FY 2018 appropriations from dedicated revenues are $1.0 million less (0.3 percent) than the FY 2017 adjusted funding of $294.1 million. This funding decline is reflective of a $5.0 million (50.0 percent) decrease in support of Vocational Rehabilitation Services offset by a $4.0 million (43.7 percent) increase in "All Other Funds" appropriations for Unemployment Insurance collection activities.

- Recommended FY 2018 appropriations from State revenues are $420,000 less (0.2 percent) than the FY 2017 adjusted funding level of $168.2 million. The funding decline is reflective of a $420,000 (2.6 percent) decrease in salaries and wages within the Civil Service Commission.

- The Governor's FY 2018 Budget Recommendation provides $108.5 million in State, federal, and dedicated funding for Vocational Rehabilitation (VR) Services. This amount is $5.0 million less than the appropriations provided in FY 2017. The decline reflects the proposed discontinuation of a language provision inserted by the Legislature in the FY 2017 Appropriations Act that appropriated $5.0 million from the dedicated Workforce Development Partnership Fund to VR Services. Of the $5.0 million, the discontinued language allocated $3.6 million for extended employment client slots originally transferred to the department from the Department of Human Services in FY 2015 and $1.4 million for extended employment transportation. Extended employment is also referred to as sheltered workshop services.

- The Executive recommends approximately $48.5 million in grant funding for Vocational Rehabilitation (VR) Services. Various language provisions allocate a portion of this funding to specific program components, as follows: $6.2 million for extended employment client slots transferred from the Department of Human Services in FY 2015; $24.0 million for extended employment client slots already funded by the department prior to the transfer of client slots from DHS in FY 2015; and $5.0 million for extended employment, extended employment transportation, and long-term follow along services. The FY 2018 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 2017

Highlights (Cont'd)

Appropriations Act by the Legislature to ensure that extended employment service providers received funding in a timely manner.

- The Executive recommends a $4.0 million "All Other Funds" appropriation increase in support of Unemployment Insurance (UI) collection activities in FY 2018. There is an equivalent increase in appropriated dedicated receipts from the Unemployment Compensation Auxiliary Fund (UCAF). According to the Office of Management and Budget, the increase in UCAF funding reflects a shift from federal resources. The State receives a base federal funding amount for the operation of the UI program, with additional funds distributed each quarter for actual UI claims workload above the base. As New Jersey's unemployment rate has improved, federal UI funding has declined. Given that the department anticipates exhausting all available federal carryforward balances in FY 2017, it instead plans to utilize more of the UCAF revenue in FY 2018 to support the administration of UI activities. The department anticipates an unchanged $156.3 million in federal UI funding in FY 2018.

- The "Supplementary Information" section in the FY 2018 Governor's Budget, available online, includes projections of the FY 2018 financial performance of several special revenue funds administered by the department that are the depositories of revenues predominantly collected from payroll assessments on workers and their employers. The following table summarizes the funds' anticipated FY 2018 financial performance.

FY 2018 Anticipated Financial Performance of Special Revenue Funds Holding Payroll Assessment Collections (in $ Thousands)

Fund	Opening Balance	Revenues	Expenditures	Transfers to Other Funds	Closing Balance
State Disability Benefits Fund	$191,449	$589,470	$560,000	$56,956*	$163,963
Supplemental Workforce Fund for Basic Skills	$13,607	$33,237	$30,476	$2,000	$14,368
Unemployment Insurance Compensation Trust Fund	$2,495,520	$2,352,202	$2,305,000	$0	$2,542,722
Workforce Development Partnership Fund	$36,507	$121,583	$35,800	$93,589	$28,701

* Transfers are in compliance with Article VIII, Section II, paragraph 8 of the State Constitution and used for the administrative expenses of the State Disability Insurance Plan and the Private Disability Insurance Plan.

Background Paper:

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS ($000)

	Expended FY 2016	Adj. Approp. FY 2017	Recom. FY 2018	Percent Change 2016-18	Percent Change 2017-18
General Fund					
Direct State Services	$114,509	$94,684	$94,264	(17.7%)	(0.4%)
Grants-In-Aid	72,995	71,346	71,346	(2.3%)	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%
Sub-Total	**$187,504**	**$166,030**	**$165,610**	**(11.7%)**	**(0.3%)**
Property Tax Relief Fund					
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%
Sub-Total	**$0**	**$0**	**$0**	**0.0%**	**0.0%**
Gubernatorial Elections Fund	$0	$0	$0	0.0%	0.0%
Casino Revenue Fund	$2,196	$2,196	$2,196	0.0%	0.0%
Casino Control Fund	$0	$0	$0	0.0%	0.0%
State Total	**$189,700**	**$168,226**	**$167,806**	**(11.5%)**	**(0.2%)**
Federal Funds	$371,868	$496,862	$496,862	33.6%	0.0%
Other Funds	$219,635	$294,115	$293,115	33.5%	(0.3%)
Grand Total	**$781,203**	**$959,203**	**$957,783**	**22.6%**	**(0.1%)**

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2016	Revised FY 2017	Funded FY 2018	Percent Change 2016-18	Percent Change 2017-18
State	445	433	437	(1.8%)	0.9%
Federal	2,173	2,197	2,189	0.7%	(0.4%)
All Other	323	312	324	0.3%	3.8%
Total Positions	**2,941**	**2,942**	**2,950**	**0.3%**	**0.3%**

FY 2016 (as of December) and revised FY 2017 (as of January) personnel data reflect actual payroll counts. FY 2018 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	44.5%	44.9%	N/A	----	----

Significant Changes/New Programs ($000)

Budget Item	Adj. Approp. FY 2017	Recomm. FY 2018	Dollar Change	Percent Change	Budget Page
ECONOMIC ASSISTANCE AND SECURITY					
ALL OTHER FUNDS					
Unemployment Insurance	**$9,150**	**$13,150**	**$4,000**	**43.7%**	**D-231**

This "All Other Funds" appropriations line is recommended to receive a $4.0 million increase in support of Unemployment Insurance (UI) collection activities in FY 2018. There is an equivalent increase in appropriated dedicated receipts from the Unemployment Compensation Auxiliary Fund (UCAF; page C-12). According to the Office of Management and Budget, the increase in UCAF funding reflects a shift from federal resources. The State receives a base federal funding amount for the operation of the UI program, with additional funds distributed each quarter for actual UI claims workload above the base. As New Jersey's unemployment rate has improved, federal UI funding has declined. Given that the department anticipates exhausting all available federal carryforward balances in FY 2017, it instead plans to utilize more of the UCAF revenue in FY 2018 to support the administration of UI activities. The department anticipates an unchanged $156.3 million in federal UI funding in FY 2018.

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.

The Administration estimates that the UCAF will have $27.3 million in FY 2018 resources and transfer $27.2 million to other funds leaving a projected fund balance of $133,414 at the end of FY 2018. The FY 2016 closing balance was $4.7 million, and the FY 2015 closing balance was $6.6 million (Page 111 of the "Supplementary Information" section of the FY 2018 Governor's Budget, available online).

Proposed budget language in the FY 2018 Budget Recommendation, however, authorizes the following $30.2 million, $3.0 million more than the amount identified in the supplementary material, in transfers to other funds from the UCAF in FY 2018**:** $1.1 million for administrative and support services (page D-228); $150,000 for notifying unemployment compensation recipients of the availability of the earned income tax credit (page D-231); $16.0 million for certain UI collection activities (Page D-232); $11.8 million for the Division of Vocational Rehabilitation (pages D-237 and D-238); $50,000 for the Disadvantaged Youth Employment Opportunities Council (page D-238); $491,000 for the Board of Mediation (page D-238); $72,000 for the Council on Gender Parity (page D-237); and $475,000 for the New Jersey Youth Corps (page D-238). These amounts are equal to the FY 2017 appropriations.

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

Budget Item	Adj. Approp. FY 2017	Recomm. FY 2018	Dollar Change	Percent Change	Budget Page
MANPOWER AND EMPLOYMENT SERVICES					
ALL OTHER FUNDS					
Vocational Rehabilitation Services	**$10,000**	**$5,000**	**($5,000)**	**(50.0%)**	**D-237**

The $5.0 million decline reflects the proposed discontinuation of a language provision (page D-238) inserted by the Legislature in the FY 2017 Appropriations Act that appropriated an additional $5.0 million from the dedicated Workforce Development Partnership Fund (WDPF) to Vocational Rehabilitation (VR) Services. Of the $5.0 million, the language allocated $3.6 million for extended employment client slots transferred to the department from the Department of Human Services (DHS) in FY 2015 and $1.4 million for extended employment transportation.

Extended employment services, also referred to as sheltered workshop services, 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. Extended employment services are funded through 100 percent State funds.

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 offering training opportunities to their employees. The WDPF is funded by a dedicated assessment on workers and their employers.

The Administration estimates that the employee and employer assessment revenues and investment earnings would generate approximately $121.6 million in the WDPF, a special revenue fund, in FY 2018. In addition, $36.5 million is estimated to be carried over from FY 2017. Transfers to other funds would total approximately $93.6 million, or 77 percent of the fund's anticipated revenue. Furthermore, $35.8 million is estimated to be spent on WDPF statutory expenditures. The anticipated year-end fund balance in FY 2018 is approximately $28.7 million (Page 96 of the "Supplementary Information" section in the FY 2018 Governor's Budget, available online).

WDPF moneys are statutorily allocated as follows: Customized Training, 42 percent; Employment and Training Services for Dislocated Workers, 25 percent; administration, 10 percent; Employment and Training Services for Disadvantaged Workers, 6 percent; individual programs approved by the commissioner, 5.5 percent; Youth Transitions to Work Program, 5 percent; Occupational Safety and Health Training, 3 percent; New Jersey Innovation and Research Fellowship Program, 3 percent; and annual evaluation of the WDP program by the State Employment Training Commission, 0.5 percent.

The Governor's FY 2018 Budget Recommendation transfers a total of $93.6 million of WDPF balances to non-statutory purposes in FY 2018, including language provisions transferring: $1.9 million to the New Jersey Youth Corps (page D-238); $64.7 million total to the Work First New

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

Budget Item	Adj. Approp. FY 2017	Recomm. FY 2018	Dollar Change	Percent Change	Budget Page

Jersey programs (pages D-238 and D-214); and $19.0 million to VR Services (page D-238). The amounts to be transferred out of the WDPF are identical to the FY 2017 amounts, except that the amount to be transferred to VR Services is $5.0 million less, as shown in the line above.

GENERAL GOVERNMENT SERVICES

DIRECT STATE SERVICES

Budget Item	Adj. Approp. FY 2017	Recomm. FY 2018	Dollar Change	Percent Change	Budget Page
Salaries and Wages	**$15,882**	**$15,462**	**($420)**	**(2.6%)**	**D-241**

The Salaries and Wages appropriation for the Civil Service Commission is proposed to decrease by $420,000 in FY 2018. Divisions with decreases in salaries and wages are as follows: a) General Administration, the Division of Agency Services, and the Division of Test Development and Analytics, whose recommended appropriation of $17.1 million is $300,000 less (1.7 percent) than the FY 2017 adjusted appropriation of $17.4 million and b) the Division of Appeals and Regulatory Affairs, whose recommended appropriation of $1.9 million is $120,000 less (5.9 percent) than the FY 2017 adjusted appropriation of $2.0 million. Salary savings would result from the elimination of nine funded vacancies within General Administration, the Division of Agency Services, and the Division of Test Development and Analytics and two funded positions within the Division of Appeals and Regulatory Affairs.

The Civil Service Commission is organizationally an in-but-not-of agency placed in the department and provides the State a fair and efficient human resource delivery and support system and establishes a recruitment and advancement process.

Significant Language Changes

Funding for Extended Employment Services Providers

Revision

2017 Handbook: p. B-121
2018 Budget: p. D-238

In addition to the amount hereinabove appropriated for Vocational Rehabilitation Services, there is appropriated an additional $5,000,000 from the Workforce Development Partnership Fund for Extended Employment (Center based jobs), Extended Employment Transportation, and Long-Term Follow Along Services~~, which shall be allocated in the same amounts as in Fiscal Year 2016. Further, there is appropriated an additional $5,000,000 from the Workforce Development Partnership Fund, of which $3,600,000 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 $1,400,000 shall be allocated for Extended Employment Transportation~~.

Of the amounts hereinabove appropriated for Vocational Rehabilitation Services, an amount not less than ~~$9,768,000~~ <u>$6,168,000</u>, 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 $814,000, commencing July 2016. These funds shall be contracted in July and the first payment shall be paid to providers in July 2016~~.

<u>Explanation</u>

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. Extended employment is also referred to as sheltered workshop services.

The Governor's FY 2018 Budget Recommendation provides 43.5 million in Grants-in Aid funding for Vocational Rehabilitation (VR) Services, of which $30.2 million (69 percent) is appropriated through budget language for extended employment client slots. The first language provision above also provides an additional $5.0 million in "All Other Funds" funding for extended employment, extended employment transportation, and long-term follow along services, appropriated from the dedicated Workforce Development Partnership Fund (WDPF). These recommended amounts for extended employment services are $5.0 million less than the funds appropriated in the FY 2017 Appropriations Act, as indicated by the removed budget language in the above language provisions.

The first language provision revises language a) providing the department with flexibility in allocating the appropriation of $5.0 million from the dedicated WDPF for extended employment, extended employment transportation, and long-term follow along services, which in FY 2017 had to be allocated in the same manner as in FY 2016; and b) discontinuing an additional appropriation of $5.0 million from the WDPF for VR Services. Of the $5.0 million, the discontinued language allocated

EXPLANATION: FY 2017 language not recommended for FY 2018 denoted by strikethrough.
Recommended FY 2018 language that did not appear in FY 2017 denoted by underlining.

Significant Language Changes (Cont'd)

$3.6 million for extended employment client slots transferred to the department from the DHS in FY 2015 and $1.4 million for extended employment transportation. The removed language was inserted in the FY 2017 Appropriations Act by the Legislature to increase the funding for VR services grants.

The discontinuation of the $3.6 million allocated for extended employment client slots is reflected in the second language provision which proposes at least $6.2 million in Grants-in-Aid funding for the extended employment client slots transferred to the department from the DHS in FY 2015, a decrease of $3.6 million (36.9 percent) from the FY 2017 amount of $9.8 million. The Legislature inserted budget language increasing the funding for this purpose from a minimum of $6.2 million to a minimum of $9.8 million in the FY 2017 Appropriations Act.

The second language provision also provides the department with flexibility in disbursing the FY 2018 allocation of $6.2 million to the Division of Vocational Rehabilitation Services for extended employment services. The removed language was inserted in the FY 2017 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 could allocate the funds in any amount, at any time throughout the fiscal year. According to the department, the language revision would allow for the necessary staff time to finalize contracts and more efficiently manage cash flow throughout the fiscal year.

According to Evaluation Data in the Governor's FY 2018 Budget, the department anticipates 3,176 extended employment client slots in FY 2018, a decrease of 163 slots from FY 2015. In addition, the department anticipates appropriating $9,502 for each client in FY 2018, a $396 decrease from FY 2015 (page D-234). However, notwithstanding the anticipated FY 2018 funding reduction of $5.0 million, the FY 2018 Evaluation Data show no decrease in extended employment client slots or appropriations per client slot from the revised FY 2017 data.

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 offering training opportunities to their employees. The WDPF is funded by a dedicated assessment on workers and their employers, and the funds are statutorily allocated.

The Governor's FY 2018 Budget Recommendation transfers a total of $93.6 million of WDPF balances to non-statutory purposes in FY 2018, including language provisions transferring: $1.9 million to the New Jersey Youth Corps (page D-238); $64.7 million total to the Work First New Jersey programs (pages D-238 and D-214); and $19.0 million to VR Services (page D-238). The amounts to be transferred out of the WDPF are identical to the FY 2017 amounts, except that the amount to be transferred to VR Services is $5.0 million less due to these proposed language revisions.

EXPLANATION: FY 2017 language not recommended for FY 2018 denoted by strikethrough.
Recommended FY 2018 language that did not appear in FY 2017 denoted by underlining.

Significant Language Changes (Cont'd)

The Administration estimates that the employee and employer assessment revenues and investment earnings would generate approximately $121.6 million in the WDPF, a special revenue fund, in FY 2018. In addition, $36.5 million is estimated to be carried over from FY 2017. Transfers to other funds would total approximately $93.6 million, or 77 percent of the fund's anticipated revenue. Furthermore, $35.8 million is estimated to be spent on WDPF statutory expenditures. The anticipated year-end fund balance in FY 2018 is approximately $28.7 million (Page 96 of the "Supplementary Information" section in the FY 2018 Governor's Budget, available online).

Disbursement of Funds to Extended Employment Services Providers

Revision

2017 Handbook: p. B-121
2018 Budget: p. D-238

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 2016. These funds shall be contracted in July and the first payment shall be paid to providers in July 2016~~.

Explanation

The FY 2018 Budget Recommendation revises language to provide the department with flexibility in the schedule for disbursing a FY 2018 allocation of $24.0 million to the Division of Vocational Rehabilitation Services for extended employment services. The removed language was inserted in the FY 2017 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 could allocate the funds in any amount, at any time throughout the fiscal year. According to the department, the language revision would allow for the necessary staff time to finalize contracts and more efficiently manage cash flow throughout the fiscal year.

EXPLANATION: FY 2017 language not recommended for FY 2018 denoted by strikethrough.
Recommended FY 2018 language that did not appear in FY 2017 denoted by underlining.

Background Paper: Temporary Disability Insurance and Family Leave Insurance: Funding, Benefits and Administration

Budget Pages....	D-221, D-229 through D-232 and page 103 of the "Supplementary Information" section of the Governor's FY 2018 Budget (online version only).

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 Temporary Disability Insurance (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 percent of the average wage for all workers, with the maximum benefit now $633 per week. Historically, more than 100,000 workers received benefits each year (although the number is declining), with benefits exceeding $400 million 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 percent 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 percent 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.

Background Paper: Temporary Disability Insurance and Family Leave Insurance: Funding, Benefits and Administration (Cont'd)

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 percent. In 2011, the tax base was the first $29,600 of a worker's pay, making the maximum annual worker tax $148. Employers paid from 0.1 percent to 0.75 percent 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 1994 the TDI fund year-end balance had built up to $261 million, an amount more than half of 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 FY 1997.

This was followed by a series of eight transfers of moneys out 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. These diversions from the TDI fund 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 percent of revenues from 2000 to 2010.

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.

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 the level needed to raise revenues equal to 120 percent of anticipated benefit payments and 100 percent of anticipated administration cost, minus the remaining balance in the TDI fund from the previous year. The law did not change the method of calculating employer taxes. 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 is discussed further below in connection with worker FLI taxes.

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TDI Program Staffing Levels and Administrative Efficiency

Efficiency in processing TDI claims has declined in recent years. The most recent report from the DOLWD shows the average number of days to process a TDI rose from 14.5 days in 2011 to 22.9 days in 2015 (See Table 1). In 2011, 30.5 percent of TDI eligibility determinations were made within 7 days. By 2015, that percentage had fallen to 2.9 percent.

Table 1: Average Length of Time to make original Temporary Disability (TDI) Benefit Eligibility Determination under the State plan, 2011 to 2015

Number of days to make original eligibility determinations	2011 Claims		2012 Claims		2013 Claims		2014 Claims		2015 Claims	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
7 or less	36,324	30.5%	28,604	24.6%	24,881	21.4%	11,025	9.8%	3,095	2.9%
8 - 14	41,201	34.6%	43,925	37.8%	43,310	37.4%	48,066	42.9%	48,946	45.2%
15 - 21	12,474	10.5%	12,866	11.1%	12,620	10.9%	10,445	9.3%	10,349	9.5%
22 - 28	13,399	11.3%	13,473	11.6%	16,864	14.5%	16,605	14.8%	8,916	8.2%
29 - 35	7,325	6.2%	8,205	7.1%	8,470	7.3%	12,371	11.0%	14,334	13.2%
36 - 43	3,163	2.7%	3,604	3.1%	3,886	3.3%	6,125	5.5%	10,355	9.6%
44 - 49	2,134	1.8%	2,287	2.0%	2,535	2.2%	3,024	2.7%	4,791	4.4%
50 - 56	1,473	1.2%	1,493	1.3%	1,815	1.6%	2,108	1.9%	2,717	2.5%
57 or more	1,527	1.3%	1,790	1.5%	1,687	1.5%	2,349	2.1%	4,892	4.5%
Total	119,020	100.0%	116,247	100.0%	116,068	100.0%	112,118	100.0%	108,395	100.0%
Average number of days:*	14.5		15.5		16.4		19.4		22.9	
Percentage of claims filed with insufficient data:		34.1%		35.6%		39.2%		44.7%		43.8%

Sources: "TDI Workload in 2014 Summary Report" Table 2. Oct. 2015, DOLWD, and responses to FY 2017 OLS budget questions.

* Average number of days derived from DOLWD table.

The slowing of the processing of claims may be related to staff reductions. The number of personnel administering State TDI plan benefits (including family leave benefits) declined from 170 in FY 2008 to 125 in FY 2016, a decline of 26 percent. 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 FY 1987 down to 43 in FY 2016. Another possible factor in the growing delay of TDI benefit payments is the rising portion of total claims which are filed with insufficient data, which increased from 34 percent in 2011 to 44 percent in 2015 (See Table 1).

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%
2015	2,684,600	91,163	3.4%

Sources: DOLWD Statistical Review, TDI Annual Workload Reports, and responses to OLS budget questions, for various years.

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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 percent of the 2,449,200 workers covered by TDI that year. In the following years, the number of eligible claims declined even as the number of covered workers increased. By 2015, 91,163 eligible claims were filed out of a covered worker population that had risen to 2,684,600, reducing the percentage of covered workers with eligible claims to 3.4 percent, which is 42 percent less than in 1987 (See Table 2).

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 percent of benefits costs and far below the limit placed on those costs by the TDI law. That limit on administrative costs is 0.1 percent 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.

History of the Family Leave Insurance (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 fewer 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, including pregnancy and other disabilities related to childbirth, 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 fewer 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 using a repayment of those 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, but it was not enacted. 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, but not enacted, 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 (OLS) 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 with 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 percent of

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the average weekly wage in the State, which is currently $633 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 32,000 in 2015, while total FLI benefits rose from $71.9 million to $85.8 million. More than 80 percent 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.

FLI Program Staffing Levels and Administrative Efficiency

Efficiency in processing FLI claims has declined in recent years. The most recent report from the DOLWD shows the average number of days to process an FLI claim rose from 8.6 days in 2011 to 14.9 days in 2015 (See Table 3). In 2011, 50.0 percent of FLI eligibility determinations were made within 7 days. By 2015, that percentage had fallen to 25.5 percent.

Table 3: Average Length of Time to make original Family Leave Insurance (FLI) Benefit Eligibility Determination under the State plan, 2011 to 2015

Number of days	2011		2012		2013		2014		2015	
to make original	Claims		Claims		Claims		Claims		Claims	
eligibility determinations	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
7 or less	16,444	50.0%	15,154	45.6%	17,724	51.4%	10,553	30.1%	8,998	25.5%
8 - 14	9,671	29.4%	10,170	30.6%	8,599	24.9%	10,770	30.7%	6,745	19.1%
15 - 21	2,423	7.4%	2,629	7.9%	3,261	9.5%	6,047	17.2%	8,478	24.0%
22 - 28	2,482	7.5%	2,590	7.8%	2,809	8.1%	2,754	7.9%	2,574	7.3%
29 - 35	1,171	3.6%	1,431	4.3%	1,034	3.0%	2,384	6.8%	2,899	8.2%
36 - 43	363	1.1%	588	1.8%	509	1.5%	1,274	3.6%	2,553	7.2%
44 - 49	165	0.5%	289	0.9%	222	0.6%	631	1.8%	1,473	4.2%
50 - 56	102	0.3%	181	0.5%	195	0.6%	270	0.8%	692	2.0%
57 or more	74	0.2%	200	0.6%	129	0.4%	377	1.1%	878	2.5%
Total	32,895	100.0%	33,232	100.0%	34,482	100.0%	35,060	100.0%	35,290	100.0%
Average number of days:*	8.6		9.9		8.9		14.1		14.9	
Percentage of claims filed with insufficient data:		22.0%		25.7%		25.0%		27.0%		33.8%

Sources: "FLI Workload in 2014 Summary Report" Table 2. Oct. 2015, DOLWD, and responses to FY 2017 OLS budget questions.

* Average number of days derived from DOLWD table.

The slowing of the processing of claims may be related to staff reductions. As noted, the number of personnel administering State TDI plan benefits (including family leave benefits) declined from 170 in FY 2008 to 125 in FY 2016, a decline of 26 percent. Another possible factor in the growing delay of FLI benefit payments is the rising portion of total claims which are filed with insufficient data, which increased from 22 percent in 2011 to 34 percent in 2015 (See Table 3).

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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 percent 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 percent in 2010 and all years after. As illustrated in Table 4, 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 FLI program expenses of $116.9 million.

Table 4: TDI and FLI Worker Taxes, 2008 to 2017

Calendar Year	UI/TDI/FLI Tax Base	TDI Tax Rate	FLI Tax Rate	Combined Tax Rate	Maximum Annual TDI Tax	Maximum Annual FLI Tax	Maximum Annual 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
2017	$33,500	0.24%	0.10%	0.34%	$80	$34	$114	$633

Sources: DOLWD website, various years. Maximum tax rates derived from DOLWD website information.

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 percent of anticipated benefit payments and 100 percent 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 fully implemented in 2012, the total worker tax rate that year for the TDI and FLI programs combined, 0.28 percent, was substantially lower than the 0.5 percent annual tax that had been imposed on workers for TDI alone in the years before 2012.

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This combined 0.28 percent worker 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, the total rate of worker taxes was higher, but never exceeded the earlier 0.5 percent worker tax. Even if the especially low 2012 tax rate is not counted, the average combined TDI/FLI annual tax rate for the period from 2013 to 2017 is 0.38 percent, or 24 percent lower than the tax rate workers had previously paid for TDI alone, before FLI taxes were added. In fact, if workers were still paying the 0.5 percent tax rate, the revenues would be sufficient to support more than 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.

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Individuals wishing information and committee schedules on the FY 2018 budget are encouraged to contact:

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