
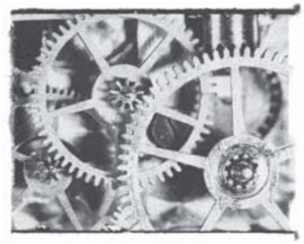

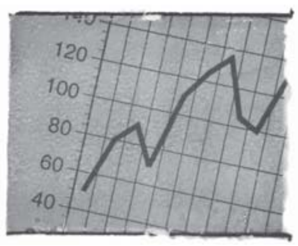


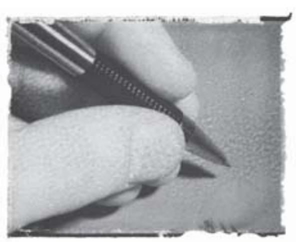


ANALYSIS OF THE NEW JERSEY BUDGET

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

FISCAL YEAR 2018-2019

PREPARED BY OFFICE OF LEGISLATIVE SERVICES
NEW JERSEY LEGISLATURE • MAY 2018

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 Juan C. Rodriguez. The background paper "Temporary Disability Insurance and Family Leave Insurance: Benefits, Funding and Administration" 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-20, D-223 to D-244

Fiscal Summary ($000)

	Expended FY 2017	Adjusted Appropriation FY 2018	Recommended FY 2019	Percent Change 2018-19
State Budgeted	$188,323	$168,520	$168,249	(0.2%)
Federal Funds	378,390	496,691	476,497	(4.1%)
Other	236,111	292,965	325,465	11.1%
Grand Total	$802,824	$958,176	$970,211	1.3%

Personnel Summary - Positions By Funding Source

	Actual FY 2017	Revised FY 2018	Funded FY 2019	Percent Change 2018-19
State	437	419	430	2.6%
Federal	2,200	2,117	2,142	1.2%
Other	313	318	325	2.2%
Total Positions	2,950	2,854	2,897	1.5%

FY 2017 (as of December) and revised FY 2018 (as of January) personnel data reflect actual payroll counts. FY 2019 data reflect the number of positions funded.

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

Highlights

- The Governor's FY 2019 Budget recommends $970.2 million in State, dedicated, and federal funds be appropriated to the Department of Labor and Workforce Development (DOLWD) in FY 2019, which is a $12.0 million (1.3 percent) increase from the current year's adjusted appropriations. The Executive anticipates the department receiving $476.5 million in federal funds, comprising about half, or 49.1 percent, of the department's funding. The remainder consists of $325.5 million (33.5 percent) in dedicated revenues; $166.1 million (17.1 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 Governor recommends appropriating up to $34.5 million out of the dedicated Workforce Development Partnership Fund (WDPF) for additional unspecified workforce initiatives. According to a department press release, $10.0 million of that money would fund the New Jersey Apprenticeship Network, which would include support for organized labor training programs as well as new partnerships for which the State would seek out industry and corporate partners. The recommended appropriation would draw down WDPF surplus balances from a projected FY 2018 year-end balance of $64.2 million to a projected FY 2019 year-end balance of $40.0 million.

- The Governor's FY 2019 Budget eliminates $250,000 in funding for additional staff to enforce the "New Jersey Prevailing Wage Act" that the Legislature added to the FY 2018 Appropriations Act. It is unclear to what extent the reduction in available State funding would affect the number of filled and funded positions in the Division of Wage and Hour Compliance.

- The Governor's FY 2019 Budget discontinues a $5.0 million appropriation from the dedicated WDPF to Extended Employment (EE) services that the Legislature included in the FY 2018 Appropriations Act. In total, the Governor recommends a FY 2019 appropriation of $38.8 million for EE, also known as Sheltered Workshop, client slots instead of the $43.8 million allocated therefor in FY 2018. It is unclear to what extent the reduction in available resources would affect the provision of EE services.

- The "Supplementary Information" section in the FY 2019 Governor's Budget, available online, includes projections of the FY 2019 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 table on the following page summarizes the funds' anticipated FY 2019 financial performance.

Highlights (Cont'd)

FY 2019 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	$263,127	$541,351	$520,000	$57,207 *	$227,272
Supplemental Workforce Fund for Basic Skills	$23,016	$36,505	$25,200	$2,000	$32,321
Unemployment Insurance Compensation Trust Fund	$2,877,739	$2,146,600	$2,380,000	$0	$2,644,339
Workforce Development Partnership Fund	$64,194	$130,982	$22,000	$133,158	$40,018
* 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:

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

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS ($000)

	Expended FY 2017	Adj. Approp. FY 2018	Recom. FY 2019	Percentage Change 2017-19	Percentage Change 2018-19
General Fund					
Direct State Services	$114,588	$94,978	$94,707	(17.3%)	(0.3%)
Grants-In-Aid	71,539	71,346	71,346	(0.3%)	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	**$186,127**	**$166,324**	**$166,053**	**(10.8%)**	**(0.2%)**
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%**
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	**$188,323**	**$168,520**	**$168,249**	**(10.7%)**	**(0.2%)**
Federal Funds	$378,390	$496,691	$476,497	25.9%	(4.1%)
Other Funds	$236,111	$292,965	$325,465	37.8%	11.1%
Grand Total	**$802,824**	**$958,176**	**$970,211**	**20.8%**	**1.3%**

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2017	Revised FY 2018	Funded FY 2019	Percentage Change 2017-19	Percentage Change 2018-19
State	437	419	430	(1.6%)	2.6%
Federal	2,200	2,117	2,142	(2.6%)	1.2%
All Other	313	318	325	3.8%	2.2%
Total Positions	**2,950**	**2,854**	**2,897**	**(1.8%)**	**1.5%**

FY 2017 (as of December) and revised FY 2018 (as of January) personnel data reflect actual payroll counts. FY 2019 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percentage	44.8%	45.2%	N/A	----	----

Significant Changes/New Programs ($000)

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page
ECONOMIC ASSISTANCE AND SECURITY					
FEDERAL FUNDS: Unemployment Insurance	**$156,340**	**$157,690**	**$1,350**	**0.9%**	**D-233**
ALL OTHER FUNDS: Unemployment Insurance	**$8,000**	**$9,000**	**$1,000**	**12.5%**	**D-233**
TOTAL	**$164,340**	**$166,690**	**$2,350**	**1.4%**	

The Federal Funds and All Other Funds appropriations pay for the administrative expenses of the Unemployment Insurance (UI) trust fund. The $2.4 million increase primarily serves to fund employee wage and fringe benefit increases. The UI program would have 780 funded positions in FY 2019, one more than the 779 positions filled in January 2018, but 54 fewer than the 834 positions filled in FY 2017.

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. The department anticipates $157.7 million in federal UI funding in FY 2019.

The All Other Funds appropriation represents dedicated receipts from the Unemployment Compensation Auxiliary Fund (UCAF). The fund, established pursuant to subsection (g) of N.J.S.A.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of UI regulations. UCAF balances are to be used for the cost of administering 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 department.

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page
MANPOWER AND EMPLOYMENT SERVICES					
DIRECT STATE SERVICES: Workplace Standards	**$4,641**	**$4,391**	**($250)**	**(5.4%)**	**D-237**

The Governor's FY 2019 Budget eliminates $250,000 in funding for the enforcement of workplace standards, which was included in the FY 2018 Appropriations Act pursuant to a Legislative budget resolution. According to related language, which is also discontinued, the funding was to be used by the Division of Wage and Hour Compliance (WHC) for the costs of additional staff assigned to enforce the "New Jersey Prevailing Wage Act."

It is unclear to what extent the reduction in available State funds would affect the counts of filled and funded positions in the WHC. The Governor's FY 2019 Budget indicates 168 funded FY 2019 positions in the larger Workplace Standards program class. This is six positions more than the 162 positions the Governor's FY 2018 Budget funded for FY 2018 prior to the addition

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

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page

of the $250,000. Of the six additional funded positions, three are State-funded and the other three federally-funded positions.

The department's workplace standards' mission is to enforce laws that provide employees safe and equitable working conditions, protect good faith employers from unfair competition, and protect workers and the general public from hazardous workplace practices. It is carried out by the WHC and the Division of Public Safety and Occupational Safety and Health (PSOSH). The WHC enforces a wide variety of labor laws and regulations. These include the minimum wage, overtime wage rates, prevailing wage, and the rules for the employment of minors. The PSOSH includes Asbestos Control and Licensing, Safety Compliance, and Boiler and Pressure Vessel Compliance units.

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page
FEDERAL FUNDS:					
Employment and Training Services	**$158,243**	**$137,538**	**($20,705)**	**(13.1%)**	**D-238**

The recommended $20.7 million reduction in Employment and Training Services federal funds appropriations reflects a change in the budgetary treatment of federal Temporary Assistance for Needy Families (TANF) funding the Department of Human Services (DHS) receives and allocates to the DOLWD for the provision of employment and training services to Work First New Jersey beneficiaries. In FY 2018, these funds, about $20.7 million, are included in the above budget line. In FY 2019, however, all federal TANF block grant funds are budgeted centrally in the DHS before being transferred to the various spending departments. Specifically, the Employment and Training Services allocation is part of the $64.3 million Restricted Grants appropriation that is intended for TANF inter-agency transfers in the DHS Division of Family Development (page D-215). The Office of Management and Budget anticipates that an unchanged $20.7 million will be transferred to the DOLWD in FY 2019.

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page
ALL OTHER FUNDS:					
Vocational Rehabilitation Services	**$10,000**	**$5,000**	**($5,000)**	**(50.0%)**	**D-238**

The $5.0 million decline reflects the proposed discontinuation of language inserted by the Legislature in the FY 2018 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 (EE) client slots and $1.4 million for EE transportation. By means of budget language the Governor recommends a total FY 2019 appropriation of $38.8 million for EE client slots instead of the $43.8 million allocated therefor in FY 2018.

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

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page

It is unclear to what extent the reduction in available resources would affect the provision of EE services. According to Evaluation Data in the Governor's FY 2019 Budget, the department anticipates 3,037 EE client slots and an $11,123 appropriation per client slot in FY 2019, both unchanged from FY 2018 (page D-235). These numbers yield total EE client slot costs of $33.8 million.

EE services, also referred to as Sheltered Workshop services, provide long-term employment services to individuals with significant disabilities at subminimum wages in occupation-oriented facilities operated by non-profit service providers. Unlike other VR services funded through both federal and State moneys, EE providers are funded entirely by State resources.

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. Although fund balances are subject to a statutory allocation formula, language included in the annual Appropriations Acts has routinely overridden the statutory allocation. The Administration estimates that the WDPF will have $195.2 million in resources in FY 2019 with $155.2 million in anticipated fund disbursements, composed of $22.0 million to be spent on WDPF statutory purposes and $133.2 million to be transferred to other funds. This would leave an estimated year-end closing balance of $40.0 million. (Page 95 of the "Supplementary Information" section in the FY 2019 Governor's Budget, available online)

ALL OTHER FUNDS:					
Employment and Training Services	**$23,822**	**$60,322**	**$36,500**	**153.2%**	**D-239**

The All Other Funds line represents multiple appropriations out of the dedicated Workforce Development Partnership Fund (WDPF) for Employment and Training Services. The recommended $36.5 million increase has two components.

First, the Governor recommends language that would appropriate up to $34.5 million out of the WDPF for additional unspecified workforce initiatives at the discretion of the department. According to a March 29, 2018 department press release, $10.0 million of that money would fund the New Jersey Apprenticeship Network, which would include support for organized labor training programs as well as new partnerships for which the State would seek out industry and corporate partners.

Second, the Executive recommends language that would appropriate up to $2.0 million from the WDPF to the Parolee Employment Placement Program (PEPP). The appropriation reflects merely a shift in the funding source. In FY 2018, the PEPP is funded out of the General Fund in the State Parole Board under the Community Resource Center Program (CRC) Grants-in-Aid budget line (page D-79). The May 2017 Notice of Grant Opportunity for the FY 2018 PEPP stated that the DOLWD operated the program in cooperation with the State Parole Board and that $1.45 million in grant funding was available for the PEPP in FY 2018. Grantees are to

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

Budget Item	Adj. Approp. FY 2018	Recomm. FY 2019	Dollar Change	Percent Change	Budget Page

provide job coaching and employment preparation, job placement, and track employment retention. The maximum cost for placement services for each participant is $4,000, which is payable on a fee-for-service schedule. A minimum of 175 participants per grant is required.

About $24.2 million of the $36.5 million recommended to be used for additional workforce initiatives and the PEPP would represent a drawdown of WDPF surplus balances. The fund is projected to have a balance of $64.2 million at the end of FY 2018, which is estimated to decrease to $40.0 million by the end of FY 2019 (Page 95 of the "Supplementary Information" section in the FY 2019 Governor's Budget, available online).

Significant Language Changes

Funding for Extended Employment Services

Revision

2018 Handbook: p. B-123
2019 Budget: p. D-240

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 2017. 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, and $1,400,000 shall be allocated for Extended Employment Transportation~~.

Explanation

The Governor recommends discontinuing language inserted by the Legislature in the FY 2018 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 (EE) client slots and $1.4 million for EE transportation. By means of budget language the Governor recommends a total FY 2019 appropriation of $38.8 million for EE client slots instead of the $43.8 million allocated therefor in FY 2018.

It is unclear to what extent the reduction in available resources would affect the provision of EE services. According to Evaluation Data in the Governor's FY 2019 Budget, the department anticipates 3,037 EE client slots and an $11,123 appropriation per client slot in FY 2019, both unchanged from FY 2018 (page D-235). These numbers yield total EE client slot costs of $33.8 million.

EE services, also referred to as Sheltered Workshop services, provide long-term employment services to individuals with significant disabilities at subminimum wages in occupation-oriented facilities operated by non-profit service providers. Unlike other VR services funded through both federal and State moneys, EE providers are funded entirely by State resources.

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. Although fund balances are subject to a statutory allocation formula, language included in the annual Appropriations Acts has routinely overridden the statutory allocation. The Administration estimates that the WDPF will have $195.2 million in resources in FY 2019 with $155.2 million in anticipated fund disbursements, composed of $22.0 million to be spent on WDPF statutory purposes and $133.2 million to be

EXPLANATION: FY 2018 language not recommended for FY 2019 denoted by strikethrough.
Recommended FY 2019 language that did not appear in FY 2018 denoted by underlining.

Significant Language Changes (Cont'd)

transferred to other funds. This would leave an estimated year-end closing balance of $40.0 million. (Page 95 of the "Supplementary Information" section in the FY 2019 Governor's Budget, available online)

Funding for Employment and Training Services

Addition

2018 Handbook: NA
2019 Budget: p. D-240

<u>In addition to the amount hereinabove appropriated for Employment and Training Services, an amount not to exceed $34,500,000 is appropriated from the Workforce Development Partnership Fund, pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), for the purpose of funding additional workforce initiatives at the discretion of the Commissioner of Labor and Workforce Development, subject to the approval of the Director of the Director of Budget and Accounting.</u>

<u>Explanation</u>

The Governor recommends new language that would appropriate up to $34.5 million out of the dedicated Workforce Development Partnership Fund (WDPF) for additional unspecified workforce initiatives at the discretion of the department. According to a March 29, 2018 department press release, $10.0 million of that money would fund the New Jersey Apprenticeship Network, which would include support for organized labor training programs as well as new partnerships for which the State would seek out industry and corporate partners.

The recommended appropriation would draw down WDPF surplus balances. The fund is projected to have a balance of $64.2 million at the end of FY 2018, which is estimated to decrease to $40.0 million by the end of FY 2019 (Page 95 of the "Supplementary Information" section in the FY 2019 Governor's Budget, available online).

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.

EXPLANATION: FY 2018 language not recommended for FY 2019 denoted by strikethrough.
Recommended FY 2019 language that did not appear in FY 2018 denoted by underlining.

Significant Language Changes (Cont'd)

Parolee Employment Placement Program

Addition

2018 Handbook: NA
2019 Budget: p. D-240

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amounts hereinabove appropriated for Employment and Training Services, an amount not to exceed $2,000,000 is appropriated from the Workforce Development Partnership Fund for the Parolee Employment Placement Program for parolee employment services from contracted providers, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The Governor recommends new language that would appropriate up to $2.0 million out of the dedicated Workforce Development Partnership Fund (WDPF) to the Parolee Employment Placement Program (PEPP). The appropriation reflects merely a shift in the funding source. In FY 2018, the PEPP is funded out of the General Fund in the State Parole Board under the Community Resource Center Program (CRC) Grants-in-Aid budget line (page D-79).

The May 2017 Notice of Grant Opportunity for the FY 2018 PEPP stated that the DOLWD operated the program in cooperation with the State Parole Board and that $1.45 million in grant funding was available for the PEPP in FY 2018. Grantees are to provide job coaching and employment preparation, job placement, and track employment retention. The maximum cost for placement services for each participant is $4,000, which is payable on a fee-for-service schedule. A minimum of 175 participants per grant is required.

The recommended appropriation would draw down WDPF surplus balances. The fund is projected to have a balance of $64.2 million at the end of FY 2018, which is estimated to decrease to $40.0 million by the end of FY 2019 (Page 95 of the "Supplementary Information" section in the FY 2019 Governor's Budget, available online).

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.

EXPLANATION: FY 2018 language not recommended for FY 2019 denoted by strikethrough.
Recommended FY 2019 language that did not appear in FY 2018 denoted by underlining.

Significant Language Changes (Cont'd)

Prevailing Wage Act Enforcement

Deletion

2018 Handbook: p. B-123
2019 Budget: NA

~~Of the amount hereinabove appropriated for Workplace Standards Salaries and Wages, an amount not less than $250,000 shall be allocated for the costs of additional staff assigned to enforce the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).~~

Explanation

The Governor's FY 2019 Budget eliminates $250,000 in funding for the enforcement of workplace standards, which was included in the FY 2018 Appropriations Act pursuant to a Legislative budget resolution. According to this language, which is also discontinued, the funding was to be used by the Division of Wage and Hour Compliance (WHC) for the costs of additional staff assigned to enforce the "New Jersey Prevailing Wage Act."

It is unclear to what extent the reduction in available State funds would affect the counts of filled and funded positions in the WHC. The Governor's FY 2019 Budget indicates 168 funded FY 2019 positions in the larger Workplace Standards program class. This is six positions more than the 162 positions the Governor's FY 2018 Budget funded for FY 2018 prior to the addition of the $250,000. Of the six additional funded positions, three are State-funded and the other three federally-funded positions.

The department's workplace standards' mission is to enforce laws that provide employees safe and equitable working conditions, protect good faith employers from unfair competition, and protect workers and the general public from hazardous workplace practices. It is carried out by the WHC and the Division of Public Safety and Occupational Safety and Health (PSOSH). The WHC enforces a wide variety of labor laws and regulations. These include the minimum wage, overtime wage rates, prevailing wage, and the rules for the employment of minors. The PSOSH includes Asbestos Control and Licensing, Safety Compliance, and Boiler and Pressure Vessel Compliance units.

EXPLANATION: FY 2018 language not recommended for FY 2019 denoted by strikethrough.
Recommended FY 2019 language that did not appear in FY 2018 denoted by underlining.

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

Budget Pages....	D-223, D-226 through D-227, D-230 through D-234, and page 102 of the "Supplementary Information" section of the Governor's FY 2019 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 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 $637 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 78 percent of 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: Benefits, Funding 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 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 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 are discussed further below in connection with worker FLI taxes.

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

TDI Program Staffing Levels and Administrative Efficiency

Efficiency in processing TDI claims has declined in recent years. The Office of Legislative Services (OLS) calculates based on the most recent report from the DOLWD that the average number of days to process a TDI claim increased 73.1 percent, rising from 14.5 days in 2011 to 25.1 days in 2016 (See Table 1). In 2011, 65.1 percent of TDI eligibility determinations were made within 14 days. By 2016, that percentage had fallen to 35.9 percent. The percentage made in seven days or less fell from 30.5 percent in 2011 to 2.9 percent in 2015, with data being unavailable for 2016.

Table 1: Average Length of Time to make original Temporary Disability (TDI) Benefit Eligibility Determination under the State plan, 2011 to 2016

Number of days to make original determinations	2011 Claims		2012 Claims		2013 Claims		2014 Claims		2015 Claims		2016 Claims	
	Number	Percent	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%	(in the 8-14 group)	
8 - 14	41,201	34.6%	43,925	37.8%	43,310	37.4%	48,066	42.9%	48,946	45.2%	38,392	35.9%
15 - 21	12,474	10.5%	12,866	11.1%	12,620	10.9%	10,445	9.3%	10,349	9.5%	16,384	15.3%
22 - 28	13,399	11.3%	13,473	11.6%	16,864	14.5%	16,605	14.8%	8,916	8.2%	11,433	10.7%
29 - 35	7,325	6.2%	8,205	7.1%	8,470	7.3%	12,371	11.0%	14,334	13.2%	14,141	13.2%
36 - 43	3,163	2.7%	3,604	3.1%	3,886	3.3%	6,125	5.5%	10,355	9.6%	10,778	10.1%
44 - 49	2,134	1.8%	2,287	2.0%	2,535	2.2%	3,024	2.7%	4,791	4.4%	5,923	5.5%
50 - 56	1,473	1.2%	1,493	1.3%	1,815	1.6%	2,108	1.9%	2,717	2.5%	3,575	3.3%
57 or more	1,527	1.3%	1,790	1.5%	1,687	1.5%	2,349	2.1%	4,892	4.5%	6,219	5.8%
Total	119,020	100.0%	116,247	100.0%	116,068	100.0%	112,118	100.0%	108,395	100.0%	106,845	100.0%
Average # of days:*	14.5		15.5		16.4		19.4		22.9		25.1*	
% of claims filed with insufficient data:		34.1%		35.6%		39.2%		44.7%		43.8%		44.4%

Sources: "TDI Workload in 2016 Summary Report" Table 2, August 2017, DOLWD, and responses to FY 2017 & 2018 OLS budget questions.

* Average number of days derived from DOLWD tables. The 2016 ratio of "7 or less" to "8-14" claims is assumed to be the same as the 2015 ratio.

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 129 in FY 2017, a decline of 25 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 46 in FY 2017. Also contributing to the growing delay of benefit payments may be the rising portion of claims filed with insufficient data, which increased from 34 percent in 2011 to 44 percent in 2016 (See Table 1). Another factor that may slow benefit payments is that the TDI law does not require employers to provide needed wage data until after disability commences, although this factor has not changed over time.

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

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%
2016	2,685,800	88,086	3.3%

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

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 2016, 88,086 eligible claims were filed out of a covered worker population that had risen to 2,685,800, reducing the percentage of covered workers with eligible claims to 3.3 percent, which is 44 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 disability 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.

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

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 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 the average weekly wage in the State, which is currently $637 per week. Unlike TDI, the FLI program is funded exclusively by worker taxes, with no charge to employers. The exclusive reliance on worker taxes of New Jersey's FLI program is the same as the other three existing FLI state programs: California's program, established in 2004; Rhode Island's program, established in 2014; and New York's program, established in 2018. Rhode Island's program provides four weeks of benefits, California's program provides six weeks, and New York's program provides eight weeks.

Eligible FLI claims rose from 30,200 in 2010 to 32,200 in 2016, while total FLI benefits rose from $71.9 million to $87.9 million. More than 84 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 OLS calculates based on the most recent report from the DOLWD that the average number of days to process an FLI claim increased 165.1 percent, rising from 8.6 days in 2011 to 22.8 days in 2016 (See Table 3). In 2011, 79.4 percent of FLI eligibility determinations were made within 14 days. By 2016, that percentage had fallen to 36.0 percent. The percentage made in seven days or less fell from 50.0 percent in 2011 to 25.5 percent in 2015, with data being unavailable for 2016.

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

Table 3: Average Length of Time to make original Family Leave Insurance (FLI) Benefit Eligibility Determination under the State plan, 2011 to 2016

Number of days to make original determinations	2011 Claims Number	2011 Claims Percent	2012 Claims Number	2012 Claims Percent	2013 Claims Number	2013 Claims Percent	2014 Claims Number	2014 Claims Percent	2015 Claims Number	2015 Claims Percent	2016 Claims Number	2016 Claims Percent
7 or less	16,444	50.0%	15,154	45.6%	17,724	51.4%	10,553	30.1%	8,998	25.5%	(in the 8-14 group)	
8 - 14	9,671	29.4%	10,170	30.6%	8,599	24.9%	10,770	30.7%	6,745	19.1%	12,825	36.0%
15 - 21	2,423	7.4%	2,629	7.9%	3,261	9.5%	6,047	17.2%	8,478	24.0%	8,312	23.3%
22 - 28	2,482	7.5%	2,590	7.8%	2,809	8.1%	2,754	7.9%	2,574	7.3%	3,954	11.1%
29 - 35	1,171	3.6%	1,431	4.3%	1,034	3.0%	2,384	6.8%	2,899	8.2%	3,526	9.9%
36 - 43	363	1.1%	588	1.8%	509	1.5%	1,274	3.6%	2,553	7.2%	2,306	6.5%
44 - 49	165	0.5%	289	0.9%	222	0.6%	631	1.8%	1,473	4.2%	1,520	4.3%
50 - 56	102	0.3%	181	0.5%	195	0.6%	270	0.8%	692	2.0%	1,135	3.2%
57 or more	74	0.2%	200	0.6%	129	0.4%	377	1.1%	878	2.5%	2,033	5.7%
Total	32,895	100.0%	33,232	100.0%	34,482	100.0%	35,060	100.0%	35,290	100.0%	35,611	100.0%
Average # of days:*	8.6		9.9		8.9		14.1		14.9		22.8	
% of claims filed with insufficient data:		22.0%		25.7%		25.0%		27.0%		33.8%		32.8%

Sources: "FLI Workload in 2016 Summary Report" Table 2, August 2017, DOLWD, and responses to FY 2017 & 2018 OLS budget questions.

* Average number of days derived from DOLWD tables. The 2016 ratio of "7 or less" to "8-14" claims is assumed to be the same as the 2015 ratio.

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 129 in FY 2017, a decline of 25 percent. Also contributing to the growing delay of benefit payments may be the rising portion of claims filed with insufficient data, which increased from 22 percent in 2011 to 33 percent in 2017 (See Table 3). Another factor that may slow benefit payments is that the FLI law does not require employers to provide needed wage data until after disability commences, although this factor has not changed over time.

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.

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

Table 4: TDI and FLI Worker Taxes, 2008 to 2018

Calendar Year	UI/TDI/FLI Tax Base	TDI Tax Rate	FLI Tax Rate	Total Tax Rate	Maximum Annual TDI Tax	Maximum Annual FLI Tax	Maximum Annual Total Tax	Max. Weekly Ben. 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
2018	$33,700	0.19%	0.09%	0.28%	$64	$30	$94	$637

Sources: DOLWD website, various years.

As FLI revenues consistently 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.

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 2018 is 0.36 percent, or 28 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 2019 budget are encouraged to contact:

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