

17:48E-17.1

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(Health Service  
Corporations--apply  
premium tax)

LAWS OF: 1989

CHAPTER: 295

Bill No: S2765

Sponsor(s): Lesniak

Date Introduced: August 4, 1988

Committee: Assembly: -----

Senate: Labor, Industry & Professions

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: December 18, 1989

Senate: September 26, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

(over)

For background see:

974.90 New Jersey. Blue Cross and Blue Shield Study Commission.  
159 Phase II Final report. August 15, 1989.  
1989b

**KBG/SLJ**

P.L.1989, CHAPTER 295, approved January 12, 1990

1988 Senate No. 2765 (Third Reprint)

1 AN ACT concerning health service corporations, and amending  
2 P.L.1945, c.132, P.L.1985, c.236 and P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup> [(now  
3 pending before the Legislature as Senate Bill No. 2367 and  
4 Assembly Bill No. 2891 of 1988)]<sup>1</sup>.

5

6 BE IT ENACTED by the Senate and General Assembly of the  
7 State of New Jersey:

8 1. Section 5 of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup> (C.<sup>1</sup>17:48E-17.1<sup>1</sup>) [(now  
9 pending before the Legislature as Senate Bill No. 2367 and  
10 Assembly Bill No. 2891 of 1988)]<sup>1</sup> is amended to read as follows:

11 5. a. Every health service corporation shall accumulate and  
12 maintain during each calendar year two separate special  
13 contingent surplus accounts, one for its individual contracts and  
14 one for its other activities.

15 b. Every health service corporation shall accumulate and  
16 maintain a special contingent surplus for each account over and  
17 above its reserves and liabilities at the rate of 2% annually of its  
18 net premium income until that surplus is not less than  
19 \$1,250,000.00 in each account. The special contingent surplus in  
20 each account shall be accumulated to and maintained at an  
21 amount not less than 2 1/2% of the net premium income received  
22 during that year, as determined by reference to the statement of  
23 financial condition filed pursuant to section 36 of P.L.1985, c.236  
24 (C.17:48E-36). The commissioner may increase the amount of  
25 special contingent surplus which shall be maintained pursuant to  
26 this subsection to an amount not exceeding 5% of the net  
27 premium income received during the preceding year. No method  
28 of accumulation as herein provided shall be deemed to supersede  
29 any provision of subsection c. of this section. In the case of any  
30 health service corporation which was created by the merger of a  
31 medical service corporation established pursuant to P.L.1940,  
32 c.74 (C.17:48A-1 et seq.) and a hospital service corporation

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLI committee amendments adopted September 19, 1988.

<sup>2</sup> Assembly floor amendments adopted July 1, 1989.

<sup>3</sup> Assembly floor amendments adopted December 18, 1989.

1 created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in  
2 calculating the proportional allocation of any deficit or surplus  
3 between group and individual contracts at the time the separate  
4 surplus accounts are created, the corporation shall allocate based  
5 on its determination of the proportional contributions of  
6 individual and group business to any surplus or deficit during the  
7 period between January 1 of the calendar year in which the  
8 health service corporation commenced doing business as a health  
9 service corporation until the effective date of <sup>2</sup>[this amendatory  
10 and supplementary act] P.L.1988, c.71<sup>2</sup>. The assumptions upon  
11 which the allocations are based shall be certified as reasonable by  
12 an independent actuary.

13 c. Every health service corporation established as of the  
14 effective date of <sup>1</sup>[this amendatory and supplementary act]  
15 P.L.1988, c.71<sup>1</sup> shall file a plan with the commissioner for  
16 meeting the surplus amount requirements established by  
17 subsection b. of this section and which establishes a time period  
18 within which the corporation will meet those requirements. The  
19 time period established in the plan shall not exceed four years.  
20 The plan shall be subject to the approval of the commissioner,  
21 who shall approve it within 60 days after it has been filed if he  
22 believes it to be reasonable. If the commissioner does not  
23 approve a plan filed under this subsection within 60 days of its  
24 submission, he shall issue findings and conclusions with respect to  
25 the reasonableness of the plan.

26 d. Whenever the special contingent surplus for either group  
27 contracts or individual contracts is an amount which is less than 2  
28 1/2% to 5% of the earned premium of the group or individual  
29 business, as the case may be at the discretion of the  
30 commissioner, the health service corporation shall, without  
31 regard to any other rate increase provided for or required by law  
32 or any rate increase which may have previously been taken  
33 pursuant to this subsection, and with the approval of the  
34 commissioner, commence within 90 days the implementation of  
35 rate increases for the group or individual contracts, as the case  
36 may be, which increases shall be sufficient to cause the amount  
37 of the special contingent surplus to equal an amount which is not  
38 less than 5% of the earned premium of the group or individual  
39 business within one year of the increase.

1 e. In no event shall the health service corporation be required  
2 to augment the surplus account allocable to individual contracts  
3 with any monies from the surplus account of group contracts, or  
4 from any corporate assets or any other source other than net  
5 earnings from individual contracts, nor shall it be required to  
6 augment the surplus account allocable to group contracts with  
7 any monies from the surplus account of individual contracts or  
8 from any corporate assets or any other source other than net  
9 earnings from group contracts, except that beginning with the  
10 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the  
11 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
12 1988)]<sup>1</sup> and until the special contingent surplus account which is  
13 applicable to individual contracts has reached the statutorily  
14 prescribed amount or no longer than six years following the  
15 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the  
16 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
17 1988)]<sup>1</sup>, whichever is earlier, in the event that the statutory  
18 reserves of the individual surplus account is in a deficit position,  
19 as determined by the commissioner, a loan, without interest,  
20 from the group surplus account, if it is not in a deficit position,  
21 shall be made to the individual surplus account.

22 f. Nothing in this section nor in P.L. 1985, c. 236 (C. 17:48E-1 et  
23 seq.) shall abrogate the responsibilities of corporate officers with  
24 regard to the reporting of financial condition pursuant to section  
25 36 of P.L. 1985, c. 236 (C. 17:48E-36), nor shall any provision of  
26 <sup>1</sup>[this amendatory and supplementary act] P.L. 1988, c. 71<sup>1</sup> or  
27 P.L. 1985, c. 236 (C. 17:48E-1 et seq.) be construed to limit the  
28 authority of the commissioner to require compliance with  
29 statutory capital, surplus or reserve requirements for a subsidiary  
30 or affiliate of a health service corporation, or for any reinsurance  
31 activities to be undertaken by a health service corporation.  
32 (cf: P.L. 1988, c. 71, s. 5)

33 2. Section 41 of P.L. 1985, c. 236 (C. 17:48E-41) is amended to  
34 read as follows:

35 41. A health service corporation subject to the provisions of  
36 this act is hereby declared to be a charitable and benevolent  
37 institution and all of its funds shall be exempt from every State,  
38 county, district, municipal and school tax other than taxes on real  
39 estate and equipment <sup>2</sup>[, except that:

1 a. Following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now  
2 pending before the Legislature as Senate Bill No. 2367 and  
3 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, any life, health, or accident  
4 insurance company organized pursuant to Title 17B of the New  
5 Jersey Statutes or by the laws of any other state in which a  
6 health service corporation owns stock, controls, or otherwise  
7 becomes affiliated with, shall be subject to tax on income derived  
8 from its life insurance business in the same manner prescribed by  
9 P.L. 1945, c. 132 (C.54:18A-1 et seq.) for other corporations,  
10 individuals, partnerships, and unincorporated associations  
11 transacting an insurance business in the State; and

12 b. Any health service corporation which issues experience  
13 rated contracts for health care benefits shall, (1) at the end of  
14 the third year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
15 [(now pending before the Legislature as Senate Bill No. 2367 and  
16 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
17 derived from its experience rated contracts; and (2) at the end of  
18 the sixth year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
19 [(now pending before the Legislature as Senate Bill No. 2367 and  
20 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
21 derived from its non-experience rated contracts, in the manner  
22 prescribed by P.L. 1945, c. 132 (C.54:18A-1 et seq.) for other  
23 corporations, individuals, partnerships, and unincorporated  
24 associations transacting an insurance business in this State] and  
25 taxes on premiums pursuant to P.L. 1945, c. 132 (C.54:18A-1 et  
26 seq.) as provided by section 16 of that act (C.54:18A-9)<sup>2</sup>.

27 (cf. P.L. 1985, c. 236, s. 41)

28 3. Section 16 of P.L. 1945, c. 132 (C.54:18A-9) is amended to  
29 read as follows:

30 16. a. This act shall not apply to any fraternal beneficiary  
31 society. For the purposes of this act, "insurance company" shall  
32 include a corporation, and any person, partnership or  
33 unincorporated association required as an insurer to procure from  
34 the Commissioner of Insurance the certificate prescribed by  
35 section 1 of an act entitled "An act to regulate the transaction of  
36 the business of insurance by individuals, partnerships and  
37 unincorporated associations in this State" approved July 11, 1939  
38 (F.L. 1939, c. 188; C. 17:49-1), or under any other statute now in  
39 force or hereafter enacted, engaging in any kind or kinds of

1 business specified in R.S.17:17-1, subject to the insurance laws of  
2 this State: provided, however, that no company or society, which  
3 by its act or certificate of incorporation has for its object the  
4 assistance of sick, needy or disabled members, the defraying of  
5 funeral expenses of deceased members and the provision for the  
6 wants of the surviving spouses and families of members after  
7 death, shall be deemed an insurance company within the purview  
8 of this act.

9 b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.),  
10 "insurance company" shall include, <sup>3</sup>[(1)]<sup>3</sup> <sup>2</sup>[at the end of the  
11 third year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
12 beginning January 1, 1992<sup>2</sup> <sup>1</sup>[(now pending before the Legislature  
13 as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, a  
14 health service corporation established pursuant to the provisions  
15 of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its  
16 experience rated health insurance <sup>3</sup>[, and (2)]<sup>2</sup> <sup>2</sup>[at the end of the  
17 sixth year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
18 beginning January 1, 1995<sup>2</sup> <sup>1</sup>[(now pending before the Legislature  
19 as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>,  
20 such health service corporation with respect to its  
21 non-experience rated health insurance<sup>3</sup>. An "insurance  
22 company" shall also include any life, accident, or health  
23 insurance company in which a health service corporation owns  
24 stock, controls, or otherwise becomes affiliated with, as provided  
25 in <sup>2</sup>subsection e. of<sup>2</sup> section <sup>2</sup>[41] <sup>3</sup>2 of P.L.1985, c.236  
26 <sup>2</sup>[(C.17:48E-41)] (C.17:48E-3)<sup>2</sup>,  
27 (cf: P.L.1985, c.515, s.14)

28 4. This act shall take effect immediately.  
29  
30

## 31 INSURANCE

### 32 Taxation

33  
34 Applies premium tax to experience rated contracts of health  
35 service corporations.

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[SECOND REPRINT]

SENATE, No. 2765

STATE OF NEW JERSEY

INTRODUCED AUGUST 4, 1988

By Senator LESNIAK

1 AN ACT concerning health service corporations, and amending  
P.L.1945, c.132, P.L.1985, c.236 and P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup> <sup>1</sup>[(now  
3 pending before the Legislature as Senate Bill No. 2367 and  
Assembly Bill No. 2891 of 1988)]<sup>1</sup>.

5

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

1. Section 5 of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup> (C.<sup>1</sup>17:48E-17.1<sup>1</sup>) <sup>1</sup>[(now  
9 pending before the Legislature as Senate Bill No. 2367 and  
Assembly Bill No. 2891 of 1988)]<sup>1</sup> is amended to read as follows:

11 5. a. Every health service corporation shall accumulate and  
maintain during each calendar year two separate special  
13 contingent surplus accounts, one for its individual contracts and  
one for its other activities.

15 b. Every health service corporation shall accumulate and  
maintain a special contingent surplus for each account over and  
17 above its reserves and liabilities at the rate of 2% annually of its  
net premium income until that surplus is not less than  
19 \$1,250,000.00 in each account. The special contingent surplus in  
each account shall be accumulated to and maintained at an  
21 amount not less than 2 1/2% of the net premium income received  
during that year, as determined by reference to the statement of  
23 financial condition filed pursuant to section 36 of P.L.1985, c.236  
(C.17:48E-36). The commissioner may increase the amount of  
25 special contingent surplus which shall be maintained pursuant to  
this subsection to an amount not exceeding 5% of the net  
27 premium income received during the preceding year. No method  
of accumulation as herein provided shall be deemed to supersede  
29 any provision of subsection c. of this section. In the case of any  
health service corporation which was created by the merger of a  
31 medical service corporation established pursuant to P.L.1940,  
c.74 (C.17:48A-1 et seq.) and a hospital service corporation

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLI committee amendments adopted September 19, 1988.

<sup>2</sup> Assembly floor amendments adopted July 1, 1989.

1 created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in  
calculating the proportional allocation of any deficit or surplus  
3 between group and individual contracts at the time the separate  
surplus accounts are created, the corporation shall allocate based  
5 on its determination of the proportional contributions of  
individual and group business to any surplus or deficit during the  
7 period between January 1 of the calendar year in which the  
health service corporation commenced doing business as a health  
9 service corporation until the effective date of <sup>2</sup>[this amendatory  
and supplementary act] P.L.1988, c.71<sup>2</sup>. The assumptions upon  
11 which the allocations are based shall be certified as reasonable by  
an independent actuary.

13 c. Every health service corporation established as of the  
effective date of <sup>1</sup>[this amendatory and supplementary act]  
15 P.L.1988, c.71<sup>1</sup> shall file a plan with the commissioner for  
meeting the surplus amount requirements established by  
17 subsection b. of this section and which establishes a time period  
within which the corporation will meet those requirements. The  
19 time period established in the plan shall not exceed four years.  
The plan shall be subject to the approval of the commissioner,  
21 who shall approve it within 60 days after it has been filed if he  
believes it to be reasonable. If the commissioner does not  
23 approve a plan filed under this subsection within 60 days of its  
submission, he shall issue findings and conclusions with respect to  
25 the reasonableness of the plan.

d. Whenever the special contingent surplus for either group  
27 contracts or individual contracts is an amount which is less than 2  
1/2% to 5% of the earned premium of the group or individual  
29 business, as the case may be, at the discretion of the  
commissioner, the health service corporation shall, without  
31 regard to any other rate increase provided for or required by law  
or any rate increase which may have previously been taken  
33 pursuant to this subsection, and with the approval of the  
commissioner, commence within 90 days the implementation of  
35 rate increases for the group or individual contracts, as the case  
may be, which increases shall be sufficient to cause the amount  
37 of the special contingent surplus to equal an amount which is not  
less than 5% of the earned premium of the group or individual  
39 business within one year of the increase.

1 e. In no event shall the health service corporation be required  
2 to augment the surplus account allocable to individual contracts  
3 with any monies from the surplus account of group contracts, or  
4 from any corporate assets or any other source other than net  
5 earnings from individual contracts, nor shall it be required to  
6 augment the surplus account allocable to group contracts with  
7 any monies from the surplus account of individual contracts or  
8 from any corporate assets or any other source other than net  
9 earnings from group contracts, except that beginning with the  
10 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> <sup>1</sup>[(now pending before the  
11 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
12 1988)]<sup>1</sup> and until the special contingent surplus account which is  
13 applicable to individual contracts has reached the statutorily  
14 prescribed amount or no longer than six years following the  
15 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> <sup>1</sup>[(now pending before the  
16 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
17 1988)]<sup>1</sup>, whichever is earlier, in the event that the statutory  
18 reserves of the individual surplus account is in a deficit position,  
19 as determined by the commissioner, a loan, without interest,  
20 from the group surplus account, if it is not in a deficit position,  
21 shall be made to the individual surplus account.

22 f. Nothing in this section nor in P.L.1985, c.236 (C.17:48E-1 et  
23 seq.) shall abrogate the responsibilities of corporate officers with  
24 regard to the reporting of financial condition pursuant to section  
25 36 of P.L.1985, c.236 (C.17:48E-36), nor shall any provision of  
26 <sup>1</sup>[this amendatory and supplementary act] P.L.1988, c.71<sup>1</sup> or  
27 P.L.1985, c.236 (C.17:48E-1 et seq.) be construed to limit the  
28 authority of the commissioner to require compliance with  
29 statutory capital, surplus or reserve requirements for a subsidiary  
30 or affiliate of a health service corporation, or for any reinsurance  
31 activities to be undertaken by a health service corporation.

(cf: P.L.1988, c.71, s.5)

32 2. Section 41 of P.L.1985, c.236 (C.17:48E-41) is amended to  
33 read as follows:

34 41. A health service corporation subject to the provisions of  
35 this act is hereby declared to be a charitable and benevolent  
36 institution and all of its funds shall be exempt from every State,  
37 county, district, municipal and school tax other than taxes on real  
38 estate and equipment <sup>2</sup>[, except that:

1       a. Following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now  
2       pending before the Legislature as Senate Bill No. 2367 and  
3       Assembly Bill No. 2891 of 1988)]<sup>1</sup>, any life, health, or accident  
4       insurance company organized pursuant to Title 17B of the New  
5       Jersey Statutes or by the laws of any other state in which a  
6       health service corporation owns stock, controls, or otherwise  
7       becomes affiliated with, shall be subject to tax on income derived  
8       from its life insurance business in the same manner prescribed by  
9       P.L. 1945, c. 132 (C.54:18A-1 et seq.) for other corporations,  
10       individuals, partnerships, and unincorporated associations  
11       transacting an insurance business in the State; and

12       b. Any health service corporation which issues experience  
13       rated contracts for health care benefits shall, (1) at the end of  
14       the third year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
15       [(now pending before the Legislature as Senate Bill No. 2367 and  
16       Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
17       derived from its experience rated contracts; and (2) at the end of  
18       the sixth year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
19       [(now pending before the Legislature as Senate Bill No. 2367 and  
20       Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
21       derived from its non-experience rated contracts, in the manner  
22       prescribed by P.L. 1945, c. 132 (C.54:18A-1 et seq.) for other  
23       corporations, individuals, partnerships, and unincorporated  
24       associations transacting an insurance business in this State] and  
25       taxes on premiums pursuant to P.L. 1945, c. 132 (C.54:18A-1 et  
26       seq.) as provided by section 16 of that act (C.54:18A-9)<sup>2</sup>.  
27       (cf: P.L. 1985, c. 236, s. 41)

28       3. Section 16 of P.L. 1945, c. 132 (C.54:18A-9) is amended to  
29       read as follows:

30       16. a. This act shall not apply to any fraternal beneficiary  
31       society. For the purposes of this act, "insurance company" shall  
32       include a corporation, and any person, partnership or  
33       unincorporated association required as an insurer to procure from  
34       the Commissioner of Insurance the certificate prescribed by  
35       section 1 of an act entitled "An act to regulate the transaction of  
36       the business of insurance by individuals, partnerships and  
37       unincorporated associations in this State" approved July 11, 1939  
38       (P.L. 1939, c. 188; C. 17:49-1), or under any other statute now in  
39       force or hereafter enacted, engaging in any kind or kinds of

1 business specified in R.S.17:17-1, subject to the insurance laws of  
 2 this State; provided, however, that no company or society, which  
 3 by its act or certificate of incorporation has for its object the  
 4 assistance of sick, needy or disabled members, the defraying of  
 5 funeral expenses of deceased members and the provision for the  
 6 wants of the surviving spouses and families of members after  
 7 death, shall be deemed an insurance company within the purview  
 8 of this act.

9 b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.),  
"insurance company" shall include, (1) <sup>2</sup>[at the end of the third  
 11 year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
beginning January 1, 1992<sup>2</sup> <sup>1</sup>[(now pending before the Legislature  
 13 as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup> , a  
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 15 of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its  
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 17 sixth year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
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 21 non-experience rated health insurance. An "insurance company"  
shall also include any life, accident, or health insurance company  
 23 in which a health service corporation owns stock, controls, or  
otherwise becomes affiliated with, as provided in <sup>2</sup>subsection e.  
 25 of<sup>2</sup> section <sup>2</sup>[41] <sup>3</sup> of P.L.1985, c.236 <sup>2</sup>[(C.17:48E-41)]  
(C.17:48E-3)<sup>2</sup>.

27 (cf: P.L.1985, c.515, s.14)

28 4. This act shall take effect immediately.

29

31

## INSURANCE

### Taxation

33

Applies premium tax to health service corporations.

STATE OF NEW JERSEY

INTRODUCED AUGUST 4, 1988

By Senator LESNIAK

1 AN ACT concerning health service corporations, and amending  
2 P.L.1945, c.132, P.L.1985, c.236 and P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>71<sup>1</sup> <sup>1</sup>[(now  
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19 \$1,250,000.00 in each account. The special contingent surplus in  
20 each account shall be accumulated to and maintained at an  
21 amount not less than 2 1/2% of the net premium income received  
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24 (C.17:48E-36). The commissioner may increase the amount of  
25 special contingent surplus which shall be maintained pursuant to  
26 this subsection to an amount not exceeding 5% of the net  
27 premium income received during the preceding year. No method  
28 of accumulation as herein provided shall be deemed to supersede  
29 any provision of subsection c. of this section. In the case of any  
30 health service corporation which was created by the merger of a  
31 medical service corporation established pursuant to P.L.1940,  
32 c.74 (C.17:48A-1 et seq.) and a hospital service corporation

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLI committee amendments adopted September 19, 1988.

<sup>2</sup> Assembly floor amendments adopted July 1, 1989.

<sup>3</sup> Assembly floor amendments adopted December 18, 1989.

1 created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in  
2 calculating the proportional allocation of any deficit or surplus  
3 between group and individual contracts at the time the separate  
4 surplus accounts are created, the corporation shall allocate based  
5 on its determination of the proportional contributions of  
6 individual and group business to any surplus or deficit during the  
7 period between January 1 of the calendar year in which the  
8 health service corporation commenced doing business as a health  
9 service corporation until the effective date of <sup>2</sup>[this amendatory  
10 and supplementary act] P.L.1988, c.71<sup>2</sup>. The assumptions upon  
11 which the allocations are based shall be certified as reasonable by  
12 an independent actuary.

13 c. Every health service corporation established as of the  
14 effective date of <sup>1</sup>[this amendatory and supplementary act]  
15 P.L.1988, c.71<sup>1</sup> shall file a plan with the commissioner for  
16 meeting the surplus amount requirements established by  
17 subsection b. of this section and which establishes a time period  
18 within which the corporation will meet those requirements. The  
19 time period established in the plan shall not exceed four years.  
20 The plan shall be subject to the approval of the commissioner,  
21 who shall approve it within 60 days after it has been filed if he  
22 believes it to be reasonable. If the commissioner does not  
23 approve a plan filed under this subsection within 60 days of its  
24 submission, he shall issue findings and conclusions with respect to  
25 the reasonableness of the plan.

26 d. Whenever the special contingent surplus for either group  
27 contracts or individual contracts is an amount which is less than 2  
28 1/2% to 5% of the earned premium of the group or individual  
29 business, as the case may be, at the discretion of the  
30 commissioner, the health service corporation shall, without  
31 regard to any other rate increase provided for or required by law  
32 or any rate increase which may have previously been taken  
33 pursuant to this subsection, and with the approval of the  
34 commissioner, commence within 90 days the implementation of  
35 rate increases for the group or individual contracts, as the case  
36 may be, which increases shall be sufficient to cause the amount  
37 of the special contingent surplus to equal an amount which is not  
38 less than 5% of the earned premium of the group or individual  
39 business within one year of the increase.

1       e. In no event shall the health service corporation be required  
2 to augment the surplus account allocable to individual contracts  
3 with any monies from the surplus account of group contracts, or  
4 from any corporate assets or any other source other than net  
5 earnings from individual contracts, nor shall it be required to  
6 augment the surplus account allocable to group contracts with  
7 any monies from the surplus account of individual contracts or  
8 from any corporate assets or any other source other than net  
9 earnings from group contracts, except that beginning with the  
10 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> <sup>1</sup>[(now pending before the  
11 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
12 1988)]<sup>1</sup> and until the special contingent surplus account which is  
13 applicable to individual contracts has reached the statutorily  
14 prescribed amount or no longer than six years following the  
15 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> <sup>1</sup>[(now pending before the  
16 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
17 1988)]<sup>1</sup>, whichever is earlier, in the event that the statutory  
18 reserves of the individual surplus account is in a deficit position,  
19 as determined by the commissioner, a loan, without interest,  
20 from the group surplus account, if it is not in a deficit position,  
21 shall be made to the individual surplus account.

22       f. Nothing in this section nor in P.L.1985, c.236 (C.17:48E-1 et  
23 seq.) shall abrogate the responsibilities of corporate officers with  
24 regard to the reporting of financial condition pursuant to section  
25 36 of P.L.1985, c.236 (C.17:48E-36), nor shall any provision of  
26 <sup>1</sup>[this amendatory and supplementary act] P.L.1988, c.71<sup>1</sup> or  
27 P.L.1985, c.236 (C.17:48E-1 et seq.) be construed to limit the  
28 authority of the commissioner to require compliance with  
29 statutory capital, surplus or reserve requirements for a subsidiary  
30 or affiliate of a health service corporation, or for any reinsurance  
31 activities to be undertaken by a health service corporation.  
32 (cf: P.L.1988, c.71, s.5)

33       2. Section 41 of P.L.1985, c.236 (C.17:48E-41) is amended to  
34 read as follows:

35       41. A health service corporation subject to the provisions of  
36 this act is hereby declared to be a charitable and benevolent  
37 institution and all of its funds shall be exempt from every State,  
38 county, district, municipal and school tax other than taxes on real  
39 estate and equipment <sup>2</sup>[, except that:

1     a. Following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now  
2 pending before the Legislature as Senate Bill No. 2367 and  
3 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, any life, health, or accident  
4 insurance company organized pursuant to Title 17B of the New  
5 Jersey Statutes or by the laws of any other state in which a  
6 health service corporation owns stock, controls, or otherwise  
7 becomes affiliated with, shall be subject to tax on income derived  
8 from its life insurance business in the same manner prescribed by  
9 P.L.1945, c.132 (C.54:18A-1 et seq.) for other corporations,  
10 individuals, partnerships, and unincorporated associations  
11 transacting an insurance business in the State; and

12     b. Any health service corporation which issues experience  
13 rated contracts for health care benefits shall, (1) at the end of  
14 the third year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
15 [(now pending before the Legislature as Senate Bill No. 2367 and  
16 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
17 derived from its experience rated contracts; and (2) at the end of  
18 the sixth year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup>  
19 [(now pending before the Legislature as Senate Bill No. 2367 and  
20 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on income  
21 derived from its non-experience rated contracts, in the manner  
22 prescribed by P.L.1945, c.132 (C.54:18A-1 et seq.) for other  
23 corporations, individuals, partnerships, and unincorporated  
24 associations transacting an insurance business in this State] and  
25 taxes on premiums pursuant to P.L.1945, c.132 (C.54:18A-1 et  
26 seq.) as provided by section 16 of that act (C.54:18A-9)<sup>2</sup>.

27 (cf: P.L.1985, c.236, s.41)

28     3. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to  
29 read as follows:

30     16. a. This act shall not apply to any fraternal beneficiary  
31 society. For the purposes of this act, "insurance company shall  
32 include a corporation, and any person, partnership or  
33 unincorporated association required as an insurer to procure from  
34 the Commissioner of Insurance the certificate prescribed by  
35 section 1 of an act entitled "An act to regulate the transaction of  
36 the business of insurance by individuals, partnerships and  
37 unincorporated associations in this State" approved July 11, 1939  
38 (P.L.1939, c.188; C.17:49-1), or under any other statute now in  
39 force or hereafter enacted, engaging in any kind or kinds of

1 business specified in R.S.17:17-1, subject to the insurance laws of  
2 this State; provided, however, that no company or society, which  
3 by its act or certificate of incorporation has for its object the  
4 assistance of sick, needy or disabled members, the defraying of  
5 funeral expenses of deceased members and the provision for the  
6 wants of the surviving spouses and families of members after  
7 death, shall be deemed an insurance company within the purview  
8 of this act.

9 b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.),  
10 "insurance company" shall include, <sup>3</sup>[(1)]<sup>3</sup> <sup>2</sup>[at the end of the  
11 third year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
12 beginning January 1, 1992<sup>2</sup> <sup>1</sup>[(now pending before the Legislature  
13 as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, a  
14 health service corporation established pursuant to the provisions  
15 of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its  
16 experience rated health insurance <sup>3</sup>[, and (2) <sup>2</sup>[at the end of the  
17 sixth year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>171<sup>1</sup>]  
18 beginning January 1, 1995<sup>2</sup> <sup>1</sup>[(now pending before the Legislature  
19 as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>,  
20 such health service corporation with respect to its  
21 non-experience rated health insurance]<sup>3</sup>. An "insurance  
22 company" shall also include any life, accident, or health  
23 insurance company in which a health service corporation owns  
24 stock, controls, or otherwise becomes affiliated with, as provided  
25 in <sup>2</sup>subsection e. of<sup>2</sup> section <sup>2</sup>[41] <sup>3</sup><sup>2</sup> of P.L.1985, c.236  
26 <sup>2</sup>[(C.17:48E-41)] (C.17:48E-3)<sup>2</sup>.

27 (cf: P.L.1985, c.515, s.14)

28 4. This act shall take effect immediately.

31 INSURANCE

32 Taxation

33  
34 Applies premium tax to experience rated contracts of health  
35 service corporations.

ASSEMBLY Amendments  
(Proposed by Assemblyman Martin)

ADOPTED

to

DEC 13 1989

Senate, No. 2765 (2R)

(Sponsored by Senator Lesniak)

REPLACE SECTION 3 TO READ:

3. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to read as follows:

16. a. This act shall not apply to any fraternal beneficiary society. For the purposes of this act, "insurance company" shall include a corporation, and any person, partnership or unincorporated association required as an insurer to procure from the Commissioner of Insurance the certificate prescribed by section 1 of an act entitled "An act to regulate the transaction of the business of insurance by individuals, partnerships and unincorporated associations in this State" approved July 11, 1939 (P.L.1939, c.188; C.17:49-1), or under any other statute now in force or hereafter enacted, engaging in any kind or kinds of business specified in R.S.17:17-1, subject to the insurance laws of this State; provided, however, that no company or society, which by its act or certificate of incorporation has for its object the assistance of sick, needy or disabled members, the defraying of funeral expenses of deceased members and the provision for the wants of the surviving spouses and families of members after death, shall be deemed an insurance company within the purview of this act.

b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.), "insurance company" shall include, <sup>3</sup>[(1)]<sup>3</sup> <sup>2</sup>[at the end of the third year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>71<sup>1</sup>] beginning January 1, 1992<sup>2</sup> <sup>1</sup>[(now pending before the Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, a health service corporation established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its experience rated health insurance <sup>3</sup>[, and (2)]<sup>2</sup> [at the end of the sixth year following the effective date of P.L.<sup>1</sup>1988<sup>1</sup>, c.<sup>1</sup>71<sup>1</sup>] beginning January 1, 1995<sup>2</sup> <sup>1</sup>[(now pending before the Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, such health service corporation with respect to its

non-experience rated health insurance<sup>3</sup>. An insurance company shall also include any life, accident, or health insurance company in which a health service corporation owns stock, controls, or otherwise becomes affiliated with, as provided in subsection e. of section 2(41) 3<sup>2</sup> of P.L.1985, c.236 2{(C.17:48E-41) (C.17:48E-3)}<sup>2</sup>.

(cf: P.L.1985, c.515, s.14)

INSERT NEW SYNOPSIS TO READ:

INSURANCE

Taxation

Applies premium tax to experience rated contracts of health service corporations.

STATEMENT

This amendment removes from the bill that provision which provided that non-experience rated health insurance contracts of health service corporations would be subject to the premium tax beginning January 1, 1995.

[FIRST REPRINT]

SENATE, No. 2765

STATE OF NEW JERSEY

INTRODUCED AUGUST 4, 1988

By Senator LESNIAK

1 AN ACT concerning health service corporations, and amending  
P.L.1945, c.132, P.L.1985, c.236 and P.L. <sup>1</sup>1988<sup>1</sup>, c. <sup>1</sup>71<sup>1</sup>  
3 <sup>1</sup>[(now pending before the Legislature as Senate Bill No. 2367  
and Assembly Bill No. 2891 of 1988)]<sup>1</sup>.

5

BE IT ENACTED by the Senate and General Assembly of the  
7 State of New Jersey:

1. Section 5 of P.L. <sup>1</sup>1988<sup>1</sup>, c. <sup>1</sup>71<sup>1</sup> (C. <sup>1</sup>17:48E-17.1<sup>1</sup>) <sup>1</sup>[(now  
9 pending before the Legislature as Senate Bill No. 2367 and  
Assembly Bill No. 2891 of 1988)]<sup>1</sup> is amended to read as follows:

11 5. a. Every health service corporation shall accumulate and  
maintain during each calendar year two separate special  
13 contingent surplus accounts, one for its individual contracts and  
one for its other activities.

15 b. Every health service corporation shall accumulate and  
maintain a special contingent surplus for each account over and  
17 above its reserves and liabilities at the rate of 2% annually of its  
net premium income until that surplus is not less than  
19 \$1,250,000.00 in each account. The special contingent surplus in  
each account shall be accumulated to and maintained at an  
21 amount not less than 2 1/2% of the net premium income received  
during that year, as determined by reference to the statement of  
23 financial condition filed pursuant to section 36 of P.L.1985, c.236  
(C.17:48E-36). The commissioner may increase the amount of  
25 special contingent surplus which shall be maintained pursuant to  
this subsection to an amount not exceeding 5% of the net  
27 premium income received during the preceding year. No method  
of accumulation as herein provided shall be deemed to supersede  
29 any provision of subsection c. of this section. In the case of any  
health service corporation which was created by the merger of a  
31 medical service corporation established pursuant to P.L.1940,  
c.74 (C.17:48A-1 et seq.) and a hospital service corporation  
33 created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
<sup>1</sup> Senate SII committee amendments adopted September 19, 1988.

1 calculating the proportional allocation of any deficit or surplus  
2 between group and individual contracts at the time the separate  
3 surplus accounts are created, the corporation shall allocate based  
4 on its determination of the proportional contributions of  
5 individual and group business to any surplus or deficit during the  
6 period between January 1 of the calendar year in which the  
7 health service corporation commenced doing business as a health  
8 service corporation until the effective date of this amendatory  
9 and supplementary act. The assumptions upon which the  
10 allocations are based shall be certified as reasonable by an  
11 independent actuary.

12 c. Every health service corporation established as of the  
13 effective date of <sup>1</sup>[this amendatory and supplementary act]  
14 P.L.1988, c.71<sup>1</sup> shall file a plan with the commissioner for  
15 meeting the surplus amount <sup>1</sup>requirements established by  
16 subsection b. of this section and which establishes a time period  
17 within which the corporation will meet those requirements. The  
18 time period established in the plan shall not exceed four years.  
19 The plan shall be subject to the approval of the commissioner,  
20 who shall approve it within 60 days after it has been filed if he  
21 believes it to be reasonable. If the commissioner does not  
22 approve a plan filed under this subsection within 60 days of its  
23 submission, he shall issue findings and conclusions with respect to  
24 the reasonableness of the plan.

25 d. Whenever the special contingent surplus for either group  
26 contracts or individual contracts is an amount which is less than 2  
27 1/2% to 5% of the earned premium of the group or individual  
28 business, as the case may be, at the discretion of the  
29 commissioner, the health service corporation shall, without  
30 regard to any other rate increase provided for or required by law  
31 or any rate increase which may have previously been taken  
32 pursuant to this subsection, and with the approval of the  
33 commissioner, commence within 90 days the implementation of  
34 rate increases for the group or individual contracts, as the case  
35 may be, which increases shall be sufficient to cause the amount  
36 of the special contingent surplus to equal an amount which is not  
37 less than 5% of the earned premium of the group or individual  
38 business within one year of the increase.

39 e. In no event shall the health service corporation be required

1 to augment the surplus account allocable to individual contracts  
2 with any monies from the surplus account of group contracts, or  
3 from any corporate assets or any other source other than net  
4 earnings from individual contracts, nor shall it be required to  
5 augment the surplus account allocable to group contracts with  
6 any monies from the surplus account of individual contracts or  
7 from any corporate assets or any other source other than net  
8 earnings from group contracts, except that beginning with the  
9 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the  
10 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
11 1988)]<sup>1</sup> and until the special contingent surplus account which is  
12 applicable to individual contracts has reached the statutorily  
13 prescribed amount or no longer than six years following the  
14 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the  
15 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
16 1988)]<sup>1</sup>, whichever is earlier, in the event that the statutory  
17 reserves of the individual surplus account is in a deficit position,  
18 as determined by the commissioner, a loan, without interest,  
19 from the group surplus account, if it is not in a deficit position,  
20 shall be made to the individual surplus account.

21 f. Nothing in this section nor in P.L.1985. c.236 (C.17:48E-1 et  
22 seq.) shall abrogate the responsibilities of corporate officers with  
23 regard to the reporting of financial condition pursuant to section  
24 36 of P.L.1985. c.236 (C.17:48E-36), nor shall any provision of  
25 <sup>1</sup>[this amendatory and supplementary act] P.L.1988. c.71<sup>1</sup> or  
26 P.L.1985. c.236 (C.17:48E-1 et seq.) be construed to limit the  
27 authority of the commissioner to require compliance with  
28 statutory capital, surplus or reserve requirements for a subsidiary  
29 or affiliate of a health service corporation, or for any reinsurance  
30 activities to be undertaken by a health service corporation.  
31 (cf: P.L.1988. c.71. s.5)

32 2. Section 41 of P.L.1985. c.236 (C.17:48E-41) is amended to  
33 read as follows:

34 41. A health service corporation subject to the provisions of  
35 this act is hereby declared to be a charitable and benevolent  
36 institution and all of its funds shall be exempt from every State,  
37 county, district, municipal and school tax other than taxes on real  
38 estate and equipment, except that:

39 a. Following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now

1 pending before the Legislature as Senate Bill No. 2367 and  
2 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, any life, health, or accident  
3 insurance company organized pursuant to Title 17B of the New  
4 Jersey Statutes or by the laws of any other state in which a  
5 health service corporation owns stock, controls, or otherwise  
6 becomes affiliated with, shall be subject to tax on income derived  
7 from its life insurance business in the same manner prescribed by  
8 P.L.1945, c.132 (C.54:18A-1 et seq.) for other corporations,  
9 individuals, partnerships, and unincorporated associations  
10 transacting an insurance business in the State; and

11 b. Any health service corporation which issues experience  
12 rated contracts for health care benefits shall, (1) at the end of  
13 the third year following the effective date of P.L. 1988<sup>1</sup>, c.  
14 171<sup>1</sup> [(now pending before the Legislature as Senate Bill No.  
15 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to tax on  
16 income derived from its experience rated contracts; and (2) at  
17 the end of the sixth year following the effective date of P.L.  
18 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the Legislature as Senate  
19 Bill No. 2367 and Assembly Bill No. 2891 of 1988)]<sup>1</sup>, be subject to  
20 tax on income derived from its non-experience rated contracts,  
21 in the manner prescribed by P.L.1945, c.132 (C.54:18A-1 et seq.)  
22 for other corporations, individuals, partnerships, and  
23 unincorporated associations transacting an insurance business in  
24 this State.

25 (cf: P.L.1985, c.236, s.41)

26 3. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to  
27 read as follows:

28 16. a. This act shall not apply to any fraternal beneficiary  
29 society. For the purposes of this act, "insurance company" shall  
30 include a corporation, and any person, partnership or  
31 unincorporated association required as an insurer to procure from  
32 the Commissioner of Insurance the certificate prescribed by  
33 section 1 of an act entitled "An act to regulate the transaction of  
34 the business of insurance by individuals, partnerships and  
35 unincorporated associations in this State" approved July 11, 1939  
36 (P.L.1939, c.138; C. 7:49-1), or under any other statute now in  
37 force or hereafter enacted, engaging in any kind or kinds of  
38 business specified in R.S.17:17-1, subject to the insurance laws of  
39 this State; provided, however, that no company or society, which

1 by its act or certificate of incorporation has for its object the  
2 assistance of sick, needy or disabled members, the defraying of  
3 funeral expenses of deceased members and the provision for the  
4 wants of the surviving spouses and families of members after  
5 death, shall be deemed an insurance company within the purview  
6 of this act.

7 b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.),  
8 "insurance company" shall include, (1) at the end of the third  
9 year following the effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now  
10 pending before the Legislature as Senate Bill No. 2367 and  
11 Assembly Bill No. 2891 of 1988)]<sup>1</sup>, a health service corporation  
12 established pursuant to the provisions of P.L.1985, c.236  
13 (C.17:48E-1 et seq.), with respect to its experience rated health  
14 insurance, and (2) at the end of the sixth year following the  
15 effective date of P.L. 1988<sup>1</sup>, c. 171<sup>1</sup> [(now pending before the  
16 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
17 1988)]<sup>1</sup>, such health service corporation with respect to its  
18 non-experience rated health insurance. An "insurance company"  
19 shall also include any life, accident, or health insurance company  
20 in which a health service corporation owns stock, controls, or  
21 otherwise becomes affiliated with, as provided in section 41 of  
22 P.L.1985, c.236 (C.17:48E-41).

23 (cf: P.L.1985, c.515, s.14)

24 4. This act shall take effect immediately.

25  
26  
27 INSURANCE

28 Taxation

29 Applies premium tax to health service corporations.

SENATE LABOR, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO

SENATE, No. 2765

with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1988

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate Bill No. 2765.

This bill amends the laws governing health service corporations.

The bill provides that if the statutory reserves of the surplus account for individual contracts is in a deficit position, a loan, without interest, from the surplus account for group contracts, if it is not in a deficit position, must be made to the surplus account for individual contracts. These loans could continue to be made until the surplus account for individual contracts reaches its statutorily prescribed amount or July 21, 1994 (six years following the effective date of P.L.1988, c.71), whichever is earlier. At that time the "wall" (no more loans) between the surplus account for the group contracts and surplus account for the individual contracts would be established. The bill prohibits any loan from the surplus account for individual contracts to the surplus account for group contracts.

The bill also provides for the taxation of health service corporations under the insurance premium tax provisions of P.L.1945, c.132 (C.54:18A-1 et seq.). A health service corporation will be taxed upon the issuance of any life insurance issued by an affiliate. In addition, a health service corporation will be taxed on its experience rated health care contracts on and after July 21, 1991 (three years following the effective date of P.L.1988, c.71) and on its non-experience rated contracts on and after July 21, 1994 (six years following the effective date of P.L.1988, c.71).

The committee made technical amendments to the bill.

SENATE, No. 2765  
STATE OF NEW JERSEY

INTRODUCED AUGUST 4, 1988

By Senator LESNIAK

1 AN ACT concerning health service corporations, and amending  
2 P.L.1945, c.132, P.L.1985, c.236 and P.L. , c. (now  
3 pending before the Legislature as Senate Bill No. 2367 and  
4 Assembly Bill No. 2891 of 1988).

5

6 BE IT ENACTED by the Senate and General Assembly of the  
7 State of New Jersey:

8 1. Section 5 of P.L. , c. (C. )(now pending before the  
9 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
10 1988) is amended to read as follows:

11 5. a. Every health service corporation shall accumulate and  
12 maintain during each calendar year two separate special  
13 contingent surplus accounts, one for its individual contracts and  
14 one for its other activities.

15 b. Every health service corporation shall accumulate and  
16 maintain a special contingent surplus for each account over and  
17 above its reserves and liabilities at the rate of 2% annually of its  
18 net premium income until that surplus is not less than  
19 \$1,250,000.00 in each account. The special contingent surplus in  
20 each account shall be accumulated to and maintained at an  
21 amount not less than 2 1/2% of the net premium income received  
22 during that year, as determined by reference to the statement of  
23 financial condition filed pursuant to section 36 of P.L.1985, c.236  
24 (C.17:48E-36). The commissioner may increase the amount of  
25 special contingent surplus which shall be maintained pursuant to  
26 this subsection to an amount not exceeding 5% of the net  
27 premium income received during the preceding year. No method  
28 of accumulation as herein provided shall be deemed to supersede  
29 any provision of subsection c. of this section. In the case of any  
30 health service corporation which was created by the merger of a  
31 medical service corporation established pursuant to P.L.1940,  
32 c.74 (C.17:48A-1 et seq.) and a hospital service corporation  
33 created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 calculating the proportional allocation of any deficit or surplus  
2 between group and individual contracts at the time the separate  
3 surplus accounts are created, the corporation shall allocate based  
4 on its determination of the proportional contributions of  
5 individual and group business to any surplus or deficit during the  
6 period between January 1 of the calendar year in which the  
7 health service corporation commenced doing business as a health  
8 service corporation until the effective date of this amendatory  
9 and supplementary act. The assumptions upon which the  
10 allocations are based shall be certified as reasonable by an  
11 independent actuary.

12 c. Every health service corporation established as of the  
13 effective date of this amendatory and supplementary act shall  
14 file a plan with the commissioner for meeting the surplus amount  
15 requirements established by subsection b. of this section and  
16 which establishes a time period within which the corporation will  
17 meet those requirements. The time period established in the plan  
18 shall not exceed four years. The plan shall be subject to the  
19 approval of the commissioner, who shall approve it within 60 days  
20 after it has been filed if he believes it to be reasonable. If the  
21 commissioner does not approve a plan filed under this subsection  
22 within 60 days of its submission, he shall issue findings and  
23 conclusions with respect to the reasonableness of the plan.

24 d. Whenever the special contingent surplus for either group  
25 contracts or individual contracts is an amount which is less than 2  
26 1/2% to 5% of the earned premium of the group or individual  
27 business, as the case may be, at the discretion of the  
28 commissioner, the health service corporation shall, without  
29 regard to any other rate increase provided for or required by law  
30 or any rate increase which may have previously been taken  
31 pursuant to this subsection, and with the approval of the  
32 commissioner, commence within 90 days the implementation of  
33 rate increases for the group or individual contracts, as the case  
34 may be, which increases shall be sufficient to cause the amount  
35 of the special contingent surplus to equal an amount which is not  
36 less than 5% of the earned premium of the group or individual  
37 business within one year of the increase.

38 e. In no event shall the health service corporation be required  
39 to augment the surplus account allocable to individual contracts

1 with any monies from the surplus account of group contracts, or  
2 from any corporate assets or any other source other than net  
3 earnings from individual contracts, nor shall it be required to  
4 augment the surplus account allocable to group contracts with  
5 any monies from the surplus account of individual contracts or  
6 from any corporate assets or any other source other than net  
7 earnings from group contracts, except that beginning with the  
8 effective date of P.L. , c. (now pending before the  
9 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
10 1988) and until the special contingent surplus account which is  
11 applicable to individual contracts has reached the statutorily  
12 prescribed amount or no longer than six years following the  
13 effective date of P.L. , c. (now pending before the  
14 Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of  
15 1988), whichever is earlier, in the event that the statutory  
16 reserves of the individual surplus account is in a deficit position,  
17 as determined by the commissioner, a loan, without interest,  
18 from the group surplus account, if it is not in a deficit position,  
19 shall be made to the individual surplus account.

20 f. Nothing in this section nor in P.L.1985, c.236 (C.17:48E-1 et  
21 seq.) shall abrogate the responsibilities of corporate officers with  
22 regard to the reporting of financial condition pursuant to section  
23 36 of P.L.1985, c.236 (C.17:48E-36), nor shall any provision of  
24 this amendatory and supplementary act or P.L.1985, c.236  
25 (C.17:48E-1 et seq.) be construed to limit the authority of the  
26 commissioner to require compliance with statutory capital,  
27 surplus or reserve requirements for a subsidiary or affiliate of a  
28 health service corporation, or for any reinsurance activities to be  
29 undertaken by a health service corporation.

(cf: P.L. , c. , s.5)

30 2. Section 41 of P.L.1985, c.236 (C.17:48E-41) is amended to  
31 read as follows:

32 41. A health service corporation subject to the provisions of  
33 this act is hereby declared to be a charitable and benevolent  
34 institution and all of its funds shall be exempt from every State,  
35 county, district, municipal and school tax other than taxes on real  
36 estate and equipment, except that:

37 a. Following the effective date of P.L. , c. (now pending  
38 before the Legislature as Senate Bill No. 2367 and Assembly Bill  
39

1 No. 2891 of 1988), any life, health, or accident insurance  
2 company organized pursuant to Title 17B of the New Jersey  
3 Statutes or by the laws of any other state in which a health  
4 service corporation owns stock, controls, or otherwise becomes  
5 affiliated with, shall be subject to tax on income derived from its  
6 life insurance business in the same manner prescribed by  
7 P.L.1945, c.132 (C.54:18A-1 et seq.) for other corporations,  
8 individuals, partnerships, and unincorporated associations  
9 transacting an insurance business in the State; and

10 b. Any health service corporation which issues experience  
11 rated contracts for health care benefits shall, (1) at the end of  
12 the third year following the effective date of P.L. . c. (now  
13 pending before the Legislature as Senate Bill No. 2367 and  
14 Assembly Bill No. 2891 of 1988), be subject to tax on income  
15 derived from its experience rated contracts; and (2) at the end of  
16 the sixth year following the effective date of P.L. . c. (now  
17 pending before the Legislature as Senate Bill No. 2367 and  
18 Assembly Bill No. 2891 of 1988), be subject to tax on income  
19 derived from its non-experience rated contracts, in the manner  
20 prescribed by P.L.1945, c.132 (C.54:18A-1 et seq.) for other  
21 corporations, individuals, partnerships, and unincorporated  
22 associations transacting an insurance business in this State.

23 (cf: P.L.1985, c.236, s.41)

24 3. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to  
25 read as follows:

26 16. a. This act shall not apply to any fraternal beneficiary  
27 society. For the purposes of this act, "insurance company" shall  
28 include a corporation, and any person, partnership or  
29 unincorporated association required as an insurer to procure from  
30 the Commissioner of Insurance the certificate prescribed by  
31 section 1 of an act entitled "An act to regulate the transaction of  
32 the business of insurance by individuals, partnerships and  
33 unincorporated associations in this State" approved July 11, 1939  
34 (P.L.1939, c.188; C.17:49-1), or under any other statute now in  
35 force or hereafter enacted, engaging in any kind or kinds of  
36 business specified in R.S. 7:17-1, subject to the insurance laws of  
37 this State: provided, however, that no company or society, which  
38 by its act or certificate of incorporation has for its object the  
39 assistance of sick, needy or disabled members, the defraying of

1 funeral expenses of deceased members and the provision for the  
wants of the surviving spouses and families of members after  
3 death, shall be deemed an insurance company within the purview  
of this act.

5 b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.),  
"insurance company" shall include, (1) at the end of the third  
7 year following the effective date of P.L. , c. (now pending  
before the Legislature as Senate Bill No. 2367 and Assembly Bill  
9 No. 2891 of 1988), a health service corporation established  
pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.),  
11 with respect to its experience rated health insurance, and (2) at  
the end of the sixth year following the effective date of P.L. ,  
13 c. (now pending before the Legislature as Senate Bill No. 2367  
and Assembly Bill No. 2891 of 1988), such health service  
15 corporation with respect to its non-experience rated health  
insurance. An "insurance company" shall also include any life,  
17 accident, or health insurance company in which a health service  
corporation owns stock, controls, or otherwise becomes affiliated  
19 with, as provided in section 41 of P.L.1985, c.236 (C.17:48E-41).  
(cf: P.L.1985, c.515, s.14)

21 4. This act shall take effect immediately.

23

#### STATEMENT

25

27 This bill would make certain amendments to the laws governing  
health service corporations, as amended and supplemented by two  
bills currently pending in the Legislature, Senate Bill No. 2367  
29 and Assembly Bill No. 2891.

31 This bill provides that if the statutory reserves of the  
individual surplus account is in a deficit position, a loan, without  
interest, from the group surplus account, if it is not in a deficit  
33 position, shall be made to the individual surplus account. These  
loans would continue until the individual surplus account reaches  
35 its statutorily prescribed amount or six years, whichever is  
earlier.

37 This bill also provides for the taxation of health service  
corporations under the insurance premium tax provisions of  
39 P.L.1945, c.132. A health service corporation will be taxed upon

1 the issuance of any life insurance issued by an affiliate. In  
2 addition, a health service corporation will be taxed on its  
3 experience rated health care contracts at the end of the third  
4 year following the effective date of Senate Bill No. 2367 and  
5 Assembly Bill No. 2891 when they are signed into law and on its  
6 non-experience rated contracts at the end of the sixth following  
7 the effective date of those same bills.

9

INSURANCE

11

Taxation

13 Applies premium tax to health service corporations.

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\* BILL NO. S2765 \*

\* Date of Intro. \_\_\_\_\_ \*

\* Ref. \_\_\_\_\_ \*

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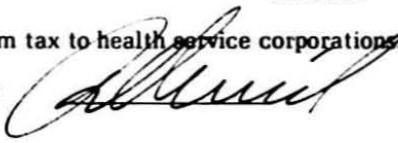
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AN ACT concerning health service corporations, and amending P.L. 1945, c. 132, P.L. 1985, c. 236 and P.L. \_\_\_\_\_ c. \_\_\_\_\_ (now pending before the Legislature as Senate Bill No. 2367 and Assembly Bill No. 2891 of 1988).

INSURANCE  
Taxation

Applies premium tax to health service corporations.

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