

43:21-3

LEGISLATIVE HISTORY CHECKLIST

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(Unemployment insurance)

NJSA: 43:21-3 et al

LAWS OF: 1997 CHAPTER: 255

BILL NO: A1971

SPONSOR(S): Gregg and others

DATE INTRODUCED: May 6, 1996

COMMITTEE: ASSEMBLY: Labor

SENATE: ---

AMENDED DURING PASSAGE: No Assembly Committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: June 26, 1997

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

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COMMITTEE STATEMENT: ASSEMBLY: Yes

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P.L. 1997, CHAPTER 255, *approved September 17, 1997*
Assembly Committee Substitute for
Assembly, No. 1971

1 AN ACT concerning employer contributions to the unemployment
2 compensation fund and amending R.S. 43:21-3, R.S.43:21-7, R.S.
3 43:21-14 and R.S. 43:21-16.

4

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

7

8 1. R.S.43:21-3 is amended to read as follows:
9 43:21-3. Benefits.

10 (a) Payment of benefits.

11 All benefits shall be promptly paid from the fund in accordance
12 with such regulations as may be prescribed hereunder.

13 (b) Weekly benefits for unemployment.

14 With respect to an individual's benefit year commencing on or after
15 July 1, 1961, such individual, if eligible and unemployed (as defined in
16 subsection (m) of R.S.43:21-19), shall be paid an amount (except as
17 to final payment) equal to his weekly benefit rate less any
18 remuneration, other than remuneration from self-employment paid to
19 an individual who is receiving a self-employment assistance allowance,
20 paid or payable to him for such week in excess of 20% of his weekly
21 benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is
22 the greater; provided that such amount shall be computed to the next
23 lower multiple of \$1.00 if not already a multiple thereof.

24 (c) Weekly benefit rate.

25 (1) With respect to an individual whose benefit year commences
26 after September 30, 1984, his weekly benefit rate under each
27 determination shall be 60% of his average weekly wage, subject to a
28 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly remuneration
29 paid to workers by employers subject to this chapter (R.S.43:21-1 et

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 seq.), as determined and promulgated by the Commissioner of Labor;
2 provided, however, that such individual's weekly benefit rate shall be
3 computed to the next lower multiple of \$1.00 if not already a multiple
4 thereof.

5 (2) Dependency benefits.

6 (A) With respect to an individual whose benefit year commences
7 after September 30, 1984, the individual's weekly benefit rate as
8 determined in paragraph (1) of this subsection (c) will be increased by
9 7% for the first dependent and 4% each for the next two dependents
10 (up to a maximum of three dependents), computed to the next lower
11 multiple of \$1.00 if not already a multiple thereof, except that the
12 maximum weekly benefit rate payable for an individual claiming
13 dependency benefits shall not exceed the maximum amount determined
14 under paragraph (1) of this subsection (c).

15 (B) For the purposes of this paragraph (2), a dependent is defined
16 as an individual's unemployed spouse or an unemployed unmarried
17 child (including a stepchild or a legally adopted child) under the age
18 of 19 or an unemployed unmarried child, who is attending an
19 educational institution as defined in subsection (y) of R.S.43:21-19 on
20 a full-time basis and is under the age of 22. If an individual's spouse
21 is employed during the week the individual files an initial claim for
22 benefits, this paragraph (2) shall not apply. If both spouses establish
23 a claim for benefits in accordance with the provisions of this chapter
24 (R.S. 43:21-1 et seq.), only one shall be entitled to dependency
25 benefits as provided in this paragraph (2).

26 (C) Any determination establishing dependency benefits under this
27 paragraph (2) shall remain fixed for the duration of the individual's
28 benefit year and shall not be increased or decreased unless it is
29 determined by the division that the individual wrongfully claimed
30 dependency benefits as a result of false or fraudulent representation.

31 (D) Notwithstanding the provisions of any other law, the division
32 shall use every available administrative means to insure that
33 dependency benefits are paid only to individuals who meet the
34 requirements of this paragraph (2). These administrative actions may
35 include, but shall not be limited to, the following:

36 (i) All married individuals claiming dependents under this
37 paragraph (2) shall be required to provide the social security number
38 of the individual's spouse. If the individual indicates that the spouse
39 is unemployed, the division shall match the social security number of
40 the spouse against available wage records to determine whether
41 earnings were reported on the last quarterly earnings report filed by
42 employers under R.S.43:21-14 of this chapter. If earnings were
43 reported, the division shall contact in writing the last employer to
44 determine whether the spouse is currently employed.

45 (ii) Where a child is claimed as a dependent by an individual under

1 this paragraph (2), the individual shall be required to provide to the
2 division the most recent federal income tax return filed by the
3 individual to assist the division in verifying the claim.

4 (3) For the purposes of this subsection (c), the "Statewide average
5 weekly remuneration paid to workers by employers" shall be computed
6 and determined by the Commissioner of Labor on or before September
7 1 of each year on the basis of one-fifty-second of the total
8 remuneration reported for the preceding calendar year by employers
9 subject to this chapter, divided by the average of the number of
10 workers reported by such employers, and shall be effective as to
11 benefit determinations in the calendar year following such computation
12 and determination.

13 (d) Maximum total benefits.

14 (1) (A) With respect to an individual to whom benefits shall be
15 payable for benefit years commencing on or after January 1, 1975 and
16 prior to July 1, 1986, as provided in this section, such individual shall
17 be entitled to receive, under each successive benefit determination
18 relating to each of his base year employers, a total amount of benefits
19 equal to three-quarters of his base weeks from the employer in
20 question multiplied by his weekly benefit rate; but the amount of
21 benefits thus resulting under any such determination made with respect
22 to any employer shall be adjusted to the next lower multiple of \$1.00
23 if not already a multiple thereof.

24 (B) (i) With respect to an individual for whom benefits shall be
25 payable for benefit years commencing on or after July 1, 1986, as
26 provided in this section, the individual shall be entitled to receive a
27 total amount of benefits equal to three-quarters of the individual's base
28 weeks with all employers in the base year multiplied by the individual's
29 weekly benefit rate; but the amount of benefits thus resulting under
30 that determination shall be adjusted to the next lower multiple of \$1.00
31 if not already a multiple thereof.

32 (ii) Except ~~that~~ as provided pursuant to paragraph (1) of
33 subsection (c) of R.S.43:21-7, benefits paid to an individual for benefit
34 years commencing on or after July 1, 1986 shall be charged against the
35 accounts of the individual's base year employers in the following
36 manner:

37 Each week of benefits paid to an eligible individual shall be
38 charged against each base year employer's account in the same
39 proportion that the wages paid by each employer to the individual
40 during the base year bear to the wages paid by all employers to that
41 individual during the base year.

42 (iii) ~~Wages earned during a base year, which had previously been~~
43 ~~used to establish a benefit year commencing prior to July 1, 1986, may~~
44 ~~also be used to establish benefit years commencing on or after July 1,~~
45 ~~1986 but prior to October 1, 1987. No employer's account shall be~~

1 charged for any benefits payable based on base year wages which may
2 be used to establish entitlement under the provisions of this
3 subparagraph (iii).] (Deleted by amendment, P.L. , c. .)

4 (2) No such individual shall be entitled to receive benefits under
5 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
6 benefit rate in any benefit year under either of subsections (c) and (f)
7 of section 43:21-4 of this chapter (R.S.43:21-1 et seq.). In the event
8 that any individual qualifies for benefits under both of said subsections
9 during any benefit year, the maximum total amount of benefits payable
10 under said subsections combined to such individual during the benefit
11 year shall be one and one-half times the maximum amount of benefits
12 payable under one of said subsections.

13 (3) (Deleted by amendment, P.L.1984, c.24.)
14 (cf: P.L.1995, c.394, s.6)

15

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

17 43:21-7. Contributions. Employers other than governmental
18 entities, whose benefit financing provisions are set forth in section 4
19 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
20 liable for payment in lieu of contributions on the basis set forth in
21 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller
22 for the unemployment compensation fund, contributions as set forth
23 in subsections (a), (b) and (c) hereof, and the provisions of subsections
24 (d) and (e) shall be applicable to all employers, consistent with the
25 provisions of the "unemployment compensation law" and the
26 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
27 seq.).

28 (a) Payment.

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

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

40 (b) Rate of contributions. Each employer shall pay the following
41 contributions:

42 (1) For the calendar year 1947, and each calendar year thereafter,
43 2 7/10% of wages paid by him during each such calendar year, except
44 as otherwise prescribed by subsection (c) of this section.

45 (2) The "wages" of any individual, with respect to any one

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

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

37 (c) Future rates based on benefit experience.

38 (1) A separate account for each employer shall be maintained and
39 this shall be credited with all the contributions which he has paid on
40 his own behalf on or before January 31 of any calendar year with
41 respect to employment occurring in the preceding calendar year;
42 provided, however, that if January 31 of any calendar year falls on a
43 Saturday or Sunday, an employer's account shall be credited as of
44 January 31 of such calendar year with all the contributions which he
45 has paid on or before the next succeeding day which is not a Saturday

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

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

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

39 (3) No employer's rate shall be lower than 5.4% unless assignment
40 of such lower rate is consistent with the conditions applicable to
41 additional credit allowance for such year under section 3303(a)(1) of
42 the Internal Revenue Code of 1986 (26 U.S.C.3303(a)(1)), any other
43 provision of this section to the contrary notwithstanding.

44 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
45 8/10%, except as otherwise provided in the following provisions. No

1 employer's rate for the 12 months commencing July 1 of any calendar
2 year shall be other than $2\frac{8}{10}\%$, unless as of the preceding January 31
3 such employer shall have paid contributions with respect to wages paid
4 in each of the three calendar years immediately preceding such year,
5 in which case such employer's rate for the 12 months commencing July
6 1 of any calendar year shall be determined on the basis of his record up
7 to the beginning of such calendar year. If, at the beginning of such
8 calendar year, the total of all his contributions, paid on his own behalf,
9 for all past years exceeds the total benefits charged to his account for
10 all such years, his contribution rate shall be:

11 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
12 5%, of his average annual payroll (as defined in paragraph (2),
13 subsection (a) of R.S.43:21-19);

14 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less than
15 6%, of his average annual payroll;

16 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less than
17 7%, of his average annual payroll;

18 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less than
19 8%, of his average annual payroll;

20 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less than
21 9%, of his average annual payroll;

22 (6) 1%, if such excess equals or exceeds 9%, but is less than 10%,
23 of his average annual payroll;

24 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is less
25 than 11%, of his average annual payroll;

26 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11% of his
27 average annual payroll.

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

32 (1) 4%, if such excess is less than 10% of his average annual
33 payroll;

34 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less than
35 20%, of his average annual payroll;

36 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his average
37 annual payroll.

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

43 (i) if the reserve balance in its account is positive, its assigned rate
44 shall be the highest rate in effect for positive balance accounts for that
45 period, or 5.4%, whichever is higher, and (ii) if the reserve balance in

1 its account is negative, its assigned rate shall be the highest rate in
2 effect for deficit accounts for that period.

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

7 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
8 31 of any calendar year the balance in the unemployment trust fund
9 equals or exceeds 4% but is less than 7% of the total taxable wages
10 reported to the controller as of that date in respect to employment
11 during the preceding calendar year, the contribution rate, effective July
12 1 following, of each employer eligible for a contribution rate
13 calculation based upon benefit experience, shall be increased by 3/10
14 of 1% over the contribution rate otherwise established under the
15 provisions of paragraph (3) or (4) of this subsection. If on March 31
16 of any calendar year the balance of the unemployment trust fund
17 exceeds 2 1/2% but is less than 4% of the total taxable wages reported
18 to the controller as of that date in respect to employment during the
19 preceding calendar year, the contribution rate, effective July 1
20 following, of each employer eligible for a contribution rate calculation
21 based upon benefit experience, shall be increased by 6/10 of 1% over
22 the contribution rate otherwise established under the provisions of
23 paragraph (3) or (4) of this subsection.

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

43 (B) If on March 31 of any calendar year the balance in the
44 unemployment trust fund equals or exceeds 10% but is less than 12
45 1/2% of the total taxable wages reported to the controller as of that

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

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

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

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

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

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

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

(ii) With respect to experience rating years beginning on or after July 1, 1997, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears

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

5 EXPERIENCE RATING TAX TABLE

6 Fund Reserve Ratio¹

7	8	6.00%	4.00%	3.00%	2.50%	2.49%
9 Employer	and	to	to	to	and	
10 Reserve	Over	5.99%	3.99%	2.99%	Under	
11 Ratio ²	A	B	C	D	E	
12 Positive Reserve Ratio:						
13 17% and over	0.3	0.4	0.5	0.6	1.2	
14 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2	
15 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2	
16 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2	
17 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2	
18 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2	
19 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2	
20 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6	
21 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9	
22 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3	
23 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6	
24 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0	
25 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4	
26 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7	
27 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9	
28 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0	
29 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1	
30 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3	
31 Deficit Reserve Ratio:						
32 -0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1	
33 -3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2	
34 -6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3	
35 -9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4	
36 -12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5	
37 -15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6	
38 -20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7	
39 -25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8	
40 -30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9	
41 -35.00% and under	5.4	5.4	5.8	6.4	7.0	
42 New Employer Rate	2.8	2.8	2.8	3.1	3.4	

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

45 ²Employer Reserve Ratio (Contributions minus benefits as a

1 percentage of employer's taxable wages).

2 (F)(i) With respect to experience rating years beginning on or after
3 July 1, 1986 and before July 1, 1997, if the balance of the
4 unemployment trust fund as of the prior March 31 is negative, the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph E of this paragraph (5), shall be
7 increased by a factor of 10% computed to the nearest multiple of
8 1/10% if not already a multiple thereof.

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

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

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

40 On or after January 1, 1994 until December 31, 1995, except as
41 provided pursuant to subparagraph (I) of this paragraph (5),
42 notwithstanding any other provisions of this paragraph (5), the
43 contribution rate for each employer liable to pay contributions, as
44 computed under subparagraph (E) of this paragraph (5), shall be
45 decreased by a factor of 36.0% computed to the nearest multiple of

1 1/10%, except that, if an employer has a deficit reserve ratio of
2 negative 35.0% or under, the employer's rate of contribution shall not
3 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
4 amount of the reduction in the employer contributions stipulated by
5 this subparagraph (H) shall be in addition to the amount of the
6 reduction in the employer contributions stipulated by subparagraph (G)
7 of this paragraph (5), except that the rate of contribution of an
8 employer who has a deficit reserve ratio of negative 35.0% or under
9 shall not be reduced pursuant to this subparagraph (H) to less than
10 5.4% and the rate of contribution of any other employer shall not be
11 reduced to less than 0.0%.

12 On or after April 1, 1996 until December 31, 1996, the
13 contribution rate for each employer liable to pay contributions, as
14 computed under subparagraph (E) of this paragraph (5), shall be
15 decreased by a factor of 25.0% computed to the nearest multiple of
16 1/10%, except that, if an employer has a deficit reserve ratio of
17 negative 35.0% or under, the employer's rate of contribution shall not
18 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
19 amount of the reduction in the employer contributions stipulated by
20 this subparagraph (H) shall be in addition to the amount of the
21 reduction in the employer contributions stipulated by subparagraph (G)
22 of this paragraph (5), except that the rate of contribution of an
23 employer who has a deficit reserve ratio of negative 35.0% or under
24 shall not be reduced pursuant to this subparagraph (H) to less than
25 5.4% and the rate of contribution of any other employer shall not be
26 reduced to less than 0.0%.

27 On or after January 1, 1997 until December 31, 1997, the
28 contribution rate for each employer liable to pay contributions, as
29 computed under subparagraph (E) of this paragraph (5), shall be
30 decreased by a factor of 10.0% computed to the nearest multiple of
31 1/10%, except that, if an employer has a deficit reserve ratio of
32 negative 35.0% or under, the employer's rate of contribution shall not
33 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
34 amount of the reduction in the employer contributions stipulated by
35 this subparagraph (H) shall be in addition to the amount of the
36 reduction in the employer contributions stipulated by subparagraph (G)
37 of this paragraph (5), except that the rate of contribution of an
38 employer who has a deficit reserve ratio of negative 35.0% or under
39 shall not be reduced pursuant to this subparagraph (H) to less than
40 5.4% and the rate of contribution of any other employer shall not be
41 reduced to less than 0.0%.

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

1 If, upon calculating the unemployment compensation fund reserve
2 ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, the
3 controller finds that the fund reserve ratio has decreased to a level of
4 less than 3.00%, the Commissioner of Labor shall notify the State
5 Treasurer of this fact and of the dollar amount necessary to bring the
6 fund reserve ratio up to a level of 3.00%. The State Treasurer shall,
7 prior to March 31, 1997, transfer from the General Fund to the
8 unemployment compensation fund, revenues in the amount specified
9 by the commissioner and which, upon deposit in the unemployment
10 compensation fund, shall result, upon recalculation, in a fund reserve
11 ratio used to determine employer contributions beginning July 1, 1997,
12 of at least 3.00%.

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

25 (6) Additional contributions.

26 Notwithstanding any other provision of law, any employer who has
27 been assigned a contribution rate pursuant to subsection (c) of this
28 section for the year commencing July 1, 1948, and for any year
29 commencing July 1 thereafter, may voluntarily make payment of
30 additional contributions, and upon such payment shall receive a
31 recomputation of the experience rate applicable to such employer,
32 including in the calculation the additional contribution so made. Any
33 such additional contribution shall be made during the 30-day period
34 following the date of the mailing to the employer of the notice of his
35 contribution rate as prescribed in this section, unless, for good cause,
36 the time for payment has been extended by the controller for not to
37 exceed an additional 60 days; provided that in no event may such
38 payments which are made later than 120 days after the beginning of
39 the year for which such rates are effective be considered in
40 determining the experience rate for the year in which the payment is
41 made. Any employer receiving any extended period of time within
42 which to make such additional payment and failing to make such
43 payment timely shall be, in addition to the required amount of
44 additional payment, a penalty of 5% thereof or \$5.00, whichever is
45 greater, not to exceed \$50.00. Any adjustment under this subsection

1 shall be made only in the form of credits against accrued or future
2 contributions.

3 (7) Transfers.

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

25 (B) An employer who transfers part of his or its organization,
26 trade, assets or business to a successor in interest, whether by merger,
27 consolidation, sale, transfer, descent or otherwise, may jointly make
28 application with such successor in interest for transfer of that portion
29 of the employment experience of the predecessor employer relating to
30 the portion of the organization, trade, assets or business transferred to
31 the successor in interest, including credit for past years, contributions
32 paid, annual payrolls, benefit charges, et cetera, applicable to such
33 predecessor employer. The transfer of employment experience may be
34 allowed pursuant to regulation only if it is found that the employment
35 experience of the predecessor employer with respect to the portion of
36 the organization, trade, assets or business which has been transferred
37 may be considered indicative of the future employment experience of
38 the successor in interest. Credit shall be given to the successor in
39 interest only for the years during which contributions were paid by the
40 predecessor employer with respect to that part of the organization,
41 trade, assets or business transferred.

42 (C) A transfer of the employment experience in whole or in part
43 having become final, the predecessor employer thereafter shall not be
44 entitled to consideration for an adjusted rate based upon his or its
45 experience or the part thereof, as the case may be, which has thus been

1 transferred. A successor in interest to whom employment experience
2 or a part thereof is transferred pursuant to this subsection shall, as of
3 the date of the transfer of the organization, trade, assets or business,
4 or part thereof, immediately become an employer if not theretofore an
5 employer subject to this chapter (R.S.43:21-1 et seq.).

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

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

21 (B) Effective January 1, 1978 there shall be no contributions by
22 workers in the employ of any governmental or nongovernmental
23 employer electing or required to make payments in lieu of
24 contributions unless the employer is covered by the State plan under
25 the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in
26 that case contributions shall be at the rate of 1/2 of 1%, except that
27 commencing July 1, 1986, workers in the employ of any
28 nongovernmental employer electing or required to make payments in
29 lieu of contributions shall be required to make contributions to the
30 fund at the same rate prescribed for workers of other nongovernmental
31 employers.

32 (C) (i) Notwithstanding the above provisions of this paragraph
33 (1), during the period starting July 1, 1986 and ending December 31,
34 1992, each worker shall contribute to the fund 1.125% of wages paid
35 with respect to his employment with a governmental employer electing
36 or required to pay contributions or nongovernmental employer,
37 including a nonprofit organization which is an employer as defined
38 under R.S.43:21-19(h)(6), regardless of whether that nonprofit
39 organization elects or is required to finance its benefit costs with
40 contributions to the fund or by payments in lieu of contributions, after
41 that employer has satisfied the conditions set forth in subsection
42 R.S.43:21-19(h) with respect to becoming an employer.
43 Contributions, however, shall be at the rate of 0.625% while the
44 worker is covered by an approved private plan under the "Temporary
45 Disability Benefits Law" while the worker is exempt under section 7

1 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of
2 that law; provided that such contributions shall be at the rate of
3 0.625% of wages paid with respect to employment with the State of
4 New Jersey or any other governmental entity or instrumentality
5 electing or required to make payments in lieu of contributions and
6 which is covered by the State plan under the "Temporary Disability
7 Benefits Law," except that, while the worker is exempt from the
8 provisions of the "Temporary Disability Benefits Law" under section
9 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of
10 that law, or is covered for disability benefits by an approved private
11 plan of the employer, the contributions to the fund shall be 0.125%.

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

13 (D) Notwithstanding any other provisions of this paragraph (1),
14 during the period starting January 1, 1993 and ending June 30, 1994,
15 each worker shall contribute to the unemployment compensation fund
16 0.5% of wages paid with respect to the worker's employment with a
17 governmental employer electing or required to pay contributions or
18 nongovernmental employer, including a nonprofit organization which
19 is an employer as defined under paragraph (6) of subsection (h) of
20 R.S.43:21-19, regardless of whether that nonprofit organization elects
21 or is required to finance its benefit costs with contributions to the fund
22 or by payments in lieu of contributions, after that employer has
23 satisfied the conditions set forth in subsection (h) of R.S.43:21-19
24 with respect to becoming an employer. No contributions, however,
25 shall be made by the worker while the worker is covered by an
26 approved private plan under the "Temporary Disability Benefits Law,"
27 P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt
28 under section 7 of P.L.1948, c.110 (C.43:21-31) or any other
29 provision of that law; provided that the contributions shall be at the
30 rate of 0.50% of wages paid with respect to employment with the
31 State of New Jersey or any other governmental entity or
32 instrumentality electing or required to make payments in lieu of
33 contributions and which is covered by the State plan under the
34 "Temporary Disability Benefits Law," except that, while the worker is
35 exempt from the provisions of the "Temporary Disability Benefits
36 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
37 other provision of that law, or is covered for disability benefits by an
38 approved private plan of the employer, no contributions shall be made
39 to the fund.

40 Each worker shall, starting on January 1, 1996 and ending March
41 31, 1996, contribute to the unemployment compensation fund 0.60%
42 of wages paid with respect to the worker's employment with a
43 governmental employer electing or required to pay contributions or
44 nongovernmental employer, including a nonprofit organization which
45 is an employer as defined under paragraph (6) of subsection (h) of

1 R.S.43:21-19, regardless of whether that nonprofit organization elects
2 or is required to finance its benefit costs with contributions to the fund
3 or by payments in lieu of contributions, after that employer has
4 satisfied the conditions set forth in subsection (h) of R.S.43:21-19
5 with respect to becoming an employer, provided that the contributions
6 shall be at the rate of 0.10% of wages paid with respect to
7 employment with the State of New Jersey or any other governmental
8 entity or instrumentality electing or required to make payments in lieu
9 of contributions.

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

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

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

41 (G) Each worker shall, starting on July 1, 1994, contribute to the
42 State disability benefits fund an amount equal to 0.50% of wages paid
43 with respect to the worker's employment with a government employer
44 electing or required to pay contributions to the State disability benefits
45 fund or nongovernmental employer, including a nonprofit organization

1 which is an employer as defined under paragraph (6) of subsection (h)
2 of R.S.43:21-19, unless the employer is covered by an approved
3 private disability plan or is exempt from the provisions of the
4 "Temporary Disability Benefits Law," P.L.1948 c.110 (C.43:21-25 et
5 seq.) under section 7 of that law (C.43:21-31) or any other provision
6 of that law.

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

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

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

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

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

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

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

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

1 from the employer, or the insurer if the insurer has indemnified the
2 employer with respect thereto, the amount so prorated. The
3 provisions of R.S.43:21-14 with respect to collection of employer
4 contributions shall apply to such assessments. The amount so
5 recovered by the controller shall be paid into the State disability
6 benefits fund.

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

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

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

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

32 (1) Except as hereinafter provided, each employer shall, in
33 addition to the contributions required by subsections (a), (b), and (c)
34 of this section, contribute 1/2 of 1% of the wages paid by such
35 employer to workers with respect to employment unless he is not a
36 covered employer as defined in section 3 of the "Temporary Disability
37 Benefits Law" (C.43:21-27 (a)), except that the rate for the State of
38 New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the
39 first six months of 1981. Prior to July 1, 1981 and prior to July 1 each
40 year thereafter, the controller shall review the experience accumulated
41 in the account of the State of New Jersey and establish a rate for the
42 next following fiscal year which, in combination with worker
43 contributions, will produce sufficient revenue to keep the account in
44 balance; except that the rate so established shall not be less than 1/10
45 of 1%. Such contributions shall become due and be paid by the

1 employer to the controller for the State disability benefits fund as
2 established by law, in accordance with such regulations as may be
3 prescribed, and shall not be deducted, in whole or in part, from the
4 remuneration of individuals in his employ. In the payment of any
5 contributions, a fractional part of a cent shall be disregarded unless it
6 amounts to \$0.005 or more, in which case it shall be increased to
7 \$0.01.

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

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

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

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

44 (D) Prior to July 1 of each calendar year, the controller shall make
45 a preliminary determination of the rate of contribution for the 12

1 months commencing on such July 1 for each employer subject to the
2 contribution requirements of this subsection (e).

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

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

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

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

16 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds 1
17 $\frac{1}{2}\%$ of his average annual payroll.

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

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

26 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
27 1% of his average annual payroll;

28 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

30 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
31 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

32 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
33 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

34 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
35 1% of his average annual payroll.

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

42 (E) (1) Prior to July 1 of each calendar year the controller shall
43 determine the amount of the State disability benefits fund as of
44 December 31 of the preceding calendar year, increased by the
45 contributions paid thereto during January of the current calendar year

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

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

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

23 (ii) If the percentage determined in accordance with paragraph
24 (E)(1) of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less than
25 $1\frac{1}{4}$ of 1%, the final employer rates shall be the preliminary employer
26 rates.

27 (iii) If the percentage determined in accordance with paragraph
28 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$ of
29 1%, the final employer rates shall be the preliminary employer rates
30 determined as provided in (D) hereof increased by the difference
31 between $\frac{3}{4}$ of 1% and such percentage taken to the nearest $\frac{5}{100}$ of
32 1%; provided, however, that no such final rate shall be more than $\frac{1}{4}$
33 of 1% in the case of an employer whose preliminary rate is determined
34 as provided in (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
35 employer whose preliminary rate is determined as provided in (D)(1)
36 and (D)(3) hereof, nor more than $\frac{3}{4}$ of 1% in the case of an employer
37 whose preliminary rate is determined as provided in (D)(4) hereof.

38 (iv) If the amount of the State disability benefits fund determined
39 as provided in paragraph (E)(1) of this subsection is equal to or less
40 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of an
41 employer whose preliminary rate is determined as provided in (D)(2)
42 hereof, $\frac{7}{10}$ of 1% in the case of an employer whose preliminary rate
43 is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the
44 case of an employer whose preliminary rate is determined as provided
45 in (D)(4) hereof. Notwithstanding any other provision of law or any

1 determination made by the controller with respect to any 12-month
2 period commencing on July 1, 1970, the final rates for all employers
3 for the period beginning January 1, 1971, shall be as set forth herein.
4 (cf: P.L.1996, c.30, s.6)

5

6 3. R.S. 43:21-14 is amended to read as follows:

7 43:21-14. (a)(1) In addition to such reports as may be required
8 under the provisions of subsection (g) of R.S.43:21-11, every
9 employer shall file with the controller periodical contribution reports
10 on such forms and at such times as the controller shall prescribe, to
11 disclose the employer's liability for contributions under the provisions
12 of this chapter (R.S.43:21-1 et seq.), and at the time of filing each
13 contribution report shall pay the contributions required by this chapter
14 (R.S.43:21-1 et seq.), for the period covered by such report. The
15 controller may require that such reports shall be under oath of the
16 employer. Any employer who shall fail to file any report, required by
17 the controller, on or before the last day for the filing thereof shall pay
18 a penalty of \$5.00 for each day of delinquency until and including the
19 fifth day following such last day and for any period of delinquency
20 after such fifth day, a penalty of \$5.00 a day or 20% of the amount of
21 the contributions due and payable by the employer for the period
22 covered by the report, whichever is the lesser; if there be no liability
23 for contributions for the period covered by any contribution report or
24 in the case of any report other than a contribution report, the employer
25 or employing unit shall pay a penalty of \$5.00 a day for each day of
26 delinquency in filing or \$25.00, whichever is the lesser; provided,
27 however, that when it is shown to the satisfaction of the controller that
28 the failure to file any such report was not the result of fraud or an
29 intentional disregard of this chapter (R.S.43:21-1 et seq.), or the
30 regulations promulgated hereunder, the controller, in his discretion,
31 may remit or abate any unpaid penalties heretofore or hereafter
32 imposed under this section. On or before October 1 of each year, the
33 controller shall submit to the Commissioner of Labor a report covering
34 the 12-month period ending on the preceding June 30, and showing the
35 names and addresses of all employers for whom the controller remitted
36 or abated any penalties, or ratified any remission or abatement of
37 penalties, and the amount of such penalties with respect to each
38 employer. Any employer who shall fail to pay the contributions due for
39 any period, on or before the date they are required by the controller to
40 be paid, shall pay interest on the amount thereof from such date until
41 the date of payment thereof, at the rate of 1% a month through June
42 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981. Upon
43 the written request of any employer or employing unit, filed with the
44 controller on or before the due date of any report or contribution
45 payment, the controller, for good cause shown, may grant, in writing,

1 an extension of time for the filing of such report or the paying of such
2 contribution, with interest at the applicable rate; provided no such
3 extension shall exceed 30 days and that no such extension shall
4 postpone payment of any contribution for any period beyond the day
5 preceding the last day for filing tax returns under Title IX of the
6 federal Social Security Act for the year in which said period occurs.

7 (2)(A) For the calendar quarter commencing July 1, 1984 and each
8 successive quarter thereafter, each employer shall file a report with the
9 controller within 30 days after the end of each quarter in a form and
10 manner prescribed by the controller, listing the name, social security
11 number and wages paid to each employee and the number of base
12 weeks (as defined in subsection (t) of R.S.43:21-19) worked by the
13 employee during the calendar quarter. (B) Any employer who fails
14 without reasonable cause to comply with the reporting requirements
15 of this paragraph (2) shall be liable for a penalty in the following
16 amount for each employee with respect to whom the employer is
17 required to file a report but who is not included in the report or for
18 whom the required information is not accurately reported for each
19 employee required to be included, whether or not the employee is
20 included:

21 (i) For the first failure for one quarter in any eight consecutive
22 quarters, \$5.00 for each employee;

23 (ii) For the second failure for any quarter in any eight consecutive
24 quarters, \$10.00 for each employee; and

25 (iii) For the third failure for any quarter in any eight consecutive
26 quarters, and for any failure in any eight consecutive quarters, which
27 failure is subsequent to the third failure, \$25.00 for each employee.

28 (C) Information reported by employers as requested by this
29 paragraph (2) shall be used by the Department of Labor for the
30 purpose of determining eligibility for benefits of individuals in
31 accordance with the provisions of R.S.43:21-1 et seq.
32 Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the
33 Department of Labor is hereby authorized to provide the Department
34 of Human Services and the Higher Education Assistance Authority
35 with information reported by employers as required by this paragraph
36 (2). For each fiscal year, the Director of the Division of Budget and
37 Accounting of the Department of the Treasury shall charge the
38 appropriate account of the Department of Human Services and the
39 Higher Education Assistance Authority in amounts sufficient to
40 reimburse the Department of Labor for the cost of providing
41 information under this subparagraph (C).

42 (D) For the purpose of administering the provisions of this
43 paragraph (2), all appropriations, files, books, papers, records,
44 equipment and other property, and employees currently assigned to the
45 Division of Taxation for the implementation of the "Wage Reporting

1 Act," P.L.1980, c.48 (C.54:1-55 et seq.), shall be transferred to the
2 Department of Labor as of September 1, 1984 in accordance with the
3 provisions of the "State Agency Transfer Act," P.L.1971, c.375
4 (C.52:14D-1 et seq.).

5 (b) The contributions, penalties, and interest due from any
6 employer under the provisions of this chapter (R.S.43:21-1 et seq.),
7 from the time they shall be due, shall be a personal debt of the
8 employer to the State of New Jersey, recoverable in any court of
9 competent jurisdiction in a civil action in the name of the State of New
10 Jersey; provided, however, that except in the event of fraud, no
11 employer shall be liable for contributions or penalties unless
12 contribution reports have been filed or assessments have been made in
13 accordance with subsection (c) or (d) of this section before four years
14 have elapsed from the last day of the calendar year with respect to
15 which any contributions become payable under this chapter
16 (R.S.43:21-1 et seq.), nor shall any employer be required to pay
17 interest on any such contribution unless contribution reports were filed
18 or assessments made within such four-year period; provided further
19 that if such contribution reports were filed or assessments made within
20 the four-year period, no civil action shall be instituted, nor shall any
21 certificate be issued to the Clerk of the Superior Court under
22 subsection (e) of this section, except in the event of fraud, after six
23 years have elapsed from the last day of the calendar year with respect
24 to which any contributions become payable under this chapter
25 (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later. Payments
26 received from an employer on account of any debt incurred under the
27 provisions of this chapter (R.S.43:21-1 et seq.) may be applied by the
28 controller on account of the contribution liability of the employer and
29 then to interest and penalties, and any balance remaining shall be
30 recoverable by the controller from the employer. Upon application
31 therefor, the controller shall furnish interested persons and entities
32 certificates of indebtedness covering employers, employing units and
33 others for contributions, penalties and interest, for each of which
34 certificates the controller shall charge and collect a fee of \$2.00 per
35 name; no such certificate to be issued, however, for a fee of less than
36 \$10.00. All fees so collected shall be paid into the unemployment
37 compensation administration fund.

38 (c) If any employer shall fail to make any report as required by the
39 rules and regulations of the division pursuant to the provisions of this
40 chapter (R.S.43:21-1 et seq.), the controller may make an estimate of
41 the liability of such employer from any information it may obtain, and,
42 according to such estimate so made, assess such employer for the
43 contributions, penalties, and interest due the State from him, give
44 notice of such assessment to the employer, and make demand upon
45 him for payment.

1 (d) After a report is filed under the provisions of this chapter
2 (R.S.43:21-1 et seq.) and the rules and regulations thereof, the
3 controller shall cause the report to be examined and shall make such
4 further audit and investigation as it may deem necessary, and if
5 therefrom there shall be determined that there is a deficiency with
6 respect to the payment of the contributions due from such employer,
7 the controller shall assess the additional contributions, penalties, and
8 interest due the State from such employer, give notice of such
9 assessment to the employer, and make demand upon him for payment.

10 (e) As an additional remedy, the controller may issue to the Clerk
11 of the Superior Court of New Jersey a certificate stating the amount
12 of the employer's indebtedness under this chapter (R.S.43:21-1 et seq.)
13 and describing the liability, and thereupon the clerk shall immediately
14 enter upon his record of docketed judgments such certificate or an
15 abstract thereof and duly index the same. Any such certificate or
16 abstract, heretofore or hereafter docketed, from the time of docketing
17 shall have the same force and effect as a judgment obtained in the
18 Superior Court of New Jersey, and the controller shall have all the
19 remedies and may take all the proceedings for the collection thereof
20 which may be had or taken upon the recovery of such a judgment in a
21 civil action upon contract in said court. Such debt, from the time of
22 docketing thereof, shall be a lien on and bind the lands, tenements and
23 hereditaments of the debtor.

24 The Clerk of the Superior Court shall be entitled to receive for
25 docketing such certificate, \$0.50, and for a certified transcript of such
26 docket, \$0.50. If the amount set forth in said certificate as a debt shall
27 be modified or reversed upon review, as hereinafter provided, the
28 Clerk of the Superior Court shall, when an order of modification or
29 reversal is filed, enter in the margin of the docket opposite the entry
30 of the judgment, the word "modified" or "reversed," as the case may
31 be, and the date of such modification or reversal.

32 The employer, or any other party having an interest in the property
33 upon which the debt is a lien, may deposit the amount claimed in the
34 certificate with the Clerk of the Superior Court of New Jersey,
35 together with an additional 10% of the amount thereof, or \$100.00,
36 whichever amount is the greater, to cover interest and the costs of
37 court, or in lieu of depositing the amount in cash, may give a bond to
38 the State of New Jersey in double the amount claimed in the
39 certificate, and file the same with the Clerk of the Superior Court. Said
40 bond shall have such surety and shall be approved in the manner
41 required by the Rules Governing the Courts of the State of New
42 Jersey.

43 After the deposit of said money or the filing of said bond, the
44 employer, or any other party having an interest in the said property,
45 may, after exhausting all administrative remedies, secure judicial

1 review of the legality or validity of the indebtedness or the amount
2 thereof, and the said deposit of cash shall be as security for, and the
3 bond shall be conditioned to prosecute, the judicial review with effect.

4 Upon the deposit of said money or the filing of the said bond with
5 the Clerk of the Superior Court, all proceedings on such judgment
6 shall be stayed until the final determination of the cause, and the
7 moneys so deposited shall be subject to the lien of the indebtedness
8 and costs and interest thereon, and the lands, tenements, and
9 hereditaments of said debtor shall forthwith be discharged from the
10 lien of the State of New Jersey and no execution shall issue against the
11 same by virtue of said judgment.

12 Notwithstanding the provisions of subsections (a) through (c) of
13 this section, the Department of Labor may, with the concurrence of the
14 State Treasurer, when all reasonable efforts to collect amounts owed
15 have been exhausted, or to avoid litigation, reduce any liability for
16 contributions, penalties and interest, provided no portion of those
17 amounts represents contributions made by an employee pursuant to
18 subsection (d) of R.S.43:21-7.

19 (f) If, not later than two years after the calendar year in which any
20 moneys were erroneously paid to or collected by the controller,
21 whether such payments were voluntarily or involuntarily made or made
22 under mistake of law or of fact, an employer, employing unit, or
23 employee who has paid such moneys shall make application for an
24 adjustment thereof, the said moneys shall, upon order of the controller,
25 be either credited or refunded, without interest, from the appropriate
26 fund. For like cause and within the same period, credit or refund may
27 be so made on the initiative of the controller.

28 (g) All interest and penalties collected pursuant to this section
29 shall be paid into a special fund to be known as the unemployment
30 compensation auxiliary fund; all moneys in this special fund shall be
31 deposited, administered and disbursed in the same manner and under
32 the same conditions and requirements as is provided by law for other
33 special funds in the State Treasury, and shall be expended, under
34 legislative appropriation, for the purpose of aiding in defraying the
35 cost of the administration of this chapter (R.S.43:21-1 et seq.); for the
36 repayment of any interest bearing advances made from the federal
37 unemployment account pursuant to the provisions of section 1202(b)
38 of the Social Security Act, 42 U.S.C. 1322; and for essential and
39 necessary expenditures in connection with programs designed to
40 stimulate employment, as determined by the Commissioner of Labor,
41 except that any moneys in this special fund [which are not otherwise
42 appropriated] shall be first applied to aiding in the defraying of
43 necessary costs of the administration of this chapter (R.S.43:21-1 et
44 seq.) as determined by the Commissioner of Labor. The Treasurer of
45 the State shall be ex officio the treasurer and custodian of this special

1 fund and, subject to legislative appropriation, shall administer the fund
2 in accordance with the directions of the controller. Any balances in
3 this fund shall not lapse at any time, but shall be continuously
4 available, subject to legislative appropriation, to the controller for
5 expenditure. The State Treasurer shall give a separate and additional
6 bond conditioned upon the faithful performance of his duties in
7 connection with the unemployment compensation auxiliary fund, in an
8 amount to be fixed by the division, the premiums for such bond to be
9 paid from the moneys in the said special fund.

10 (cf: P.L.1995, c.234, s.2)

11

12 4. R.S.43:21-16 is amended to read as follows:

13 43:21-16. (a) Whoever makes a false statement or representation,
14 knowing it to be false, or knowingly fails to disclose a material fact,
15 to obtain or increase or attempts to obtain or increase any benefit or
16 other payment under this chapter (R.S.43:21-1 et seq.), or under an
17 employment security law of any other state or of the federal
18 government, either for himself or for any other person, shall be liable
19 to a fine of \$20.00 for each offense, or 25% of the amount
20 fraudulently obtained, whichever is greater, to be recovered in an
21 action at law in the name of the Division of Unemployment and
22 Temporary Disability Insurance of the Department of Labor of the
23 State of New Jersey or as provided in subsection (e) of R.S.43:21-14,
24 said fine when recovered to be paid to the unemployment
25 compensation auxiliary fund for the use of said fund; and each such
26 false statement or representation or failure to disclose a material fact
27 shall constitute a separate offense. Any penalties imposed by this
28 subsection shall be in addition to those otherwise prescribed in this
29 chapter (R.S.43:21-1 et seq.).

30 (b) (1) An employing unit or any officer or agent of an employing
31 unit or any other person who makes a false statement or
32 representation, knowing it to be false, or who knowingly fails to
33 disclose a material fact, to prevent or reduce the payment of benefits
34 to any individual entitled thereto or to avoid becoming or remaining
35 subject hereto or to avoid or reduce any contribution or other payment
36 required from an employing unit under this chapter (R.S.43:21-1 et
37 seq.), or under an employment security law of any other state or of the
38 federal government, or who willfully fails or refuses to furnish any
39 reports required hereunder (except for such reports as may be required
40 under subsection (b) of R.S.43:21-6) or to produce or permit the
41 inspection or copying of records, as required hereunder, shall be liable
42 to a fine of \$100.00, to be recovered in an action at law in the name
43 of the Division of Unemployment and Temporary Disability Insurance
44 of the Department of Labor of the State of New Jersey or as provided
45 in subsection (e) of R.S.43:21-14, said fine when recovered to be paid

1 to the unemployment compensation auxiliary fund for the use of said
2 fund; and each such false statement or representation or failure to
3 disclose a material fact, and each day of such failure or refusal shall
4 constitute a separate offense. Any penalties imposed by this paragraph
5 shall be in addition to those otherwise prescribed in this chapter
6 (R.S.43:21-1 et seq.).

7 (2) Any employing unit or any officer or agent of an employing
8 unit or any other person who fails to submit any report required under
9 subsection (b) of R.S.43:21-6 shall be subject to a penalty of \$25.00
10 for the first report not submitted within 10 days after the mailing of a
11 request for such report, and an additional \$25.00 penalty may be
12 assessed for the next 10-day period, which may elapse after the end of
13 the initial 10-day period and before the report is filed; provided that
14 when such report or reports are not filed within the prescribed time
15 but it is shown to the satisfaction of the director that the failure was
16 due to a reasonable cause, no such penalty shall be imposed. Any
17 penalties imposed by this paragraph shall be recovered as provided in
18 subsection (e) of R.S.43:21-14, and when recovered shall be paid to
19 the unemployment compensation auxiliary fund for the use of said
20 fund.

21 (c) Any person who shall willfully violate any provision of this
22 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the
23 violation of which is made unlawful or the observance of which is
24 required under the terms of this chapter (R.S.43:21-1 et seq.), and for
25 which a penalty is neither prescribed herein nor provided by any other
26 applicable statute, shall be liable to a fine of \$50.00, to be recovered
27 in an action at law in the name of the Division of Unemployment and
28 Temporary Disability Insurance of the Department of Labor of the
29 State of New Jersey or as provided in subsection (e) of R.S.43:21-14,
30 said fine when recovered to be paid to the unemployment
31 compensation auxiliary fund for the use of said fund; and each day
32 such violation continues shall be deemed to be a separate offense.

33 (d) (1) When it is determined by a representative or
34 representatives designated by the Director of the Division of
35 Unemployment and Temporary Disability Insurance of the Department
36 of Labor of the State of New Jersey that any person, whether (i) by
37 reason of the nondisclosure or misrepresentation by him or by another
38 of a material fact (whether or not such nondisclosure or
39 misrepresentation was known or fraudulent), or (ii) for any other
40 reason, has received any sum as benefits under this chapter
41 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
42 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his
43 case, or while he was disqualified from receiving benefits, or while
44 otherwise not entitled to receive such sum as benefits, such person,
45 unless the director (with the concurrence of the controller) directs

1 otherwise by regulation, shall be liable to repay those benefits in full.
2 The sum shall be deducted from any future benefits payable to the
3 individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by
4 the individual to the division for the unemployment compensation
5 fund, and such sum shall be collectible in the manner provided for by
6 law, including, but not limited to, the filing of a certificate of debt with
7 the Clerk of the Superior Court of New Jersey; provided, however,
8 that, except in the event of fraud, no person shall be liable for any such
9 refunds or deductions against future benefits unless so notified before
10 four years have elapsed from the time the benefits in question were
11 paid. Such person shall be promptly notified of the determination and
12 the reasons therefor. Unless such person, within seven calendar days
13 after the delivery of such determination, or within 10 calendar days
14 after such notification was mailed to his last-known address, files an
15 appeal from such determination, such determination shall be final.

16 (2) Interstate and cross-offset of state and federal unemployment
17 benefits. To the extent permissible under the laws and Constitution of
18 the United States, the commissioner is authorized to enter into or
19 cooperate in arrangements or reciprocal agreements with appropriate
20 and duly authorized agencies of other states or the United States
21 Secretary of Labor, or both, whereby:

22 (A) Overpayments of unemployment benefits as determined under
23 subsection (d) of R.S.43:21-16 shall be recovered by offset from
24 unemployment benefits otherwise payable under the unemployment
25 compensation law of another state, and overpayments of
26 unemployment benefits as determined under the unemployment
27 compensation law of another state shall be recovered by offset from
28 unemployment benefits otherwise payable under R.S.43:21-1 et seq.;
29 and

30 (B) Overpayments of unemployment benefits as determined under
31 applicable federal law, with respect to benefits or allowances for
32 unemployment provided under a federal program administered by this
33 State under an agreement with the United States Secretary of Labor,
34 shall be recovered by offset from unemployment benefits otherwise
35 payable under R.S.43:21-1 et seq., or any federal program
36 administered by this State, or under the unemployment compensation
37 law of another state or any federal unemployment benefit or allowance
38 program administered by another state under an agreement with the
39 United States Secretary of Labor, if the other state has in effect a
40 reciprocal agreement with the United States Secretary of Labor as
41 authorized by subsection (g) of 42 U.S.C.s.503, and if the United
42 States agrees, as provided in the reciprocal agreement with this State
43 entered into under subsection (g) of 42 U.S.C.s.503, that
44 overpayments of unemployment benefits as determined under
45 subsection (d) of R.S.43:21-16 and overpayments as determined under

1 the unemployment compensation law of another state which has in
2 effect a reciprocal agreement with the United States Secretary of
3 Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be
4 recovered by offset from benefits or allowances otherwise payable
5 under a federal program administered by this State or another state
6 under an agreement with the United States Secretary of Labor.

7 (e) Any employing unit, or any officer or agent of an employing
8 unit, which officer or agent is directly or indirectly responsible for
9 collecting, truthfully accounting for, remitting when payable any
10 contribution, or filing or causing to be filed any report or statement
11 required by this chapter, or employer, or person failing to remit, when
12 payable, any employer contributions, or worker contributions (if
13 withheld or deducted), or the amount of such worker contributions (if
14 not withheld or deducted), or filing or causing to be filed with the
15 controller or the Division of Unemployment and Temporary Disability
16 Insurance of the Department of Labor of the State of New Jersey, any
17 false or fraudulent report or statement, and any person who aids or
18 abets an employing unit, employer, or any person in the preparation or
19 filing of any false or fraudulent report or statement with intent to
20 defraud the State of New Jersey or an employment security agency of
21 any other state or of the federal government, or with intent to evade
22 the payment of any contributions, interest or penalties, or any part
23 thereof, which shall be due under the provisions of this chapter
24 (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction
25 before any Superior Court or municipal court, to a fine not to exceed
26 \$1,000.00 or by imprisonment for a term not to exceed 90 days, or
27 both, at the discretion of the court. The fine upon conviction shall be
28 payable to the unemployment compensation auxiliary fund. Any
29 penalties imposed by this subsection shall be in addition to those
30 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

31 (f) Any employing unit or any officer or agent of an employing
32 unit or any other person who aids and abets any person to obtain any
33 sum of benefits under this chapter to which he is not entitled, or a
34 larger amount as benefits than that to which he is justly entitled, shall
35 be liable for each offense upon conviction before any Superior Court
36 or municipal court, to a fine not to exceed \$1,000.00 or by
37 imprisonment for a term not to exceed 90 days, or both, at the
38 discretion of the court. The fine upon conviction shall be payable to
39 the unemployment compensation auxiliary fund. Any penalties
40 imposed by this subsection shall be in addition to those otherwise
41 prescribed in this chapter (R.S.43:21-1 et seq.).

42 (g) There shall be created in the Division of Unemployment and
43 Temporary Disability Insurance of the Department of Labor of the
44 State of New Jersey an investigative staff for the purpose of
45 investigating violations referred to in this section and enforcing the

1 provisions thereof.

2 (h) An employing unit or any officer or agent of an employing unit
3 who makes a false statement or representation, knowing it to be false,
4 or who knowingly fails to disclose a material fact, to reduce benefit
5 charges to the employing unit pursuant to paragraph (1) of subsection
6 (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to be recovered
7 in an action at law in the name of the Division of Unemployment and
8 Temporary Disability Insurance of the Department of Labor of the
9 State of New Jersey or as provided in subsection (e) of R.S.43:21-14.
10 The fine when recovered shall be paid to the unemployment
11 compensation auxiliary fund for the use of the fund. Each false
12 statement or representation or failure to disclose a material fact, and
13 each day of that failure or refusal shall constitute a separate offense.
14 Any penalties imposed by this subsection shall be in addition to those
15 otherwise prescribed in R.S.43:21-1 et seq.
16 (cf: P.L.1991, c.357, s.1)

17

18 5. This act shall take effect immediately.

19

20

21

22

23 Eliminates charges against UI accounts of employers who do not lay
24 off claimants.

ASSEMBLY, No. 1971

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblymen GREGG, GARRETT, Carroll,
Assemblywoman Murphy, Assemblyman Augustine,
Assemblywoman J. Smith, Assemblymen Kavanaugh, Blee,
Malone and Lance

1 AN ACT concerning employer contributions to the unemployment
2 compensation fund and amending R.S.43:21-7.

3

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

6

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

8 43:21-7. Contributions. Employers other than governmental
9 entities, whose benefit financing provisions are set forth in section 4
10 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
11 liable for payment in lieu of contributions on the basis set forth in
12 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller
13 for the unemployment compensation fund, contributions as set forth
14 in subsections (a), (b) and (c) hereof, and the provisions of subsections
15 (d) and (e) shall be applicable to all employers, consistent with the
16 provisions of the "unemployment compensation law" and the
17 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
18 seq.).

19 (a) Payment.

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

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

31 (b) Rate of contributions. Each employer shall pay the following

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

Matter underlined thus is new matter.

1 contributions:

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

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

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

41 (c) Future rates based on benefit experience.

42 (1) A separate account for each employer shall be maintained and
43 this shall be credited with all the contributions which he has paid on
44 his own behalf on or before January 31 of any calendar year with
45 respect to employment occurring in the preceding calendar year;
46 provided, however, that if January 31 of any calendar year falls on a

1 Saturday or Sunday, an employer's account shall be credited as of
2 January 31 of such calendar year with all the contributions which he
3 has paid on or before the next succeeding day which is not a Saturday
4 or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be
5 construed to grant any employer or individuals in his service prior
6 claims or rights to the amounts paid by him into the fund either on his
7 own behalf or on behalf of such individuals. Benefits paid with respect
8 to benefit years commencing on and after January 1, 1953, to any
9 individual on or before December 31 of any calendar year with respect
10 to unemployment in such calendar year and in preceding calendar years
11 shall be charged against the account or accounts of the employer or
12 employers in whose employment such individual established base
13 weeks constituting the basis of such benefits, except that, with respect
14 to benefit years commencing after December 31, 1996, an employer's
15 account shall not be charged for benefits paid to a claimant if the
16 claimant's employment by that employer was ended in any way which,
17 pursuant to R.S.43:21-5, would have disqualified the claimant for
18 benefits if the claimant had applied for benefits at the time when that
19 employment ended. Benefits paid under a given benefit determination
20 shall be charged against the account of the employer to whom such
21 determination relates. When each benefit payment is made, either a
22 copy of the benefit check or other form of notification shall be
23 promptly sent to the employer against whose account the benefits are
24 to be charged. Such copy or notification shall identify the employer
25 against whose account the amount of such payment is being charged,
26 shall show at least the name and social security account number of the
27 claimant and shall specify the period of unemployment to which said
28 check applies. If the total amount of benefits paid to a claimant and
29 charged to the account of the appropriate employer exceeds 50% of
30 the total base year, base week wages paid to the claimant by that
31 employer, then such employer shall have canceled from his account
32 such excess benefit charges as specified above.

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

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

41 (3) No employer's rate shall be lower than 5.4% unless assignment
42 of such lower rate is consistent with the conditions applicable to
43 additional credit allowance for such year under section 3303(a)(1) of
44 the Internal Revenue Code of 1986 (26 U.S.C.3303(a)(1)), any other
45 provision of this section to the contrary notwithstanding.

46 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2

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

12 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
13 5%, of his average annual payroll (as defined in paragraph (2),
14 subsection (a) of R.S.43:21-19);

15 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less than
16 6%, of his average annual payroll;

17 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less than
18 7%, of his average annual payroll;

19 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less than
20 8%, of his average annual payroll;

21 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less than
22 9%, of his average annual payroll;

23 (6) 1%, if such excess equals or exceeds 9%, but is less than 10%,
24 of his average annual payroll;

25 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
26 than 11%, of his average annual payroll;

27 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
28 average annual payroll.

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

33 (1) 4%, if such excess is less than 10% of his average annual
34 payroll;

35 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less than
36 20%, of his average annual payroll;

37 (3) 4 6/10%, if such excess equals or exceeds 20% of his average
38 annual payroll.

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

44 (i) if the reserve balance in its account is positive, its assigned rate
45 shall be the highest rate in effect for positive balance accounts for that
46 period, or 5.4%, whichever is higher, and (ii) if the reserve balance in

1 its account is negative, its assigned rate shall be the highest rate in
2 effect for deficit accounts for that period.

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

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

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

43 (B) If on March 31 of any calendar year the balance in the
44 unemployment trust fund equals or exceeds 10% but is less than 12
45 1/2% of the total taxable wages reported to the controller as of that
46 date in respect to employment during the preceding calendar year, the

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

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

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

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

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

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

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

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

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph

1 (E) of this paragraph (5), shall be decreased by 0.1%, except that,
2 during any experience rating year in which the fund reserve ratio is
3 equal to or greater than 7.00%, there shall be no decrease pursuant to
4 this subparagraph (G) in the contribution of any employer who has a
5 deficit reserve ratio of negative 35.00% or under.

6 (H) On or after January 1, 1993 until December 31, 1993,
7 notwithstanding any other provisions of this paragraph (5), the
8 contribution rate for each employer liable to pay contributions, as
9 computed under subparagraph (E) of this paragraph (5), shall be
10 decreased by a factor of 52.0% computed to the nearest multiple of
11 1/10%, except that, if an employer has a deficit reserve ratio of
12 negative 35.0% or under, the employer's rate of contribution shall not
13 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
14 amount of the reduction in the employer contributions stipulated by
15 this subparagraph (H) shall be in addition to the amount of the
16 reduction in the employer contributions stipulated by subparagraph (G)
17 of this paragraph (5), except that the rate of contribution of an
18 employer who has a deficit reserve ratio of negative 35.0% or under
19 shall not be reduced pursuant to this subparagraph (H) to less than
20 5.4% and the rate of contribution of any other employer shall not be
21 reduced to less than 0.0%.

22 On or after January 1, 1994 until December 31, 1995, except as
23 provided pursuant to subparagraph (I) of this paragraph (5),
24 notwithstanding any other provisions of this paragraph (5), the
25 contribution rate for each employer liable to pay contributions, as
26 computed under subparagraph (E) of this paragraph (5), shall be
27 decreased by a factor of 36.0% computed to the nearest multiple of
28 1/10%, except that, if an employer has a deficit reserve ratio of
29 negative 35.0% or under, the employer's rate of contribution shall not
30 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
31 amount of the reduction in the employer contributions stipulated by
32 this subparagraph (H) shall be in addition to the amount of the
33 reduction in the employer contributions stipulated by subparagraph (G)
34 of this paragraph (5), except that the rate of contribution of an
35 employer who has a deficit reserve ratio of negative 35.0% or under
36 shall not be reduced pursuant to this subparagraph (H) to less than
37 5.4% and the rate of contribution of any other employer shall not be
38 reduced to less than 0.0%.

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

43 (6) Additional contributions.

44 Notwithstanding any other provision of law, any employer who has
45 been assigned a contribution rate pursuant to subsection (c) of this
46 section for the year commencing July 1, 1948, and for any year

1 commencing July 1 thereafter, may voluntarily make payment of
2 additional contributions, and upon such payment shall receive a
3 recomputation of the experience rate applicable to such employer,
4 including in the calculation the additional contribution so made. Any
5 such additional contribution shall be made during the 30-day period
6 following the date of the mailing to the employer of the notice of his
7 contribution rate as prescribed in this section, unless, for good cause,
8 the time for payment has been extended by the controller for not to
9 exceed an additional 60 days; provided that in no event may such
10 payments which are made later than 120 days after the beginning of
11 the year for which such rates are effective be considered in
12 determining the experience rate for the year in which the payment is
13 made. Any employer receiving any extended period of time within
14 which to make such additional payment and failing to make such
15 payment timely shall be, in addition to the required amount of
16 additional payment, a penalty of 5% thereof or \$5.00, whichever is
17 greater, not to exceed \$50.00. Any adjustment under this subsection
18 shall be made only in the form of credits against accrued or future
19 contributions.

20 (7) Transfers.

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

42 (B) An employer who transfers part of his or its organization,
43 trade, assets or business to a successor in interest, whether by merger,
44 consolidation, sale, transfer, descent or otherwise, may jointly make
45 application with such successor in interest for transfer of that portion
46 of the employment experience of the predecessor employer relating to

1 the portion of the organization, trade, assets or business transferred to
2 the successor in interest, including credit for past years, contributions
3 paid, annual payrolls, benefit charges, et cetera, applicable to such
4 predecessor employer. The transfer of employment experience may be
5 allowed pursuant to regulation only if it is found that the employment
6 experience of the predecessor employer with respect to the portion of
7 the organization, trade, assets or business which has been transferred
8 may be considered indicative of the future employment experience of
9 the successor in interest. Credit shall be given to the successor in
10 interest only for the years during which contributions were paid by the
11 predecessor employer with respect to that part of the organization,
12 trade, assets or business transferred.

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

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

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

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

1 employers.

2 (C)(i) Notwithstanding the above provisions of this paragraph (1),
3 during the period starting July 1, 1986 and ending December 31, 1992,
4 each worker shall contribute to the fund 1.125% of wages paid with
5 respect to his employment with a governmental employer electing or
6 required to pay contributions or nongovernmental employer, including
7 a nonprofit organization which is an employer as defined under
8 R.S.43:21-19(h)(6), regardless of whether that nonprofit organization
9 elects or is required to finance its benefit costs with contributions to
10 the fund or by payments in lieu of contributions, after that employer
11 has satisfied the conditions set forth in subsection R.S.43:21-19(h)
12 with respect to becoming an employer. Contributions, however, shall
13 be at the rate of 0.625% while the worker is covered by an approved
14 private plan under the "Temporary Disability Benefits Law" while the
15 worker is exempt under section 7 of that law, P.L.1948, c.110
16 (C.43:21-31) or any other provision of that law; provided that such
17 contributions shall be at the rate of 0.625% of wages paid with respect
18 to employment with the State of New Jersey or any other
19 governmental entity or instrumentality electing or required to make
20 payments in lieu of contributions and which is covered by the State
21 plan under the "Temporary Disability Benefits Law," except that, while
22 the worker is exempt from the provisions of the "Temporary Disability
23 Benefits Law" under section 7 of that law, P.L.1948, c.110
24 (C.43:21-31) or any other provision of that law, or is covered for
25 disability benefits by an approved private plan of the employer, the
26 contributions to the fund shall be 0.125%.

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

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

1 instrumentality electing or required to make payments in lieu of
2 contributions and which is covered by the State plan under the
3 "Temporary Disability Benefits Law," except that, while the worker is
4 exempt from the provisions of the "Temporary Disability Benefits
5 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
6 other provision of that law, or is covered for disability benefits by an
7 approved private plan of the employer, no contributions shall be made
8 to the fund.

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

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

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

40 (G) Each worker shall, starting on July 1, 1994, contribute to the
41 State disability benefits fund an amount equal to 0.50% of wages paid
42 with respect to the worker's employment with a government employer
43 electing or required to pay contributions to the State disability benefits
44 fund or nongovernmental employer, including a nonprofit organization
45 which is an employer as defined under paragraph 6 of subsection (h)
46 of R.S.43:21-19, unless the employer is covered by an approved

1 private disability plan or is exempt from the provisions of the
2 "Temporary Disability Benefits Law," P.L.1948 c.110 (C.43:21-25 et
3 seq.) under section 7 of that law (C.43:21-31) or any other provision
4 of that law.

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

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

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

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

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

10 (ii) Notwithstanding any other provision of this paragraph (2), with
11 respect to wages paid during the period beginning on January 1, 1993
12 and ending June 30, 1994, there shall be deposited in and credited to
13 the State disability benefits fund all worker contributions received by
14 the controller.

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

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

1 bear to the total private plan wages involved in such refunds, and shall
2 assess against and recover from the employer, or the insurer if the
3 insurer has indemnified the employer with respect thereto, the amount
4 so prorated. The provisions of R.S.43:21-14 with respect to
5 collection of employer contributions shall apply to such assessments.
6 The amount so recovered by the controller shall be paid into the State
7 disability benefits fund.

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

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

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

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

33 (1) Except as hereinafter provided, each employer shall, in addition
34 to the contributions required by subsections (a), (b), and (c) of this
35 section, contribute 1/2 of 1% of the wages paid by such employer to
36 workers with respect to employment unless he is not a covered
37 employer as defined in section 3 of the "Temporary Disability Benefits
38 Law" (C.43:21-27 (a)), except that the rate for the State of New
39 Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first
40 six months of 1981. Prior to July 1, 1981 and prior to July 1 each year
41 thereafter, the controller shall review the experience accumulated in
42 the account of the State of New Jersey and establish a rate for the next
43 following fiscal year which, in combination with worker contributions,
44 will produce sufficient revenue to keep the account in balance; except
45 that the rate so established shall not be less than 1/10 of 1%. Such
46 contributions shall become due and be paid by the employer to the

1 controller for the State disability benefits fund as established by law,
2 in accordance with such regulations as may be prescribed, and shall
3 not be deducted, in whole or in part, from the remuneration of
4 individuals in his employ. In the payment of any contributions, a
5 fractional part of a cent shall be disregarded unless it amounts to
6 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

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

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

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

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

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

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

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

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

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

24 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
25 1% of his average annual payroll;

26 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
27 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

28 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

30 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
31 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

32 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
33 1% of his average annual payroll.

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

40 (E) (1) Prior to July 1 of each calendar year the controller shall
41 determine the amount of the State disability benefits fund as of
42 December 31 of the preceding calendar year, increased by the
43 contributions paid thereto during January of the current calendar year
44 with respect to employment occurring in the preceding calendar year.
45 If such amount exceeds the net amount withdrawn from the
46 unemployment trust fund pursuant to section 23 of the "Temporary

1 Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the
2 amount at the end of such preceding calendar year of the
3 unemployment disability account (as defined in section 22 of said law
4 (C.43:21-46)), such excess shall be expressed as a percentage of the
5 wages on which contributions were paid to the State disability benefits
6 fund on or before January 31 with respect to employment in the
7 preceding calendar year.

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

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

20 (ii) If the percentage determined in accordance with paragraph
21 (E)(1) of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less than
22 $1\frac{1}{4}$ of 1%, the final employer rates shall be the preliminary employer
23 rates.

24 (iii) If the percentage determined in accordance with paragraph
25 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$ of
26 1%, the final employer rates shall be the preliminary employer rates
27 determined as provided in (D) hereof increased by the difference
28 between $\frac{3}{4}$ of 1% and such percentage taken to the nearest $\frac{5}{100}$ of
29 1%; provided, however, that no such final rate shall be more than $\frac{1}{4}$
30 of 1% in the case of an employer whose preliminary rate is determined
31 as provided in (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
32 employer whose preliminary rate is determined as provided in (D)(1)
33 and (D)(3) hereof, nor more than $\frac{3}{4}$ of 1% in the case of an employer
34 whose preliminary rate is determined as provided in (D)(4) hereof.

35 (iv) If the amount of the State disability benefits fund determined
36 as provided in paragraph (E)(1) of this subsection is equal to or less
37 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of an
38 employer whose preliminary rate is determined as provided in (D)(2)
39 hereof, $\frac{7}{10}$ of 1% in the case of an employer whose preliminary rate
40 is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the
41 case of an employer whose preliminary rate is determined as provided
42 in (D)(4) hereof. Notwithstanding any other provision of law or any
43 determination made by the controller with respect to any 12-month
44 period commencing on July 1, 1970, the final rates for all employers
45 for the period beginning January 1, 1971, shall be as set forth herein.
46 (cf: P.L.1995, c.422, s.1)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill provides that no employer's account will be charged for
7 unemployment insurance benefits paid to a claimant if the claimant's
8 employment by that employer was ended in any way which would have
9 disqualified the claimant for benefits if the claimant had applied for
10 benefits at the time when that employment ended.

11

12

13

14

15 Eliminates charges against UI accounts of employers who do not lay
16 off claimants.

[Passed Both Houses]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1971

STATE OF NEW JERSEY

ADOPTED JUNE 12, 1997

Sponsored by Assemblymen GREGG, GARRETT, Carroll,
Assemblywoman Murphy, Assemblyman Augustine,
Assemblywoman J. Smith, Assemblymen Kavanaugh, Blee,
Malone, Lance, LeFevre, Felice, Gibson, Asselta,
Assemblywoman Allen, Assemblymen DeSopo, Bateman,
Geist, Talarico, Senators Cafiero and Littell

1 AN ACT concerning employer contributions to the unemployment
2 compensation fund and amending R.S. 43:21-3, R.S.43:21-7, R.S.
3 43:21-14 and R.S. 43:21-16.

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

7
8 1. R.S.43:21-3 is amended to read as follows:
9 43:21-3. Benefits.

10 (a) Payment of benefits.

11 All benefits shall be promptly paid from the fund in accordance
12 with such regulations as may be prescribed hereunder.

13 (b) Weekly benefits for unemployment.

14 With respect to an individual's benefit year commencing on or after
15 July 1, 1961, such individual, if eligible and unemployed (as defined in
16 subsection (m) of R.S.43:21-19), shall be paid an amount (except as
17 to final payment) equal to his weekly benefit rate less any
18 remuneration, other than remuneration from self-employment paid to
19 an individual who is receiving a self-employment assistance allowance,
20 paid or payable to him for such week in excess of 20% of his weekly
21 benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is
22 the greater; provided that such amount shall be computed to the next
23 lower multiple of \$1.00 if not already a multiple thereof.

24 (c) Weekly benefit rate.

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 (1) With respect to an individual whose benefit year commences
2 after September 30, 1984, his weekly benefit rate under each
3 determination shall be 60% of his average weekly wage, subject to a
4 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly remuneration
5 paid to workers by employers subject to this chapter (R.S.43:21-1 et
6 seq.), as determined and promulgated by the Commissioner of Labor;
7 provided, however, that such individual's weekly benefit rate shall be
8 computed to the next lower multiple of \$1.00 if not already a multiple
9 thereof.

10 (2) Dependency benefits.

11 (A) With respect to an individual whose benefit year commences
12 after September 30, 1984, the individual's weekly benefit rate as
13 determined in paragraph (1) of this subsection (c) will be increased by
14 7% for the first dependent and 4% each for the next two dependents
15 (up to a maximum of three dependents), computed to the next lower
16 multiple of \$1.00 if not already a multiple thereof, except that the
17 maximum weekly benefit rate payable for an individual claiming
18 dependency benefits shall not exceed the maximum amount determined
19 under paragraph (1) of this subsection (c).

20 (B) For the purposes of this paragraph (2), a dependent is defined
21 as an individual's unemployed spouse or an unemployed unmarried
22 child (including a stepchild or a legally adopted child) under the age
23 of 19 or an unemployed unmarried child, who is attending an
24 educational institution as defined in subsection (y) of R.S.43:21-19 on
25 a full-time basis and is under the age of 22. If an individual's spouse
26 is employed during the week the individual files an initial claim for
27 benefits, this paragraph (2) shall not apply. If both spouses establish
28 a claim for benefits in accordance with the provisions of this chapter
29 (R.S. 43:21-1 et seq.), only one shall be entitled to dependency
30 benefits as provided in this paragraph (2).

31 (C) Any determination establishing dependency benefits under this
32 paragraph (2) shall remain fixed for the duration of the individual's
33 benefit year and shall not be increased or decreased unless it is
34 determined by the division that the individual wrongfully claimed
35 dependency benefits as a result of false or fraudulent representation.

36 (D) Notwithstanding the provisions of any other law, the division
37 shall use every available administrative means to insure that
38 dependency benefits are paid only to individuals who meet the
39 requirements of this paragraph (2). These administrative actions may
40 include, but shall not be limited to, the following:

41 (i) All married individuals claiming dependents under this
42 paragraph (2) shall be required to provide the social security number
43 of the individual's spouse. If the individual indicates that the spouse
44 is unemployed, the division shall match the social security number of
45 the spouse against available wage records to determine whether

1 earnings were reported on the last quarterly earnings report filed by
2 employers under R.S.43:21-14 of this chapter. If earnings were
3 reported, the division shall contact in writing the last employer to
4 determine whether the spouse is currently employed.

5 (ii) Where a child is claimed as a dependent by an individual under
6 this paragraph (2), the individual shall be required to provide to the
7 division the most recent federal income tax return filed by the
8 individual to assist the division in verifying the claim.

9 (3) For the purposes of this subsection (c), the "Statewide average
10 weekly remuneration paid to workers by employers" shall be computed
11 and determined by the Commissioner of Labor on or before September
12 1 of each year on the basis of one-fifty-second of the total
13 remuneration reported for the preceding calendar year by employers
14 subject to this chapter, divided by the average of the number of
15 workers reported by such employers, and shall be effective as to
16 benefit determinations in the calendar year following such computation
17 and determination.

18 (d) Maximum total benefits.

19 (1) (A) With respect to an individual to whom benefits shall be
20 payable for benefit years commencing on or after January 1, 1975 and
21 prior to July 1, 1986, as provided in this section, such individual shall
22 be entitled to receive, under each successive benefit determination
23 relating to each of his base year employers, a total amount of benefits
24 equal to three-quarters of his base weeks from the employer in
25 question multiplied by his weekly benefit rate; but the amount of
26 benefits thus resulting under any such determination made with respect
27 to any employer shall be adjusted to the next lower multiple of \$1.00
28 if not already a multiple thereof.

29 (B) (i) With respect to an individual for whom benefits shall be
30 payable for benefit years commencing on or after July 1, 1986, as
31 provided in this section, the individual shall be entitled to receive a
32 total amount of benefits equal to three-quarters of the individual's base
33 weeks with all employers in the base year multiplied by the individual's
34 weekly benefit rate; but the amount of benefits thus resulting under
35 that determination shall be adjusted to the next lower multiple of \$1.00
36 if not already a multiple thereof.

37 (ii) Except **【that】** as provided pursuant to paragraph (1) of
38 subsection (c) of R.S.43:21-7, benefits paid to an individual for benefit
39 years commencing on or after July 1, 1986 shall be charged against the
40 accounts of the individual's base year employers in the following
41 manner:

42 Each week of benefits paid to an eligible individual shall be
43 charged against each base year employer's account in the same
44 proportion that the wages paid by each employer to the individual
45 during the base year bear to the wages paid by all employers to that

1 individual during the base year.

2 (iii) **Wages earned during a base year, which had previously been**
3 **used to establish a benefit year commencing prior to July 1, 1986, may**
4 **also be used to establish benefit years commencing on or after July 1,**
5 **1986 but prior to October 1, 1987. No employer's account shall be**
6 **charged for any benefits payable based on base year wages which may**
7 **be used to establish entitlement under the provisions of this**
8 **subparagraph (iii).** ~~(Deleted by amendment, P.L. _____, c. _____.)~~

9 (2) No such individual shall be entitled to receive benefits under
10 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
11 benefit rate in any benefit year under either of subsections (c) and (f)
12 of section 43:21-4 of this chapter (R.S.43:21-1 et seq.). In the event
13 that any individual qualifies for benefits under both of said subsections
14 during any benefit year, the maximum total amount of benefits payable
15 under said subsections combined to such individual during the benefit
16 year shall be one and one-half times the maximum amount of benefits
17 payable under one of said subsections.

18 (3) ~~(Deleted by amendment, P.L.1984, c.24.)~~
19 (cf: P.L.1995, c.394, s.6)

20

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

22 43:21-7. Contributions. Employers other than governmental
23 entities, whose benefit financing provisions are set forth in section 4
24 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
25 liable for payment in lieu of contributions on the basis set forth in
26 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller
27 for the unemployment compensation fund, contributions as set forth
28 in subsections (a), (b) and (c) hereof, and the provisions of subsections
29 (d) and (e) shall be applicable to all employers, consistent with the
30 provisions of the "unemployment compensation law" and the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
32 seq.).

33 (a) Payment.

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

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

45 (b) Rate of contributions. Each employer shall pay the following

1 contributions:

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

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

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

42 (c) Future rates based on benefit experience.

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

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

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

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

44 (3) No employer's rate shall be lower than 5.4% unless assignment
45 of such lower rate is consistent with the conditions applicable to

1 additional credit allowance for such year under section 3303(a)(1) of
2 the Internal Revenue Code of 1986 (26 U.S.C.3303(a)(1)), any other
3 provision of this section to the contrary notwithstanding.

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

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

19 (2) $2\ 2/10\%$, if such excess equals or exceeds 5% , but is less than
20 6% , of his average annual payroll;

21 (3) $1\ 9/10\%$, if such excess equals or exceeds 6% , but is less than
22 7% , of his average annual payroll;

23 (4) $1\ 6/10\%$, if such excess equals or exceeds 7% , but is less than
24 8% , of his average annual payroll;

25 (5) $1\ 3/10\%$, if such excess equals or exceeds 8% , but is less than
26 9% , of his average annual payroll;

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

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

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

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

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

39 (2) $4\ 3/10\%$, if such excess equals or exceeds 10% , but is less than
40 20% , of his average annual payroll;

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

43 (C) Specially assigned rates. If no contributions were paid on
44 wages for employment in any calendar year used in determining the
45 average annual payroll of an employer eligible for an assigned rate

1 under this paragraph (4), the employer's rate shall be specially assigned
2 as follows:

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

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

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

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

1 shall be increased by a factor of 10% computed to the nearest multiple
2 of 1/10% if not already a multiple thereof.

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

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

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

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

1 EXPERIENCE RATING TAX TABLE						
2 Fund Reserve Ratio ¹						
3						
4 10.00% 7.00% 4.00% 2.50% 2.49%						
5 Employer and to to to and						
6 Reserve Over 9.99% 6.99% 3.99% Under						
7 Ratio ² A B C D E						
8 Positive Reserve Ratio:						
9	17% and over	0.3	0.4	0.5	0.6	1.2
10	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
11	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
12	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
14	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
15	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
16	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
17	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
18	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
19	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
20	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
21	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
22	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
23	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
24	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
25	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
26	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
27 Deficit Reserve Ratio:						
28	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
29	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
30	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
31	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
32	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
33	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
34	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
35	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
36	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
37	-35.00% and under	5.4	5.4	5.8	6.4	7.0
38	New Employer Rate	2.8	2.8	2.8	3.1	3.4

39 ¹Fund balance as of March 31 as a percentage of taxable wages in
40 the prior calendar year.

41 ²Employer Reserve Ratio (Contributions minus benefits as a
42 percentage of employer's taxable wages).

43 (ii) With respect to experience rating years beginning on or after
44 July 1, 1997, the new employer rate or the unemployment experience
45 rate of an employer under this section shall be the rate which appears

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

EXPERIENCE RATING TAX TABLE

Fund Reserve Ratio¹

	6.00%	4.00%	3.00%	2.50%	2.49%
Employer	and	to	to	to	and
Reserve	Over	5.99%	3.99%	2.99%	Under
Ratio ²	A	B	C	D	E
12 Positive Reserve Ratio:					
13 17% and over	0.3	0.4	0.5	0.6	1.2
14 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
16 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
17 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
18 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
19 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
20 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
21 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
22 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
23 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
24 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
25 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
26 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
27 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
28 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
29 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
30 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
31 Deficit Reserve Ratio:					
32 -0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
33 -3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
34 -6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
35 -9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
36 -12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
37 -15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
38 -20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
39 -25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
40 -30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
41 -35.00% and under	5.4	5.4	5.8	6.4	7.0
42 New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

45 ²Employer Reserve Ratio (Contributions minus benefits as a

1 percentage of employer's taxable wages).

2 (F)(i) With respect to experience rating years beginning on or after
3 July 1, 1986 and before July 1, 1997, if the balance of the
4 unemployment trust fund as of the prior March 31 is negative, the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph E of this paragraph (5), shall be
7 increased by a factor of 10% computed to the nearest multiple of
8 1/10% if not already a multiple thereof.

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

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

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

40 On or after January 1, 1994 until December 31, 1995, except as
41 provided pursuant to subparagraph (I) of this paragraph (5),
42 notwithstanding any other provisions of this paragraph (5), the
43 contribution rate for each employer liable to pay contributions, as
44 computed under subparagraph (E) of this paragraph (5), shall be
45 decreased by a factor of 36.0% computed to the nearest multiple of

1 1/10%, except that, if an employer has a deficit reserve ratio of
2 negative 35.0% or under, the employer's rate of contribution shall not
3 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
4 amount of the reduction in the employer contributions stipulated by
5 this subparagraph (H) shall be in addition to the amount of the
6 reduction in the employer contributions stipulated by subparagraph (G)
7 of this paragraph (5), except that the rate of contribution of an
8 employer who has a deficit reserve ratio of negative 35.0% or under
9 shall not be reduced pursuant to this subparagraph (H) to less than
10 5.4% and the rate of contribution of any other employer shall not be
11 reduced to less than 0.0%.

12 On or after April 1, 1996 until December 31, 1996, the
13 contribution rate for each employer liable to pay contributions, as
14 computed under subparagraph (E) of this paragraph (5), shall be
15 decreased by a factor of 25.0% computed to the nearest multiple of
16 1/10%, except that, if an employer has a deficit reserve ratio of
17 negative 35.0% or under, the employer's rate of contribution shall not
18 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
19 amount of the reduction in the employer contributions stipulated by
20 this subparagraph (H) shall be in addition to the amount of the
21 reduction in the employer contributions stipulated by subparagraph (G)
22 of this paragraph (5), except that the rate of contribution of an
23 employer who has a deficit reserve ratio of negative 35.0% or under
24 shall not be reduced pursuant to this subparagraph (H) to less than
25 5.4% and the rate of contribution of any other employer shall not be
26 reduced to less than 0.0%.

27 On or after January 1, 1997 until December 31, 1997, the
28 contribution rate for each employer liable to pay contributions, as
29 computed under subparagraph (E) of this paragraph (5), shall be
30 decreased by a factor of 10.0% computed to the nearest multiple of
31 1/10%, except that, if an employer has a deficit reserve ratio of
32 negative 35.0% or under, the employer's rate of contribution shall not
33 be reduced pursuant to this subparagraph (H) to less than 5.4%. The
34 amount of the reduction in the employer contributions stipulated by
35 this subparagraph (H) shall be in addition to the amount of the
36 reduction in the employer contributions stipulated by subparagraph (G)
37 of this paragraph (5), except that the rate of contribution of an
38 employer who has a deficit reserve ratio of negative 35.0% or under
39 shall not be reduced pursuant to this subparagraph (H) to less than
40 5.4% and the rate of contribution of any other employer shall not be
41 reduced to less than 0.0%.

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

1 If, upon calculating the unemployment compensation fund reserve
2 ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, the
3 controller finds that the fund reserve ratio has decreased to a level of
4 less than 3.00%, the Commissioner of Labor shall notify the State
5 Treasurer of this fact and of the dollar amount necessary to bring the
6 fund reserve ratio up to a level of 3.00%. The State Treasurer shall,
7 prior to March 31, 1997, transfer from the General Fund to the
8 unemployment compensation fund, revenues in the amount specified
9 by the commissioner and which, upon deposit in the unemployment
10 compensation fund, shall result, upon recalculation, in a fund reserve
11 ratio used to determine employer contributions beginning July 1, 1997,
12 of at least 3.00%.

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

25 (6) Additional contributions.

26 Notwithstanding any other provision of law, any employer who has
27 been assigned a contribution rate pursuant to subsection (c) of this
28 section for the year commencing July 1, 1948, and for any year
29 commencing July 1 thereafter, may voluntarily make payment of
30 additional contributions, and upon such payment shall receive a
31 recomputation of the experience rate applicable to such employer,
32 including in the calculation the additional contribution so made. Any
33 such additional contribution shall be made during the 30-day period
34 following the date of the mailing to the employer of the notice of his
35 contribution rate as prescribed in this section, unless, for good cause,
36 the time for payment has been extended by the controller for not to
37 exceed an additional 60 days; provided that in no event may such
38 payments which are made later than 120 days after the beginning of
39 the year for which such rates are effective be considered in
40 determining the experience rate for the year in which the payment is
41 made. Any employer receiving any extended period of time within
42 which to make such additional payment and failing to make such
43 payment timely shall be, in addition to the required amount of
44 additional payment, a penalty of 5% thereof or \$5.00, whichever is
45 greater, not to exceed \$50.00. Any adjustment under this subsection

1 shall be made only in the form of credits against accrued or future
2 contributions.

3 (7) Transfers.

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

25 (B) An employer who transfers part of his or its organization,
26 trade, assets or business to a successor in interest, whether by merger,
27 consolidation, sale, transfer, descent or otherwise, may jointly make
28 application with such successor in interest for transfer of that portion
29 of the employment experience of the predecessor employer relating to
30 the portion of the organization, trade, assets or business transferred to
31 the successor in interest, including credit for past years, contributions
32 paid, annual payrolls, benefit charges, et cetera, applicable to such
33 predecessor employer. The transfer of employment experience may be
34 allowed pursuant to regulation only if it is found that the employment
35 experience of the predecessor employer with respect to the portion of
36 the organization, trade, assets or business which has been transferred
37 may be considered indicative of the future employment experience of
38 the successor in interest. Credit shall be given to the successor in
39 interest only for the years during which contributions were paid by the
40 predecessor employer with respect to that part of the organization,
41 trade, assets or business transferred.

42 (C) A transfer of the employment experience in whole or in part
43 having become final, the predecessor employer thereafter shall not be
44 entitled to consideration for an adjusted rate based upon his or its
45 experience or the part thereof, as the case may be, which has thus been

1 transferred. A successor in interest to whom employment experience
2 or a part thereof is transferred pursuant to this subsection shall, as of
3 the date of the transfer of the organization, trade, assets or business,
4 or part thereof, immediately become an employer if not theretofore an
5 employer subject to this chapter (R.S.43:21-1 et seq.).

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

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

21 (B) Effective January 1, 1978 there shall be no contributions by
22 workers in the employ of any governmental or nongovernmental
23 employer electing or required to make payments in lieu of
24 contributions unless the employer is covered by the State plan under
25 the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in
26 that case contributions shall be at the rate of 1/2 of 1%, except that
27 commencing July 1, 1986, workers in the employ of any
28 nongovernmental employer electing or required to make payments in
29 lieu of contributions shall be required to make contributions to the
30 fund at the same rate prescribed for workers of other nongovernmental
31 employers.

32 (C) (i) Notwithstanding the above provisions of this paragraph
33 (1), during the period starting July 1, 1986 and ending December 31,
34 1992, each worker shall contribute to the fund 1.125% of wages paid
35 with respect to his employment with a governmental employer electing
36 or required to pay contributions or nongovernmental employer,
37 including a nonprofit organization which is an employer as defined
38 under R.S.43:21-19(h)(6), regardless of whether that nonprofit
39 organization elects or is required to finance its benefit costs with
40 contributions to the fund or by payments in lieu of contributions, after
41 that employer has satisfied the conditions set forth in subsection
42 R.S.43:21-19(h) with respect to becoming an employer.
43 Contributions, however, shall be at the rate of 0.625% while the
44 worker is covered by an approved private plan under the "Temporary
45 Disability Benefits Law" while the worker is exempt under section 7

1 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of
2 that law; provided that such contributions shall be at the rate of
3 0.625% of wages paid with respect to employment with the State of
4 New Jersey or any other governmental entity or instrumentality
5 electing or required to make payments in lieu of contributions and
6 which is covered by the State plan under the "Temporary Disability
7 Benefits Law," except that, while the worker is exempt from the
8 provisions of the "Temporary Disability Benefits Law" under section
9 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of
10 that law, or is covered for disability benefits by an approved private
11 plan of the employer, the contributions to the fund shall be 0.125%.

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

13 (D) Notwithstanding any other provisions of this paragraph (1),
14 during the period starting January 1, 1993 and ending June 30, 1994,
15 each worker shall contribute to the unemployment compensation fund
16 0.5% of wages paid with respect to the worker's employment with a
17 governmental employer electing or required to pay contributions or
18 nongovernmental employer, including a nonprofit organization which
19 is an employer as defined under paragraph (6) of subsection (h) of
20 R.S.43:21-19, regardless of whether that nonprofit organization elects
21 or is required to finance its benefit costs with contributions to the fund
22 or by payments in lieu of contributions, after that employer has
23 satisfied the conditions set forth in subsection (h) of R.S.43:21-19
24 with respect to becoming an employer. No contributions, however,
25 shall be made by the worker while the worker is covered by an
26 approved private plan under the "Temporary Disability Benefits Law,"
27 P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt
28 under section 7 of P.L.1948, c.110 (C.43:21-31) or any other
29 provision of that law; provided that the contributions shall be at the
30 rate of 0.50% of wages paid with respect to employment with the
31 State of New Jersey or any other governmental entity or
32 instrumentality electing or required to make payments in lieu of
33 contributions and which is covered by the State plan under the
34 "Temporary Disability Benefits Law," except that, while the worker is
35 exempt from the provisions of the "Temporary Disability Benefits
36 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
37 other provision of that law, or is covered for disability benefits by an
38 approved private plan of the employer, no contributions shall be made
39 to the fund.

40 Each worker shall, starting on January 1, 1996 and ending March
41 31, 1996, contribute to the unemployment compensation fund 0.60%
42 of wages paid with respect to the worker's employment with a
43 governmental employer electing or required to pay contributions or
44 nongovernmental employer, including a nonprofit organization which
45 is an employer as defined under paragraph (6) of subsection (h) of

1 R.S.43:21-19, regardless of whether that nonprofit organization elects
2 or is required to finance its benefit costs with contributions to the fund
3 or by payments in lieu of contributions, after that employer has
4 satisfied the conditions set forth in subsection (h) of R.S.43:21-19
5 with respect to becoming an employer, provided that the contributions
6 shall be at the rate of 0.10% of wages paid with respect to
7 employment with the State of New Jersey or any other governmental
8 entity or instrumentality electing or required to make payments in lieu
9 of contributions.

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

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

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

41 (G) Each worker shall, starting on July 1, 1994, contribute to the
42 State disability benefits fund an amount equal to 0.50% of wages paid
43 with respect to the worker's employment with a government employer
44 electing or required to pay contributions to the State disability benefits
45 fund or nongovernmental employer, including a nonprofit organization

1 which is an employer as defined under paragraph (6) of subsection (h)
2 of R.S.43:21-19, unless the employer is covered by an approved
3 private disability plan or is exempt from the provisions of the
4 "Temporary Disability Benefits Law," P.L.1948 c.110 (C.43:21-25 et
5 seq.) under section 7 of that law (C.43:21-31) or any other provision
6 of that law.

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

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

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

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

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

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

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

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

1 from the employer, or the insurer if the insurer has indemnified the
2 employer with respect thereto, the amount so prorated. The
3 provisions of R.S.43:21-14 with respect to collection of employer
4 contributions shall apply to such assessments. The amount so
5 recovered by the controller shall be paid into the State disability
6 benefits fund.

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

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

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

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

32 (1) Except as hereinafter provided, each employer shall, in
33 addition to the contributions required by subsections (a), (b), and (c)
34 of this section, contribute 1/2 of 1% of the wages paid by such
35 employer to workers with respect to employment unless he is not a
36 covered employer as defined in section 3 of the "Temporary Disability
37 Benefits Law" (C.43:21-27 (a)), except that the rate for the State of
38 New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the
39 first six months of 1981. Prior to July 1, 1981 and prior to July 1 each
40 year thereafter, the controller shall review the experience accumulated
41 in the account of the State of New Jersey and establish a rate for the
42 next following fiscal year which, in combination with worker
43 contributions, will produce sufficient revenue to keep the account in
44 balance; except that the rate so established shall not be less than 1/10
45 of 1%. Such contributions shall become due and be paid by the

1 employer to the controller for the State disability benefits fund as
2 established by law, in accordance with such regulations as may be
3 prescribed, and shall not be deducted, in whole or in part, from the
4 remuneration of individuals in his employ. In the payment of any
5 contributions, a fractional part of a cent shall be disregarded unless it
6 amounts to \$0.005 or more, in which case it shall be increased to
7 \$0.01.

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

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

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

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

44 (D) Prior to July 1 of each calendar year, the controller shall make
45 a preliminary determination of the rate of contribution for the 12

1 months commencing on such July 1 for each employer subject to the
2 contribution requirements of this subsection (e).

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

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

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

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

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

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

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

26 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
27 1% of his average annual payroll;

28 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

30 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
31 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

32 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
33 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

34 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
35 1% of his average annual payroll.

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

42 (E) (1) Prior to July 1 of each calendar year the controller shall
43 determine the amount of the State disability benefits fund as of
44 December 31 of the preceding calendar year, increased by the
45 contributions paid thereto during January of the current calendar year

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

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

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

23 (ii) If the percentage determined in accordance with paragraph
24 (E)(1) of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less than
25 $1\frac{1}{4}$ of 1%, the final employer rates shall be the preliminary employer
26 rates.

27 (iii) If the percentage determined in accordance with paragraph
28 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$ of
29 1%, the final employer rates shall be the preliminary employer rates
30 determined as provided in (D) hereof increased by the difference
31 between $\frac{3}{4}$ of 1% and such percentage taken to the nearest $\frac{5}{100}$ of
32 1%; provided, however, that no such final rate shall be more than $\frac{1}{4}$
33 of 1% in the case of an employer whose preliminary rate is determined
34 as provided in (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
35 employer whose preliminary rate is determined as provided in (D)(1)
36 and (D)(3) hereof, nor more than $\frac{3}{4}$ of 1% in the case of an employer
37 whose preliminary rate is determined as provided in (D)(4) hereof.

38 (iv) If the amount of the State disability benefits fund determined
39 as provided in paragraph (E)(1) of this subsection is equal to or less
40 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of an
41 employer whose preliminary rate is determined as provided in (D)(2)
42 hereof, $\frac{7}{10}$ of 1% in the case of an employer whose preliminary rate
43 is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the
44 case of an employer whose preliminary rate is determined as provided
45 in (D)(4) hereof. Notwithstanding any other provision of law or any

1 determination made by the controller with respect to any 12-month
2 period commencing on July 1, 1970, the final rates for all employers
3 for the period beginning January 1, 1971, shall be as set forth herein.
4 (cf: P.L.1996, c.30, s.6)

5

6 3. R.S. 43:21-14 is amended to read as follows:

7 43:21-14. (a)(1) In addition to such reports as may be required
8 under the provisions of subsection (g) of R.S.43:21-11, every
9 employer shall file with the controller periodical contribution reports
10 on such forms and at such times as the controller shall prescribe, to
11 disclose the employer's liability for contributions under the provisions
12 of this chapter (R.S.43:21-1 et seq.), and at the time of filing each
13 contribution report shall pay the contributions required by this chapter
14 (R.S.43:21-1 et seq.), for the period covered by such report. The
15 controller may require that such reports shall be under oath of the
16 employer. Any employer who shall fail to file any report, required by
17 the controller, on or before the last day for the filing thereof shall pay
18 a penalty of \$5.00 for each day of delinquency until and including the
19 fifth day following such last day and for any period of delinquency
20 after such fifth day, a penalty of \$5.00 a day or 20% of the amount of
21 the contributions due and payable by the employer for the period
22 covered by the report, whichever is the lesser; if there be no liability
23 for contributions for the period covered by any contribution report or
24 in the case of any report other than a contribution report, the employer
25 or employing unit shall pay a penalty of \$5.00 a day for each day of
26 delinquency in filing or \$25.00, whichever is the lesser; provided,
27 however, that when it is shown to the satisfaction of the controller that
28 the failure to file any such report was not the result of fraud or an
29 intentional disregard of this chapter (R.S.43:21-1 et seq.), or the
30 regulations promulgated hereunder, the controller, in his discretion,
31 may remit or abate any unpaid penalties heretofore or hereafter
32 imposed under this section. On or before October 1 of each year, the
33 controller shall submit to the Commissioner of Labor a report covering
34 the 12-month period ending on the preceding June 30, and showing the
35 names and addresses of all employers for whom the controller remitted
36 or abated any penalties, or ratified any remission or abatement of
37 penalties, and the amount of such penalties with respect to each
38 employer. Any employer who shall fail to pay the contributions due for
39 any period, on or before the date they are required by the controller to
40 be paid, shall pay interest on the amount thereof from such date until
41 the date of payment thereof, at the rate of 1% a month through June
42 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981. Upon
43 the written request of any employer or employing unit, filed with the
44 controller on or before the due date of any report or contribution
45 payment, the controller, for good cause shown, may grant, in writing,

1 an extension of time for the filing of such report or the paying of such
2 contribution, with interest at the applicable rate; provided no such
3 extension shall exceed 30 days and that no such extension shall
4 postpone payment of any contribution for any period beyond the day
5 preceding the last day for filing tax returns under Title IX of the
6 federal Social Security Act for the year in which said period occurs.

7 (2)(A) For the calendar quarter commencing July 1, 1984 and each
8 successive quarter thereafter, each employer shall file a report with the
9 controller within 30 days after the end of each quarter in a form and
10 manner prescribed by the controller, listing the name, social security
11 number and wages paid to each employee and the number of base
12 weeks (as defined in subsection (t) of R.S.43:21-19) worked by the
13 employee during the calendar quarter. (B) Any employer who fails
14 without reasonable cause to comply with the reporting requirements
15 of this paragraph (2) shall be liable for a penalty in the following
16 amount for each employee with respect to whom the employer is
17 required to file a report but who is not included in the report or for
18 whom the required information is not accurately reported for each
19 employee required to be included, whether or not the employee is
20 included:

21 (i) For the first failure for one quarter in any eight consecutive
22 quarters, \$5.00 for each employee;

23 (ii) For the second failure for any quarter in any eight consecutive
24 quarters, \$10.00 for each employee; and

25 (iii) For the third failure for any quarter in any eight consecutive
26 quarters, and for any failure in any eight consecutive quarters, which
27 failure is subsequent to the third failure, \$25.00 for each employee.

28 (C) Information reported by employers as requested by this
29 paragraph (2) shall be used by the Department of Labor for the
30 purpose of determining eligibility for benefits of individuals in
31 accordance with the provisions of R.S.43:21-1 et seq.
32 Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the
33 Department of Labor is hereby authorized to provide the Department
34 of Human Services and the Higher Education Assistance Authority
35 with information reported by employers as required by this paragraph
36 (2). For each fiscal year, the Director of the Division of Budget and
37 Accounting of the Department of the Treasury shall charge the
38 appropriate account of the Department of Human Services and the
39 Higher Education Assistance Authority in amounts sufficient to
40 reimburse the Department of Labor for the cost of providing
41 information under this subparagraph (C).

42 (D) For the purpose of administering the provisions of this
43 paragraph (2), all appropriations, files, books, papers, records,
44 equipment and other property, and employees currently assigned to the
45 Division of Taxation for the implementation of the "Wage Reporting

1 Act," P.L.1980, c.48 (C.54:1-55 et seq.), shall be transferred to the
2 Department of Labor as of September 1, 1984 in accordance with the
3 provisions of the "State Agency Transfer Act," P.L.1971, c.375
4 (C.52:14D-1 et seq.).

5 (b) The contributions, penalties, and interest due from any
6 employer under the provisions of this chapter (R.S.43:21-1 et seq.),
7 from the time they shall be due, shall be a personal debt of the
8 employer to the State of New Jersey, recoverable in any court of
9 competent jurisdiction in a civil action in the name of the State of New
10 Jersey; provided, however, that except in the event of fraud, no
11 employer shall be liable for contributions or penalties unless
12 contribution reports have been filed or assessments have been made in
13 accordance with subsection (c) or (d) of this section before four years
14 have elapsed from the last day of the calendar year with respect to
15 which any contributions become payable under this chapter
16 (R.S.43:21-1 et seq.), nor shall any employer be required to pay
17 interest on any such contribution unless contribution reports were filed
18 or assessments made within such four-year period; provided further
19 that if such contribution reports were filed or assessments made within
20 the four-year period, no civil action shall be instituted, nor shall any
21 certificate be issued to the Clerk of the Superior Court under
22 subsection (e) of this section, except in the event of fraud, after six
23 years have elapsed from the last day of the calendar year with respect
24 to which any contributions become payable under this chapter
25 (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later. Payments
26 received from an employer on account of any debt incurred under the
27 provisions of this chapter (R.S.43:21-1 et seq.) may be applied by the
28 controller on account of the contribution liability of the employer and
29 then to interest and penalties, and any balance remaining shall be
30 recoverable by the controller from the employer. Upon application
31 therefor, the controller shall furnish interested persons and entities
32 certificates of indebtedness covering employers, employing units and
33 others for contributions, penalties and interest, for each of which
34 certificates the controller shall charge and collect a fee of \$2.00 per
35 name; no such certificate to be issued, however, for a fee of less than
36 \$10.00. All fees so collected shall be paid into the unemployment
37 compensation administration fund.

38 (c) If any employer shall fail to make any report as required by the
39 rules and regulations of the division pursuant to the provisions of this
40 chapter (R.S.43:21-1 et seq.), the controller may make an estimate of
41 the liability of such employer from any information it may obtain, and,
42 according to such estimate so made, assess such employer for the
43 contributions, penalties, and interest due the State from him, give
44 notice of such assessment to the employer, and make demand upon
45 him for payment.

1 (d) After a report is filed under the provisions of this chapter
2 (R.S.43:21-1 et seq.) and the rules and regulations thereof, the
3 controller shall cause the report to be examined and shall make such
4 further audit and investigation as it may deem necessary, and if
5 therefrom there shall be determined that there is a deficiency with
6 respect to the payment of the contributions due from such employer,
7 the controller shall assess the additional contributions, penalties, and
8 interest due the State from such employer, give notice of such
9 assessment to the employer, and make demand upon him for payment.

10 (e) As an additional remedy, the controller may issue to the Clerk
11 of the Superior Court of New Jersey a certificate stating the amount
12 of the employer's indebtedness under this chapter (R.S.43:21-1 et seq.)
13 and describing the liability, and thereupon the clerk shall immediately
14 enter upon his record of docketed judgments such certificate or an
15 abstract thereof and duly index the same. Any such certificate or
16 abstract, heretofore or hereafter docketed, from the time of docketing
17 shall have the same force and effect as a judgment obtained in the
18 Superior Court of New Jersey, and the controller shall have all the
19 remedies and may take all the proceedings for the collection thereof
20 which may be had or taken upon the recovery of such a judgment in a
21 civil action upon contract in said court. Such debt, from the time of
22 docketing thereof, shall be a lien on and bind the lands, tenements and
23 hereditaments of the debtor.

24 The Clerk of the Superior Court shall be entitled to receive for
25 docketing such certificate, \$0.50, and for a certified transcript of such
26 docket, \$0.50. If the amount set forth in said certificate as a debt shall
27 be modified or reversed upon review, as hereinafter provided, the
28 Clerk of the Superior Court shall, when an order of modification or
29 reversal is filed, enter in the margin of the docket opposite the entry
30 of the judgment, the word "modified" or "reversed," as the case may
31 be, and the date of such modification or reversal.

32 The employer, or any other party having an interest in the property
33 upon which the debt is a lien, may deposit the amount claimed in the
34 certificate with the Clerk of the Superior Court of New Jersey,
35 together with an additional 10% of the amount thereof, or \$100.00,
36 whichever amount is the greater, to cover interest and the costs of
37 court, or in lieu of depositing the amount in cash, may give a bond to
38 the State of New Jersey in double the amount claimed in the
39 certificate, and file the same with the Clerk of the Superior Court. Said
40 bond shall have such surety and shall be approved in the manner
41 required by the Rules Governing the Courts of the State of New
42 Jersey.

43 After the deposit of said money or the filing of said bond, the
44 employer, or any other party having an interest in the said property,
45 may, after exhausting all administrative remedies, secure judicial

1 review of the legality or validity of the indebtedness or the amount
2 thereof, and the said deposit of cash shall be as security for, and the
3 bond shall be conditioned to prosecute, the judicial review with effect.

4 Upon the deposit of said money or the filing of the said bond with
5 the Clerk of the Superior Court, all proceedings on such judgment
6 shall be stayed until the final determination of the cause, and the
7 moneys so deposited shall be subject to the lien of the indebtedness
8 and costs and interest thereon, and the lands, tenements, and
9 hereditaments of said debtor shall forthwith be discharged from the
10 lien of the State of New Jersey and no execution shall issue against the
11 same by virtue of said judgment.

12 Notwithstanding the provisions of subsections (a) through (c) of
13 this section, the Department of Labor may, with the concurrence of the
14 State Treasurer, when all reasonable efforts to collect amounts owed
15 have been exhausted, or to avoid litigation, reduce any liability for
16 contributions, penalties and interest, provided no portion of those
17 amounts represents contributions made by an employee pursuant to
18 subsection (d) of R.S.43:21-7.

19 (f) If, not later than two years after the calendar year in which any
20 moneys were erroneously paid to or collected by the controller,
21 whether such payments were voluntarily or involuntarily made or made
22 under mistake of law or of fact, an employer, employing unit, or
23 employee who has paid such moneys shall make application for an
24 adjustment thereof, the said moneys shall, upon order of the controller,
25 be either credited or refunded, without interest, from the appropriate
26 fund. For like cause and within the same period, credit or refund may
27 be so made on the initiative of the controller.

28 (g) All interest and penalties collected pursuant to this section
29 shall be paid into a special fund to be known as the unemployment
30 compensation auxiliary fund; all moneys in this special fund shall be
31 deposited, administered and disbursed in the same manner and under
32 the same conditions and requirements as is provided by law for other
33 special funds in the State Treasury, and shall be expended, under
34 legislative appropriation, for the purpose of aiding in defraying the
35 cost of the administration of this chapter (R.S.43:21-1 et seq.); for the
36 repayment of any interest bearing advances made from the federal
37 unemployment account pursuant to the provisions of section 1202(b)
38 of the Social Security Act, 42 U.S.C. 1322; and for essential and
39 necessary expenditures in connection with programs designed to
40 stimulate employment, as determined by the Commissioner of Labor,
41 except that any moneys in this special fund [which are not otherwise
42 appropriated] shall be first applied to aiding in the defraying of
43 necessary costs of the administration of this chapter (R.S.43:21-1 et
44 seq.) as determined by the Commissioner of Labor. The Treasurer of
45 the State shall be ex officio the treasurer and custodian of this special

1 fund and, subject to legislative appropriation, shall administer the fund
2 in accordance with the directions of the controller. Any balances in
3 this fund shall not lapse at any time, but shall be continuously
4 available, subject to legislative appropriation, to the controller for
5 expenditure. The State Treasurer shall give a separate and additional
6 bond conditioned upon the faithful performance of his duties in
7 connection with the unemployment compensation auxiliary fund, in an
8 amount to be fixed by the division, the premiums for such bond to be
9 paid from the moneys in the said special fund.

10 (cf: P.L.1995, c.234, s.2)

11

12 4. R.S.43:21-16 is amended to read as follows:

13 43:21-16. (a) Whoever makes a false statement or representation,
14 knowing it to be false, or knowingly fails to disclose a material fact,
15 to obtain or increase or attempts to obtain or increase any benefit or
16 other payment under this chapter (R.S.43:21-1 et seq.), or under an
17 employment security law of any other state or of the federal
18 government, either for himself or for any other person, shall be liable
19 to a fine of \$20.00 for each offense, or 25% of the amount
20 fraudulently obtained, whichever is greater, to be recovered in an
21 action at law in the name of the Division of Unemployment and
22 Temporary Disability Insurance of the Department of Labor of the
23 State of New Jersey or as provided in subsection (e) of R.S.43:21-14,
24 said fine when recovered to be paid to the unemployment
25 compensation auxiliary fund for the use of said fund; and each such
26 false statement or representation or failure to disclose a material fact
27 shall constitute a separate offense. Any penalties imposed by this
28 subsection shall be in addition to those otherwise prescribed in this
29 chapter (R.S.43:21-1 et seq.).

30 (b) (1) An employing unit or any officer or agent of an employing
31 unit or any other person who makes a false statement or
32 representation, knowing it to be false, or who knowingly fails to
33 disclose a material fact, to prevent or reduce the payment of benefits
34 to any individual entitled thereto or to avoid becoming or remaining
35 subject hereto or to avoid or reduce any contribution or other payment
36 required from an employing unit under this chapter (R.S.43:21-1 et
37 seq.), or under an employment security law of any other state or of the
38 federal government, or who willfully fails or refuses to furnish any
39 reports required hereunder (except for such reports as may be required
40 under subsection (b) of R.S.43:21-6) or to produce or permit the
41 inspection or copying of records, as required hereunder, shall be liable
42 to a fine of \$100.00, to be recovered in an action at law in the name
43 of the Division of Unemployment and Temporary Disability Insurance
44 of the Department of Labor of the State of New Jersey or as provided
45 in subsection (e) of R.S.43:21-14, said fine when recovered to be paid

1 to the unemployment compensation auxiliary fund for the use of said
2 fund; and each such false statement or representation or failure to
3 disclose a material fact, and each day of such failure or refusal shall
4 constitute a separate offense. Any penalties imposed by this paragraph
5 shall be in addition to those otherwise prescribed in this chapter
6 (R.S.43:21-1 et seq.).

7 (2) Any employing unit or any officer or agent of an employing
8 unit or any other person who fails to submit any report required under
9 subsection (b) of R.S.43:21-6 shall be subject to a penalty of \$25.00
10 for the first report not submitted within 10 days after the mailing of a
11 request for such report, and an additional \$25.00 penalty may be
12 assessed for the next 10-day period, which may elapse after the end of
13 the initial 10-day period and before the report is filed; provided that
14 when such report or reports are not filed within the prescribed time
15 but it is shown to the satisfaction of the director that the failure was
16 due to a reasonable cause, no such penalty shall be imposed. Any
17 penalties imposed by this paragraph shall be recovered as provided in
18 subsection (e) of R.S.43:21-14, and when recovered shall be paid to
19 the unemployment compensation auxiliary fund for the use of said
20 fund.

21 (c) Any person who shall willfully violate any provision of this
22 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the
23 violation of which is made unlawful or the observance of which is
24 required under the terms of this chapter (R.S.43:21-1 et seq.), and for
25 which a penalty is neither prescribed herein nor provided by any other
26 applicable statute, shall be liable to a fine of \$50.00, to be recovered
27 in an action at law in the name of the Division of Unemployment and
28 Temporary Disability Insurance of the Department of Labor of the
29 State of New Jersey or as provided in subsection (e) of R.S.43:21-14,
30 said fine when recovered to be paid to the unemployment
31 compensation auxiliary fund for the use of said fund; and each day
32 such violation continues shall be deemed to be a separate offense.

33 (d) (1) When it is determined by a representative or
34 representatives designated by the Director of the Division of
35 Unemployment and Temporary Disability Insurance of the Department
36 of Labor of the State of New Jersey that any person, whether (i) by
37 reason of the nondisclosure or misrepresentation by him or by another
38 of a material fact (whether or not such nondisclosure or
39 misrepresentation was known or fraudulent), or (ii) for any other
40 reason, has received any sum as benefits under this chapter
41 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
42 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his
43 case, or while he was disqualified from receiving benefits, or while
44 otherwise not entitled to receive such sum as benefits, such person,
45 unless the director (with the concurrence of the controller) directs

1 otherwise by regulation, shall be liable to repay those benefits in full.
2 The sum shall be deducted from any future benefits payable to the
3 individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by
4 the individual to the division for the unemployment compensation
5 fund, and such sum shall be collectible in the manner provided for by
6 law, including, but not limited to, the filing of a certificate of debt with
7 the Clerk of the Superior Court of New Jersey; provided, however,
8 that, except in the event of fraud, no person shall be liable for any such
9 refunds or deductions against future benefits unless so notified before
10 four years have elapsed from the time the benefits in question were
11 paid. Such person shall be promptly notified of the determination and
12 the reasons therefor. Unless such person, within seven calendar days
13 after the delivery of such determination, or within 10 calendar days
14 after such notification was mailed to his last-known address, files an
15 appeal from such determination, such determination shall be final.

16 (2) Interstate and cross-offset of state and federal unemployment
17 benefits. To the extent permissible under the laws and Constitution of
18 the United States, the commissioner is authorized to enter into or
19 cooperate in arrangements or reciprocal agreements with appropriate
20 and duly authorized agencies of other states or the United States
21 Secretary of Labor, or both, whereby:

22 (A) Overpayments of unemployment benefits as determined under
23 subsection (d) of R.S.43:21-16 shall be recovered by offset from
24 unemployment benefits otherwise payable under the unemployment
25 compensation law of another state, and overpayments of
26 unemployment benefits as determined under the unemployment
27 compensation law of another state shall be recovered by offset from
28 unemployment benefits otherwise payable under R.S.43:21-1 et seq.;
29 and

30 (B) Overpayments of unemployment benefits as determined under
31 applicable federal law, with respect to benefits or allowances for
32 unemployment provided under a federal program administered by this
33 State under an agreement with the United States Secretary of Labor,
34 shall be recovered by offset from unemployment benefits otherwise
35 payable under R.S.43:21-1 et seq., or any federal program
36 administered by this State, or under the unemployment compensation
37 law of another state or any federal unemployment benefit or allowance
38 program administered by another state under an agreement with the
39 United States Secretary of Labor, if the other state has in effect a
40 reciprocal agreement with the United States Secretary of Labor as
41 authorized by subsection (g) of 42 U.S.C.s.503, and if the United
42 States agrees, as provided in the reciprocal agreement with this State
43 entered into under subsection (g) of 42 U.S.C.s.503, that
44 overpayments of unemployment benefits as determined under
45 subsection (d) of R.S.43:21-16 and overpayments as determined under

1 the unemployment compensation law of another state which has in
2 effect a reciprocal agreement with the United States Secretary of
3 Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be
4 recovered by offset from benefits or allowances otherwise payable
5 under a federal program administered by this State or another state
6 under an agreement with the United States Secretary of Labor.

7 (e) Any employing unit, or any officer or agent of an employing
8 unit, which officer or agent is directly or indirectly responsible for
9 collecting, truthfully accounting for, remitting when payable any
10 contribution, or filing or causing to be filed any report or statement
11 required by this chapter, or employer, or person failing to remit, when
12 payable, any employer contributions, or worker contributions (if
13 withheld or deducted), or the amount of such worker contributions (if
14 not withheld or deducted), or filing or causing to be filed with the
15 controller or the Division of Unemployment and Temporary Disability
16 Insurance of the Department of Labor of the State of New Jersey, any
17 false or fraudulent report or statement, and any person who aids or
18 abets an employing unit, employer, or any person in the preparation or
19 filing of any false or fraudulent report or statement with intent to
20 defraud the State of New Jersey or an employment security agency of
21 any other state or of the federal government, or with intent to evade
22 the payment of any contributions, interest or penalties, or any part
23 thereof, which shall be due under the provisions of this chapter
24 (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction
25 before any Superior Court or municipal court, to a fine not to exceed
26 \$1,000.00 or by imprisonment for a term not to exceed 90 days, or
27 both, at the discretion of the court. The fine upon conviction shall be
28 payable to the unemployment compensation auxiliary fund. Any
29 penalties imposed by this subsection shall be in addition to those
30 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

31 (f) Any employing unit or any officer or agent of an employing
32 unit or any other person who aids and abets any person to obtain any
33 sum of benefits under this chapter to which he is not entitled, or a
34 larger amount as benefits than that to which he is justly entitled, shall
35 be liable for each offense upon conviction before any Superior Court
36 or municipal court, to a fine not to exceed \$1,000.00 or by
37 imprisonment for a term not to exceed 90 days, or both, at the
38 discretion of the court. The fine upon conviction shall be payable to
39 the unemployment compensation auxiliary fund. Any penalties
40 imposed by this subsection shall be in addition to those otherwise
41 prescribed in this chapter (R.S.43:21-1 et seq.).

42 (g) There shall be created in the Division of Unemployment and
43 Temporary Disability Insurance of the Department of Labor of the
44 State of New Jersey an investigative staff for the purpose of
45 investigating violations referred to in this section and enforcing the

1 provisions thereof.

2 (h) An employing unit or any officer or agent of an employing unit
3 who makes a false statement or representation, knowing it to be false,
4 or who knowingly fails to disclose a material fact, to reduce benefit
5 charges to the employing unit pursuant to paragraph (1) of subsection
6 (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to be recovered
7 in an action at law in the name of the Division of Unemployment and
8 Temporary Disability Insurance of the Department of Labor of the
9 State of New Jersey or as provided in subsection (e) of R.S.43:21-14.
10 The fine when recovered shall be paid to the unemployment
11 compensation auxiliary fund for the use of the fund. Each false
12 statement or representation or failure to disclose a material fact, and
13 each day of that failure or refusal shall constitute a separate offense.
14 Any penalties imposed by this subsection shall be in addition to those
15 otherwise prescribed in R.S.43:21-1 et seq.

16 (cf: P.L.1991, c.357, s.1)

17

18 5. This act shall take effect immediately.

19

20

21

22

23 Eliminates charges against UI accounts of employers who do not lay
24 off claimants.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1971

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Assembly Labor Committee reports favorably the Assembly Committee Substitute for Assembly Bill, No. 1971.

This committee substitute provides that no employer's account will be charged for unemployment insurance benefits paid to a claimant if the claimant's employment by that employer was ended in any way which would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended, except that the employer may be charged if the claimant was laid off and received remuneration in lieu of notice or was involved in a labor dispute with that employer.

The substitute also imposes penalties on employers who knowingly mislead the Department of Labor to reduce unemployment charges against themselves. Finally, the substitute provides that the department's administrative expenses will be given first priority in the use of funds from the Unemployment Auxiliary Fund.

The substitute has no effect on determinations regarding any individual's eligibility for unemployment benefits or the amount of benefits paid to the individual. The changes made by the substitute only concern how employers are charged for benefits.

This committee substitute is identical to Senate Bill, No. 1616
[2R].

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OFFICE OF THE GOVERNOR NEWS RELEASE

PO BOX-004

TRENTON, NJ 08625

CONTACT: Jayne O'Connor
(609)777-2600

RELEASE: Sept. 17, 1997

Gov. Christie Whitman today signed legislation eliminating charges against the unemployment insurance accounts of employers who do not lay-off claimants.

While the bill will not affect the payment of unemployment insurance to employees, it will relieve former employers of the cost of benefits for employees who subsequently qualify for benefits under a new employer.

Currently, an employer's unemployment insurance account would be charged for a former employee who voluntarily quit or who was discharged for misconduct if the former employee qualifies for benefits under a subsequent job. With the new law, the employer's account will no longer be charged for these benefits. Rather the cost will be absorbed by the Unemployment Insurance Trust Fund.

It is estimated that this legislation will have a very small impact on the trust fund.

Sponsors of the legislation, **A-1971/S-1616**, were Assemblymen Guy Gregg and Scott Garrett (both R-Sussex/Hunterdon/Morris) and Senators James Cafiero (R-Cape May/Atlantic/Cumberland) and Robert Littell (R-Sussex/Hunterdon/Morris).

FISCAL NOTE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1971

STATE OF NEW JERSEY

DATED: JULY 9, 1997

Assembly Committee Substitute for Assembly Bill No. 1971 of 1997 provides that no employer's account will be charged for unemployment insurance benefits paid to a claimant if the claimant's employment by that employer was ended in any way which would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Such claimants include those who voluntarily quit their job without good cause connected with the work or who are terminated from their job because of misconduct or gross (criminal) misconduct. However, the provisions of the bill do not apply to workers who have been laid off and receive remuneration in lieu of notice and workers involved in a labor dispute.

The bill further provides that the department's administrative expenditures be paid from the Unemployment Compensation Auxiliary Fund and imposes penalties on employers who knowingly make false statements, or knowingly fail to disclose a material fact, in order to reduce their unemployment charges pursuant to the provisions of the bill.

The Department of Labor estimates that the bill would increase the nonmonetary workloads of its field offices, requiring 24 additional claims examiner positions at a cost of \$1.2 million in the first year following enactment and \$1.1 million in each of years two and three. The department's estimate is based upon 1995 workload data which indicates that approximately 50,062 claims would require adjudication under the bill. However, while currently, all administrative expenditures related to unemployment compensation are fully funded with federal revenues, the department states that the cost associated with this bill would be a State rather than federal expenditure, since issues relating to employer charges are not considered determinations of eligibility, and are thus not reimbursable by the U.S. Department of Labor.

The Office of Legislative Services notes that, while the department's estimate appears to be reasonable, consultation with the U.S. Department of Labor indicates that administrative expenditures incurred as a result of this legislation would be reimbursable with federal funds, an assessment with which the Office of Management and Budget concurs. Hence, it appears that the department would have no need to utilize the revenues of the Unemployment

Compensation Auxiliary Fund (UCAF) for the purposes of the bill. Moreover, given that the Governor's FY 1998 Budget Recommendation projects that this fund is expected to have a \$2.8 million fund deficit by the end of the current fiscal year, FY 1997, and a \$44,000 fund balance by the end of FY 1998, it is unlikely that the fund could provide the anticipated level of support this bill requires.

This fiscal note has been prepared pursuant to P.L.1980, c.67.