

# 43:27-7

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2011           **CHAPTER:** 81

**NJSA:** 43:27-7 (Modifies employer UI tax rates)

**BILL NO:** A3819 (Substituted for S2370)

**SPONSOR(S)** Egan and others

**DATE INTRODUCED:** February 22, 2011

**COMMITTEE:**           **ASSEMBLY:** Labor  
                              **SENATE:** Labor  
  Budget

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**           **ASSEMBLY:** May 9, 2011  
  **SENATE:** June 9, 2011

**DATE OF APPROVAL:** June 29, 2011

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (First reprint enacted)

**A3819**

**SPONSOR'S STATEMENT:** (Begins on page 25 of introduced bill) Yes

**COMMITTEE STATEMENT:**                           **ASSEMBLY:** Yes .

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**S2730**

**SPONSOR'S STATEMENT:** (Begins on page 25 of introduced bill) Yes

**COMMITTEE STATEMENT:**                           **ASSEMBLY:** No .

**SENATE:** Yes   Labor  
  Budget

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** Yes

**NEWSPAPER ARTICLES:** Yes

[974.90 U55 2010](#)

Public hearing before Senate Labor Committee [and] Assembly Labor Committee: testimony regarding the fiscal condition of the state Unemployment Insurance Trust Fund and related issues: [March 18, 2010, Trenton, New Jersey] / hearing transcribed by the Office of Legislative Services, Public Information Office, Hearing Unit.

"N.J. employers escape \$750 million payroll tax," NewJerseyNewsroom.com, 7-1-11

"Law reduces increases in jobless tax," The Record, 7-1-11

"Jobless benefits cost more," Home News Tribune, 7-1-11

"Jobless benefits cost more," Asbury Park Press, 7-1-11

"Madden bill to trim unemployment tax rates on employers now law," Gloucester County times, 7-2-11

LAW/KR

P.L.2011, CHAPTER 81, *approved June 29, 2011*  
Assembly, No. 3819 (*First Reprint*)

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  
13 controller for the unemployment compensation fund, contributions  
14 as set forth in subsections (a), (b) and (c) hereof, and the provisions  
15 of subsections (d) and (e) shall be applicable to all employers,  
16 consistent with the provisions of the "unemployment compensation  
17 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110  
18 (C.43:21-25 et al.).

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

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

32 (b) Rate of contributions. Each employer shall pay the following  
33 contributions:

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

38 (2) The "wages" of any individual, with respect to any one  
39 employer, as the term is used in this subsection (b) and in  
40 subsections (c), (d) and (e) of this section 7, shall include the first  
41 \$4,800.00 paid during calendar year 1975, for services performed

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALA committee amendments adopted May 5, 2011.

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

17 (3) For calendar years beginning on and after January 1, 1976,  
18 the "wages" of any individual, as defined in the preceding  
19 paragraph (2) of this subsection (b), shall be established and  
20 promulgated by the Commissioner of Labor and Workforce  
21 Development on or before September 1 of the preceding year and  
22 shall be, 28 times the Statewide average weekly remuneration paid  
23 to workers by employers, as determined under R.S.43:21-3(c),  
24 raised to the next higher multiple of \$100.00 if not already a  
25 multiple thereof, provided that if the amount of wages so  
26 determined for a calendar year is less than the amount similarly  
27 determined for the preceding year, the greater amount will be used;  
28 provided, further, that if the amount of such wages so determined  
29 does not equal or exceed the amount of wages as defined in  
30 subsection (b) of section 3306 of the Internal Revenue Code of  
31 1986 (26 U.S.C. s.3306(b)), the wages as determined in this  
32 paragraph in any calendar year shall be raised to equal the amount  
33 established under the "Federal Unemployment Tax Act," chapter 23  
34 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for  
35 that calendar year.

36 (c) Future rates based on benefit experience.

37 (1) A separate account for each employer shall be maintained  
38 and this shall be credited with all the contributions which he has  
39 paid on his own behalf on or before January 31 of any calendar year  
40 with respect to employment occurring in the preceding calendar  
41 year; provided, however, that if January 31 of any calendar year  
42 falls on a Saturday or Sunday, an employer's account shall be  
43 credited as of January 31 of such calendar year with all the  
44 contributions which he has paid on or before the next succeeding  
45 day which is not a Saturday or Sunday. But nothing in this chapter  
46 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
47 individuals in his service prior claims or rights to the amounts paid  
48 by him into the fund either on his own behalf or on behalf of such

1 individuals. Benefits paid with respect to benefit years commencing  
2 on and after January 1, 1953, to any individual on or before  
3 December 31 of any calendar year with respect to unemployment in  
4 such calendar year and in preceding calendar years shall be charged  
5 against the account or accounts of the employer or employers in  
6 whose employment such individual established base weeks  
7 constituting the basis of such benefits, except that, with respect to  
8 benefit years commencing after January 4, 1998, an employer's  
9 account shall not be charged for benefits paid to a claimant if the  
10 claimant's employment by that employer was ended in any way  
11 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
12 R.S.43:21-5, would have disqualified the claimant for benefits if the  
13 claimant had applied for benefits at the time when that employment  
14 ended. Benefits paid under a given benefit determination shall be  
15 charged against the account of the employer to whom such  
16 determination relates. When each benefit payment is made, '[either  
17 a copy of the benefit check or other form of]' notification shall be  
18 promptly '[sent] provided' to '[the] each' employer '[against  
19 whose account the] included in the unemployment insurance  
20 monetary calculation of' benefits '[are to be charged]'. Such  
21 '[copy or]' notification shall identify the employer against whose  
22 account the amount of such payment is being charged, shall show at  
23 least the name and social security account number of the claimant  
24 and shall specify the period of unemployment to which said  
25 '[check] benefit payment' applies.

26 '[Each employer shall be furnished an] An' annual summary  
27 statement of 'unemployment' benefits charged to '[his] the  
28 employer's' account 'shall be provided'.

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

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

42 (4) Employer Reserve Ratio. (A) Each employer's rate shall be  
43  $2\frac{8}{10}\%$ , except as otherwise provided in the following provisions.  
44 No employer's rate for the 12 months commencing July 1 of any  
45 calendar year shall be other than  $2\frac{8}{10}\%$ , unless as of the  
46 preceding January 31 such employer shall have paid contributions  
47 with respect to wages paid in each of the three calendar years

1 immediately preceding such year, in which case such employer's  
2 rate for the 12 months commencing July 1 of any calendar year  
3 shall be determined on the basis of his record up to the beginning of  
4 such calendar year. If, at the beginning of such calendar year, the  
5 total of all his contributions, paid on his own behalf, for all past  
6 years exceeds the total benefits charged to his account for all such  
7 years, his contribution rate shall be:

8 (1)  $2\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
9 5%, of his average annual payroll (as defined in paragraph (2),  
10 subsection (a) of R.S.43:21-19);

11 (2)  $2\frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less  
12 than 6%, of his average annual payroll;

13 (3)  $1\frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
14 than 7%, of his average annual payroll;

15 (4)  $1\frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
16 than 8%, of his average annual payroll;

17 (5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
18 than 9%, of his average annual payroll;

19 (6) 1%, if such excess equals or exceeds 9%, but is less than  
20 10%, of his average annual payroll;

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

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

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

29 (1) 4%, if such excess is less than 10% of his average annual  
30 payroll;

31 (2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less  
32 than 20%, of his average annual payroll;

33 (3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his  
34 average annual payroll.

35 (C) Specially assigned rates.

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

40 if the reserve balance in its account is positive, its assigned rate  
41 shall be the highest rate in effect for positive balance accounts for  
42 that period, or 5.4%, whichever is higher, and

43 if the reserve balance in its account is negative, its assigned rate  
44 shall be the highest rate in effect for deficit accounts for that period.

45 (ii) If, following the purchase of a corporation with little or no  
46 activity, known as a corporate shell, the resulting employing unit  
47 operates a new or different business activity, the employing unit  
48 shall be assigned a new employer rate.

1 (iii) Entities operating under common ownership, management or  
2 control, when the operation of the entities is not identifiable,  
3 distinguishable and severable, shall be considered a single employer  
4 for the purposes of this chapter (R.S.43:21-1 et seq.).

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

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

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

47 (B) If on March 31 of any calendar year the balance in the  
48 unemployment trust fund equals or exceeds 10% but is less than 12

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

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

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

35 (E) (i) (Deleted by amendment, P.L.1997, c.263).

36 (ii) (Deleted by amendment, P.L.2001, c.152).

37 (iii) (Deleted by amendment, P.L.2003, c.107).

38 (iv) (Deleted by amendment, P.L.2004, c.45).

39 (v) (Deleted by amendment, P.L.2008, c.17).

40 (vi) With respect to experience rating years beginning on or after  
41 July 1, 2004, and before July 1, 2011, the new employer rate or the  
42 unemployment experience rate of an employer under this section  
43 shall be the rate which appears in the column headed by the  
44 Unemployment Trust Fund Reserve Ratio as of the applicable  
45 calculation date and on the line with the Employer Reserve Ratio,  
46 as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)),  
47 as set forth in the following table:



EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio <sup>1</sup>					
Employer Reserve Ratio <sup>2</sup>	1.40%	1.00%	0.75%	0.50%	0.49%
	and Over	to 1.39%	to 0.99%	to 0.74%	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

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

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

(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4)

1 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
2 table:

3 EXPERIENCE RATING TAX TABLE

4	5 <u>Fund Reserve Ratio<sup>1</sup></u>					
	6 <u>Employer</u>	7 <u>Reserve</u>	8 <u>Ratio<sup>2</sup></u>	9 <u>Positive Reserve Ratio:</u>	10 <u>Deficit Reserve Ratio:</u>	
	11 <u>and</u>	12 <u>to</u>	13 <u>to</u>	14 <u>to</u>	15 <u>and</u>	
	16 <u>Over</u>	17 <u>3.49%</u>	18 <u>2.99%</u>	19 <u>2.49%</u>	20 <u>Under</u>	
	21 <u>A</u>	22 <u>B</u>	23 <u>C</u>	24 <u>D</u>	25 <u>E</u>	
26	17% and over	0.3	0.4	0.5	0.6	1.2
27	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
28	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
29	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
30	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
31	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
32	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
33	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
34	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
35	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
36	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
37	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
38	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
39	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
40	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
41	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
42	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
43	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
44	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
45	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
46	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
47	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
48	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
49	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
50	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
51	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
52	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
53	-35.00% and under	5.4	5.4	5.8	6.4	7.0
54	New Employer Rate	2.8	2.8	2.8	3.1	3.4

40 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
41 in the prior calendar year.

42 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
43 percentage of employer's taxable wages).

44 (F) (i) (Deleted by amendment, P.L.1997, c.263).

45 (ii) (Deleted by amendment, P.L.2008, c.17).

46 (iii) With respect to experience rating years beginning on or after  
47 July 1, 2004 and before July 1, 2011, if the fund reserve ratio, based  
48 on the fund balance as of the prior March 31, is less than 0.50%, the

1 contribution rate for each employer liable to pay contributions, as  
2 computed under subparagraph (E) of this paragraph (5), shall be  
3 increased by a factor of 10% computed to the nearest multiple of  
4 1/10% if not already a multiple thereof.

5 (iv) With respect to experience rating years beginning on or after  
6 July 1, 2011, if the fund reserve ratio, based on the fund balance as  
7 of the prior March 31, is less than 1.0%, the contribution rate for  
8 each employer liable to pay contributions, as computed under  
9 subparagraph (E) of this paragraph (5), shall be increased by a  
10 factor of 10% computed to the nearest multiple of 1/10% if not  
11 already a multiple thereof.

12 (G) On or after January 1, 1993, notwithstanding any other  
13 provisions of this paragraph (5), the contribution rate for each  
14 employer liable to pay contributions, as computed under  
15 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
16 except that, during any experience rating year starting before  
17 January 1, 1998 in which the fund reserve ratio is equal to or greater  
18 than 7.00% or during any experience rating year starting on or after  
19 January 1, 1998, in which the fund reserve ratio is equal to or  
20 greater than 3.5%, there shall be no decrease pursuant to this  
21 subparagraph (G) in the contribution of any employer who has a  
22 deficit reserve ratio of negative 35.00% or under.

23 (H) On and after January 1, 1998 until December 31, 2000 and  
24 on or after January 1, 2002 until June 30, 2006, the contribution rate  
25 for each employer liable to pay contributions, as computed under  
26 subparagraph (E) of this paragraph (5), shall be decreased by a  
27 factor, as set out below, computed to the nearest multiple of 1/10%,  
28 except that, if an employer has a deficit reserve ratio of negative  
29 35.0% or under, the employer's rate of contribution shall not be  
30 reduced pursuant to this subparagraph (H) to less than 5.4%:

31 From January 1, 1998 until December 31, 1998, a factor of 12%;  
32 From January 1, 1999 until December 31, 1999, a factor of 10%;  
33 From January 1, 2000 until December 31, 2000, a factor of 7%;  
34 From January 1, 2002 until March 31, 2002, a factor of 36%;  
35 From April 1, 2002 until June 30, 2002, a factor of 85%;  
36 From July 1, 2002 until June 30, 2003, a factor of 15%;  
37 From July 1, 2003 until June 30, 2004, a factor of 15%;  
38 From July 1, 2004 until June 30, 2005, a factor of 7%;  
39 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
40 From January 1, 2006 until June 30, 2006, a factor of 34%.

41 The amount of the reduction in the employer contributions  
42 stipulated by this subparagraph (H) shall be in addition to the  
43 amount of the reduction in the employer contributions stipulated by  
44 subparagraph (G) of this paragraph (5), except that the rate of  
45 contribution of an employer who has a deficit reserve ratio of  
46 negative 35.0% or under shall not be reduced pursuant to this  
47 subparagraph (H) to less than 5.4% and the rate of contribution of  
48 any other employer shall not be reduced to less than 0.0%.

1 (I) (Deleted by amendment, P.L.2008, c.17).

2 (J) On or after July 1, 2001, notwithstanding any other  
3 provisions of this paragraph (5), the contribution rate for each  
4 employer liable to pay contributions, as computed under  
5 subparagraph (E) of this paragraph (5), shall be decreased by  
6 0.0175%, except that, during any experience rating year starting on  
7 or after July 1, 2001, in which the fund reserve ratio is equal to or  
8 greater than 3.5%, there shall be no decrease pursuant to this  
9 subparagraph (J) in the contribution of any employer who has a  
10 deficit reserve ratio of negative 35.00% or under. The amount of the  
11 reduction in the employer contributions stipulated by this  
12 subparagraph (J) shall be in addition to the amount of the reduction  
13 in the employer contributions stipulated by subparagraphs (G) and  
14 (H) of this paragraph (5), except that the rate of contribution of an  
15 employer who has a deficit reserve ratio of negative 35.0% or under  
16 shall not be reduced pursuant to this subparagraph (J) to less than  
17 5.4% and the rate of contribution of any other employer shall not be  
18 reduced to less than 0.0%.

19 (K) With respect to experience rating years beginning on or after  
20 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
21 of the prior March 31, is:

22 (i) Equal to or greater than 5.00% but less than 7.5%, the  
23 contribution rate for each employer liable to pay contributions, as  
24 computed under subparagraph (E) of this paragraph (5), shall be  
25 reduced by a factor of 25% computed to the nearest multiple of  
26 1/10% if not already a multiple thereof except that there shall be no  
27 decrease pursuant to this subparagraph (K) in the contribution of  
28 any employer who has a deficit reserve ratio of 35.00% or under ;

29 (ii) Equal to or greater than 7.5% **【but less than 10.0%】**, the  
30 contribution rate for each employer liable to pay contributions, as  
31 computed under subparagraph (E) of this paragraph (5), shall be  
32 reduced by a factor of 50% computed to the nearest multiple of  
33 1/10% if not already a multiple thereof except that there shall be no  
34 decrease pursuant to this subparagraph (K) in the contribution of  
35 any employer who has a deficit reserve ratio of 35.00% or under.

36 (L) Notwithstanding any other provision of this paragraph (5)  
37 and notwithstanding the actual fund reserve ratio, the contribution  
38 rate for employers liable to pay contributions, as computed under  
39 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
40 2011, the rates set by column "C" of the table in that subparagraph.

41 (M) Notwithstanding any other provision of this paragraph (5)  
42 and notwithstanding the actual fund reserve ratio, the contribution  
43 rate for employers liable to pay contributions, as computed under  
44 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
45 2012, the rates set by column "D" of the table in that subparagraph.

46 (N) Notwithstanding any other provision of this paragraph (5)  
47 and notwithstanding the actual fund reserve ratio, the contribution  
48 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
2 2013, the rates set by column "E" of the table in that subparagraph.

3 (6) Additional contributions.

4 Notwithstanding any other provision of law, any employer who  
5 has been assigned a contribution rate pursuant to subsection (c) of  
6 this section for the year commencing July 1, 1948, and for any year  
7 commencing July 1 thereafter, may voluntarily make payment of  
8 additional contributions, and upon such payment shall receive a  
9 recomputation of the experience rate applicable to such employer,  
10 including in the calculation the additional contribution so made,  
11 except that, following a transfer as described under R.S.43:21-  
12 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
13 eligible to make a voluntary payment of additional contributions  
14 during the year the transfer occurs and the next full calendar year.  
15 Any such additional contribution shall be made during the 30-day  
16 period following the '[date of the mailing] notification' to the  
17 employer '[of the notice]' of his contribution rate as prescribed in  
18 this section, unless, for good cause, the time for payment has been  
19 extended by the controller for not to exceed an additional 60 days;  
20 provided that in no event may such payments which are made later  
21 than 120 days after the beginning of the year for which such rates  
22 are effective be considered in determining the experience rate for  
23 the year in which the payment is made. Any employer receiving any  
24 extended period of time within which to make such additional  
25 payment and failing to make such payment timely shall be, in  
26 addition to the required amount of additional payment, liable for a  
27 penalty of 5% thereof or \$5.00, whichever is greater, not to exceed  
28 \$50.00. Any adjustment under this subsection shall be made only in  
29 the form of credits against accrued or future contributions.

30 (7) Transfers.

31 (A) Upon the transfer of the organization, trade or business, or  
32 substantially all the assets of an employer to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise, the controller shall transfer the employment experience  
35 of the predecessor employer to the successor in interest, including  
36 credit for past years, contributions paid, annual payrolls, benefit  
37 charges, et cetera, applicable to such predecessor employer,  
38 pursuant to regulation, if it is determined that the employment  
39 experience of the predecessor employer with respect to the  
40 organization, trade, assets or business which has been transferred  
41 may be considered indicative of the future employment experience  
42 of the successor in interest. The successor in interest may, within  
43 four months of the date of such transfer of the organization, trade,  
44 assets or business, or thereafter upon good cause shown, request a  
45 reconsideration of the transfer of employment experience of the  
46 predecessor employer. The request for reconsideration shall  
47 demonstrate, to the satisfaction of the controller, that the

1 employment experience of the predecessor is not indicative of the  
2 future employment experience of the successor.

3 (B) An employer who transfers part of his or its organization,  
4 trade, assets or business to a successor in interest, whether by  
5 merger, consolidation, sale, transfer, descent or otherwise, may  
6 jointly make application with such successor in interest for transfer  
7 of that portion of the employment experience of the predecessor  
8 employer relating to the portion of the organization, trade, assets or  
9 business transferred to the successor in interest, including credit for  
10 past years, contributions paid, annual payrolls, benefit charges, et  
11 cetera, applicable to such predecessor employer. The transfer of  
12 employment experience may be allowed pursuant to regulation only  
13 if it is found that the employment experience of the predecessor  
14 employer with respect to the portion of the organization, trade,  
15 assets or business which has been transferred may be considered  
16 indicative of the future employment experience of the successor in  
17 interest. Credit shall be given to the successor in interest only for  
18 the years during which contributions were paid by the predecessor  
19 employer with respect to that part of the organization, trade, assets  
20 or business transferred.

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

31 (D) If an employer transfers in whole or in part his or its  
32 organization, trade, assets or business to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise and both the employer and successor in interest are at the  
35 time of the transfer under common ownership, management or  
36 control, then the employment experience attributable to the  
37 transferred business shall also be transferred to and combined with  
38 the employment experience of the successor in interest. The transfer  
39 of the employment experience is mandatory and not subject to  
40 appeal or protest.

41 (E) The transfer of part of an employer's employment experience  
42 to a successor in interest shall become effective as of the first day of  
43 the calendar quarter following the acquisition by the successor in  
44 interest. As of the effective date, the successor in interest shall have  
45 its employer rate recalculated by merging its existing employment  
46 experience, if any, with the employment experience acquired. If the  
47 successor in interest is not an employer as of the date of acquisition,

1 it shall be assigned the new employer rate until the effective date of  
2 the transfer of employment experience.

3 (F) Upon the transfer in whole or in part of the organization,  
4 trade, assets or business to a successor in interest, the employment  
5 experience shall not be transferred if the successor in interest is not  
6 an employer at the time of the acquisition and the controller finds  
7 that the successor in interest acquired the business solely or  
8 primarily for the purpose of obtaining a lower rate of contributions.

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

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

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

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

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

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

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

42 Each worker shall, starting on January 1, 1996 and ending March  
43 31, 1996, contribute to the unemployment compensation fund  
44 0.60% of wages paid with respect to the worker's employment with  
45 a governmental employer electing or required to pay contributions  
46 or nongovernmental employer, including a nonprofit organization  
47 which is an employer as defined under paragraph (6) of subsection  
48 (h) of R.S.43:21-19, regardless of whether that nonprofit



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

9 Each worker shall, starting on January 1, 1998 and ending  
10 December 31, 1998, contribute to the unemployment compensation  
11 fund 0.10% of wages paid with respect to the worker's employment  
12 with a governmental employer electing or required to pay  
13 contributions or nongovernmental employer, including a nonprofit  
14 organization which is an employer as defined under paragraph (6)  
15 of subsection (h) of R.S.43:21-19, regardless of whether that  
16 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  
19 forth 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  
21 0.10% of wages paid with respect to employment with the State of  
22 New Jersey or any other governmental entity or instrumentality  
23 electing or required to make payments in lieu of contributions.

24 Each worker shall, starting on January 1, 1999 until December  
25 31, 1999, contribute to the unemployment compensation fund  
26 0.15% of wages paid with respect to the worker's employment with  
27 a governmental employer electing or required to pay contributions  
28 or nongovernmental employer, including a nonprofit organization  
29 which is an employer as defined under paragraph (6) of subsection  
30 (h) of R.S.43:21-19, regardless of whether that nonprofit  
31 organization elects or is required to finance its benefit costs with  
32 contributions to the fund or by payments in lieu of contributions,  
33 after that employer has satisfied the conditions set forth in  
34 subsection (h) of R.S.43:21-19 with respect to becoming an  
35 employer, provided that the contributions shall be at the rate of  
36 0.10% of wages paid with respect to employment with the State of  
37 New Jersey or any other governmental entity or instrumentality  
38 electing or required to make payments in lieu of contributions.

39 Each worker shall, starting on January 1, 2000 until December  
40 31, 2001, contribute to the unemployment compensation fund  
41 0.20% of wages paid with respect to the worker's employment with  
42 a governmental employer electing or required to pay contributions  
43 or nongovernmental employer, including a nonprofit organization  
44 which is an employer as defined under paragraph (6) of subsection  
45 (h) of R.S.43:21-19, regardless of whether that nonprofit  
46 organization elects or is required to finance its benefit costs with  
47 contributions to the fund or by payments in lieu of contributions,  
48 after that employer has satisfied the conditions set forth in

1 subsection (h) of R.S.43:21-19 with respect to becoming an  
2 employer, provided that the contributions shall be at the rate of  
3 0.10% 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.

6 Each worker shall, starting on January 1, 2002 until June 30,  
7 2004, contribute to the unemployment compensation fund 0.1825%  
8 of wages paid with respect to the worker's employment with a  
9 governmental employer electing or required to pay contributions or  
10 a nongovernmental employer, including a nonprofit organization  
11 which is an employer as defined under paragraph (6) of subsection  
12 (h) of R.S.43:21-19, regardless of whether that nonprofit  
13 organization elects or is required to finance its benefit costs with  
14 contributions to the fund or by payments in lieu of contributions,  
15 after that employer has satisfied the conditions set forth in  
16 subsection (h) of R.S.43:21-19 with respect to becoming an  
17 employer, provided that the contributions shall be at the rate of  
18 0.0825% of wages paid with respect to employment with the State  
19 of New Jersey or any other governmental entity or instrumentality  
20 electing or required to make payments in lieu of contributions.

21 Each worker shall, starting on and after July 1, 2004, contribute  
22 to the unemployment compensation fund 0.3825% of wages paid  
23 with respect to the worker's employment with a governmental  
24 employer electing or required to pay contributions or  
25 nongovernmental employer, including a nonprofit organization  
26 which is an employer as defined under paragraph (6) of subsection  
27 (h) of R.S.43:21-19, regardless of whether that nonprofit  
28 organization elects or is required to finance its benefit costs with  
29 contributions to the fund or by payments in lieu of contributions,  
30 after that employer has satisfied the conditions set forth in  
31 subsection (h) of R.S.43:21-19 with respect to becoming an  
32 employer, provided that the contributions shall be at the rate of  
33 0.0825% of wages paid with respect to employment with the State  
34 of New Jersey or any other governmental entity or instrumentality  
35 electing or required to make payments in lieu of contributions.

36 (E) Each employer shall, notwithstanding any provision of law  
37 in this State to the contrary, withhold in trust the amount of his  
38 workers' contributions from their wages at the time such wages are  
39 paid, shall show such deduction on his payroll records, shall furnish  
40 such evidence thereof to his workers as the division or controller  
41 may prescribe, and shall transmit all such contributions, in addition  
42 to his own contributions, to the office of the controller in such  
43 manner and at such times as may be prescribed. If any employer  
44 fails to deduct the contributions of any of his workers at the time  
45 their wages are paid, or fails to make a deduction therefor at the  
46 time wages are paid for the next succeeding payroll period, he alone  
47 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's  
2 contributions required from him.

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

6 (G) (i) Each worker shall, starting on July 1, 1994, contribute to  
7 the State disability benefits fund an amount equal to 0.50% of  
8 wages paid with respect to the worker's employment with a  
9 government employer electing or required to pay contributions to  
10 the State disability benefits fund or nongovernmental employer,  
11 including a nonprofit organization which is an employer as defined  
12 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
13 employer is covered by an approved private disability plan or is  
14 exempt from the provisions of the "Temporary Disability Benefits  
15 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that  
16 law (C.43:21-31) or any other provision of that law.

17 (ii) Each worker shall contribute to the State disability benefits  
18 fund, in addition to any amount contributed pursuant to  
19 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
20 during calendar year 2009, 0.09%, and during calendar year 2010  
21 0.12%, of wages paid with respect to the worker's employment with  
22 any covered employer, including a governmental employer which is  
23 an employer as defined under R.S.43:21-19(h)(5), unless the  
24 employer is covered by an approved private disability plan for  
25 benefits during periods of family temporary disability leave. The  
26 contributions made pursuant to this subparagraph (ii) to the State  
27 disability benefits fund shall be deposited into an account of that  
28 fund reserved for the payment of benefits during periods of family  
29 temporary disability leave as defined in section 3 of the "Temporary  
30 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
31 administration of those payments and shall not be used for any other  
32 purpose. This account shall be known as the "Family Temporary  
33 Disability Leave Account." For calendar year 2011 and each  
34 subsequent calendar year, the annual rate of contribution to be paid  
35 by workers pursuant to this subparagraph (ii) shall be the rate  
36 necessary to obtain a total amount of contributions equal to 125% of  
37 the benefits paid for periods of family temporary disability leave  
38 during the immediately preceding calendar year plus an amount  
39 equal to 100% of the cost of administration of the payment of those  
40 benefits during the immediately preceding calendar year, less the  
41 amount of net assets remaining in the account as of December 31 of  
42 the immediately preceding year. Necessary administrative costs  
43 shall include the cost of an outreach program to inform employees  
44 of the availability of the benefits and the cost of issuing the reports  
45 required or permitted pursuant to section 13 of P.L.2008, c.17  
46 (C.43:21-39.4). No monies, other than the funds in the "Family  
47 Temporary Disability Leave Account," shall be used for the  
48 payment of benefits during periods of family temporary disability

1 leave or for the administration of those payments, with the sole  
2 exception that, during calendar years 2008 and 2009, a total amount  
3 not exceeding \$25 million may be transferred to that account from  
4 the revenues received in the State disability benefits fund pursuant  
5 to subparagraph (i) of this paragraph (1)(G) and be expended for  
6 those payments and their administration, including the  
7 administration of the collection of contributions made pursuant to  
8 this subparagraph (ii) and any other necessary administrative costs.  
9 Any amount transferred to the account pursuant to this  
10 subparagraph (ii) shall be repaid during a period beginning not later  
11 than January 1, 2011 and ending not later than December 31, 2015.  
12 No monies, other than the funds in the "Family Temporary  
13 Disability Leave Account," shall be used under any circumstances  
14 after December 31, 2009, for the payment of benefits during periods  
15 of family temporary disability leave or for the administration of  
16 those payments, including for the administration of the collection of  
17 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

1 contributions to such fund, as provided in subparagraph (B) of  
2 paragraph (1) of this subsection with respect to coverage under  
3 private plans, to the total wages so exempt plus the amount of such  
4 wages subject to contributions to the disability benefits fund, as  
5 provided in subparagraph (G) of paragraph (1) of this subsection.  
6 The controller shall, in accordance with prescribed regulations,  
7 prorate the amount so determined among the applicable private  
8 plans in the proportion that the wages covered by each plan bear to  
9 the total private plan wages involved in such refunds, and shall  
10 assess against and recover from the employer, or the insurer if the  
11 insurer has indemnified the employer with respect thereto, the  
12 amount so prorated. The provisions of R.S.43:21-14 with respect to  
13 collection of employer contributions shall apply to such  
14 assessments. The amount so recovered by the controller shall be  
15 paid into the State disability benefits fund.

16 (B) If an employee receives wages from more than one employer  
17 during any calendar year, and the sum of his contributions deposited  
18 in the "Family Temporary Disability Leave Account" of the State  
19 disability benefits fund plus the amount of his contributions, if any,  
20 required towards the costs of family temporary disability leave  
21 benefits under one or more approved private plans under the  
22 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
23 et al.) and deducted from his wages, exceeds an amount equal to,  
24 during calendar year 2009, 0.09% of the "wages" determined in  
25 accordance with the provisions of R.S.43:21-7(b)(3), or during  
26 calendar year 2010, 0.12% of those wages, or, during calendar year  
27 2011 or any subsequent calendar year, the percentage of those  
28 wages set by the annual rate of contribution determined by the  
29 Commissioner of Labor and Workforce Development pursuant to  
30 subparagraph (ii) of paragraph(1)(G) of this subsection (d), the  
31 employee shall be entitled to a refund of the excess if he makes a  
32 claim to the controller within two years after the end of the calendar  
33 year in which the wages are received with respect to which the  
34 refund is claimed and establishes his right to the refund. The refund  
35 shall be made by the controller from the "Family Temporary  
36 Disability Leave Account" of the State disability benefits fund. No  
37 interest shall be allowed or paid with respect to any such refund.  
38 The controller shall, in accordance with prescribed regulations,  
39 determine the portion of the aggregate amount of the refunds made  
40 during any calendar year which is applicable to private plans for  
41 which deductions were made under section 9 of the "Temporary  
42 Disability Benefits Law" (C.43:21-33), with that determination  
43 based upon the ratio of the amount of such wages exempt from  
44 contributions to the fund, as provided in paragraph (1)(B) of this  
45 subsection (d) with respect to coverage under private plans, to the  
46 total wages so exempt plus the amount of such wages subject to  
47 contributions to the "Family Temporary Disability Leave Account"  
48 of the State disability benefits fund, as provided in subparagraph (ii)

1 of paragraph (1)(G) of this subsection (d). The controller shall, in  
2 accordance with prescribed regulations, prorate the amount so  
3 determined among the applicable private plans in the proportion  
4 that the wages covered by each plan bear to the total private plan  
5 wages involved in such refunds, and shall assess against and  
6 recover from the employer, or the insurer if the insurer has  
7 indemnified the employer with respect thereto, the prorated amount.  
8 The provisions of R.S.43:21-14 with respect to collection of  
9 employer contributions shall apply to such assessments. The  
10 amount so recovered by the controller shall be paid into the "Family  
11 Temporary Disability Leave Account" of the State disability  
12 benefits fund.

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

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

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

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

39 (1) Except as hereinafter provided, each employer shall, in  
40 addition to the contributions required by subsections (a), (b), and  
41 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
42 employer to workers with respect to employment unless he is not a  
43 covered employer as defined in subsection (a) of section 3 of the  
44 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
45 the rate for the State of New Jersey shall be 1/10 of 1% for the  
46 calendar year 1980 and for the first six months of 1981. Prior to  
47 July 1, 1981 and prior to July 1 each year thereafter, the controller  
48 shall review the experience accumulated in the account of the State

1 of New Jersey and establish a rate for the next following fiscal year  
2 which, in combination with worker contributions, will produce  
3 sufficient revenue to keep the account in balance; except that the  
4 rate so established shall not be less than 1/10 of 1%. Such  
5 contributions shall become due and be paid by the employer to the  
6 controller for the State disability benefits fund as established by  
7 law, in accordance with such regulations as may be prescribed, and  
8 shall not be deducted, in whole or in part, from the remuneration of  
9 individuals in his employ. In the payment of any contributions, a  
10 fractional part of a cent shall be disregarded unless it amounts to  
11 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

43 (C) The controller may prescribe regulations for the  
44 establishment, maintenance, and dissolution of joint accounts by  
45 two or more employers, and shall, in accordance with such  
46 regulations and upon application by two or more employers to  
47 establish such an account, or to merge their several individual

1 accounts in a joint account, maintain such joint account as if it  
2 constituted a single employer's account.

3 (D) Prior to July 1 of each calendar year, the controller shall  
4 make a preliminary determination of the rate of contribution for the  
5 12 months commencing on such July 1 for each employer subject to  
6 the contribution requirements of this subsection (e).

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

12 (2) If the minimum requirements in subparagraph (D) (1) above  
13 have been fulfilled and the credited contributions exceed the  
14 benefits charged by more than \$500.00, such preliminary rate shall  
15 be as follows:

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

19 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
20  $1\frac{1}{4}$ % but is less than  $1\frac{1}{2}$ % of his average annual payroll;

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

23 (3) If the minimum requirements in subparagraph (D) (1) above  
24 have been fulfilled and the contributions credited exceed the  
25 benefits charged but by not more than \$500.00 plus 1% of his  
26 average annual payroll, or if the benefits charged exceed the  
27 contributions credited but by not more than \$500.00, the  
28 preliminary rate shall be  $\frac{1}{4}$  of 1%.

29 (4) If the minimum requirements in subparagraph (D) (1) above  
30 have been fulfilled and the benefits charged exceed the  
31 contributions credited by more than \$500.00, such preliminary rate  
32 shall be as follows:

33 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
34 1% of his average annual payroll;

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

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

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

41 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
42 1% of his average annual payroll.

43 (5) Determination of the preliminary rate as specified in  
44 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
45 to the condition that it shall in no event be decreased by more than  
46  $\frac{1}{10}$  of 1% of wages or increased by more than  $\frac{2}{10}$  of 1% of  
47 wages from the preliminary rate determined for the preceding year



1 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever  
2 shall have been applicable.

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

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

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

30 (ii) If the percentage determined in accordance with  
31 subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1%  
32 and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
33 preliminary employer rates.

34 (iii) If the percentage determined in accordance with  
35 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
36 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
37 preliminary employer rates determined as provided in subparagraph  
38 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
39 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
40 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
41 employer whose preliminary rate is determined as provided in  
42 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
43 employer whose preliminary rate is determined as provided in  
44 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
45  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
46 determined as provided in subparagraph (D)(4) hereof.

47 (iv) If the amount of the State disability benefits fund determined  
48 as provided in subparagraph (E)(1) of this paragraph is equal to or

1 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case  
2 of an employer whose preliminary rate is determined as provided in  
3 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer  
4 whose preliminary rate is determined as provided in subparagraph  
5 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
6 employer whose preliminary rate is determined as provided in  
7 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
8 law or any determination made by the controller with respect to any  
9 12-month period commencing on July 1, 1970, the final rates for all  
10 employers for the period beginning January 1, 1971, shall be as set  
11 forth herein.

12 (F) Notwithstanding any other provisions of this subsection (e),  
13 the rate of contribution paid to the State disability benefits fund by  
14 each covered employer as defined in paragraph (1) of subsection (a)  
15 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
16 if:

17 (i) No disability benefits have been paid with respect to periods  
18 of family temporary disability leave;

19 (ii) No worker paid any contributions to the State disability  
20 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of  
21 this section; and

22 (iii) No amounts were transferred from the State disability  
23 benefits fund to the "Family Temporary Disability Leave Account"  
24 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

25 (cf: P.L.2010, c.37, s.1)

26

27 2. This act shall take effect immediately.

28

29

30

31

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Modifies employer UI tax rates.

# ASSEMBLY, No. 3819

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

**Sponsored by:**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman ELEASE EVANS**

**District 35 (Bergen and Passaic)**

**Assemblywoman NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Modifies employer UI tax rates.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/6/2011)

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  
13 controller for the unemployment compensation fund, contributions  
14 as set forth in subsections (a), (b) and (c) hereof, and the provisions  
15 of subsections (d) and (e) shall be applicable to all employers,  
16 consistent with the provisions of the "unemployment compensation  
17 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110  
18 (C.43:21-25 et al.).

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

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

32 (b) Rate of contributions. Each employer shall pay the following  
33 contributions:

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

38 (2) The "wages" of any individual, with respect to any one  
39 employer, as the term is used in this subsection (b) and in  
40 subsections (c), (d) and (e) of this section 7, shall include the first  
41 \$4,800.00 paid during calendar year 1975, for services performed  
42 either within or without this State; provided that no contribution  
43 shall be required by this State with respect to services performed in  
44 another state if such other state imposes contribution liability with  
45 respect thereto. If an employer (hereinafter referred to as a

**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 successor employer) during any calendar year acquires substantially  
2 all the property used in a trade or business of another employer  
3 (hereinafter referred to as a predecessor), or used in a separate unit  
4 of a trade or business of a predecessor, and immediately after the  
5 acquisition employs in his trade or business an individual who  
6 immediately prior to the acquisition was employed in the trade or  
7 business of such predecessors, then, for the purpose of determining  
8 whether the successor employer has paid wages with respect to  
9 employment equal to the first \$4,800.00 paid during calendar year  
10 1975, any wages paid to such individual by such predecessor during  
11 such calendar year and prior to such acquisition shall be considered  
12 as having been paid by such successor employer.

13 (3) For calendar years beginning on and after January 1, 1976,  
14 the "wages" of any individual, as defined in the preceding  
15 paragraph (2) of this subsection (b), shall be established and  
16 promulgated by the Commissioner of Labor and Workforce  
17 Development on or before September 1 of the preceding year and  
18 shall be, 28 times the Statewide average weekly remuneration paid  
19 to workers by employers, as determined under R.S.43:21-3(c),  
20 raised to the next higher multiple of \$100.00 if not already a  
21 multiple thereof, provided that if the amount of wages so  
22 determined for a calendar year is less than the amount similarly  
23 determined for the preceding year, the greater amount will be used;  
24 provided, further, that if the amount of such wages so determined  
25 does not equal or exceed the amount of wages as defined in  
26 subsection (b) of section 3306 of the Internal Revenue Code of  
27 1986 (26 U.S.C. s.3306(b)), the wages as determined in this  
28 paragraph in any calendar year shall be raised to equal the amount  
29 established under the "Federal Unemployment Tax Act," chapter 23  
30 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for  
31 that calendar year.

32 (c) Future rates based on benefit experience.

33 (1) A separate account for each employer shall be maintained  
34 and this shall be credited with all the contributions which he has  
35 paid on his own behalf on or before January 31 of any calendar year  
36 with respect to employment occurring in the preceding calendar  
37 year; provided, however, that if January 31 of any calendar year  
38 falls on a Saturday or Sunday, an employer's account shall be  
39 credited as of January 31 of such calendar year with all the  
40 contributions which he has paid on or before the next succeeding  
41 day which is not a Saturday or Sunday. But nothing in this chapter  
42 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
43 individuals in his service prior claims or rights to the amounts paid  
44 by him into the fund either on his own behalf or on behalf of such  
45 individuals. Benefits paid with respect to benefit years commencing  
46 on and after January 1, 1953, to any individual on or before  
47 December 31 of any calendar year with respect to unemployment in  
48 such calendar year and in preceding calendar years shall be charged

1 against the account or accounts of the employer or employers in  
2 whose employment such individual established base weeks  
3 constituting the basis of such benefits, except that, with respect to  
4 benefit years commencing after January 4, 1998, an employer's  
5 account shall not be charged for benefits paid to a claimant if the  
6 claimant's employment by that employer was ended in any way  
7 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
8 R.S.43:21-5, would have disqualified the claimant for benefits if the  
9 claimant had applied for benefits at the time when that employment  
10 ended. Benefits paid under a given benefit determination shall be  
11 charged against the account of the employer to whom such  
12 determination relates. When each benefit payment is made, either a  
13 copy of the benefit check or other form of notification shall be  
14 promptly sent to the employer against whose account the benefits  
15 are to be charged. Such copy or notification shall identify the  
16 employer against whose account the amount of such payment is  
17 being charged, shall show at least the name and social security  
18 account number of the claimant and shall specify the period of  
19 unemployment to which said check applies.

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

22 (2) Regulations may be prescribed for the establishment,  
23 maintenance, and dissolution of joint accounts by two or more  
24 employers, and shall, in accordance with such regulations and upon  
25 application by two or more employers to establish such an account,  
26 or to merge their several individual accounts in a joint account,  
27 maintain such joint account as if it constituted a single employer's  
28 account.

29 (3) No employer's rate shall be lower than 5.4% unless  
30 assignment of such lower rate is consistent with the conditions  
31 applicable to additional credit allowance for such year under section  
32 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.  
33 s.3303(a)(1)), any other provision of this section to the contrary  
34 notwithstanding.

35 (4) Employer Reserve Ratio. (A) Each employer's rate shall be  
36  $2 \frac{8}{10}\%$ , except as otherwise provided in the following provisions.  
37 No employer's rate for the 12 months commencing July 1 of any  
38 calendar year shall be other than  $2 \frac{8}{10}\%$ , unless as of the  
39 preceding January 31 such employer shall have paid contributions  
40 with respect to wages paid in each of the three calendar years  
41 immediately preceding such year, in which case such employer's  
42 rate for the 12 months commencing July 1 of any calendar year  
43 shall be determined on the basis of his record up to the beginning of  
44 such calendar year. If, at the beginning of such calendar year, the  
45 total of all his contributions, paid on his own behalf, for all past  
46 years exceeds the total benefits charged to his account for all such  
47 years, his contribution rate shall be:

- 1 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than  
2 5%, of his average annual payroll (as defined in paragraph (2),  
3 subsection (a) of R.S.43:21-19);
- 4 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less  
5 than 6%, of his average annual payroll;
- 6 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less  
7 than 7%, of his average annual payroll;
- 8 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less  
9 than 8%, of his average annual payroll;
- 10 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less  
11 than 9%, of his average annual payroll;
- 12 (6) 1%, if such excess equals or exceeds 9%, but is less than  
13 10%, of his average annual payroll;
- 14 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less  
15 than 11%, of his average annual payroll;
- 16 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his  
17 average annual payroll.
- 18 (B) If the total of an employer's contributions, paid on his own  
19 behalf, for all past periods for the purposes of this paragraph (4), is  
20 less than the total benefits charged against his account during the  
21 same period, his rate shall be:
- 22 (1) 4%, if such excess is less than 10% of his average annual  
23 payroll;
- 24 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less  
25 than 20%, of his average annual payroll;
- 26 (3) 4 6/10%, if such excess equals or exceeds 20% of his  
27 average annual payroll.
- 28 (C) Specially assigned rates.
- 29 (i) If no contributions were paid on wages for employment in  
30 any calendar year used in determining the average annual payroll of  
31 an employer eligible for an assigned rate under this paragraph (4),  
32 the employer's rate shall be specially assigned as follows:
- 33 if the reserve balance in its account is positive, its assigned rate  
34 shall be the highest rate in effect for positive balance accounts for  
35 that period, or 5.4%, whichever is higher, and
- 36 if the reserve balance in its account is negative, its assigned rate  
37 shall be the highest rate in effect for deficit accounts for that period.
- 38 (ii) If, following the purchase of a corporation with little or no  
39 activity, known as a corporate shell, the resulting employing unit  
40 operates a new or different business activity, the employing unit  
41 shall be assigned a new employer rate.
- 42 (iii) Entities operating under common ownership, management or  
43 control, when the operation of the entities is not identifiable,  
44 distinguishable and severable, shall be considered a single employer  
45 for the purposes of this chapter (R.S.43:21-1 et seq.).
- 46 (D) The contribution rates prescribed by subparagraphs (A) and  
47 (B) of this paragraph (4) shall be increased or decreased in

1 accordance with the provisions of paragraph (5) of this subsection  
2 (c) for experience rating periods through June 30, 1986.

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

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

41 (B) If on March 31 of any calendar year the balance in the  
42 unemployment trust fund equals or exceeds 10% but is less than  $12\frac{1}{2}\%$   
43 of the total taxable wages reported to the controller as of that  
44 date in respect to employment during the preceding calendar year,  
45 the contribution rate, effective July 1 following, of each employer  
46 eligible for a contribution rate calculation based upon benefit  
47 experience, shall be reduced by  $\frac{3}{10}$  of 1% under the contribution  
48 rate otherwise established under the provisions of paragraphs (3)



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

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

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

29 (E) (i) (Deleted by amendment, P.L.1997, c.263).

30 (ii) (Deleted by amendment, P.L.2001, c.152).

31 (iii) (Deleted by amendment, P.L.2003, c.107).

32 (iv) (Deleted by amendment, P.L.2004, c.45).

33 (v) (Deleted by amendment, P.L.2008, c.17).

34 (vi) With respect to experience rating years beginning on or after  
35 July 1, 2004, and before July 1, 2011, the new employer rate or the  
36 unemployment experience rate of an employer under this section  
37 shall be the rate which appears in the column headed by the  
38 Unemployment Trust Fund Reserve Ratio as of the applicable  
39 calculation date and on the line with the Employer Reserve Ratio,  
40 as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)),  
41 as set forth in the following table:

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EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio <sup>1</sup>					
	1.40%	1.00%	0.75%	0.50%	0.49%
Employer Reserve Ratio <sup>2</sup>	and Over	to 1.39%	to 0.99%	to 0.74%	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

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

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

(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4)

1 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
 2 table:

3 EXPERIENCE RATING TAX TABLE

4 Fund Reserve Ratio<sup>1</sup>

	<u>3.50%</u>	<u>3.00%</u>	<u>2.5%</u>	<u>2.0%</u>	<u>1.99%</u>
<u>Employer</u>	<u>and</u>	<u>to</u>	<u>to</u>	<u>to</u>	<u>and</u>
<u>Reserve</u>	<u>Over</u>	<u>3.49%</u>	<u>2.99%</u>	<u>2.49%</u>	<u>Under</u>
<u>Ratio<sup>2</sup></u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
9 <u>Positive Reserve Ratio:</u>					
10 <u>17% and over</u>	<u>0.3</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>1.2</u>
11 <u>16.00% to 16.99%</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>0.6</u>	<u>1.2</u>
12 <u>15.00% to 15.99%</u>	<u>0.4</u>	<u>0.6</u>	<u>0.7</u>	<u>0.7</u>	<u>1.2</u>
13 <u>14.00% to 14.99%</u>	<u>0.5</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>1.2</u>
14 <u>13.00% to 13.99%</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>	<u>1.2</u>
15 <u>12.00% to 12.99%</u>	<u>0.6</u>	<u>0.8</u>	<u>0.9</u>	<u>1.0</u>	<u>1.2</u>
16 <u>11.00% to 11.99%</u>	<u>0.7</u>	<u>0.8</u>	<u>1.0</u>	<u>1.1</u>	<u>1.2</u>
17 <u>10.00% to 10.99%</u>	<u>0.9</u>	<u>1.1</u>	<u>1.3</u>	<u>1.5</u>	<u>1.6</u>
18 <u>9.00% to 9.99%</u>	<u>1.0</u>	<u>1.3</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>
19 <u>8.00% to 8.99%</u>	<u>1.3</u>	<u>1.6</u>	<u>1.9</u>	<u>2.1</u>	<u>2.3</u>
20 <u>7.00% to 7.99%</u>	<u>1.4</u>	<u>1.8</u>	<u>2.2</u>	<u>2.4</u>	<u>2.6</u>
21 <u>6.00% to 6.99%</u>	<u>1.7</u>	<u>2.1</u>	<u>2.5</u>	<u>2.8</u>	<u>3.0</u>
22 <u>5.00% to 5.99%</u>	<u>1.9</u>	<u>2.4</u>	<u>2.8</u>	<u>3.1</u>	<u>3.4</u>
23 <u>4.00% to 4.99%</u>	<u>2.0</u>	<u>2.6</u>	<u>3.1</u>	<u>3.4</u>	<u>3.7</u>
24 <u>3.00% to 3.99%</u>	<u>2.1</u>	<u>2.7</u>	<u>3.2</u>	<u>3.6</u>	<u>3.9</u>
25 <u>2.00% to 2.99%</u>	<u>2.2</u>	<u>2.8</u>	<u>3.3</u>	<u>3.7</u>	<u>4.0</u>
26 <u>1.00% to 1.99%</u>	<u>2.3</u>	<u>2.9</u>	<u>3.4</u>	<u>3.8</u>	<u>4.1</u>
27 <u>0.00% to 0.99%</u>	<u>2.4</u>	<u>3.0</u>	<u>3.6</u>	<u>4.0</u>	<u>4.3</u>
28 <u>Deficit Reserve Ratio:</u>					
29 <u>-0.00% to -2.99%</u>	<u>3.4</u>	<u>4.3</u>	<u>5.1</u>	<u>5.6</u>	<u>6.1</u>
30 <u>-3.00% to -5.99%</u>	<u>3.4</u>	<u>4.3</u>	<u>5.1</u>	<u>5.7</u>	<u>6.2</u>
31 <u>-6.00% to -8.99%</u>	<u>3.5</u>	<u>4.4</u>	<u>5.2</u>	<u>5.8</u>	<u>6.3</u>
32 <u>-9.00% to-11.99%</u>	<u>3.5</u>	<u>4.5</u>	<u>5.3</u>	<u>5.9</u>	<u>6.4</u>
33 <u>-12.00% to-14.99%</u>	<u>3.6</u>	<u>4.6</u>	<u>5.4</u>	<u>6.0</u>	<u>6.5</u>
34 <u>-15.00% to-19.99%</u>	<u>3.6</u>	<u>4.6</u>	<u>5.5</u>	<u>6.1</u>	<u>6.6</u>
35 <u>-20.00% to-24.99%</u>	<u>3.7</u>	<u>4.7</u>	<u>5.6</u>	<u>6.2</u>	<u>6.7</u>
36 <u>-25.00% to-29.99%</u>	<u>3.7</u>	<u>4.8</u>	<u>5.6</u>	<u>6.3</u>	<u>6.8</u>
37 <u>-30.00% to-34.99%</u>	<u>3.8</u>	<u>4.8</u>	<u>5.7</u>	<u>6.3</u>	<u>6.9</u>
38 <u>-35.00% and under</u>	<u>5.4</u>	<u>5.4</u>	<u>5.8</u>	<u>6.4</u>	<u>7.0</u>
39 <u>New Employer Rate</u>	<u>2.8</u>	<u>2.8</u>	<u>2.8</u>	<u>3.1</u>	<u>3.4</u>

40 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
 41 in the prior calendar year.

42 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
 43 percentage of employer's taxable wages).

44 (F) (i) (Deleted by amendment, P.L.1997, c.263).

45 (ii) (Deleted by amendment, P.L.2008, c.17).

46 (iii) With respect to experience rating years beginning on or after  
 47 July 1, 2004 and before July 1, 2011, if the fund reserve ratio, based  
 48 on the fund balance as of the prior March 31, is less than 0.50%, the

1 contribution rate for each employer liable to pay contributions, as  
2 computed under subparagraph (E) of this paragraph (5), shall be  
3 increased by a factor of 10% computed to the nearest multiple of  
4 1/10% if not already a multiple thereof.

5 (iv) With respect to experience rating years beginning on or after  
6 July 1, 2011, if the fund reserve ratio, based on the fund balance as  
7 of the prior March 31, is less than 1.0%, the contribution rate for  
8 each employer liable to pay contributions, as computed under  
9 subparagraph (E) of this paragraph (5), shall be increased by a  
10 factor of 10% computed to the nearest multiple of 1/10% if not  
11 already a multiple thereof.

12 (G) On or after January 1, 1993, notwithstanding any other  
13 provisions of this paragraph (5), the contribution rate for each  
14 employer liable to pay contributions, as computed under  
15 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
16 except that, during any experience rating year starting before  
17 January 1, 1998 in which the fund reserve ratio is equal to or greater  
18 than 7.00% or during any experience rating year starting on or after  
19 January 1, 1998, in which the fund reserve ratio is equal to or  
20 greater than 3.5%, there shall be no decrease pursuant to this  
21 subparagraph (G) in the contribution of any employer who has a  
22 deficit reserve ratio of negative 35.00% or under.

23 (H) On and after January 1, 1998 until December 31, 2000 and  
24 on or after January 1, 2002 until June 30, 2006, the contribution rate  
25 for each employer liable to pay contributions, as computed under  
26 subparagraph (E) of this paragraph (5), shall be decreased by a  
27 factor, as set out below, computed to the nearest multiple of 1/10%,  
28 except that, if an employer has a deficit reserve ratio of negative  
29 35.0% or under, the employer's rate of contribution shall not be  
30 reduced pursuant to this subparagraph (H) to less than 5.4%:

31 From January 1, 1998 until December 31, 1998, a factor of 12%;  
32 From January 1, 1999 until December 31, 1999, a factor of 10%;  
33 From January 1, 2000 until December 31, 2000, a factor of 7%;  
34 From January 1, 2002 until March 31, 2002, a factor of 36%;  
35 From April 1, 2002 until June 30, 2002, a factor of 85%;  
36 From July 1, 2002 until June 30, 2003, a factor of 15%;  
37 From July 1, 2003 until June 30, 2004, a factor of 15%;  
38 From July 1, 2004 until June 30, 2005, a factor of 7%;  
39 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
40 From January 1, 2006 until June 30, 2006, a factor of 34%.

41 The amount of the reduction in the employer contributions  
42 stipulated by this subparagraph (H) shall be in addition to the  
43 amount of the reduction in the employer contributions stipulated by  
44 subparagraph (G) of this paragraph (5), except that the rate of  
45 contribution of an employer who has a deficit reserve ratio of  
46 negative 35.0% or under shall not be reduced pursuant to this  
47 subparagraph (H) to less than 5.4% and the rate of contribution of  
48 any other employer shall not be reduced to less than 0.0%.

1 (I) (Deleted by amendment, P.L.2008, c.17).

2 (J) On or after July 1, 2001, notwithstanding any other  
3 provisions of this paragraph (5), the contribution rate for each  
4 employer liable to pay contributions, as computed under  
5 subparagraph (E) of this paragraph (5), shall be decreased by  
6 0.0175%, except that, during any experience rating year starting on  
7 or after July 1, 2001, in which the fund reserve ratio is equal to or  
8 greater than 3.5%, there shall be no decrease pursuant to this  
9 subparagraph (J) in the contribution of any employer who has a  
10 deficit reserve ratio of negative 35.00% or under. The amount of the  
11 reduction in the employer contributions stipulated by this  
12 subparagraph (J) shall be in addition to the amount of the reduction  
13 in the employer contributions stipulated by subparagraphs (G) and  
14 (H) of this paragraph (5), except that the rate of contribution of an  
15 employer who has a deficit reserve ratio of negative 35.0% or under  
16 shall not be reduced pursuant to this subparagraph (J) to less than  
17 5.4% and the rate of contribution of any other employer shall not be  
18 reduced to less than 0.0%.

19 (K) With respect to experience rating years beginning on or after  
20 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
21 of the prior March 31, is:

22 (i) Equal to or greater than 5.00% but less than 7.5%, the  
23 contribution rate for each employer liable to pay contributions, as  
24 computed under subparagraph (E) of this paragraph (5), shall be  
25 reduced by a factor of 25% computed to the nearest multiple of  
26 1/10% if not already a multiple thereof except that there shall be no  
27 decrease pursuant to this subparagraph (K) in the contribution of  
28 any employer who has a deficit reserve ratio of 35.00% or under ;

29 (ii) Equal to or greater than 7.5% **【but less than 10.0%】**, the  
30 contribution rate for each employer liable to pay contributions, as  
31 computed under subparagraph (E) of this paragraph (5), shall be  
32 reduced by a factor of 50% computed to the nearest multiple of  
33 1/10% if not already a multiple thereof except that there shall be no  
34 decrease pursuant to this subparagraph (K) in the contribution of  
35 any employer who has a deficit reserve ratio of 35.00% or under.

36 (L) Notwithstanding any other provision of this paragraph (5)  
37 and notwithstanding the actual fund reserve ratio, the contribution  
38 rate for employers liable to pay contributions, as computed under  
39 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
40 2011, the rates set by column "C" of the table in that subparagraph.

41 (M) Notwithstanding any other provision of this paragraph (5)  
42 and notwithstanding the actual fund reserve ratio, the contribution  
43 rate for employers liable to pay contributions, as computed under  
44 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
45 2012, the rates set by column "D" of the table in that subparagraph.

46 (N) Notwithstanding any other provision of this paragraph (5)  
47 and notwithstanding the actual fund reserve ratio, the contribution  
48 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
2 2013, the rates set by column "E" of the table in that subparagraph.

3 (6) Additional contributions.

4 Notwithstanding any other provision of law, any employer who  
5 has been assigned a contribution rate pursuant to subsection (c) of  
6 this section for the year commencing July 1, 1948, and for any year  
7 commencing July 1 thereafter, may voluntarily make payment of  
8 additional contributions, and upon such payment shall receive a  
9 recomputation of the experience rate applicable to such employer,  
10 including in the calculation the additional contribution so made,  
11 except that, following a transfer as described under R.S.43:21-  
12 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
13 eligible to make a voluntary payment of additional contributions  
14 during the year the transfer occurs and the next full calendar year.  
15 Any such additional contribution shall be made during the 30-day  
16 period following the date of the mailing to the employer of the  
17 notice of his contribution rate as prescribed in this section, unless,  
18 for good cause, the time for payment has been extended by the  
19 controller for not to exceed an additional 60 days; provided that in  
20 no event may such payments which are made later than 120 days  
21 after the beginning of the year for which such rates are effective be  
22 considered in determining the experience rate for the year in which  
23 the payment is made. Any employer receiving any extended period  
24 of time within which to make such additional payment and failing  
25 to make such payment timely shall be, in addition to the required  
26 amount of additional payment, liable for a penalty of 5% thereof or  
27 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment  
28 under this subsection shall be made only in the form of credits  
29 against accrued or future contributions.

30 (7) Transfers.

31 (A) Upon the transfer of the organization, trade or business, or  
32 substantially all the assets of an employer to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise, the controller shall transfer the employment experience  
35 of the predecessor employer to the successor in interest, including  
36 credit for past years, contributions paid, annual payrolls, benefit  
37 charges, et cetera, applicable to such predecessor employer,  
38 pursuant to regulation, if it is determined that the employment  
39 experience of the predecessor employer with respect to the  
40 organization, trade, assets or business which has been transferred  
41 may be considered indicative of the future employment experience  
42 of the successor in interest. The successor in interest may, within  
43 four months of the date of such transfer of the organization, trade,  
44 assets or business, or thereafter upon good cause shown, request a  
45 reconsideration of the transfer of employment experience of the  
46 predecessor employer. The request for reconsideration shall  
47 demonstrate, to the satisfaction of the controller, that the

1 employment experience of the predecessor is not indicative of the  
2 future employment experience of the successor.

3 (B) An employer who transfers part of his or its organization,  
4 trade, assets or business to a successor in interest, whether by  
5 merger, consolidation, sale, transfer, descent or otherwise, may  
6 jointly make application with such successor in interest for transfer  
7 of that portion of the employment experience of the predecessor  
8 employer relating to the portion of the organization, trade, assets or  
9 business transferred to the successor in interest, including credit for  
10 past years, contributions paid, annual payrolls, benefit charges, et  
11 cetera, applicable to such predecessor employer. The transfer of  
12 employment experience may be allowed pursuant to regulation only  
13 if it is found that the employment experience of the predecessor  
14 employer with respect to the portion of the organization, trade,  
15 assets or business which has been transferred may be considered  
16 indicative of the future employment experience of the successor in  
17 interest. Credit shall be given to the successor in interest only for  
18 the years during which contributions were paid by the predecessor  
19 employer with respect to that part of the organization, trade, assets  
20 or business transferred.

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

31 (D) If an employer transfers in whole or in part his or its  
32 organization, trade, assets or business to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise and both the employer and successor in interest are at the  
35 time of the transfer under common ownership, management or  
36 control, then the employment experience attributable to the  
37 transferred business shall also be transferred to and combined with  
38 the employment experience of the successor in interest. The transfer  
39 of the employment experience is mandatory and not subject to  
40 appeal or protest.

41 (E) The transfer of part of an employer's employment experience  
42 to a successor in interest shall become effective as of the first day of  
43 the calendar quarter following the acquisition by the successor in  
44 interest. As of the effective date, the successor in interest shall have  
45 its employer rate recalculated by merging its existing employment  
46 experience, if any, with the employment experience acquired. If the  
47 successor in interest is not an employer as of the date of acquisition,

1 it shall be assigned the new employer rate until the effective date of  
2 the transfer of employment experience.

3 (F) Upon the transfer in whole or in part of the organization,  
4 trade, assets or business to a successor in interest, the employment  
5 experience shall not be transferred if the successor in interest is not  
6 an employer at the time of the acquisition and the controller finds  
7 that the successor in interest acquired the business solely or  
8 primarily for the purpose of obtaining a lower rate of contributions.

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

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

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

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



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

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

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

42 Each worker shall, starting on January 1, 1996 and ending March  
43 31, 1996, contribute to the unemployment compensation fund  
44 0.60% of wages paid with respect to the worker's employment with  
45 a governmental employer electing or required to pay contributions  
46 or nongovernmental employer, including a nonprofit organization  
47 which is an employer as defined under paragraph (6) of subsection  
48 (h) of R.S.43:21-19, regardless of whether that nonprofit

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

9 Each worker shall, starting on January 1, 1998 and ending  
10 December 31, 1998, contribute to the unemployment compensation  
11 fund 0.10% of wages paid with respect to the worker's employment  
12 with a governmental employer electing or required to pay  
13 contributions or nongovernmental employer, including a nonprofit  
14 organization which is an employer as defined under paragraph (6)  
15 of subsection (h) of R.S.43:21-19, regardless of whether that  
16 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  
19 forth 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  
21 0.10% of wages paid with respect to employment with the State of  
22 New Jersey or any other governmental entity or instrumentality  
23 electing or required to make payments in lieu of contributions.

24 Each worker shall, starting on January 1, 1999 until December  
25 31, 1999, contribute to the unemployment compensation fund  
26 0.15% of wages paid with respect to the worker's employment with  
27 a governmental employer electing or required to pay contributions  
28 or nongovernmental employer, including a nonprofit organization  
29 which is an employer as defined under paragraph (6) of subsection  
30 (h) of R.S.43:21-19, regardless of whether that nonprofit  
31 organization elects or is required to finance its benefit costs with  
32 contributions to the fund or by payments in lieu of contributions,  
33 after that employer has satisfied the conditions set forth in  
34 subsection (h) of R.S.43:21-19 with respect to becoming an  
35 employer, provided that the contributions shall be at the rate of  
36 0.10% of wages paid with respect to employment with the State of  
37 New Jersey or any other governmental entity or instrumentality  
38 electing or required to make payments in lieu of contributions.

39 Each worker shall, starting on January 1, 2000 until December  
40 31, 2001, contribute to the unemployment compensation fund  
41 0.20% of wages paid with respect to the worker's employment with  
42 a governmental employer electing or required to pay contributions  
43 or nongovernmental employer, including a nonprofit organization  
44 which is an employer as defined under paragraph (6) of subsection  
45 (h) of R.S.43:21-19, regardless of whether that nonprofit  
46 organization elects or is required to finance its benefit costs with  
47 contributions to the fund or by payments in lieu of contributions,  
48 after that employer has satisfied the conditions set forth in

1 subsection (h) of R.S.43:21-19 with respect to becoming an  
2 employer, provided that the contributions shall be at the rate of  
3 0.10% 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.

6 Each worker shall, starting on January 1, 2002 until June 30,  
7 2004, contribute to the unemployment compensation fund 0.1825%  
8 of wages paid with respect to the worker's employment with a  
9 governmental employer electing or required to pay contributions or  
10 a nongovernmental employer, including a nonprofit organization  
11 which is an employer as defined under paragraph (6) of subsection  
12 (h) of R.S.43:21-19, regardless of whether that nonprofit  
13 organization elects or is required to finance its benefit costs with  
14 contributions to the fund or by payments in lieu of contributions,  
15 after that employer has satisfied the conditions set forth in  
16 subsection (h) of R.S.43:21-19 with respect to becoming an  
17 employer, provided that the contributions shall be at the rate of  
18 0.0825% of wages paid with respect to employment with the State  
19 of New Jersey or any other governmental entity or instrumentality  
20 electing or required to make payments in lieu of contributions.

21 Each worker shall, starting on and after July 1, 2004, contribute  
22 to the unemployment compensation fund 0.3825% of wages paid  
23 with respect to the worker's employment with a governmental  
24 employer electing or required to pay contributions or  
25 nongovernmental employer, including a nonprofit organization  
26 which is an employer as defined under paragraph (6) of subsection  
27 (h) of R.S.43:21-19, regardless of whether that nonprofit  
28 organization elects or is required to finance its benefit costs with  
29 contributions to the fund or by payments in lieu of contributions,  
30 after that employer has satisfied the conditions set forth in  
31 subsection (h) of R.S.43:21-19 with respect to becoming an  
32 employer, provided that the contributions shall be at the rate of  
33 0.0825% of wages paid with respect to employment with the State  
34 of New Jersey or any other governmental entity or instrumentality  
35 electing or required to make payments in lieu of contributions.

36 (E) Each employer shall, notwithstanding any provision of law  
37 in this State to the contrary, withhold in trust the amount of his  
38 workers' contributions from their wages at the time such wages are  
39 paid, shall show such deduction on his payroll records, shall furnish  
40 such evidence thereof to his workers as the division or controller  
41 may prescribe, and shall transmit all such contributions, in addition  
42 to his own contributions, to the office of the controller in such  
43 manner and at such times as may be prescribed. If any employer  
44 fails to deduct the contributions of any of his workers at the time  
45 their wages are paid, or fails to make a deduction therefor at the  
46 time wages are paid for the next succeeding payroll period, he alone  
47 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's  
2 contributions required from him.

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

6 (G) (i) Each worker shall, starting on July 1, 1994, contribute to  
7 the State disability benefits fund an amount equal to 0.50% of  
8 wages paid with respect to the worker's employment with a  
9 government employer electing or required to pay contributions to  
10 the State disability benefits fund or nongovernmental employer,  
11 including a nonprofit organization which is an employer as defined  
12 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
13 employer is covered by an approved private disability plan or is  
14 exempt from the provisions of the "Temporary Disability Benefits  
15 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that  
16 law (C.43:21-31) or any other provision of that law.

17 (ii) Each worker shall contribute to the State disability benefits  
18 fund, in addition to any amount contributed pursuant to  
19 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
20 during calendar year 2009, 0.09%, and during calendar year 2010  
21 0.12%, of wages paid with respect to the worker's employment with  
22 any covered employer, including a governmental employer which is  
23 an employer as defined under R.S.43:21-19(h)(5), unless the  
24 employer is covered by an approved private disability plan for  
25 benefits during periods of family temporary disability leave. The  
26 contributions made pursuant to this subparagraph (ii) to the State  
27 disability benefits fund shall be deposited into an account of that  
28 fund reserved for the payment of benefits during periods of family  
29 temporary disability leave as defined in section 3 of the "Temporary  
30 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
31 administration of those payments and shall not be used for any other  
32 purpose. This account shall be known as the "Family Temporary  
33 Disability Leave Account." For calendar year 2011 and each  
34 subsequent calendar year, the annual rate of contribution to be paid  
35 by workers pursuant to this subparagraph (ii) shall be the rate  
36 necessary to obtain a total amount of contributions equal to 125% of  
37 the benefits paid for periods of family temporary disability leave  
38 during the immediately preceding calendar year plus an amount  
39 equal to 100% of the cost of administration of the payment of those  
40 benefits during the immediately preceding calendar year, less the  
41 amount of net assets remaining in the account as of December 31 of  
42 the immediately preceding year. Necessary administrative costs  
43 shall include the cost of an outreach program to inform employees  
44 of the availability of the benefits and the cost of issuing the reports  
45 required or permitted pursuant to section 13 of P.L.2008, c.17  
46 (C.43:21-39.4). No monies, other than the funds in the "Family  
47 Temporary Disability Leave Account," shall be used for the  
48 payment of benefits during periods of family temporary disability

1 leave or for the administration of those payments, with the sole  
2 exception that, during calendar years 2008 and 2009, a total amount  
3 not exceeding \$25 million may be transferred to that account from  
4 the revenues received in the State disability benefits fund pursuant  
5 to subparagraph (i) of this paragraph (1)(G) and be expended for  
6 those payments and their administration, including the  
7 administration of the collection of contributions made pursuant to  
8 this subparagraph (ii) and any other necessary administrative costs.  
9 Any amount transferred to the account pursuant to this  
10 subparagraph (ii) shall be repaid during a period beginning not later  
11 than January 1, 2011 and ending not later than December 31, 2015.  
12 No monies, other than the funds in the "Family Temporary  
13 Disability Leave Account," shall be used under any circumstances  
14 after December 31, 2009, for the payment of benefits during periods  
15 of family temporary disability leave or for the administration of  
16 those payments, including for the administration of the collection of  
17 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

1 contributions to such fund, as provided in subparagraph (B) of  
2 paragraph (1) of this subsection with respect to coverage under  
3 private plans, to the total wages so exempt plus the amount of such  
4 wages subject to contributions to the disability benefits fund, as  
5 provided in subparagraph (G) of paragraph (1) of this subsection.  
6 The controller shall, in accordance with prescribed regulations,  
7 prorate the amount so determined among the applicable private  
8 plans in the proportion that the wages covered by each plan bear to  
9 the total private plan wages involved in such refunds, and shall  
10 assess against and recover from the employer, or the insurer if the  
11 insurer has indemnified the employer with respect thereto, the  
12 amount so prorated. The provisions of R.S.43:21-14 with respect to  
13 collection of employer contributions shall apply to such  
14 assessments. The amount so recovered by the controller shall be  
15 paid into the State disability benefits fund.

16 (B) If an employee receives wages from more than one employer  
17 during any calendar year, and the sum of his contributions deposited  
18 in the "Family Temporary Disability Leave Account" of the State  
19 disability benefits fund plus the amount of his contributions, if any,  
20 required towards the costs of family temporary disability leave  
21 benefits under one or more approved private plans under the  
22 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
23 et al.) and deducted from his wages, exceeds an amount equal to,  
24 during calendar year 2009, 0.09% of the "wages" determined in  
25 accordance with the provisions of R.S.43:21-7(b)(3), or during  
26 calendar year 2010, 0.12% of those wages, or, during calendar year  
27 2011 or any subsequent calendar year, the percentage of those  
28 wages set by the annual rate of contribution determined by the  
29 Commissioner of Labor and Workforce Development pursuant to  
30 subparagraph (ii) of paragraph(1)(G) of this subsection (d), the  
31 employee shall be entitled to a refund of the excess if he makes a  
32 claim to the controller within two years after the end of the calendar  
33 year in which the wages are received with respect to which the  
34 refund is claimed and establishes his right to the refund. The refund  
35 shall be made by the controller from the "Family Temporary  
36 Disability Leave Account" of the State disability benefits fund. No  
37 interest shall be allowed or paid with respect to any such refund.  
38 The controller shall, in accordance with prescribed regulations,  
39 determine the portion of the aggregate amount of the refunds made  
40 during any calendar year which is applicable to private plans for  
41 which deductions were made under section 9 of the "Temporary  
42 Disability Benefits Law" (C.43:21-33), with that determination  
43 based upon the ratio of the amount of such wages exempt from  
44 contributions to the fund, as provided in paragraph (1)(B) of this  
45 subsection (d) with respect to coverage under private plans, to the  
46 total wages so exempt plus the amount of such wages subject to  
47 contributions to the "Family Temporary Disability Leave Account"  
48 of the State disability benefits fund, as provided in subparagraph (ii)

1 of paragraph (1)(G) of this subsection (d). The controller shall, in  
2 accordance with prescribed regulations, prorate the amount so  
3 determined among the applicable private plans in the proportion  
4 that the wages covered by each plan bear to the total private plan  
5 wages involved in such refunds, and shall assess against and  
6 recover from the employer, or the insurer if the insurer has  
7 indemnified the employer with respect thereto, the prorated amount.  
8 The provisions of R.S.43:21-14 with respect to collection of  
9 employer contributions shall apply to such assessments. The  
10 amount so recovered by the controller shall be paid into the "Family  
11 Temporary Disability Leave Account" of the State disability  
12 benefits fund.

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

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

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

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

39 (1) Except as hereinafter provided, each employer shall, in  
40 addition to the contributions required by subsections (a), (b), and  
41 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
42 employer to workers with respect to employment unless he is not a  
43 covered employer as defined in subsection (a) of section 3 of the  
44 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
45 the rate for the State of New Jersey shall be 1/10 of 1% for the  
46 calendar year 1980 and for the first six months of 1981. Prior to  
47 July 1, 1981 and prior to July 1 each year thereafter, the controller  
48 shall review the experience accumulated in the account of the State

1 of New Jersey and establish a rate for the next following fiscal year  
2 which, in combination with worker contributions, will produce  
3 sufficient revenue to keep the account in balance; except that the  
4 rate so established shall not be less than 1/10 of 1%. Such  
5 contributions shall become due and be paid by the employer to the  
6 controller for the State disability benefits fund as established by  
7 law, in accordance with such regulations as may be prescribed, and  
8 shall not be deducted, in whole or in part, from the remuneration of  
9 individuals in his employ. In the payment of any contributions, a  
10 fractional part of a cent shall be disregarded unless it amounts to  
11 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

43 (C) The controller may prescribe regulations for the  
44 establishment, maintenance, and dissolution of joint accounts by  
45 two or more employers, and shall, in accordance with such  
46 regulations and upon application by two or more employers to  
47 establish such an account, or to merge their several individual



1 accounts in a joint account, maintain such joint account as if it  
2 constituted a single employer's account.

3 (D) Prior to July 1 of each calendar year, the controller shall  
4 make a preliminary determination of the rate of contribution for the  
5 12 months commencing on such July 1 for each employer subject to  
6 the contribution requirements of this subsection (e).

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

12 (2) If the minimum requirements in subparagraph (D) (1) above  
13 have been fulfilled and the credited contributions exceed the  
14 benefits charged by more than \$500.00, such preliminary rate shall  
15 be as follows:

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

19 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
20  $1\frac{1}{4}$ % but is less than  $1\frac{1}{2}$ % of his average annual payroll;

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

23 (3) If the minimum requirements in subparagraph (D) (1) above  
24 have been fulfilled and the contributions credited exceed the  
25 benefits charged but by not more than \$500.00 plus 1% of his  
26 average annual payroll, or if the benefits charged exceed the  
27 contributions credited but by not more than \$500.00, the  
28 preliminary rate shall be  $\frac{1}{4}$  of 1%.

29 (4) If the minimum requirements in subparagraph (D) (1) above  
30 have been fulfilled and the benefits charged exceed the  
31 contributions credited by more than \$500.00, such preliminary rate  
32 shall be as follows:

33 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
34 1% of his average annual payroll;

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

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

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

41 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
42 1% of his average annual payroll.

43 (5) Determination of the preliminary rate as specified in  
44 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
45 to the condition that it shall in no event be decreased by more than  
46  $\frac{1}{10}$  of 1% of wages or increased by more than  $\frac{2}{10}$  of 1% of  
47 wages from the preliminary rate determined for the preceding year

1 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever  
2 shall have been applicable.

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

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

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

30 (ii) If the percentage determined in accordance with  
31 subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1%  
32 and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
33 preliminary employer rates.

34 (iii) If the percentage determined in accordance with  
35 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
36 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
37 preliminary employer rates determined as provided in subparagraph  
38 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
39 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
40 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
41 employer whose preliminary rate is determined as provided in  
42 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
43 employer whose preliminary rate is determined as provided in  
44 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
45  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
46 determined as provided in subparagraph (D)(4) hereof.

47 (iv) If the amount of the State disability benefits fund determined  
48 as provided in subparagraph (E)(1) of this paragraph is equal to or

1 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case  
2 of an employer whose preliminary rate is determined as provided in  
3 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer  
4 whose preliminary rate is determined as provided in subparagraph  
5 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
6 employer whose preliminary rate is determined as provided in  
7 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
8 law or any determination made by the controller with respect to any  
9 12-month period commencing on July 1, 1970, the final rates for all  
10 employers for the period beginning January 1, 1971, shall be as set  
11 forth herein.

12 (F) Notwithstanding any other provisions of this subsection (e),  
13 the rate of contribution paid to the State disability benefits fund by  
14 each covered employer as defined in paragraph (1) of subsection (a)  
15 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
16 if:

17 (i) No disability benefits have been paid with respect to periods  
18 of family temporary disability leave;

19 (ii) No worker paid any contributions to the State disability  
20 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of  
21 this section; and

22 (iii) No amounts were transferred from the State disability  
23 benefits fund to the "Family Temporary Disability Leave Account"  
24 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

25 (cf: P.L.2010, c.37, s.1)

26

27 2. This act shall take effect immediately.

28

29

30

## STATEMENT

31

32 This bill modifies the provisions of the "unemployment  
33 compensation law" (R.S.43:21-1 et seq.), by:

34 1. Reducing the unemployment insurance (UI) tax rates which  
35 will be imposed on employers during fiscal years 2012 and 2013;  
36 and

37 2. Modifying, for all years after FY 2011, the UI trust fund  
38 reserve ratios which set employer UI tax rates in such a manner that  
39 larger reserves are required in the UI trust fund than under the  
40 current law before employer UI taxes are reduced.

41 First, the bill would provide immediate tax relief for employers  
42 during fiscal years 2012 and 2013. The bill reduces employer UI  
43 tax rates by applying the tax rates of the "D" column of the UI tax  
44 table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the  
45 "E" column of that tax table in FY 2013. During FY 2011, the tax  
46 rates of the "C" schedule were applied. Because the UI trust fund is  
47 currently in deficit, the tax rate, under current law, would increase,  
48 starting on July 1, 2011, to the highest tax rates set by the law, the

1 rates found in the “E” column, plus an additional 10% surcharge.  
2 The employer tax burdens under the “D” schedule and the “E”  
3 schedule are significantly lower.

4 Second, for all years after FY 2011, the bill raises the UI trust  
5 fund reserve ratios which set employer UI tax rates in such a  
6 manner that larger reserves are required in the UI trust fund than  
7 under the current law before employer UI taxes are reduced.  
8 Specifically, the bill sets the reserve ratio triggers at the same levels  
9 they were during FY 2003. That will result in the building up of UI  
10 fund reserves sufficient to reduce the likelihood that any future  
11 recession would result in the deep UI fund deficits which have  
12 caused such large employer UI tax increases during the current  
13 period of high unemployment. The new reserve ratio triggers  
14 provided by the bill would still permit employer UI tax reductions  
15 as reserves accumulate, but the tax reductions would not be as  
16 large. The new reserve ratio triggers would have no effect on tax  
17 rates until the UI fund has a positive balance. The Department of  
18 Labor and Workforce Development estimates that the fund will not  
19 attain a positive balance before FY 2017.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3819

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 5, 2011

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 3819.

This bill modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner so that larger reserves will be required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill would provide immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner that larger reserves would be required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI fund reserves sufficient to reduce the likelihood that any future recession would result in the deep UI trust fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill would still permit employer UI tax reductions as reserves accumulate, but the tax reductions would not be as large. The new reserve ratio triggers would have no effect on tax rates until the UI trust fund has a positive balance. The Department of Labor and Workforce Development estimates that the fund will not attain a positive balance before FY 2014.

### COMMITTEE AMENDMENTS

The committee amended the bill to change the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the Department of Labor and Workforce Development to modernize notification to employers by electronic or digital means. Currently, the statute requires the department to send or furnish copies of certain records to employers regarding benefit payments charged to their employer account. The amendments change this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

### FISCAL IMPACT:

The OLS notes that this bill will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY2013.

The UI trust fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI trust fund will regain solvency approximately one fiscal year later than under current law.

The OLS analysis also indicates that this bill may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State employer UI tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in interest in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. This bill will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$652.9 million loan.

Additionally, this bill amends the UI tax table to increase the reserve ratio needed to shift the UI tax rate. This change will most likely result in a more stable employer UI tax rate for a longer period of time and allow a greater reserve of funds to be retained in the UI Trust Fund. For example, under current law, when the reserve ratio in

the UI Trust Fund reaches 1.4%, employers are moved to the lowest tax column “A”. Conversely, under this bill, a 1.4% reserve ratio would maintain the highest tax column of “E.” The changes proposed under this bill will allow the UI Trust Fund to maintain a larger reserve in times of lower unemployment to be used to pay benefits, without having to increase UI taxes, in times of high unemployment.

# SENATE LABOR COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3819**

# **STATE OF NEW JERSEY**

DATED: MAY 12, 2011

The Senate Labor Committee reports favorably Assembly Bill No. 3819 (1R).

This bill modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner so that larger reserves will be required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill provides immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI fund reserves sufficient to reduce the likelihood that any future recession will result in the deep UI trust fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill will still permit employer UI tax reductions as reserves accumulate, but the tax reductions will not be as large. The new reserve ratio triggers will have no effect on tax rates until the UI trust fund has a positive balance. The Department of Labor and Workforce Development estimates that the fund will not attain a positive balance before FY 2014.



This bill also changes the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the Department of Labor and Workforce Development to modernize notification to employers by electronic or digital means. Currently, the statute being amended by this bill requires the department to send or furnish copies of certain records to employers regarding benefit payments charged to their employer account. The bill changes this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

Fiscal Impact:

The OLS notes that this bill will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY2013.

The UI trust fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI trust fund will regain solvency approximately one fiscal year later than under current law.

The OLS analysis also indicates that this bill may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State employer UI tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in interest in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. This bill will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$652.9 million loan.

Additionally, this bill amends the UI tax table to increase the reserve ratio needed to shift the UI tax rate. This change will most likely result in a more stable employer UI tax rate for a longer period of time and allow a greater reserve of funds to be retained in the UI trust fund. For example, under current law, when the reserve ratio in the UI Trust Fund reaches 1.4%, employers are moved to the lowest

tax column “A.” Conversely, under this bill, a 1.4% reserve ratio would maintain the highest tax column of “E.” The changes proposed under this bill will allow the UI trust fund to maintain a larger reserve in times of lower unemployment to be used to pay benefits, without having to increase UI taxes, in times of high unemployment.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 3819

### STATE OF NEW JERSEY 214th LEGISLATURE

DATED: MAY 26, 2011

#### SUMMARY

- Synopsis:** Modifies employer UI tax rates.
- Type of Impact:** Revenue loss to unemployment insurance (UI) compensation trust fund (UI trust fund). Future expenditure increase from UI trust fund due to increased federal loan. Future expenditure increase and matching revenue increase for the Unemployment Compensation Interest Repayment Fund (UCIRF) to pay the related accrued interest obligations.
- Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2012</u></b>	<b><u>FY 2013</u></b>	<b><u>FY 2014</u></b>
<b>UI trust fund revenue</b>	(\$371.5 million)	(\$281.4 million)	_____
<b>UCIRF</b>			
<b>Expenditure</b>	\$0	\$14.9 million	\$11.3 million
<b>Revenue</b>	\$0	\$14.9 million	\$11.3 million

- The Office of Legislative Services (OLS) notes that Assembly Bill No. 3819 (1R) of 2011 will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State unemployment insurance (UI) compensation trust fund (UI trust fund) by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY 2013.
- The UI trust fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI trust fund will regain solvency approximately one fiscal year later than under current law.
- The OLS analysis also indicates that A-3819 (1R) may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased

State employer unemployment insurance tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

- Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers, which is deposited in the Unemployment Compensation Interest Repayment Fund (UCIRF), be used to pay this accrued interest. A-3819 (1R) will increase the revenue generated for the UCIRF from this assessment and increase the expenditures from the UCIRF to pay the interest accrued on the additional \$652.9 million loan.
- Additionally, A-3819 (1R), for all years after FY 2011, amends the experience rating tax table to raise the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

## **BILL DESCRIPTION**

Assembly Bill No. 3819 (1R) of 2011 modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill would provide immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10 percent surcharge. Thus, the employer tax burdens under the "D" schedule and the "E" schedule are significantly lower.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI fund reserves sufficient to reduce the likelihood that any future recession would result in the deep UI fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill would still permit employer UI tax reductions as reserves accumulate, but the tax reductions would not be as large as they are under the current tax table. The new reserve ratio triggers would have no effect on tax rates until the UI fund has a positive balance.

The bill, as amended, will also change the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the department to modernize notification to employers by electronic or digital means.

Currently, the statute requires the department to send or furnish copies of certain records to employers regarding benefit payments charged to their employer account. The bill changes this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The Department of Labor and Workforce Development did not provide a formal Executive Branch analysis for this bill. However, the department did provide, in its response to the OLS discussion points during the review of the FY 2012 Recommended Budget, numerous charts and data on the UI trust fund and estimates on possible changes to the tax and the effect of these changes on the UI trust fund balance. These schedules and answers were relied on heavily for this analysis and can be located at [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf).

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS notes that Assembly Bill No. 3819 (1R) of 2011 will reduce the revenue collected from the employer paid unemployment insurance tax for the unemployment insurance (UI) compensation trust fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY 2013<sup>1</sup>.

The OLS analysis indicates that, in addition to the \$652.9 million reduction in revenue, A-3819 (1R) will have the following effects: it will increase future UI trust fund expenditures used to repay the federal loan to the UI trust fund; it will lengthen by one year the date in which the UI trust fund will gain solvency; it will increase the length of time employers are charged the additional FUTA tax to pay back the federal loan; it will increase the amount of time the employers are charged the higher unemployment insurance tax rate in the future; and it will increase the State imposed UCIRF assessment to pay back the interest on the federal loan.<sup>2</sup>

The UI trust fund is currently operating at a deficit and as of April 29, 2011, the State has borrowed \$2.05 billion from the federal government to pay State UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The changes proposed in this bill will result in a \$652.9 million reduction to that fund and will most likely necessitate a need to borrow an additional \$652.9 million from the federal government to pay

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<sup>1</sup> [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf), schedule II.

<sup>2</sup> To determine these outcomes, the OLS conducted its analysis using data extracted from the Department of Labor and Workforce Development's answers to discussion points during the review of the FY 2012 Budget Recommendation. It is very difficult to estimate the future effects of changes to the unemployment insurance system, because of the many variables involved in the analysis. For example, it is not possible to predict with great accuracy the rate of unemployment or wage data in the future. Both of these factors could change slightly from the OLS and department assumptions and have significant cumulative effects on the results of this analysis. It is for this reason that long term estimates for UI trust fund solvency cannot be made with any level of certainty.

For the purposes of its analysis, the OLS made the following assumptions: the economy is going to slowly recover and not experience another downturn in the next seven years; unemployment will continue to decrease slightly over the next seven years; benefit payments will drop due to decreased unemployment at 2 percent per year; all benefits programs will remain constant; employer and employee contributions will increase at 3.5% in CY2012 and by 4 percent each year thereafter; and taxable wages will increase by 3.5% in CY 2012 and 4% each year thereafter.

State UI benefits. The funds are repaid through accruals in the State UI trust fund and the need for increased funds will result in the State UI tax remaining at the highest column, “E +10 percent” for one more year than it would under current law. Additionally, the department estimates that the UI trust fund will regain solvency one Fiscal Year later than under current law.

Assembly Bill No. 3819 (1R) may also affect the length of time employers are required to pay an additional federal tax. Unemployment insurance is funded jointly through the federal unemployment tax, more commonly referred to as “FUTA” (for the Federal Unemployment Tax Act under which it was established), and levied on employers, and a state unemployment insurance tax levied on employers and employees. The current FUTA tax rate is 6.2 percent of the first \$7,000 in wages. This rate is offset with a credit of 5.4 percent, attained due to the State’s compliance with federal law, yielding a net tax of 0.8 percent on eligible employees’ first \$7,000 in wages.

Federal law requires that if a state has borrowed from the federal government for its UI trust fund and maintains a deficit two years after the state initiated the borrowing, then a reduction to the employers’ FUTA credit is initiated. New Jersey began to borrow from the federal government in March of 2009 and therefore, as of January 2012, the 5.4 percent credit will be gradually phased out (at 0.3 percent annually) and the employer will be paying more taxes on the first \$7,000 in wages paid to each employee. In January 2012, employers will pay an additional \$21 per worker (0.3 percent of the federal taxable wage base of \$7,000). In 2013, the amount will increase to \$42 per worker and will continue to increase by 0.3 percent annually until the loan is repaid. The higher the balance of the federal loan, the longer it will take employers to repay the loan through their FUTA tax. The OLS analysis indicates that the FUTA contributions will continue one additional year due to the increased borrowing necessitated by A-3819 (1R).

The federal loan was advanced interest free until January 1, 2011, but since that date, interest has accrued at the federally established rate, currently set at 4 percent annually. The increased borrowing proposed under this bill will result in increased interest payments of \$14.9 million in FY 2013 and \$11.3 million in FY 2014. Federal law requires that all interest accrued on federal advances to the State UI trust fund must be repaid through appropriations not dedicated to the State UI trust fund.

Section 16 of P.L.1984, c. 24 (C.43:21-14.3), provides that the Commissioner of Labor and Workforce Development must, on or before June 30 of each year, review the amount of interest owed to the United States Treasury for advances made from the federal unemployment account to pay State UI benefits and determine if the Unemployment Compensation Auxiliary Fund (UCAF)<sup>3</sup> has the needed funds to repay the interest to the federal government by September of that calendar year. If it is determined by the commissioner that the UCAF has insufficient funds to repay the accrued interest, then the statute provides for a special assessment on employers, except governmental entities and nonprofit organizations. The assessment will be deposited in the “Unemployment Compensation Interest Repayment Fund” established by Section 16 of P.L.1984, c. 24 to “be used solely for the purpose of paying interest due on any advances made from the federal unemployment account under Title XII of the Social Security Act (42 U.S.C. s1321 et seq.)”. The \$2.05 billion borrowed from the federal government was interest free until January 1, 2011. According to the department, the commissioner has determined that the UCAF does not have the funds needed to repay the interest accrued from January 1, 2011 to June, 2011 by September, 2011 and an assessment will occur in FY 2012.

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<sup>3</sup> The Unemployment Compensation Auxiliary Fund (UCAF), established in subsection (g) of R.S.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of unemployment insurance regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI trust fund, for the repayment of any interest bearing advances made for the federal unemployment account and for essential and necessary expenditures in connection with programs, as determined by the commissioner.

The assessment is determined by the department as a ratio of the amount of interest owed to 95 percent of the total employer contributions payable for UI on taxable wages during the preceding calendar year. This ratio is then applied to the individual employer's amount of unemployment contributions payable in the previous year to determine the amount of the assessment.

The department estimates that the amount of interest owed will equal approximately \$60 million in FY 2011, \$50 million in FY 2012 and \$15 million in FY 2013. The assessment rate would equal approximately 0.08 percent of the taxable wage base (currently \$29,600) in FY 2011, 0.06 percent in FY 2012 and approximately 0.02 percent in FY 2013.<sup>4</sup> The cost of this assessment per worker annually is estimated to be \$23.87, \$19.89 and \$5.97 in FY 2011, FY 2012 and FY 2013 respectively, under current statute. The changes proposed in A-3819 (1R), will increase total interest owed, as detailed above, and will result in a higher assessment on employers.

This bill may increase the length of time employers will be charged at a higher State UI tax rate in the future. The UI tax rate, which is paid by employers and is the primary source of funding for the UI trust fund<sup>5</sup>, is dependent upon the annual experience of the State UI trust fund, as calculated through the determination of the overall fund reserve ratio. The overall fund reserve ratio is determined each year by dividing the fund balance on a specific date by the taxable wages from the previous calendar year. Therefore, the lower the fund balance, the higher the tax rate. Any actions that result in a reduction to the fund balance will result in a higher tax rate for a longer period of time. Since, pursuant to this bill, the fund will be losing \$371.5 million in revenue in FY 2012 and \$281.4 million in FY 2013, it is likely that the fund will remain in a higher tax column for a prolonged period of time.

Additionally, A-3819 (1R), for all years after FY 2011, amends the experience rating tax table to raise the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Under current law, the tax table is compact and minimal changes in the balance of the fund can result in shifts in the tax column and tax changes for employers. For example, under current law in FY 2012, when the reserve ratio in the UI trust fund reaches 1.4 percent or an approximate \$1.04 billion balance, employers would be moved to the lowest tax column "A". Conversely, under A-3819 (1R), a \$1.04 billion balance or 1.4 percent reserve ratio, would maintain the highest tax column of "E." Pursuant to A-3819 (1R), a balance of approximately \$2.6 billion (in FY 2012) would be necessary to shift the tax rate to the "A" column and attain the lowest UI tax rate possible.

In summary, the OLS notes that A-3819 (1R) will reduce, by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million for taxes paid in FY 2013, the revenue collected from the employer paid unemployment insurance tax for the UI trust fund. Additionally, A-3819 (1R) will also increase the length of time it will take for the UI trust fund to regain solvency, increase future UI trust fund expenditures used to repay the federal loan and future UCIRF expenditures to repay the interest on this loan. A-3819 (1R) will also increase the length of time employers are charged the following: the additional FUTA tax to pay back the federal loan; an additional State assessment to pay back the interest on the federal loan; and the higher unemployment insurance tax rate in the future. The proposed changes to the UI tax table will result in a greater ability of the UI trust fund to retain reserves to be used in times of high

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<sup>4</sup> [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf), Schedule V.

<sup>5</sup> In addition to the federal tax, state governments also levy payroll taxes on employers and in three states, including New Jersey, payroll taxes on employees. In New Jersey, the tax on the employee is levied at a rate of 0.03825% on the first \$29,600 of income earned. Thus, in 2011, the maximum employee contribution is approximately \$113 per employee (0.003825 x 29,600).

unemployment. However, it is important to note that there is too much uncertainty in key variables to make any future estimates of UI trust fund balances with absolute confidence.

*Section: Commerce, Labor and Industry*  
*Analyst: Robin C. Ford*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3819**

# **STATE OF NEW JERSEY**

DATED: JUNE 6, 2011

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3819 (1R).

This bill modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner so that larger reserves will be required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill provides immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which are used to set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI fund reserves sufficient to reduce the likelihood that any future recession will result in the deep UI trust fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill will still permit employer UI tax reductions as reserves accumulate, but the tax reductions will not be as large. The new reserve ratio triggers will have no effect on tax rates until the UI trust fund has a positive balance. The Department of Labor and Workforce Development estimates that the fund will not attain a positive balance before FY 2014.

This bill also changes the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the Department of Labor and Workforce Development to modernize notification to employers by electronic or digital means. Currently, the statute being amended by this bill requires the department to send or furnish copies of certain records to employers regarding benefit payments charged to their employer account. The bill changes this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

As reported by the committee, this bill is identical to Senate Bill No. 2730 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the bill will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY2013.

The UI Trust Fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI Trust Fund will regain solvency approximately one fiscal year later than under current law.

The OLS analysis also indicates that the bill may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State employer unemployment insurance tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in interest in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. This bill will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$652.9 million loan.

Additionally, the bill amends the UI tax table to increase the reserve ratio needed to shift the UI tax rate. This change will most likely maintain a more stable employer UI tax rate for a longer period of time and allow a greater reserve of funds to be retained in the UI

Trust Fund. For example, under current law, when the reserve ratio in the UI Trust Fund reaches 1.4%, employers would be moved to the lowest tax column “A”. Conversely, under the bill, a 1.4% reserve ratio would maintain the highest tax column of “E.” The changes proposed under the bill will allow the UI Trust Fund to maintain a larger reserve in times of lower unemployment to be used to pay benefits, without having to increase UI taxes, in times of high unemployment.

# SENATE, No. 2730

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator MICHAEL J. DOHERTY**

**District 23 (Warren and Hunterdon)**

**Co-Sponsored by:**

**Senators Beach, Codey and Cunningham**

**SYNOPSIS**

Modifies employer UI tax rates.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/13/2011)**

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  
13 controller for the unemployment compensation fund, contributions  
14 as set forth in subsections (a), (b) and (c) hereof, and the provisions  
15 of subsections (d) and (e) shall be applicable to all employers,  
16 consistent with the provisions of the "unemployment compensation  
17 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110  
18 (C.43:21-25 et al.).

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

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

32 (b) Rate of contributions. Each employer shall pay the following  
33 contributions:

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

38 (2) The "wages" of any individual, with respect to any one  
39 employer, as the term is used in this subsection (b) and in  
40 subsections (c), (d) and (e) of this section 7, shall include the first  
41 \$4,800.00 paid during calendar year 1975, for services performed  
42 either within or without this State; provided that no contribution  
43 shall be required by this State with respect to services performed in  
44 another state if such other state imposes contribution liability with  
45 respect thereto. If an employer (hereinafter referred to as a

**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 successor employer) during any calendar year acquires substantially  
2 all the property used in a trade or business of another employer  
3 (hereinafter referred to as a predecessor), or used in a separate unit  
4 of a trade or business of a predecessor, and immediately after the  
5 acquisition employs in his trade or business an individual who  
6 immediately prior to the acquisition was employed in the trade or  
7 business of such predecessors, then, for the purpose of determining  
8 whether the successor employer has paid wages with respect to  
9 employment equal to the first \$4,800.00 paid during calendar year  
10 1975, any wages paid to such individual by such predecessor during  
11 such calendar year and prior to such acquisition shall be considered  
12 as having been paid by such successor employer.

13 (3) For calendar years beginning on and after January 1, 1976,  
14 the "wages" of any individual, as defined in the preceding  
15 paragraph (2) of this subsection (b), shall be established and  
16 promulgated by the Commissioner of Labor and Workforce  
17 Development on or before September 1 of the preceding year and  
18 shall be, 28 times the Statewide average weekly remuneration paid  
19 to workers by employers, as determined under R.S.43:21-3(c),  
20 raised to the next higher multiple of \$100.00 if not already a  
21 multiple thereof, provided that if the amount of wages so  
22 determined for a calendar year is less than the amount similarly  
23 determined for the preceding year, the greater amount will be used;  
24 provided, further, that if the amount of such wages so determined  
25 does not equal or exceed the amount of wages as defined in  
26 subsection (b) of section 3306 of the Internal Revenue Code of  
27 1986 (26 U.S.C. s.3306(b)), the wages as determined in this  
28 paragraph in any calendar year shall be raised to equal the amount  
29 established under the "Federal Unemployment Tax Act," chapter 23  
30 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for  
31 that calendar year.

32 (c) Future rates based on benefit experience.

33 (1) A separate account for each employer shall be maintained  
34 and this shall be credited with all the contributions which he has  
35 paid on his own behalf on or before January 31 of any calendar year  
36 with respect to employment occurring in the preceding calendar  
37 year; provided, however, that if January 31 of any calendar year  
38 falls on a Saturday or Sunday, an employer's account shall be  
39 credited as of January 31 of such calendar year with all the  
40 contributions which he has paid on or before the next succeeding  
41 day which is not a Saturday or Sunday. But nothing in this chapter  
42 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
43 individuals in his service prior claims or rights to the amounts paid  
44 by him into the fund either on his own behalf or on behalf of such  
45 individuals. Benefits paid with respect to benefit years commencing  
46 on and after January 1, 1953, to any individual on or before  
47 December 31 of any calendar year with respect to unemployment in  
48 such calendar year and in preceding calendar years shall be charged

1 against the account or accounts of the employer or employers in  
2 whose employment such individual established base weeks  
3 constituting the basis of such benefits, except that, with respect to  
4 benefit years commencing after January 4, 1998, an employer's  
5 account shall not be charged for benefits paid to a claimant if the  
6 claimant's employment by that employer was ended in any way  
7 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
8 R.S.43:21-5, would have disqualified the claimant for benefits if the  
9 claimant had applied for benefits at the time when that employment  
10 ended. Benefits paid under a given benefit determination shall be  
11 charged against the account of the employer to whom such  
12 determination relates. When each benefit payment is made, either a  
13 copy of the benefit check or other form of notification shall be  
14 promptly sent to the employer against whose account the benefits  
15 are to be charged. Such copy or notification shall identify the  
16 employer against whose account the amount of such payment is  
17 being charged, shall show at least the name and social security  
18 account number of the claimant and shall specify the period of  
19 unemployment to which said check applies.

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

22 (2) Regulations may be prescribed for the establishment,  
23 maintenance, and dissolution of joint accounts by two or more  
24 employers, and shall, in accordance with such regulations and upon  
25 application by two or more employers to establish such an account,  
26 or to merge their several individual accounts in a joint account,  
27 maintain such joint account as if it constituted a single employer's  
28 account.

29 (3) No employer's rate shall be lower than 5.4% unless  
30 assignment of such lower rate is consistent with the conditions  
31 applicable to additional credit allowance for such year under section  
32 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.  
33 s.3303(a)(1)), any other provision of this section to the contrary  
34 notwithstanding.

35 (4) Employer Reserve Ratio. (A) Each employer's rate shall be  
36  $2 \frac{8}{10}\%$ , except as otherwise provided in the following provisions.  
37 No employer's rate for the 12 months commencing July 1 of any  
38 calendar year shall be other than  $2 \frac{8}{10}\%$ , unless as of the  
39 preceding January 31 such employer shall have paid contributions  
40 with respect to wages paid in each of the three calendar years  
41 immediately preceding such year, in which case such employer's  
42 rate for the 12 months commencing July 1 of any calendar year  
43 shall be determined on the basis of his record up to the beginning of  
44 such calendar year. If, at the beginning of such calendar year, the  
45 total of all his contributions, paid on his own behalf, for all past  
46 years exceeds the total benefits charged to his account for all such  
47 years, his contribution rate shall be:

- 1 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than  
2 5%, of his average annual payroll (as defined in paragraph (2),  
3 subsection (a) of R.S.43:21-19);
- 4 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less  
5 than 6%, of his average annual payroll;
- 6 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less  
7 than 7%, of his average annual payroll;
- 8 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less  
9 than 8%, of his average annual payroll;
- 10 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less  
11 than 9%, of his average annual payroll;
- 12 (6) 1%, if such excess equals or exceeds 9%, but is less than  
13 10%, of his average annual payroll;
- 14 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less  
15 than 11%, of his average annual payroll;
- 16 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his  
17 average annual payroll.
- 18 (B) If the total of an employer's contributions, paid on his own  
19 behalf, for all past periods for the purposes of this paragraph (4), is  
20 less than the total benefits charged against his account during the  
21 same period, his rate shall be:
- 22 (1) 4%, if such excess is less than 10% of his average annual  
23 payroll;
- 24 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less  
25 than 20%, of his average annual payroll;
- 26 (3) 4 6/10%, if such excess equals or exceeds 20% of his  
27 average annual payroll.
- 28 (C) Specially assigned rates.
- 29 (i) If no contributions were paid on wages for employment in  
30 any calendar year used in determining the average annual payroll of  
31 an employer eligible for an assigned rate under this paragraph (4),  
32 the employer's rate shall be specially assigned as follows:
- 33 if the reserve balance in its account is positive, its assigned rate  
34 shall be the highest rate in effect for positive balance accounts for  
35 that period, or 5.4%, whichever is higher, and
- 36 if the reserve balance in its account is negative, its assigned rate  
37 shall be the highest rate in effect for deficit accounts for that period.
- 38 (ii) If, following the purchase of a corporation with little or no  
39 activity, known as a corporate shell, the resulting employing unit  
40 operates a new or different business activity, the employing unit  
41 shall be assigned a new employer rate.
- 42 (iii) Entities operating under common ownership, management or  
43 control, when the operation of the entities is not identifiable,  
44 distinguishable and severable, shall be considered a single employer  
45 for the purposes of this chapter (R.S.43:21-1 et seq.).
- 46 (D) The contribution rates prescribed by subparagraphs (A) and  
47 (B) of this paragraph (4) shall be increased or decreased in



1 accordance with the provisions of paragraph (5) of this subsection  
2 (c) for experience rating periods through June 30, 1986.

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

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

41 (B) If on March 31 of any calendar year the balance in the  
42 unemployment trust fund equals or exceeds 10% but is less than  $12\frac{1}{2}\%$   
43 of the total taxable wages reported to the controller as of that  
44 date in respect to employment during the preceding calendar year,  
45 the contribution rate, effective July 1 following, of each employer  
46 eligible for a contribution rate calculation based upon benefit  
47 experience, shall be reduced by  $\frac{3}{10}$  of 1% under the contribution  
48 rate otherwise established under the provisions of paragraphs (3)

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

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

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

29 (E) (i) (Deleted by amendment, P.L.1997, c.263).

30 (ii) (Deleted by amendment, P.L.2001, c.152).

31 (iii) (Deleted by amendment, P.L.2003, c.107).

32 (iv) (Deleted by amendment, P.L.2004, c.45).

33 (v) (Deleted by amendment, P.L.2008, c.17).

34 (vi) With respect to experience rating years beginning on or after  
35 July 1, 2004, and before July 1, 2011, the new employer rate or the  
36 unemployment experience rate of an employer under this section  
37 shall be the rate which appears in the column headed by the  
38 Unemployment Trust Fund Reserve Ratio as of the applicable  
39 calculation date and on the line with the Employer Reserve Ratio,  
40 as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)),  
41 as set forth in the following table:

EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio <sup>1</sup>					
Employer Reserve Ratio <sup>2</sup>	1.40%	1.00%	0.75%	0.50%	0.49%
	and Over	to 1.39%	to 0.99%	to 0.74%	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

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

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

(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4)

1 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
2 table:

3 EXPERIENCE RATING TAX TABLE

	<u>Fund Reserve Ratio<sup>1</sup></u>				
	<u>3.50%</u>	<u>3.00%</u>	<u>2.5%</u>	<u>2.0%</u>	<u>1.99%</u>
<u>Employer</u>	<u>and</u>	<u>to</u>	<u>to</u>	<u>to</u>	<u>and</u>
<u>Reserve</u>	<u>Over</u>	<u>3.49%</u>	<u>2.99%</u>	<u>2.49%</u>	<u>Under</u>
<u>Ratio<sup>2</sup></u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
9 <u>Positive Reserve Ratio:</u>					
10 <u>17% and over</u>	<u>0.3</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>1.2</u>
11 <u>16.00% to 16.99%</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>0.6</u>	<u>1.2</u>
12 <u>15.00% to 15.99%</u>	<u>0.4</u>	<u>0.6</u>	<u>0.7</u>	<u>0.7</u>	<u>1.2</u>
13 <u>14.00% to 14.99%</u>	<u>0.5</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>1.2</u>
14 <u>13.00% to 13.99%</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>	<u>1.2</u>
15 <u>12.00% to 12.99%</u>	<u>0.6</u>	<u>0.8</u>	<u>0.9</u>	<u>1.0</u>	<u>1.2</u>
16 <u>11.00% to 11.99%</u>	<u>0.7</u>	<u>0.8</u>	<u>1.0</u>	<u>1.1</u>	<u>1.2</u>
17 <u>10.00% to 10.99%</u>	<u>0.9</u>	<u>1.1</u>	<u>1.3</u>	<u>1.5</u>	<u>1.6</u>
18 <u>9.00% to 9.99%</u>	<u>1.0</u>	<u>1.3</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>
19 <u>8.00% to 8.99%</u>	<u>1.3</u>	<u>1.6</u>	<u>1.9</u>	<u>2.1</u>	<u>2.3</u>
20 <u>7.00% to 7.99%</u>	<u>1.4</u>	<u>1.8</u>	<u>2.2</u>	<u>2.4</u>	<u>2.6</u>
21 <u>6.00% to 6.99%</u>	<u>1.7</u>	<u>2.1</u>	<u>2.5</u>	<u>2.8</u>	<u>3.0</u>
22 <u>5.00% to 5.99%</u>	<u>1.9</u>	<u>2.4</u>	<u>2.8</u>	<u>3.1</u>	<u>3.4</u>
23 <u>4.00% to 4.99%</u>	<u>2.0</u>	<u>2.6</u>	<u>3.1</u>	<u>3.4</u>	<u>3.7</u>
24 <u>3.00% to 3.99%</u>	<u>2.1</u>	<u>2.7</u>	<u>3.2</u>	<u>3.6</u>	<u>3.9</u>
25 <u>2.00% to 2.99%</u>	<u>2.2</u>	<u>2.8</u>	<u>3.3</u>	<u>3.7</u>	<u>4.0</u>
26 <u>1.00% to 1.99%</u>	<u>2.3</u>	<u>2.9</u>	<u>3.4</u>	<u>3.8</u>	<u>4.1</u>
27 <u>0.00% to 0.99%</u>	<u>2.4</u>	<u>3.0</u>	<u>3.6</u>	<u>4.0</u>	<u>4.3</u>
28 <u>Deficit Reserve Ratio:</u>					
29 <u>-0.00% to -2.99%</u>	<u>3.4</u>	<u>4.3</u>	<u>5.1</u>	<u>5.6</u>	<u>6.1</u>
30 <u>-3.00% to -5.99%</u>	<u>3.4</u>	<u>4.3</u>	<u>5.1</u>	<u>5.7</u>	<u>6.2</u>
31 <u>-6.00% to -8.99%</u>	<u>3.5</u>	<u>4.4</u>	<u>5.2</u>	<u>5.8</u>	<u>6.3</u>
32 <u>-9.00% to -11.99%</u>	<u>3.5</u>	<u>4.5</u>	<u>5.3</u>	<u>5.9</u>	<u>6.4</u>
33 <u>-12.00% to -14.99%</u>	<u>3.6</u>	<u>4.6</u>	<u>5.4</u>	<u>6.0</u>	<u>6.5</u>
34 <u>-15.00% to -19.99%</u>	<u>3.6</u>	<u>4.6</u>	<u>5.5</u>	<u>6.1</u>	<u>6.6</u>
35 <u>-20.00% to -24.99%</u>	<u>3.7</u>	<u>4.7</u>	<u>5.6</u>	<u>6.2</u>	<u>6.7</u>
36 <u>-25.00% to -29.99%</u>	<u>3.7</u>	<u>4.8</u>	<u>5.6</u>	<u>6.3</u>	<u>6.8</u>
37 <u>-30.00% to -34.99%</u>	<u>3.8</u>	<u>4.8</u>	<u>5.7</u>	<u>6.3</u>	<u>6.9</u>
38 <u>-35.00% and under</u>	<u>5.4</u>	<u>5.4</u>	<u>5.8</u>	<u>6.4</u>	<u>7.0</u>
39 <u>New Employer Rate</u>	<u>2.8</u>	<u>2.8</u>	<u>2.8</u>	<u>3.1</u>	<u>3.4</u>

40 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
41 in the prior calendar year.

42 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
43 percentage of employer's taxable wages).

44 (F) (i) (Deleted by amendment, P.L.1997, c.263).

45 (ii) (Deleted by amendment, P.L.2008, c.17).

46 (iii) With respect to experience rating years beginning on or after  
47 July 1, 2004 and before July 1, 2011, if the fund reserve ratio, based  
48 on the fund balance as of the prior March 31, is less than 0.50%, the

1 contribution rate for each employer liable to pay contributions, as  
2 computed under subparagraph (E) of this paragraph (5), shall be  
3 increased by a factor of 10% computed to the nearest multiple of  
4 1/10% if not already a multiple thereof.

5 (iv) With respect to experience rating years beginning on or after  
6 July 1, 2011, if the fund reserve ratio, based on the fund balance as  
7 of the prior March 31, is less than 1.0%, the contribution rate for  
8 each employer liable to pay contributions, as computed under  
9 subparagraph (E) of this paragraph (5), shall be increased by a  
10 factor of 10% computed to the nearest multiple of 1/10% if not  
11 already a multiple thereof.

12 (G) On or after January 1, 1993, notwithstanding any other  
13 provisions of this paragraph (5), the contribution rate for each  
14 employer liable to pay contributions, as computed under  
15 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
16 except that, during any experience rating year starting before  
17 January 1, 1998 in which the fund reserve ratio is equal to or greater  
18 than 7.00% or during any experience rating year starting on or after  
19 January 1, 1998, in which the fund reserve ratio is equal to or  
20 greater than 3.5%, there shall be no decrease pursuant to this  
21 subparagraph (G) in the contribution of any employer who has a  
22 deficit reserve ratio of negative 35.00% or under.

23 (H) On and after January 1, 1998 until December 31, 2000 and  
24 on or after January 1, 2002 until June 30, 2006, the contribution rate  
25 for each employer liable to pay contributions, as computed under  
26 subparagraph (E) of this paragraph (5), shall be decreased by a  
27 factor, as set out below, computed to the nearest multiple of 1/10%,  
28 except that, if an employer has a deficit reserve ratio of negative  
29 35.0% or under, the employer's rate of contribution shall not be  
30 reduced pursuant to this subparagraph (H) to less than 5.4%:

31 From January 1, 1998 until December 31, 1998, a factor of 12%;  
32 From January 1, 1999 until December 31, 1999, a factor of 10%;  
33 From January 1, 2000 until December 31, 2000, a factor of 7%;  
34 From January 1, 2002 until March 31, 2002, a factor of 36%;  
35 From April 1, 2002 until June 30, 2002, a factor of 85%;  
36 From July 1, 2002 until June 30, 2003, a factor of 15%;  
37 From July 1, 2003 until June 30, 2004, a factor of 15%;  
38 From July 1, 2004 until June 30, 2005, a factor of 7%;  
39 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
40 From January 1, 2006 until June 30, 2006, a factor of 34%.

41 The amount of the reduction in the employer contributions  
42 stipulated by this subparagraph (H) shall be in addition to the  
43 amount of the reduction in the employer contributions stipulated by  
44 subparagraph (G) of this paragraph (5), except that the rate of  
45 contribution of an employer who has a deficit reserve ratio of  
46 negative 35.0% or under shall not be reduced pursuant to this  
47 subparagraph (H) to less than 5.4% and the rate of contribution of  
48 any other employer shall not be reduced to less than 0.0%.

1 (I) (Deleted by amendment, P.L.2008, c.17).

2 (J) On or after July 1, 2001, notwithstanding any other  
3 provisions of this paragraph (5), the contribution rate for each  
4 employer liable to pay contributions, as computed under  
5 subparagraph (E) of this paragraph (5), shall be decreased by  
6 0.0175%, except that, during any experience rating year starting on  
7 or after July 1, 2001, in which the fund reserve ratio is equal to or  
8 greater than 3.5%, there shall be no decrease pursuant to this  
9 subparagraph (J) in the contribution of any employer who has a  
10 deficit reserve ratio of negative 35.00% or under. The amount of the  
11 reduction in the employer contributions stipulated by this  
12 subparagraph (J) shall be in addition to the amount of the reduction  
13 in the employer contributions stipulated by subparagraphs (G) and  
14 (H) of this paragraph (5), except that the rate of contribution of an  
15 employer who has a deficit reserve ratio of negative 35.0% or under  
16 shall not be reduced pursuant to this subparagraph (J) to less than  
17 5.4% and the rate of contribution of any other employer shall not be  
18 reduced to less than 0.0%.

19 (K) With respect to experience rating years beginning on or after  
20 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
21 of the prior March 31, is:

22 (i) Equal to or greater than 5.00% but less than 7.5%, the  
23 contribution rate for each employer liable to pay contributions, as  
24 computed under subparagraph (E) of this paragraph (5), shall be  
25 reduced by a factor of 25% computed to the nearest multiple of  
26 1/10% if not already a multiple thereof except that there shall be no  
27 decrease pursuant to this subparagraph (K) in the contribution of  
28 any employer who has a deficit reserve ratio of 35.00% or under ;

29 (ii) Equal to or greater than 7.5% **【but less than 10.0%】**, the  
30 contribution rate for each employer liable to pay contributions, as  
31 computed under subparagraph (E) of this paragraph (5), shall be  
32 reduced by a factor of 50% computed to the nearest multiple of  
33 1/10% if not already a multiple thereof except that there shall be no  
34 decrease pursuant to this subparagraph (K) in the contribution of  
35 any employer who has a deficit reserve ratio of 35.00% or under.

36 (L) Notwithstanding any other provision of this paragraph (5)  
37 and notwithstanding the actual fund reserve ratio, the contribution  
38 rate for employers liable to pay contributions, as computed under  
39 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
40 2011, the rates set by column "C" of the table in that subparagraph.

41 (M) Notwithstanding any other provision of this paragraph (5)  
42 and notwithstanding the actual fund reserve ratio, the contribution  
43 rate for employers liable to pay contributions, as computed under  
44 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
45 2012, the rates set by column "D" of the table in that subparagraph.

46 (N) Notwithstanding any other provision of this paragraph (5)  
47 and notwithstanding the actual fund reserve ratio, the contribution  
48 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
2 2013, the rates set by column "E" of the table in that subparagraph.

3 (6) Additional contributions.

4 Notwithstanding any other provision of law, any employer who  
5 has been assigned a contribution rate pursuant to subsection (c) of  
6 this section for the year commencing July 1, 1948, and for any year  
7 commencing July 1 thereafter, may voluntarily make payment of  
8 additional contributions, and upon such payment shall receive a  
9 recomputation of the experience rate applicable to such employer,  
10 including in the calculation the additional contribution so made,  
11 except that, following a transfer as described under R.S.43:21-  
12 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
13 eligible to make a voluntary payment of additional contributions  
14 during the year the transfer occurs and the next full calendar year.  
15 Any such additional contribution shall be made during the 30-day  
16 period following the date of the mailing to the employer of the  
17 notice of his contribution rate as prescribed in this section, unless,  
18 for good cause, the time for payment has been extended by the  
19 controller for not to exceed an additional 60 days; provided that in  
20 no event may such payments which are made later than 120 days  
21 after the beginning of the year for which such rates are effective be  
22 considered in determining the experience rate for the year in which  
23 the payment is made. Any employer receiving any extended period  
24 of time within which to make such additional payment and failing  
25 to make such payment timely shall be, in addition to the required  
26 amount of additional payment, liable for a penalty of 5% thereof or  
27 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment  
28 under this subsection shall be made only in the form of credits  
29 against accrued or future contributions.

30 (7) Transfers.

31 (A) Upon the transfer of the organization, trade or business, or  
32 substantially all the assets of an employer to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise, the controller shall transfer the employment experience  
35 of the predecessor employer to the successor in interest, including  
36 credit for past years, contributions paid, annual payrolls, benefit  
37 charges, et cetera, applicable to such predecessor employer,  
38 pursuant to regulation, if it is determined that the employment  
39 experience of the predecessor employer with respect to the  
40 organization, trade, assets or business which has been transferred  
41 may be considered indicative of the future employment experience  
42 of the successor in interest. The successor in interest may, within  
43 four months of the date of such transfer of the organization, trade,  
44 assets or business, or thereafter upon good cause shown, request a  
45 reconsideration of the transfer of employment experience of the  
46 predecessor employer. The request for reconsideration shall  
47 demonstrate, to the satisfaction of the controller, that the

1 employment experience of the predecessor is not indicative of the  
2 future employment experience of the successor.

3 (B) An employer who transfers part of his or its organization,  
4 trade, assets or business to a successor in interest, whether by  
5 merger, consolidation, sale, transfer, descent or otherwise, may  
6 jointly make application with such successor in interest for transfer  
7 of that portion of the employment experience of the predecessor  
8 employer relating to the portion of the organization, trade, assets or  
9 business transferred to the successor in interest, including credit for  
10 past years, contributions paid, annual payrolls, benefit charges, et  
11 cetera, applicable to such predecessor employer. The transfer of  
12 employment experience may be allowed pursuant to regulation only  
13 if it is found that the employment experience of the predecessor  
14 employer with respect to the portion of the organization, trade,  
15 assets or business which has been transferred may be considered  
16 indicative of the future employment experience of the successor in  
17 interest. Credit shall be given to the successor in interest only for  
18 the years during which contributions were paid by the predecessor  
19 employer with respect to that part of the organization, trade, assets  
20 or business transferred.

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

31 (D) If an employer transfers in whole or in part his or its  
32 organization, trade, assets or business to a successor in interest,  
33 whether by merger, consolidation, sale, transfer, descent or  
34 otherwise and both the employer and successor in interest are at the  
35 time of the transfer under common ownership, management or  
36 control, then the employment experience attributable to the  
37 transferred business shall also be transferred to and combined with  
38 the employment experience of the successor in interest. The transfer  
39 of the employment experience is mandatory and not subject to  
40 appeal or protest.

41 (E) The transfer of part of an employer's employment experience  
42 to a successor in interest shall become effective as of the first day of  
43 the calendar quarter following the acquisition by the successor in  
44 interest. As of the effective date, the successor in interest shall have  
45 its employer rate recalculated by merging its existing employment  
46 experience, if any, with the employment experience acquired. If the  
47 successor in interest is not an employer as of the date of acquisition,



1 it shall be assigned the new employer rate until the effective date of  
2 the transfer of employment experience.

3 (F) Upon the transfer in whole or in part of the organization,  
4 trade, assets or business to a successor in interest, the employment  
5 experience shall not be transferred if the successor in interest is not  
6 an employer at the time of the acquisition and the controller finds  
7 that the successor in interest acquired the business solely or  
8 primarily for the purpose of obtaining a lower rate of contributions.

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

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

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

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

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

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

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

42 Each worker shall, starting on January 1, 1996 and ending March  
43 31, 1996, contribute to the unemployment compensation fund  
44 0.60% of wages paid with respect to the worker's employment with  
45 a governmental employer electing or required to pay contributions  
46 or nongovernmental employer, including a nonprofit organization  
47 which is an employer as defined under paragraph (6) of subsection  
48 (h) of R.S.43:21-19, regardless of whether that nonprofit

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

9 Each worker shall, starting on January 1, 1998 and ending  
10 December 31, 1998, contribute to the unemployment compensation  
11 fund 0.10% of wages paid with respect to the worker's employment  
12 with a governmental employer electing or required to pay  
13 contributions or nongovernmental employer, including a nonprofit  
14 organization which is an employer as defined under paragraph (6)  
15 of subsection (h) of R.S.43:21-19, regardless of whether that  
16 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  
19 forth 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  
21 0.10% of wages paid with respect to employment with the State of  
22 New Jersey or any other governmental entity or instrumentality  
23 electing or required to make payments in lieu of contributions.

24 Each worker shall, starting on January 1, 1999 until December  
25 31, 1999, contribute to the unemployment compensation fund  
26 0.15% of wages paid with respect to the worker's employment with  
27 a governmental employer electing or required to pay contributions  
28 or nongovernmental employer, including a nonprofit organization  
29 which is an employer as defined under paragraph (6) of subsection  
30 (h) of R.S.43:21-19, regardless of whether that nonprofit  
31 organization elects or is required to finance its benefit costs with  
32 contributions to the fund or by payments in lieu of contributions,  
33 after that employer has satisfied the conditions set forth in  
34 subsection (h) of R.S.43:21-19 with respect to becoming an  
35 employer, provided that the contributions shall be at the rate of  
36 0.10% of wages paid with respect to employment with the State of  
37 New Jersey or any other governmental entity or instrumentality  
38 electing or required to make payments in lieu of contributions.

39 Each worker shall, starting on January 1, 2000 until December  
40 31, 2001, contribute to the unemployment compensation fund  
41 0.20% of wages paid with respect to the worker's employment with  
42 a governmental employer electing or required to pay contributions  
43 or nongovernmental employer, including a nonprofit organization  
44 which is an employer as defined under paragraph (6) of subsection  
45 (h) of R.S.43:21-19, regardless of whether that nonprofit  
46 organization elects or is required to finance its benefit costs with  
47 contributions to the fund or by payments in lieu of contributions,  
48 after that employer has satisfied the conditions set forth in

1 subsection (h) of R.S.43:21-19 with respect to becoming an  
2 employer, provided that the contributions shall be at the rate of  
3 0.10% 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.

6 Each worker shall, starting on January 1, 2002 until June 30,  
7 2004, contribute to the unemployment compensation fund 0.1825%  
8 of wages paid with respect to the worker's employment with a  
9 governmental employer electing or required to pay contributions or  
10 a nongovernmental employer, including a nonprofit organization  
11 which is an employer as defined under paragraph (6) of subsection  
12 (h) of R.S.43:21-19, regardless of whether that nonprofit  
13 organization elects or is required to finance its benefit costs with  
14 contributions to the fund or by payments in lieu of contributions,  
15 after that employer has satisfied the conditions set forth in  
16 subsection (h) of R.S.43:21-19 with respect to becoming an  
17 employer, provided that the contributions shall be at the rate of  
18 0.0825% of wages paid with respect to employment with the State  
19 of New Jersey or any other governmental entity or instrumentality  
20 electing or required to make payments in lieu of contributions.

21 Each worker shall, starting on and after July 1, 2004, contribute  
22 to the unemployment compensation fund 0.3825% of wages paid  
23 with respect to the worker's employment with a governmental  
24 employer electing or required to pay contributions or  
25 nongovernmental employer, including a nonprofit organization  
26 which is an employer as defined under paragraph (6) of subsection  
27 (h) of R.S.43:21-19, regardless of whether that nonprofit  
28 organization elects or is required to finance its benefit costs with  
29 contributions to the fund or by payments in lieu of contributions,  
30 after that employer has satisfied the conditions set forth in  
31 subsection (h) of R.S.43:21-19 with respect to becoming an  
32 employer, provided that the contributions shall be at the rate of  
33 0.0825% of wages paid with respect to employment with the State  
34 of New Jersey or any other governmental entity or instrumentality  
35 electing or required to make payments in lieu of contributions.

36 (E) Each employer shall, notwithstanding any provision of law  
37 in this State to the contrary, withhold in trust the amount of his  
38 workers' contributions from their wages at the time such wages are  
39 paid, shall show such deduction on his payroll records, shall furnish  
40 such evidence thereof to his workers as the division or controller  
41 may prescribe, and shall transmit all such contributions, in addition  
42 to his own contributions, to the office of the controller in such  
43 manner and at such times as may be prescribed. If any employer  
44 fails to deduct the contributions of any of his workers at the time  
45 their wages are paid, or fails to make a deduction therefor at the  
46 time wages are paid for the next succeeding payroll period, he alone  
47 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's  
2 contributions required from him.

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

6 (G) (i) Each worker shall, starting on July 1, 1994, contribute to  
7 the State disability benefits fund an amount equal to 0.50% of  
8 wages paid with respect to the worker's employment with a  
9 government employer electing or required to pay contributions to  
10 the State disability benefits fund or nongovernmental employer,  
11 including a nonprofit organization which is an employer as defined  
12 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
13 employer is covered by an approved private disability plan or is  
14 exempt from the provisions of the "Temporary Disability Benefits  
15 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that  
16 law (C.43:21-31) or any other provision of that law.

17 (ii) Each worker shall contribute to the State disability benefits  
18 fund, in addition to any amount contributed pursuant to  
19 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
20 during calendar year 2009, 0.09%, and during calendar year 2010  
21 0.12%, of wages paid with respect to the worker's employment with  
22 any covered employer, including a governmental employer which is  
23 an employer as defined under R.S.43:21-19(h)(5), unless the  
24 employer is covered by an approved private disability plan for  
25 benefits during periods of family temporary disability leave. The  
26 contributions made pursuant to this subparagraph (ii) to the State  
27 disability benefits fund shall be deposited into an account of that  
28 fund reserved for the payment of benefits during periods of family  
29 temporary disability leave as defined in section 3 of the "Temporary  
30 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
31 administration of those payments and shall not be used for any other  
32 purpose. This account shall be known as the "Family Temporary  
33 Disability Leave Account." For calendar year 2011 and each  
34 subsequent calendar year, the annual rate of contribution to be paid  
35 by workers pursuant to this subparagraph (ii) shall be the rate  
36 necessary to obtain a total amount of contributions equal to 125% of  
37 the benefits paid for periods of family temporary disability leave  
38 during the immediately preceding calendar year plus an amount  
39 equal to 100% of the cost of administration of the payment of those  
40 benefits during the immediately preceding calendar year, less the  
41 amount of net assets remaining in the account as of December 31 of  
42 the immediately preceding year. Necessary administrative costs  
43 shall include the cost of an outreach program to inform employees  
44 of the availability of the benefits and the cost of issuing the reports  
45 required or permitted pursuant to section 13 of P.L.2008, c.17  
46 (C.43:21-39.4). No monies, other than the funds in the "Family  
47 Temporary Disability Leave Account," shall be used for the  
48 payment of benefits during periods of family temporary disability

1 leave or for the administration of those payments, with the sole  
2 exception that, during calendar years 2008 and 2009, a total amount  
3 not exceeding \$25 million may be transferred to that account from  
4 the revenues received in the State disability benefits fund pursuant  
5 to subparagraph (i) of this paragraph (1)(G) and be expended for  
6 those payments and their administration, including the  
7 administration of the collection of contributions made pursuant to  
8 this subparagraph (ii) and any other necessary administrative costs.  
9 Any amount transferred to the account pursuant to this  
10 subparagraph (ii) shall be repaid during a period beginning not later  
11 than January 1, 2011 and ending not later than December 31, 2015.  
12 No monies, other than the funds in the "Family Temporary  
13 Disability Leave Account," shall be used under any circumstances  
14 after December 31, 2009, for the payment of benefits during periods  
15 of family temporary disability leave or for the administration of  
16 those payments, including for the administration of the collection of  
17 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

1 contributions to such fund, as provided in subparagraph (B) of  
2 paragraph (1) of this subsection with respect to coverage under  
3 private plans, to the total wages so exempt plus the amount of such  
4 wages subject to contributions to the disability benefits fund, as  
5 provided in subparagraph (G) of paragraph (1) of this subsection.  
6 The controller shall, in accordance with prescribed regulations,  
7 prorate the amount so determined among the applicable private  
8 plans in the proportion that the wages covered by each plan bear to  
9 the total private plan wages involved in such refunds, and shall  
10 assess against and recover from the employer, or the insurer if the  
11 insurer has indemnified the employer with respect thereto, the  
12 amount so prorated. The provisions of R.S.43:21-14 with respect to  
13 collection of employer contributions shall apply to such  
14 assessments. The amount so recovered by the controller shall be  
15 paid into the State disability benefits fund.

16 (B) If an employee receives wages from more than one employer  
17 during any calendar year, and the sum of his contributions deposited  
18 in the "Family Temporary Disability Leave Account" of the State  
19 disability benefits fund plus the amount of his contributions, if any,  
20 required towards the costs of family temporary disability leave  
21 benefits under one or more approved private plans under the  
22 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
23 et al.) and deducted from his wages, exceeds an amount equal to,  
24 during calendar year 2009, 0.09% of the "wages" determined in  
25 accordance with the provisions of R.S.43:21-7(b)(3), or during  
26 calendar year 2010, 0.12% of those wages, or, during calendar year  
27 2011 or any subsequent calendar year, the percentage of those  
28 wages set by the annual rate of contribution determined by the  
29 Commissioner of Labor and Workforce Development pursuant to  
30 subparagraph (ii) of paragraph(1)(G) of this subsection (d), the  
31 employee shall be entitled to a refund of the excess if he makes a  
32 claim to the controller within two years after the end of the calendar  
33 year in which the wages are received with respect to which the  
34 refund is claimed and establishes his right to the refund. The refund  
35 shall be made by the controller from the "Family Temporary  
36 Disability Leave Account" of the State disability benefits fund. No  
37 interest shall be allowed or paid with respect to any such refund.  
38 The controller shall, in accordance with prescribed regulations,  
39 determine the portion of the aggregate amount of the refunds made  
40 during any calendar year which is applicable to private plans for  
41 which deductions were made under section 9 of the "Temporary  
42 Disability Benefits Law" (C.43:21-33), with that determination  
43 based upon the ratio of the amount of such wages exempt from  
44 contributions to the fund, as provided in paragraph (1)(B) of this  
45 subsection (d) with respect to coverage under private plans, to the  
46 total wages so exempt plus the amount of such wages subject to  
47 contributions to the "Family Temporary Disability Leave Account"  
48 of the State disability benefits fund, as provided in subparagraph (ii)

1 of paragraph (1)(G) of this subsection (d). The controller shall, in  
2 accordance with prescribed regulations, prorate the amount so  
3 determined among the applicable private plans in the proportion  
4 that the wages covered by each plan bear to the total private plan  
5 wages involved in such refunds, and shall assess against and  
6 recover from the employer, or the insurer if the insurer has  
7 indemnified the employer with respect thereto, the prorated amount.  
8 The provisions of R.S.43:21-14 with respect to collection of  
9 employer contributions shall apply to such assessments. The  
10 amount so recovered by the controller shall be paid into the "Family  
11 Temporary Disability Leave Account" of the State disability  
12 benefits fund.

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

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

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

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

39 (1) Except as hereinafter provided, each employer shall, in  
40 addition to the contributions required by subsections (a), (b), and  
41 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
42 employer to workers with respect to employment unless he is not a  
43 covered employer as defined in subsection (a) of section 3 of the  
44 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
45 the rate for the State of New Jersey shall be 1/10 of 1% for the  
46 calendar year 1980 and for the first six months of 1981. Prior to  
47 July 1, 1981 and prior to July 1 each year thereafter, the controller  
48 shall review the experience accumulated in the account of the State



1 of New Jersey and establish a rate for the next following fiscal year  
2 which, in combination with worker contributions, will produce  
3 sufficient revenue to keep the account in balance; except that the  
4 rate so established shall not be less than 1/10 of 1%. Such  
5 contributions shall become due and be paid by the employer to the  
6 controller for the State disability benefits fund as established by  
7 law, in accordance with such regulations as may be prescribed, and  
8 shall not be deducted, in whole or in part, from the remuneration of  
9 individuals in his employ. In the payment of any contributions, a  
10 fractional part of a cent shall be disregarded unless it amounts to  
11 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

43 (C) The controller may prescribe regulations for the  
44 establishment, maintenance, and dissolution of joint accounts by  
45 two or more employers, and shall, in accordance with such  
46 regulations and upon application by two or more employers to  
47 establish such an account, or to merge their several individual

1 accounts in a joint account, maintain such joint account as if it  
2 constituted a single employer's account.

3 (D) Prior to July 1 of each calendar year, the controller shall  
4 make a preliminary determination of the rate of contribution for the  
5 12 months commencing on such July 1 for each employer subject to  
6 the contribution requirements of this subsection (e).

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

12 (2) If the minimum requirements in subparagraph (D) (1) above  
13 have been fulfilled and the credited contributions exceed the  
14 benefits charged by more than \$500.00, such preliminary rate shall  
15 be as follows:

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

19 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
20  $1\frac{1}{4}$ % but is less than  $1\frac{1}{2}$ % of his average annual payroll;

21 (iii)  $\frac{1}{10}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{2}$   
22 % of his average annual payroll.

23 (3) If the minimum requirements in subparagraph (D) (1) above  
24 have been fulfilled and the contributions credited exceed the  
25 benefits charged but by not more than \$500.00 plus 1% of his  
26 average annual payroll, or if the benefits charged exceed the  
27 contributions credited but by not more than \$500.00, the  
28 preliminary rate shall be  $\frac{1}{4}$  of 1%.

29 (4) If the minimum requirements in subparagraph (D) (1) above  
30 have been fulfilled and the benefits charged exceed the  
31 contributions credited by more than \$500.00, such preliminary rate  
32 shall be as follows:

33 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
34 1% of his average annual payroll;

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

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

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

41 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
42 1% of his average annual payroll.

43 (5) Determination of the preliminary rate as specified in  
44 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
45 to the condition that it shall in no event be decreased by more than  
46  $\frac{1}{10}$  of 1% of wages or increased by more than  $\frac{2}{10}$  of 1% of  
47 wages from the preliminary rate determined for the preceding year

1 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever  
2 shall have been applicable.

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

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

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

30 (ii) If the percentage determined in accordance with  
31 subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1%  
32 and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
33 preliminary employer rates.

34 (iii) If the percentage determined in accordance with  
35 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
36 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
37 preliminary employer rates determined as provided in subparagraph  
38 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
39 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
40 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
41 employer whose preliminary rate is determined as provided in  
42 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
43 employer whose preliminary rate is determined as provided in  
44 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
45  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
46 determined as provided in subparagraph (D)(4) hereof.

47 (iv) If the amount of the State disability benefits fund determined  
48 as provided in subparagraph (E)(1) of this paragraph is equal to or

1 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case  
2 of an employer whose preliminary rate is determined as provided in  
3 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer  
4 whose preliminary rate is determined as provided in subparagraph  
5 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
6 employer whose preliminary rate is determined as provided in  
7 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
8 law or any determination made by the controller with respect to any  
9 12-month period commencing on July 1, 1970, the final rates for all  
10 employers for the period beginning January 1, 1971, shall be as set  
11 forth herein.

12 (F) Notwithstanding any other provisions of this subsection (e),  
13 the rate of contribution paid to the State disability benefits fund by  
14 each covered employer as defined in paragraph (1) of subsection (a)  
15 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
16 if:

17 (i) No disability benefits have been paid with respect to periods  
18 of family temporary disability leave;

19 (ii) No worker paid any contributions to the State disability  
20 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of  
21 this section; and

22 (iii) No amounts were transferred from the State disability  
23 benefits fund to the "Family Temporary Disability Leave Account"  
24 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

25 (cf: P.L.2010, c.37, s.1)

26

27 2. This act shall take effect immediately.

28

29

30

## STATEMENT

31

32 This bill modifies the provisions of the "unemployment  
33 compensation law" (R.S.43:21-1 et seq.), by:

34 1. Reducing the unemployment insurance (UI) tax rates which  
35 will be imposed on employers during fiscal years 2012 and 2013;  
36 and

37 2. Modifying, for all years after FY 2011, the UI trust fund  
38 reserve ratios which set employer UI tax rates in such a manner that  
39 larger reserves are required in the UI trust fund than under the  
40 current law before employer UI taxes are reduced.

41 First, the bill would provide immediate tax relief for employers  
42 during fiscal years 2012 and 2013. The bill reduces employer UI  
43 tax rates by applying the tax rates of the "D" column of the UI tax  
44 table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the  
45 "E" column of that tax table in FY 2013. During FY 2011, the tax  
46 rates of the "C" schedule were applied. Because the UI trust fund is  
47 currently in deficit, the tax rate, under current law, would increase,  
48 starting on July 1, 2011, to the highest tax rates set by the law, the

1 rates found in the “E” column, plus an additional 10% surcharge.  
2 The employer tax burdens under the “D” schedule and the “E”  
3 schedule are significantly lower.

4 Second, for all years after FY 2011, the bill raises the UI trust  
5 fund reserve ratios which set employer UI tax rates in such a  
6 manner that larger reserves are required in the UI trust fund than  
7 under the current law before employer UI taxes are reduced.  
8 Specifically, the bill sets the reserve ratio triggers at the same levels  
9 they were during FY 2003. That will result in the building up of UI  
10 fund reserves sufficient to reduce the likelihood that any future  
11 recession would result in the deep UI fund deficits which have  
12 caused such large employer UI tax increases during the current  
13 period of high unemployment. The new reserve ratio triggers  
14 provided by the bill would still permit employer UI tax reductions  
15 as reserves accumulate, but the tax reductions would not be as  
16 large. The new reserve ratio triggers would have no effect on tax  
17 rates until the UI fund has a positive balance. The Department of  
18 Labor and Workforce Development estimates that the fund will not  
19 attain a positive balance before FY 2017.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### **SENATE, No. 2730**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 12, 2011

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 2730.

This bill modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill provides immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge. The employer tax burdens under the "D" schedule and the "E" schedule are significantly lower.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI trust fund reserves sufficient to reduce the likelihood that any future recession will result in the deep UI trust fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill will still permit employer UI tax reductions as reserves accumulate, but the tax reductions will not be as large. The new reserve ratio triggers will have no effect on tax rates until the UI trust fund has a positive balance. The Department of

Labor and Workforce Development estimates that the fund will not attain a positive balance before FY 2017.

The committee amendments to this bill change the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the Department of Labor and Workforce Development to modernize notification to employers by electronic or digital means. Currently, the statute requires the department to send or furnish copies of certain records to employers regarding benefit payments charged to their employer account. The amendments change this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

Fiscal impact:

The OLS notes that this bill will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY2013.

The UI trust fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI trust fund will regain solvency approximately one fiscal year later than under current law.

The OLS analysis also indicates that this bill may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State employer UI tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in interest in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. This bill will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$652.9 million loan.

Additionally, this bill amends the UI tax table to increase the reserve ratio needed to shift the UI tax rate. This change will most likely result in a more stable employer UI tax rate for a longer period of time and allow a greater reserve of funds to be retained in the UI

trust fund. For example, under current law, when the reserve ratio in the UI trust fund reaches 1.4%, employers are moved to the lowest tax column “A.” Conversely, under this bill, a 1.4% reserve ratio would maintain the highest tax column of “E.” The changes proposed under this bill will allow the UI trust fund to maintain a larger reserve in times of lower unemployment to be used to pay benefits, without having to increase UI taxes, in times of high unemployment.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2730

### STATE OF NEW JERSEY 214th LEGISLATURE

DATED: JUNE 1, 2011

#### SUMMARY

**Synopsis:** Modifies employer UI tax rates.

**Type of Impact:** Revenue loss to unemployment insurance (UI) compensation trust fund (UI trust fund). Future expenditure increase from UI trust fund due to increased federal loan. Future expenditure increase and matching revenue increase for the Unemployment Compensation Interest Repayment Fund (UCIRF) to pay the related accrued interest obligations.

**Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2012</u></b>	<b><u>FY 2013</u></b>	<b><u>FY 2014</u></b>
<b>UI trust fund revenue</b>	(\$371.5 million)	(\$281.4 million)	_____
<b>UCIRF</b>			
<b>Expenditure</b>	\$0	\$14.9 million	\$11.3 million
<b>Revenue</b>	\$0	\$14.9 million	\$11.3 million

- The Office of Legislative Services (OLS) notes that Senate Bill No. 2730 (1R) of 2011 will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State unemployment insurance (UI) compensation trust fund (UI trust fund) by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY 2013.
- The UI trust fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI trust fund will regain solvency approximately one fiscal year later than under current law.
- The OLS analysis also indicates that S-2730 (1R) may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased

State employer unemployment insurance tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

- Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers, which is deposited in the Unemployment Compensation Interest Repayment Fund (UCIRF), be used to pay this accrued interest. S-2730 (1R) will increase the revenue generated for the UCIRF from this assessment and increase the expenditures from the UCIRF to pay the interest accrued on the additional \$652.9 million loan.
- Additionally, S-2730 (1R), for all years after FY 2011, amends the experience rating tax table to raise the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

### **BILL DESCRIPTION**

Senate Bill No. 2730 (1R) of 2011 modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill would provide immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10 percent surcharge. Thus, the employer tax burdens under the "D" schedule and the "E" schedule are significantly lower.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI fund reserves sufficient to reduce the likelihood that any future recession would result in the deep UI fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill would still permit employer UI tax reductions as reserves accumulate, but the tax reductions would not be as large as they are under the current tax table. The new reserve ratio triggers would have no effect on tax rates until the UI fund has a positive balance.

The bill, as amended, will also change the requirements regarding notification to employers when benefit payments are made and charged to their employer account. The changes reflect the efforts of the department to modernize notification to employers by electronic or digital means. Currently, the statute requires the department to send or furnish copies of certain records to

employers regarding benefit payments charged to their employer account. The bill changes this requirement to allow the department to utilize technology in order to reduce costs associated with mailing paper notifications.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The Department of Labor and Workforce Development did not provide a formal Executive Branch analysis for this bill. However, the department did provide, in its response to the OLS discussion points during the review of the FY 2012 Recommended Budget, numerous charts and data on the UI trust fund and estimates on possible changes to the tax and the effect of these changes on the UI trust fund balance. These schedules and answers were relied on heavily for this analysis and can be located at [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf).

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS notes that Senate Bill No. 2730 (1R) of 2011 will reduce the revenue collected from the employer paid unemployment insurance tax for the unemployment insurance (UI) compensation trust fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY 2013<sup>1</sup>.

The OLS analysis indicates that, in addition to the \$652.9 million reduction in revenue, S-2730 (1R) will have the following effects: it will increase future UI trust fund expenditures used to repay the federal loan to the UI trust fund; it will lengthen by one year the date in which the UI trust fund will gain solvency; it will increase the length of time employers are charged the additional FUTA tax to pay back the federal loan; it will increase the amount of time the employers are charged the higher unemployment insurance tax rate in the future; and it will increase the State imposed UCIRF assessment to pay back the interest on the federal loan.<sup>2</sup>

The UI trust fund is currently operating at a deficit and as of April 29, 2011, the State has borrowed \$2.05 billion from the federal government to pay State UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The changes proposed in this bill will result in a \$652.9 million reduction to that fund and will most likely necessitate a need to borrow an additional \$652.9 million from the federal government to pay State UI benefits. The funds are repaid through accruals in the State UI trust fund and the need for increased funds will result in the State UI tax remaining at the highest column, "E +10

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<sup>1</sup> [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf), schedule II.

<sup>2</sup> To determine these outcomes, the OLS conducted its analysis using data extracted from the Department of Labor and Workforce Development's answers to discussion points during the review of the FY 2012 Budget Recommendation. It is very difficult to estimate the future effects of changes to the unemployment insurance system, because of the many variables involved in the analysis. For example, it is not possible to predict with great accuracy the rate of unemployment or wage data in the future. Both of these factors could change slightly from the OLS and department assumptions and have significant cumulative effects on the results of this analysis. It is for this reason that long term estimates for UI trust fund solvency cannot be made with any level of certainty.

For the purposes of its analysis, the OLS made the following assumptions: the economy is going to slowly recover and not experience another downturn in the next seven years; unemployment will continue to decrease slightly over the next seven years; benefit payments will drop due to decreased unemployment at 2 percent per year; all benefits programs will remain constant; employer and employee contributions will increase at 3.5% in CY2012 and by 4 percent each year thereafter; and taxable wages will increase by 3.5% in CY 2012 and 4% each year thereafter.

percent” for one more year than it would under current law. Additionally, the department estimates that the UI trust fund will regain solvency one Fiscal Year later than under current law.

Senate Bill No. 2730 (1R) may also affect the length of time employers are required to pay an additional federal tax. Unemployment insurance is funded jointly through the federal unemployment tax, more commonly referred to as “FUTA” (for the Federal Unemployment Tax Act under which it was established), and levied on employers, and a state unemployment insurance tax levied on employers and employees. The current FUTA tax rate is 6.2 percent of the first \$7,000 in wages. This rate is offset with a credit of 5.4 percent, attained due to the State’s compliance with federal law, yielding a net tax of 0.8 percent on eligible employees’ first \$7,000 in wages.

Federal law requires that if a state has borrowed from the federal government for its UI trust fund and maintains a deficit two years after the state initiated the borrowing, then a reduction to the employers’ FUTA credit is initiated. New Jersey began to borrow from the federal government in March of 2009 and therefore, as of January 2012, the 5.4 percent credit will be gradually phased out (at 0.3 percent annually) and the employer will be paying more taxes on the first \$7,000 in wages paid to each employee. In January 2012, employers will pay an additional \$21 per worker (0.3 percent of the federal taxable wage base of \$7,000). In 2013, the amount will increase to \$42 per worker and will continue to increase by 0.3 percent annually until the loan is repaid. The higher the balance of the federal loan, the longer it will take employers to repay the loan through their FUTA tax. The OLS analysis indicates that the FUTA contributions will continue one additional year due to the increased borrowing necessitated by S-2730 (1R).

The federal loan was advanced interest free until January 1, 2011, but since that date, interest has accrued at the federally established rate, currently set at 4 percent annually. The increased borrowing proposed under this bill will result in increased interest payments of \$14.9 million in FY 2013 and \$11.3 million in FY 2014. Federal law requires that all interest accrued on federal advances to the State UI trust fund must be repaid through appropriations not dedicated to the State UI trust fund.

Section 16 of P.L.1984, c. 24 (C.43:21-14.3), provides that the Commissioner of Labor and Workforce Development must, on or before June 30 of each year, review the amount of interest owed to the United States Treasury for advances made from the federal unemployment account to pay State UI benefits and determine if the Unemployment Compensation Auxiliary Fund (UCAF)<sup>3</sup> has the needed funds to repay the interest to the federal government by September of that calendar year. If it is determined by the commissioner that the UCAF has insufficient funds to repay the accrued interest, then the statute provides for a special assessment on employers, except governmental entities and nonprofit organizations. The assessment will be deposited in the “Unemployment Compensation Interest Repayment Fund” established by Section 16 of P.L.1984, c. 24 to “be used solely for the purpose of paying interest due on any advances made from the federal unemployment account under Title XII of the Social Security Act (42 U.S.C. s1321 et seq.)”. The \$2.05 billion borrowed from the federal government was interest free until January 1, 2011. According to the department, the commissioner has determined that the UCAF does not have the funds needed to repay the interest accrued from January 1, 2011 to June, 2011 by September, 2011 and an assessment will occur in FY 2012.

The assessment is determined by the department as a ratio of the amount of interest owed to 95 percent of the total employer contributions payable for UI on taxable wages during the

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<sup>3</sup> The Unemployment Compensation Auxiliary Fund (UCAF), established in subsection (g) of R.S.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of unemployment insurance regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI trust fund, for the repayment of any interest bearing advances made for the federal unemployment account and for essential and necessary expenditures in connection with programs, as determined by the commissioner.

preceding calendar year. This ratio is then applied to the individual employer's amount of unemployment contributions payable in the previous year to determine the amount of the assessment.

The department estimates that the amount of interest owed will equal approximately \$60 million in FY 2011, \$50 million in FY 2012 and \$15 million in FY 2013. The assessment rate would equal approximately 0.08 percent of the taxable wage base (currently \$29,600) in FY 2011, 0.06 percent in FY 2012 and approximately 0.02 percent in FY 2013.<sup>4</sup> The cost of this assessment per worker annually is estimated to be \$23.87, \$19.89 and \$5.97 in FY 2011, FY 2012 and FY 2013 respectively, under current statute. The changes proposed in S-2730 (1R), will increase total interest owed, as detailed above, and will result in a higher assessment on employers.

This bill may increase the length of time employers will be charged at a higher State UI tax rate in the future. The UI tax rate, which is paid by employers and is the primary source of funding for the UI trust fund<sup>5</sup>, is dependent upon the annual experience of the State UI trust fund, as calculated through the determination of the overall fund reserve ratio. The overall fund reserve ratio is determined each year by dividing the fund balance on a specific date by the taxable wages from the previous calendar year. Therefore, the lower the fund balance, the higher the tax rate. Any actions that result in a reduction to the fund balance will result in a higher tax rate for a longer period of time. Since, pursuant to this bill, the fund will be losing \$371.5 million in revenue in FY 2012 and \$281.4 million in FY 2013, it is likely that the fund will remain in a higher tax column for a prolonged period of time.

Additionally, S-2730 (1R), for all years after FY 2011, amends the experience rating tax table to raise the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Under current law, the tax table is compact and minimal changes in the balance of the fund can result in shifts in the tax column and tax changes for employers. For example, under current law in FY 2012, when the reserve ratio in the UI trust fund reaches 1.4 percent or an approximate \$1.04 billion balance, employers would be moved to the lowest tax column "A". Conversely, under S-2730 (1R), a \$1.04 billion balance or 1.4 percent reserve ratio, would maintain the highest tax column of "E." Pursuant to S-2730 (1R), a balance of approximately \$2.6 billion (in FY 2012) would be necessary to shift the tax rate to the "A" column and attain the lowest UI tax rate possible.

In summary, the OLS notes that S-2730 (1R) will reduce, by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million for taxes paid in FY 2013, the revenue collected from the employer paid unemployment insurance tax for the UI trust fund. Additionally, S-2730 (1R) will also increase the length of time it will take for the UI trust fund to regain solvency, increase future UI trust fund expenditures used to repay the federal loan and future UCIRF expenditures to repay the interest on this loan. S-2730 (1R) will also increase the length of time employers are charged the following: the additional FUTA tax to pay back the federal loan; an additional State assessment to pay back the interest on the federal loan; and the higher unemployment insurance tax rate in the future. The proposed changes to the UI tax table will result in a greater ability of the UI trust fund to retain reserves to be used in times of high unemployment. However, it is important to note that there is too much uncertainty in key variables to make any future estimates of UI trust fund balances with absolute confidence.

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<sup>4</sup>, [http://www.njleg.state.nj.us/legislativepub/budget\\_2012/DOL\\_response.pdf](http://www.njleg.state.nj.us/legislativepub/budget_2012/DOL_response.pdf), Schedule V..

<sup>5</sup> In addition to the federal tax, state governments also levy payroll taxes on employers and in three states, including New Jersey, payroll taxes on employees. In New Jersey, the tax on the employee is levied at a rate of 0.03825% on the first \$29,600 of income earned. Thus, in 2011, the maximum employee contribution is approximately \$113 per employee (0.003825 x 29,600).

*Section: Commerce, Labor and Industry*  
*Analyst: Robin C. Ford*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2730**

# **STATE OF NEW JERSEY**

DATED: JUNE 6, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2730 (1R).

This bill modifies the provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), by:

1. Reducing the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal years 2012 and 2013; and
2. Modifying, for all years after FY 2011, the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced.

First, the bill provides immediate tax relief for employers during fiscal years 2012 and 2013. The bill reduces employer UI tax rates by applying the tax rates of the "D" column of the UI tax table in R.S.43:21-7 during fiscal year 2012 and the tax rates of the "E" column of that tax table in FY 2013. During FY 2011, the tax rates of the "C" schedule were applied. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2011, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge. The employer tax burdens under the "D" schedule and the "E" schedule are significantly lower.

Second, for all years after FY 2011, the bill raises the UI trust fund reserve ratios which set employer UI tax rates in such a manner that larger reserves are required in the UI trust fund than under the current law before employer UI taxes are reduced. Specifically, the bill sets the reserve ratio triggers at the same levels they were during FY 2003. That will result in the building up of UI trust fund reserves sufficient to reduce the likelihood that any future recession will result in the deep UI trust fund deficits which have caused such large employer UI tax increases during the current period of high unemployment. The new reserve ratio triggers provided by the bill will still permit employer UI tax reductions as reserves accumulate, but the tax reductions will not be as large. The new reserve ratio triggers will have no effect on tax rates until the UI trust fund has a positive balance. The Department of

Labor and Workforce Development estimates that the fund will not attain a positive balance before FY 2017.

As reported by the committee, this bill is identical to Assembly Bill No. 3819 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the bill will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$371.5 million for taxes paid in FY 2012 and \$281.4 million in FY2013.

The UI Trust Fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI Trust Fund will regain solvency approximately one fiscal year later than under current law.

The OLS analysis also indicates that the bill may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State employer unemployment insurance tax to pay back the additional \$652.9 million in principal borrowed from the federal government.

Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$652.9 million in principal borrowed from the federal government will equal approximately \$14.9 million and \$11.3 million in interest in FY 2013 and FY 2014 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. This bill will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$652.9 million loan.

Additionally, the bill amends the UI tax table to increase the reserve ratio needed to shift the UI tax rate. This change will most likely maintain a more stable employer UI tax rate for a longer period of time and allow a greater reserve of funds to be retained in the UI Trust Fund. For example, under current law, when the reserve ratio in the UI Trust Fund reaches 1.4%, employers would be moved to the lowest tax column "A". Conversely, under the bill, a 1.4% reserve ratio would maintain the highest tax column of "E." The changes proposed under the bill will allow the UI Trust Fund to maintain a larger reserve in times of lower unemployment to be used to pay benefits, without having to increase UI taxes, in times of high unemployment.