

43:21-7

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 88

NJSA: 43:21-7 (Provides for annual adjustments in worker taxes paid into the State disability benefits fund)

BILL NO: S2609 (Substituted for A3792)

SPONSOR(S) Turner and others

DATE INTRODUCED: January 10, 2011

COMMITTEE: **ASSEMBLY:** Labor
SENATE: Labor
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 9, 2011
SENATE: May 23, 2011

DATE OF APPROVAL: July 1, 2011

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third reprint enacted)

S2609

SPONSOR'S STATEMENT: (Begins on page 26 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)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes 3-4-11
5-3-11
5-16-11

A3792

SPONSOR'S STATEMENT: (Begins on page 27 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

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LAW/RWH

P.L.2011, CHAPTER 88, *approved July 1, 2011*
Senate, No. 2609 (*Third Reprint*)

1 AN ACT concerning contributions by employees into the State
2 disability benefits fund and amending R.S.43:21-7 and P.L.1948,
3 c.110.

4

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

7

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

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

20 (a) Payment.

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

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

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

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

39 (2) The "wages" of any individual, with respect to any one
40 employer, as the term is used in this subsection (b) and in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted February 7, 2011.

²Senate floor amendments adopted March 21, 2011.

³Assembly ALA committee amendments adopted May 5, 2011.

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

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

38 (c) Future rates based on benefit experience.

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

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

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

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

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

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

1 shall be determined on the basis of his record up to the beginning of
2 such calendar year. If, at the beginning of such calendar year, the
3 total of all his contributions, paid on his own behalf, for all past
4 years exceeds the total benefits charged to his account for all such
5 years, his contribution rate shall be:

6 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
7 5%, of his average annual payroll (as defined in paragraph (2),
8 subsection (a) of R.S.43:21-19);

9 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
10 than 6%, of his average annual payroll;

11 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
12 than 7%, of his average annual payroll;

13 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
14 than 8%, of his average annual payroll;

15 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
16 than 9%, of his average annual payroll;

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

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

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

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

27 (1) 4%, if such excess is less than 10% of his average annual
28 payroll;

29 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
30 than 20%, of his average annual payroll;

31 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
32 average annual payroll.

33 (C) Specially assigned rates.

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

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

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

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

47 (iii) Entities operating under common ownership, management or
48 control, when the operation of the entities is not identifiable,

1 distinguishable and severable, shall be considered a single employer
2 for the purposes of this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

46 EXPERIENCE RATING TAX TABLE

47 Fund Reserve Ratio¹

48 1.40% 1.00% 0.75% 0.50% 0.49%

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1 Employer	and	to	to	to	and
2 Reserve	Over	1.39%	0.99%	0.74%	Under
3 Ratio ²	A	B	C	D	E
4 Positive Reserve Ratio:					
5 17% and over	0.3	0.4	0.5	0.6	1.2
6 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
7 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
8 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
9 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
10 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
12 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
13 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
14 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
15 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
16 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
17 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
18 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
19 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
20 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
21 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
22 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
23 Deficit Reserve Ratio:					
24 -0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
25 -3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
26 -6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
27 -9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
28 -12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
29 -15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
30 -20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
31 -25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
32 -30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
33 -35.00% and under	5.4	5.4	5.8	6.4	7.0
34 New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

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

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

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

41 (iii) With respect to experience rating years beginning on or after
42 July 1, 2004, if the fund reserve ratio, based on the fund balance as
43 of the prior March 31, is less than 0.50%, the contribution rate for
44 each employer liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be increased by a
46 factor of 10% computed to the nearest multiple of 1/10% if not
47 already a multiple thereof.

1 (G) On or after January 1, 1993, notwithstanding any other
2 provisions of this paragraph (5), the contribution rate for each
3 employer liable to pay contributions, as computed under
4 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
5 except that, during any experience rating year starting before
6 January 1, 1998 in which the fund reserve ratio is equal to or greater
7 than 7.00% or during any experience rating year starting on or after
8 January 1, 1998, in which the fund reserve ratio is equal to or
9 greater than 3.5%, there shall be no decrease pursuant to this
10 subparagraph (G) in the contribution of any employer who has a
11 deficit reserve ratio of negative 35.00% or under.

12 (H) On and after January 1, 1998 until December 31, 2000 and
13 on or after January 1, 2002 until June 30, 2006, the contribution rate
14 for each employer liable to pay contributions, as computed under
15 subparagraph (E) of this paragraph (5), shall be decreased by a
16 factor, as set out below, computed to the nearest multiple of 1/10%,
17 except that, if an employer has a deficit reserve ratio of negative
18 35.0% or under, the employer's rate of contribution shall not be
19 reduced pursuant to this subparagraph (H) to less than 5.4%:

20 From January 1, 1998 until December 31, 1998, a factor of 12%;
21 From January 1, 1999 until December 31, 1999, a factor of 10%;
22 From January 1, 2000 until December 31, 2000, a factor of 7%;
23 From January 1, 2002 until March 31, 2002, a factor of 36%;
24 From April 1, 2002 until June 30, 2002, a factor of 85%;
25 From July 1, 2002 until June 30, 2003, a factor of 15%;
26 From July 1, 2003 until June 30, 2004, a factor of 15%;
27 From July 1, 2004 until June 30, 2005, a factor of 7%;
28 From July 1, 2005 until December 31, 2005, a factor of 16%; and
29 From January 1, 2006 until June 30, 2006, a factor of 34%.

30 The amount of the reduction in the employer contributions
31 stipulated by this subparagraph (H) shall be in addition to the
32 amount of the reduction in the employer contributions stipulated by
33 subparagraph (G) of this paragraph (5), except that the rate of
34 contribution of an employer who has a deficit reserve ratio of
35 negative 35.0% or under shall not be reduced pursuant to this
36 subparagraph (H) to less than 5.4% and the rate of contribution of
37 any other employer shall not be reduced to less than 0.0%.

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

39 (J) On or after July 1, 2001, notwithstanding any other
40 provisions of this paragraph (5), the contribution rate for each
41 employer liable to pay contributions, as computed under
42 subparagraph (E) of this paragraph (5), shall be decreased by
43 0.0175%, except that, during any experience rating year starting on
44 or after July 1, 2001, in which the fund reserve ratio is equal to or
45 greater than 3.5%, there shall be no decrease pursuant to this
46 subparagraph (J) in the contribution of any employer who has a
47 deficit reserve ratio of negative 35.00% or under. The amount of the
48 reduction in the employer contributions stipulated by this

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

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

11 (i) Equal to or greater than 5.00% but less than 7.5%, the
12 contribution rate for each employer liable to pay contributions, as
13 computed under subparagraph (E) of this paragraph (5), shall be
14 reduced by a factor of 25% computed to the nearest multiple of
15 1/10% if not already a multiple thereof except that there shall be no
16 decrease pursuant to this subparagraph (K) in the contribution of
17 any employer who has a deficit reserve ratio of 35.00% or under ;

18 (ii) Equal to or greater than 7.5% but less than 10.0%, the
19 contribution rate for each employer liable to pay contributions, as
20 computed under subparagraph (E) of this paragraph (5), shall be
21 reduced by a factor of 50% computed to the nearest multiple of
22 1/10% if not already a multiple thereof except that there shall be no
23 decrease pursuant to this subparagraph (K) in the contribution of
24 any employer who has a deficit reserve ratio of 35.00% or under.

25 (L) Notwithstanding any other provision of this paragraph (5)
26 and notwithstanding the actual fund reserve ratio, the contribution
27 rate for employers liable to pay contributions, as computed under
28 subparagraph (E) of this paragraph (5), shall be, for fiscal year
29 2011, the rates set by column "C" of the table in that subparagraph.

30 (6) Additional contributions.

31 Notwithstanding any other provision of law, any employer who
32 has been assigned a contribution rate pursuant to subsection (c) of
33 this section for the year commencing July 1, 1948, and for any year
34 commencing July 1 thereafter, may voluntarily make payment of
35 additional contributions, and upon such payment shall receive a
36 recomputation of the experience rate applicable to such employer,
37 including in the calculation the additional contribution so made,
38 except that, following a transfer as described under R.S.43:21-
39 7(c)(7)(D), neither the predecessor nor successor in interest shall be
40 eligible to make a voluntary payment of additional contributions
41 during the year the transfer occurs and the next full calendar year.
42 Any such additional contribution shall be made during the 30-day
43 period following the date of the mailing to the employer of the
44 notice of his contribution rate as prescribed in this section, unless,
45 for good cause, the time for payment has been extended by the
46 controller for not to exceed an additional 60 days; provided that in
47 no event may such payments which are made later than 120 days
48 after the beginning of the year for which such rates are effective be

1 considered in determining the experience rate for the year in which
2 the payment is made. Any employer receiving any extended period
3 of time within which to make such additional payment and failing
4 to make such payment timely shall be, in addition to the required
5 amount of additional payment, liable for a penalty of 5% thereof or
6 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
7 under this subsection shall be made only in the form of credits
8 against accrued or future contributions.

9 (7) Transfers.

10 (A) Upon the transfer of the organization, trade or business, or
11 substantially all the assets of an employer to a successor in interest,
12 whether by merger, consolidation, sale, transfer, descent or
13 otherwise, the controller shall transfer the employment experience
14 of the predecessor employer to the successor in interest, including
15 credit for past years, contributions paid, annual payrolls, benefit
16 charges, et cetera, applicable to such predecessor employer,
17 pursuant to regulation, if it is determined that the employment
18 experience of the predecessor employer with respect to the
19 organization, trade, assets or business which has been transferred
20 may be considered indicative of the future employment experience
21 of the successor in interest. The successor in interest may, within
22 four months of the date of such transfer of the organization, trade,
23 assets or business, or thereafter upon good cause shown, request a
24 reconsideration of the transfer of employment experience of the
25 predecessor employer. The request for reconsideration shall
26 demonstrate, to the satisfaction of the controller, that the
27 employment experience of the predecessor is not indicative of the
28 future employment experience of the successor.

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

47 (C) A transfer of the employment experience in whole or in part
48 having become final, the predecessor employer thereafter shall not

1 be entitled to consideration for an adjusted rate based upon his or its
2 experience or the part thereof, as the case may be, which has thus
3 been transferred. A successor in interest to whom employment
4 experience or a part thereof is transferred pursuant to this
5 subsection shall, as of the date of the transfer of the organization,
6 trade, assets or business, or part thereof, immediately become an
7 employer if not theretofore an employer subject to this chapter
8 (R.S.43:21-1 et seq.).

9 (D) If an employer transfers in whole or in part his or its
10 organization, trade, assets or business to a successor in interest,
11 whether by merger, consolidation, sale, transfer, descent or
12 otherwise and both the employer and successor in interest are at the
13 time of the transfer under common ownership, management or
14 control, then the employment experience attributable to the
15 transferred business shall also be transferred to and combined with
16 the employment experience of the successor in interest. The transfer
17 of the employment experience is mandatory and not subject to
18 appeal or protest.

19 (E) The transfer of part of an employer's employment experience
20 to a successor in interest shall become effective as of the first day of
21 the calendar quarter following the acquisition by the successor in
22 interest. As of the effective date, the successor in interest shall have
23 its employer rate recalculated by merging its existing employment
24 experience, if any, with the employment experience acquired. If the
25 successor in interest is not an employer as of the date of acquisition,
26 it shall be assigned the new employer rate until the effective date of
27 the transfer of employment experience.

28 (F) Upon the transfer in whole or in part of the organization,
29 trade, assets or business to a successor in interest, the employment
30 experience shall not be transferred if the successor in interest is not
31 an employer at the time of the acquisition and the controller finds
32 that the successor in interest acquired the business solely or
33 primarily for the purpose of obtaining a lower rate of contributions.

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

36 (1) (A) For periods after January 1, 1975, each worker shall
37 contribute to the fund 1% of his wages with respect to his
38 employment with an employer, which occurs on and after January
39 1, 1975, after such employer has satisfied the condition set forth in
40 subsection (h) of R.S.43:21-19 with respect to becoming an
41 employer; provided, however, that such contributions shall be at the
42 rate of 1/2 of 1% of wages paid with respect to employment while
43 the worker is in the employ of the State of New Jersey, or any
44 governmental entity or instrumentality which is an employer as
45 defined under R.S.43:21-19(h)(5), or is covered by an approved
46 private plan under the "Temporary Disability Benefits Law" or
47 while the worker is exempt from the provisions of the "Temporary

1 Disability Benefits Law" under section 7 of that law, P.L.1948,
2 c.110 (C.43:21-31).

3 (B) Effective January 1, 1978 there shall be no contributions by
4 workers in the employ of any governmental or nongovernmental
5 employer electing or required to make payments in lieu of
6 contributions unless the employer is covered by the State plan under
7 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
8 that case contributions shall be at the rate of 1/2 of 1%, except that
9 commencing July 1, 1986, workers in the employ of any
10 nongovernmental employer electing or required to make payments
11 in lieu of contributions shall be required to make contributions to
12 the fund at the same rate prescribed for workers of other
13 nongovernmental employers.

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

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

41 (D) Notwithstanding any other provisions of this paragraph (1),
42 during the period starting January 1, 1993 and ending June 30,
43 1994, each worker shall contribute to the unemployment
44 compensation fund 0.5% of wages paid with respect to the worker's
45 employment with a governmental employer electing or required to
46 pay contributions or nongovernmental employer, including a
47 nonprofit organization which is an employer as defined under
48 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of

1 whether that nonprofit organization elects or is required to finance
2 its benefit costs with contributions to the fund or by payments in
3 lieu of contributions, after that employer has satisfied the conditions
4 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
5 an employer. No contributions, however, shall be made by the
6 worker while the worker is covered by an approved private plan
7 under the "Temporary Disability Benefits Law," P.L.1948, c.110
8 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
9 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
10 provided that the contributions shall be at the rate of 0.50% of
11 wages paid with respect to employment with the State of New
12 Jersey or any other governmental entity or instrumentality electing
13 or required to make payments in lieu of contributions and which is
14 covered by the State plan under the "Temporary Disability Benefits
15 Law," except that, while the worker is exempt from the provisions
16 of the "Temporary Disability Benefits Law" under section 7 of that
17 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
18 law, or is covered for disability benefits by an approved private plan
19 of the employer, no contributions shall be made to the fund.

20 Each worker shall, starting on January 1, 1996 and ending March
21 31, 1996, contribute to the unemployment compensation fund
22 0.60% of wages paid with respect to the worker's employment with
23 a governmental employer electing or required to pay contributions
24 or nongovernmental employer, including a nonprofit organization
25 which is an employer as defined under paragraph (6) of subsection
26 (h) of R.S.43:21-19, regardless of whether that nonprofit
27 organization elects or is required to finance its benefit costs with
28 contributions to the fund or by payments in lieu of contributions,
29 after that employer has satisfied the conditions set forth in
30 subsection (h) of R.S.43:21-19 with respect to becoming an
31 employer, provided that the contributions shall be at the rate of
32 0.10% of wages paid with respect to employment with the State of
33 New Jersey or any other governmental entity or instrumentality
34 electing or required to make payments in lieu of contributions.

35 Each worker shall, starting on January 1, 1998 and ending
36 December 31, 1998, contribute to the unemployment compensation
37 fund 0.10% of wages paid with respect to the worker's employment
38 with a governmental employer electing or required to pay
39 contributions or nongovernmental employer, including a nonprofit
40 organization which is an employer as defined under paragraph (6)
41 of subsection (h) of R.S.43:21-19, regardless of whether that
42 nonprofit organization elects or is required to finance its benefit
43 costs with contributions to the fund or by payments in lieu of
44 contributions, after that employer has satisfied the conditions set
45 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
46 employer, provided that the contributions shall be at the rate of
47 0.10% of wages paid with respect to employment with the State of

1 New Jersey or any other governmental entity or instrumentality
2 electing or required to make payments in lieu of contributions.

3 Each worker shall, starting on January 1, 1999 until December
4 31, 1999, contribute to the unemployment compensation fund
5 0.15% of wages paid with respect to the worker's employment with
6 a governmental employer electing or required to pay contributions
7 or nongovernmental employer, including a nonprofit organization
8 which is an employer as defined under paragraph (6) of subsection
9 (h) of R.S.43:21-19, regardless of whether that nonprofit
10 organization elects or is required to finance its benefit costs with
11 contributions to the fund or by payments in lieu of contributions,
12 after that employer has satisfied the conditions set forth in
13 subsection (h) of R.S.43:21-19 with respect to becoming an
14 employer, provided that the contributions shall be at the rate of
15 0.10% of wages paid with respect to employment with the State of
16 New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

18 Each worker shall, starting on January 1, 2000 until December
19 31, 2001, contribute to the unemployment compensation fund
20 0.20% of wages paid with respect to the worker's employment with
21 a governmental employer electing or required to pay contributions
22 or nongovernmental employer, including a nonprofit organization
23 which is an employer as defined under paragraph (6) of subsection
24 (h) of R.S.43:21-19, regardless of whether that nonprofit
25 organization elects or is required to finance its benefit costs with
26 contributions to the fund or by payments in lieu of contributions,
27 after that employer has satisfied the conditions set forth in
28 subsection (h) of R.S.43:21-19 with respect to becoming an
29 employer, provided that the contributions shall be at the rate of
30 0.10% of wages paid with respect to employment with the State of
31 New Jersey or any other governmental entity or instrumentality
32 electing or required to make payments in lieu of contributions.

33 Each worker shall, starting on January 1, 2002 until June 30,
34 2004, contribute to the unemployment compensation fund 0.1825%
35 of wages paid with respect to the worker's employment with a
36 governmental employer electing or required to pay contributions or
37 a nongovernmental employer, including a nonprofit organization
38 which is an employer as defined under paragraph (6) of subsection
39 (h) of R.S.43:21-19, regardless of whether that nonprofit
40 organization elects or is required to finance its benefit costs with
41 contributions to the fund or by payments in lieu of contributions,
42 after that employer has satisfied the conditions set forth in
43 subsection (h) of R.S.43:21-19 with respect to becoming an
44 employer, provided that the contributions shall be at the rate of
45 0.0825% of wages paid with respect to employment with the State
46 of New Jersey or any other governmental entity or instrumentality
47 electing or required to make payments in lieu of contributions.

1 Each worker shall, starting on and after July 1, 2004, contribute
2 to the unemployment compensation fund 0.3825% of wages paid
3 with respect to the worker's employment with a governmental
4 employer electing or required to pay contributions or
5 nongovernmental employer, including a nonprofit organization
6 which is an employer as defined under paragraph (6) of subsection
7 (h) of R.S.43:21-19, regardless of whether that nonprofit
8 organization elects or is required to finance its benefit costs with
9 contributions to the fund or by payments in lieu of contributions,
10 after that employer has satisfied the conditions set forth in
11 subsection (h) of R.S.43:21-19 with respect to becoming an
12 employer, provided that the contributions shall be at the rate of
13 0.0825% of wages paid with respect to employment with the State
14 of New Jersey or any other governmental entity or instrumentality
15 electing or required to make payments in lieu of contributions.

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

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

33 (G) (i) Each worker shall, starting on July 1, 1994 and ending on
34 December 31, 2011, contribute to the State disability benefits fund
35 an amount equal to 0.50% of wages paid with respect to the
36 worker's employment with a government employer electing or
37 required to pay contributions to the State disability benefits fund or
38 nongovernmental employer, including a nonprofit organization
39 which is an employer as defined under paragraph (6) of subsection
40 (h) of R.S.43:21-19, unless the employer is covered by an approved
41 private disability plan or is exempt from the provisions of the
42 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
43 et al.) under section 7 of that law (C.43:21-31) or any other
44 provision of that law. Each worker, with respect to the worker's
45 employment with a government employer electing or required to
46 pay contributions to the State disability benefits fund or
47 nongovernmental employer, including a nonprofit organization
48 which is an employer as defined under paragraph (6) of subsection

1 (h) of R.S.43:21-19, unless the employer is covered by an approved
2 private disability plan or is exempt from the provisions of the
3 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
4 et al.) under section 7 of that law (C.43:21-31) or any other
5 provision of that law, shall, for calendar year 2012 and each
6 subsequent calendar year, make contributions to the State disability
7 benefits fund at the annual rate of contribution necessary to obtain a
8 total amount of contributions, which, when added to employer
9 contributions made to the State disability benefits fund pursuant to
10 subsection (e) of this section, is equal to ¹[125%] ³[110%] ¹ 120%³
11 of the benefits paid for periods of disability, excluding periods of
12 family temporary disability, during the immediately preceding
13 calendar year ¹[plus an amount equal to 100% of the cost of
14 administration of the payment of those benefits during the
15 immediately preceding calendar year]¹ ²plus an amount equal to
16 100% of the cost of administration of the payment of those benefits
17 during the immediately preceding calendar year², less the amount of
18 net assets remaining in the State disability benefits fund, excluding
19 net assets remaining in the "Family ²Temporary² Disability Leave
20 Account of that fund, as of December 31 of the immediately
21 preceding year. The rates of employer contributions determined
22 pursuant to subsection (e) of this section for any year shall be
23 determined prior to the determination of the rate of employee
24 contributions pursuant to this subparagraph (i) and any
25 consideration of employee contributions in determining employer
26 rates for any year shall be based on amounts of employee
27 contributions made prior to the year to which the rate of employee
28 contributions applies and shall not be based on any projection or
29 estimate of the amount of employee contributions for the year to
30 which that rate applies.

31 (ii) Each worker shall contribute to the State disability benefits
32 fund, in addition to any amount contributed pursuant to
33 subparagraph (i) of this paragraph (1)(G), an amount equal to,
34 during calendar year 2009, 0.09%, and during calendar year 2010
35 0.12%, of wages paid with respect to the worker's employment with
36 any covered employer, including a governmental employer which is
37 an employer as defined under R.S.43:21-19(h)(5), unless the
38 employer is covered by an approved private disability plan for
39 benefits during periods of family temporary disability leave. The
40 contributions made pursuant to this subparagraph (ii) to the State
41 disability benefits fund shall be deposited into an account of that
42 fund reserved for the payment of benefits during periods of family
43 temporary disability leave as defined in section 3 of the "Temporary
44 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
45 administration of those payments and shall not be used for any other
46 purpose. This account shall be known as the "Family Temporary
47 Disability Leave Account." For calendar year 2011 and each

1 subsequent calendar year, the annual rate of contribution to be paid
2 by workers pursuant to this subparagraph (ii) shall be the rate
3 necessary to obtain a total amount of contributions equal to 125% of
4 the benefits paid for periods of family temporary disability leave
5 during the immediately preceding calendar year plus an amount
6 equal to 100% of the cost of administration of the payment of those
7 benefits during the immediately preceding calendar year, less the
8 amount of net assets remaining in the account as of December 31 of
9 the immediately preceding year. Necessary administrative costs
10 shall include the cost of an outreach program to inform employees
11 of the availability of the benefits and the cost of issuing the reports
12 required or permitted pursuant to section 13 of P.L.2008, c.17
13 (C.43:21-39.4). No monies, other than the funds in the "Family
14 Temporary Disability Leave Account," shall be used for the
15 payment of benefits during periods of family temporary disability
16 leave or for the administration of those payments, with the sole
17 exception that, during calendar years 2008 and 2009, a total amount
18 not exceeding \$25 million may be transferred to that account from
19 the revenues received in the State disability benefits fund pursuant
20 to subparagraph (i) of this paragraph (1)(G) and be expended for
21 those payments and their administration, including the
22 administration of the collection of contributions made pursuant to
23 this subparagraph (ii) and any other necessary administrative costs.
24 Any amount transferred to the account pursuant to this
25 subparagraph (ii) shall be repaid during a period beginning not later
26 than January 1, 2011 and ending not later than December 31, 2015.
27 No monies, other than the funds in the "Family Temporary
28 Disability Leave Account," shall be used under any circumstances
29 after December 31, 2009, for the payment of benefits during periods
30 of family temporary disability leave or for the administration of
31 those payments, including for the administration of the collection of
32 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

40 (3) (A) If an employee receives wages from more than one
41 employer during any calendar year, and either the sum of his
42 contributions deposited in and credited to the State disability
43 benefits fund plus the amount of his contributions, if any, required
44 towards the costs of benefits under one or more approved private
45 plans under the provisions of section 9 of the "Temporary Disability
46 Benefits Law" (C.43:21-33) and deducted from his wages, or the
47 sum of such latter contributions, if the employee is covered during
48 such calendar year only by two or more private plans, exceeds an

1 amount equal to 1/2 of 1% of the "wages" determined in accordance
2 with the provisions of R.S.43:21-7(b)(3) during the calendar years
3 beginning on or after January 1, 1976 or, during calendar year 2012
4 or any subsequent calendar year, the total amount of his
5 contributions for the year exceeds the amount set by the annual rate
6 of contribution determined by the Commissioner of Labor and
7 Workforce Development pursuant to subparagraph (i) of
8 paragraph(1)(G) of this subsection (d), the employee shall be
9 entitled to a refund of the excess if he makes a claim to the
10 controller within two years after the end of the calendar year in
11 which the wages are received with respect to which the refund is
12 claimed and establishes his right to such refund. Such refund shall
13 be made by the controller from the State disability benefits fund. No
14 interest shall be allowed or paid with respect to any such refund.
15 The controller shall, in accordance with prescribed regulations,
16 determine the portion of the aggregate amount of such refunds made
17 during any calendar year which is applicable to private plans for
18 which deductions were made under section 9 of the "Temporary
19 Disability Benefits Law" (C.43:21-33) such determination to be
20 based upon the ratio of the amount of such wages exempt from
21 contributions to such fund, as provided in subparagraph (B) of
22 paragraph (1) of this subsection with respect to coverage under
23 private plans, to the total wages so exempt plus the amount of such
24 wages subject to contributions to the disability benefits fund, as
25 provided in subparagraph (G) of paragraph (1) of this subsection.
26 The controller shall, in accordance with prescribed regulations,
27 prorate the amount so determined among the applicable private
28 plans in the proportion that the wages covered by each plan bear to
29 the total private plan wages involved in such refunds, and shall
30 assess against and recover from the employer, or the insurer if the
31 insurer has indemnified the employer with respect thereto, the
32 amount so prorated. The provisions of R.S.43:21-14 with respect to
33 collection of employer contributions shall apply to such
34 assessments. The amount so recovered by the controller shall be
35 paid into the State disability benefits fund.

36 (B) If an employee receives wages from more than one employer
37 during any calendar year, and the sum of his contributions deposited
38 in the "Family Temporary Disability Leave Account" of the State
39 disability benefits fund plus the amount of his contributions, if any,
40 required towards the costs of family temporary disability leave
41 benefits under one or more approved private plans under the
42 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
43 et al.) and deducted from his wages, exceeds an amount equal to,
44 during calendar year 2009, 0.09% of the "wages" determined in
45 accordance with the provisions of R.S.43:21-7(b)(3), or during
46 calendar year 2010, 0.12% of those wages, or, during calendar year
47 2011 or any subsequent calendar year, the percentage of those
48 wages set by the annual rate of contribution determined by the

1 Commissioner of Labor and Workforce Development pursuant to
2 subparagraph (ii) of paragraph(1)(G) of this subsection (d), the
3 employee shall be entitled to a refund of the excess if he makes a
4 claim to the controller within two years after the end of the calendar
5 year in which the wages are received with respect to which the
6 refund is claimed and establishes his right to the refund. The refund
7 shall be made by the controller from the "Family Temporary
8 Disability Leave Account" of the State disability benefits fund. No
9 interest shall be allowed or paid with respect to any such refund.
10 The controller shall, in accordance with prescribed regulations,
11 determine the portion of the aggregate amount of the refunds made
12 during any calendar year which is applicable to private plans for
13 which deductions were made under section 9 of the "Temporary
14 Disability Benefits Law" (C.43:21-33), with that determination
15 based upon the ratio of the amount of such wages exempt from
16 contributions to the fund, as provided in paragraph (1)(B) of this
17 subsection (d) with respect to coverage under private plans, to the
18 total wages so exempt plus the amount of such wages subject to
19 contributions to the "Family Temporary Disability Leave Account"
20 of the State disability benefits fund, as provided in subparagraph (ii)
21 of paragraph (1)(G) of this subsection (d). The controller shall, in
22 accordance with prescribed regulations, prorate the amount so
23 determined among the applicable private plans in the proportion
24 that the wages covered by each plan bear to the total private plan
25 wages involved in such refunds, and shall assess against and
26 recover from the employer, or the insurer if the insurer has
27 indemnified the employer with respect thereto, the prorated amount.
28 The provisions of R.S.43:21-14 with respect to collection of
29 employer contributions shall apply to such assessments. The
30 amount so recovered by the controller shall be paid into the "Family
31 Temporary Disability Leave Account" of the State disability
32 benefits fund.

33 (4) If an individual does not receive any wages from the
34 employing unit which for the purposes of this chapter (R.S.43:21-1
35 et seq.) is treated as his employer, or receives his wages from some
36 other employing unit, such employer shall nevertheless be liable for
37 such individual's contributions in the first instance; and after
38 payment thereof such employer may deduct the amount of such
39 contributions from any sums payable by him to such employing
40 unit, or may recover the amount of such contributions from such
41 employing unit, or, in the absence of such an employing unit, from
42 such individual, in a civil action; provided proceedings therefor are
43 instituted within three months after the date on which such
44 contributions are payable. General rules shall be prescribed
45 whereby such an employing unit may recover the amount of such
46 contributions from such individuals in the same manner as if it were
47 the employer.

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

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

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

12 (1) Except as hereinafter provided, each employer shall, in
13 addition to the contributions required by subsections (a), (b), and
14 (c) of this section, contribute 1/2 of 1% of the wages paid by such
15 employer to workers with respect to employment unless he is not a
16 covered employer as defined in subsection (a) of section 3 of the
17 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
18 the rate for the State of New Jersey shall be 1/10 of 1% for the
19 calendar year 1980 and for the first six months of 1981. Prior to
20 July 1, 1981 and prior to July 1 each year thereafter, the controller
21 shall review the experience accumulated in the account of the State
22 of New Jersey and establish a rate for the next following fiscal year
23 which, in combination with worker contributions, will produce
24 sufficient revenue to keep the account in balance; except that the
25 rate so established shall not be less than 1/10 of 1%. Such
26 contributions shall become due and be paid by the employer to the
27 controller for the State disability benefits fund as established by
28 law, in accordance with such regulations as may be prescribed, and
29 shall not be deducted, in whole or in part, from the remuneration of
30 individuals in his employ. In the payment of any contributions, a
31 fractional part of a cent shall be disregarded unless it amounts to
32 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

41 (B) A separate disability benefits account shall be maintained for
42 each employer required to contribute to the State disability benefits
43 fund and such account shall be credited with contributions
44 deposited in and credited to such fund with respect to employment
45 occurring on and after January 1, 1949. Each employer's account
46 shall be credited with all contributions paid on or before January 31
47 of any calendar year on his own behalf and on behalf of individuals
48 in his service with respect to employment occurring in preceding

1 calendar years; provided, however, that if January 31 of any
2 calendar year falls on a Saturday or Sunday an employer's account
3 shall be credited as of January 31 of such calendar year with all the
4 contributions which he has paid on or before the next succeeding
5 day which is not a Saturday or Sunday. But nothing in this act shall
6 be construed to grant any employer or individuals in his service
7 prior claims or rights to the amounts paid by him to the fund either
8 on his own behalf or on behalf of such individuals. Benefits paid to
9 any covered individual in accordance with Article III of the
10 "Temporary Disability Benefits Law" on or before December 31 of
11 any calendar year with respect to disability in such calendar year
12 and in preceding calendar years shall be charged against the account
13 of the employer by whom such individual was employed at the
14 commencement of such disability or by whom he was last
15 employed, if out of employment.

16 (C) The controller may prescribe regulations for the
17 establishment, maintenance, and dissolution of joint accounts by
18 two or more employers, and shall, in accordance with such
19 regulations and upon application by two or more employers to
20 establish such an account, or to merge their several individual
21 accounts in a joint account, maintain such joint account as if it
22 constituted a single employer's account.

23 (D) Prior to July 1 of each calendar year, the controller shall
24 make a preliminary determination of the rate of contribution for the
25 12 months commencing on such July 1 for each employer subject to
26 the contribution requirements of this subsection (e).

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

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

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

39 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
40 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

41 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $\frac{1}{2}$
42 % of his average annual payroll.

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

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

5 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
6 1% of his average annual payroll;

7 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
8 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

9 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
10 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

11 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
12 3/4 of 1% but is less than 1% of his average annual payroll;

13 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
14 1% of his average annual payroll.

15 (5) Determination of the preliminary rate as specified in
16 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
17 to the condition that it shall in no event be decreased by more than
18 1/10 of 1% of wages or increased by more than 2/10 of 1% of
19 wages from the preliminary rate determined for the preceding year
20 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever
21 shall have been applicable.

22 (E) (1) Prior to July 1 of each calendar year the controller shall
23 determine the amount of the State disability benefits fund as of
24 December 31 of the preceding calendar year, increased by the
25 contributions paid thereto during January of the current calendar
26 year with respect to employment occurring in the preceding
27 calendar year. If such amount exceeds the net amount withdrawn
28 from the unemployment trust fund pursuant to section 23 of the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
30 plus the amount at the end of such preceding calendar year of the
31 unemployment disability account as defined in section 22 of said
32 law (C.43:21-46), such excess shall be expressed as a percentage of
33 the wages on which contributions were paid to the State disability
34 benefits fund on or before January 31 with respect to employment
35 in the preceding calendar year.

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

40 (i) If the percentage determined in accordance with
41 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
42 final employer rates shall be the preliminary rates determined as
43 provided in subparagraph (D) hereof, except that if the employer's
44 preliminary rate is determined as provided in subparagraph (D)(2)
45 or subparagraph (D)(3) hereof, the final employer rate shall be the
46 preliminary employer rate decreased by such percentage of excess
47 taken to the nearest 5/100 of 1%, but in no case shall such final rate
48 be less than 1/10 of 1%.

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

5 (iii) If the percentage determined in accordance with
6 subparagraph (E)(1) of this paragraph is less than $\frac{3}{4}$ of 1%, but in
7 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the
8 preliminary employer rates determined as provided in subparagraph
9 (D) hereof increased by the difference between $\frac{3}{4}$ of 1% and such
10 percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
11 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case of an
12 employer whose preliminary rate is determined as provided in
13 subparagraph (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
14 employer whose preliminary rate is determined as provided in
15 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
16 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
17 determined as provided in subparagraph (D)(4) hereof.

18 (iv) If the amount of the State disability benefits fund determined
19 as provided in subparagraph (E)(1) of this paragraph is equal to or
20 less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case
21 of an employer whose preliminary rate is determined as provided in
22 subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer
23 whose preliminary rate is determined as provided in subparagraph
24 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
25 employer whose preliminary rate is determined as provided in
26 subparagraph (D)(4) hereof. Notwithstanding any other provision of
27 law or any determination made by the controller with respect to any
28 12-month period commencing on July 1, 1970, the final rates for all
29 employers for the period beginning January 1, 1971, shall be as set
30 forth herein.

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

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

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

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

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

45

46 2. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
47 read as follows:

1 11. (a) If the division is furnished satisfactory evidence that a
2 majority of the employees covered by an approved private plan
3 have made election in writing to discontinue such plan, the division
4 shall withdraw its approval of such plan effective at the end of the
5 calendar quarter next succeeding that in which such evidence is
6 furnished. Upon receipt of a petition therefor signed by not less
7 than 10% of the employees covered by an approved private plan,
8 the division shall require the employer upon 30 days' written notice
9 to conduct an election by ballot in writing to determine whether or
10 not a majority of the employees covered by such private plan favor
11 discontinuance thereof; provided, that such election shall not be
12 required more often than once in any 12-month period.

13 (b) Unless sooner permitted, for cause, by the division, no
14 approved private plan shall be terminated by an employer, in whole
15 or in part, until at least 30 days after written notice of intention so
16 to do has been given by the employer to the division and after
17 notices are conspicuously posted so as reasonably to assure their
18 being seen, or after individual notices are given to the employees
19 concerned.

20 (c) The division may, after notice and hearing, withdraw its
21 approval of any approved private plan if it finds that there is danger
22 that the benefits accrued or to accrue will not be paid, that the
23 security for such payment is insufficient, or for other good cause
24 shown. No employer, and no union or association representing
25 employees, shall so administer or apply the provisions of an
26 approved private plan as to derive any profit therefrom. The
27 division may withdraw its approval from any private plan which is
28 administered or applied in violation of this provision.

29 (d) No termination of an approved private plan shall affect the
30 payment of benefits, in accordance with the provisions of the plan,
31 to employees whose period of disability commenced prior to the
32 date of termination. Employees who have ceased to be covered by
33 an approved private plan because of its termination shall, subject to
34 the limitations and restrictions of this act, become eligible forthwith
35 for benefits from the State Disability Benefits Fund for a period of
36 disability commencing after such cessation, and contributions with
37 respect to their wages shall immediately become payable as
38 otherwise provided by law. Any withdrawal of approval of a
39 private plan pursuant to this section shall be reviewable by writ of
40 certiorari or by such other procedure as may be provided by law.
41 With respect to a period of family temporary disability leave
42 immediately after the individual has a period of disability during the
43 individual's own disability, the period of disability is deemed, for
44 the purposes of determining whether the period of disability
45 commenced prior to the date of the termination, to have commenced
46 at the beginning of the period of disability during the individual's
47 own disability, not the period of family temporary disability leave.

1 (e) Anything in this act to the contrary notwithstanding, a
2 covered employer who, under an approved private plan, is
3 providing benefits at least equal to those required by the State plan,
4 may modify the benefits under the private plan so as to provide
5 benefits not less than the benefits required by the State plan.
6 Individuals covered under a private plan shall not be required to
7 contribute to the plan at a rate exceeding $\frac{3}{4}$ of 1% of the amount of
8 "wages" established for any calendar year under the provisions of
9 R.S.43:21-7(b) prior to January 1, 1975, and $\frac{1}{2}$ of 1% for calendar
10 years beginning on or after January 1, 1975 and before January 1,
11 2009. For a calendar year beginning on or after January 1, 2009
12 and before January 1, 2012: an employer providing a private plan
13 only for benefits for employees during their own disabilities may
14 require the employees to contribute to the plan at a rate not
15 exceeding 0.5% of the amount of "wages" established for the
16 calendar year under the provisions of R.S.43:21-7(b); an employer
17 providing a private plan only for benefits for employees during
18 periods of family temporary disability may require the individuals
19 covered by the private plan to contribute an amount not exceeding
20 the amount the individuals would pay pursuant to R.S.43:21-
21 7(d)(1)(G)(ii); an employer providing a private plan both for
22 benefits for employees during their own disabilities and for benefits
23 during periods of family temporary disability may require the
24 employees to contribute to the plan at a rate not exceeding 0.5% of
25 the amount of "wages" established for the calendar year under the
26 provisions of R.S.43:21-7(b) plus an additional amount not
27 exceeding the amount the individuals would pay pursuant to
28 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after
29 January 1, 2012: an employer providing a private plan only for
30 benefits for employees during their own disabilities may require the
31 employees to contribute to the plan at a rate not exceeding the
32 amount the individuals would pay pursuant to R.S.43:21-
33 7(d)(1)(G)(i); an employer providing a private plan only for
34 benefits for employees during periods of family temporary
35 disability may require the individuals covered by the private plan to
36 contribute an amount not exceeding the amount the individuals
37 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
38 providing a private plan both for benefits for employees during their
39 own disabilities and for benefits during periods of family temporary
40 disability may require the employees to contribute to the plan an
41 amount not exceeding the amount the individuals would pay
42 pursuant to R.S.43:21-7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(ii).
43 Notification of the proposed modification shall be given by the
44 employer to the division and to the individuals covered under the
45 plan.

46 (cf: P.L.2008, c.17, s.4)

47

48 3. This act shall take effect immediately.

S2609 [3R]

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3

Provides for annual adjustments in worker taxes paid into the

4

State disability benefits fund.

SENATE, No. 2609

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JANUARY 10, 2011

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Provides for annual adjustments in worker taxes paid into the State disability benefits fund.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning contributions by employees into the State
2 disability benefits fund and amending R.S.43:21-7 and P.L.1948,
3 c.110.

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

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

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

20 (a) Payment.

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

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

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

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

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

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

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

33 (c) Future rates based on benefit experience.

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

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

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

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

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

36 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
37 8/10%, except as otherwise provided in the following provisions.
38 No employer's rate for the 12 months commencing July 1 of any
39 calendar year shall be other than 2 8/10%, unless as of the
40 preceding January 31 such employer shall have paid contributions
41 with respect to wages paid in each of the three calendar years
42 immediately preceding such year, in which case such employer's
43 rate for the 12 months commencing July 1 of any calendar year
44 shall be determined on the basis of his record up to the beginning of
45 such calendar year. If, at the beginning of such calendar year, the
46 total of all his contributions, paid on his own behalf, for all past
47 years exceeds the total benefits charged to his account for all such
48 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, the new employer rate or the unemployment
 36 experience rate of an employer under this section shall be the rate
 37 which appears in the column headed by the Unemployment Trust
 38 Fund Reserve Ratio as of the applicable calculation date and on the
 39 line with the Employer Reserve Ratio, as defined in paragraph (4)
 40 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 41 table:

42 EXPERIENCE RATING TAX TABLE

43 Fund Reserve Ratio¹

44		1.40%	1.00%	0.75%	0.50%	0.49%
45	Employer	and	to	to	to	and
46	Reserve	Over	1.39%	0.99%	0.74%	Under
47	Ratio ²	A	B	C	D	E

48 Positive Reserve Ratio:

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

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

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

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

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

37 (iii) With respect to experience rating years beginning on or after
 38 July 1, 2004, if the fund reserve ratio, based on the fund balance as
 39 of the prior March 31, is less than 0.50%, the contribution rate for
 40 each employer liable to pay contributions, as computed under
 41 subparagraph (E) of this paragraph (5), shall be increased by a
 42 factor of 10% computed to the nearest multiple of 1/10% if not
 43 already a multiple thereof.

44 (G) On or after January 1, 1993, notwithstanding any other
 45 provisions of this paragraph (5), the contribution rate for each
 46 employer liable to pay contributions, as computed under
 47 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
 48 except that, during any experience rating year starting before

1 January 1, 1998 in which the fund reserve ratio is equal to or greater
2 than 7.00% or during any experience rating year starting on or after
3 January 1, 1998, in which the fund reserve ratio is equal to or
4 greater than 3.5%, there shall be no decrease pursuant to this
5 subparagraph (G) in the contribution of any employer who has a
6 deficit reserve ratio of negative 35.00% or under.

7 (H) On and after January 1, 1998 until December 31, 2000 and
8 on or after January 1, 2002 until June 30, 2006, the contribution rate
9 for each employer liable to pay contributions, as computed under
10 subparagraph (E) of this paragraph (5), shall be decreased by a
11 factor, as set out below, computed to the nearest multiple of 1/10%,
12 except that, if an employer has a deficit reserve ratio of negative
13 35.0% or under, the employer's rate of contribution shall not be
14 reduced pursuant to this subparagraph (H) to less than 5.4%:

15 From January 1, 1998 until December 31, 1998, a factor of 12%;
16 From January 1, 1999 until December 31, 1999, a factor of 10%;
17 From January 1, 2000 until December 31, 2000, a factor of 7%;
18 From January 1, 2002 until March 31, 2002, a factor of 36%;
19 From April 1, 2002 until June 30, 2002, a factor of 85%;
20 From July 1, 2002 until June 30, 2003, a factor of 15%;
21 From July 1, 2003 until June 30, 2004, a factor of 15%;
22 From July 1, 2004 until June 30, 2005, a factor of 7%;
23 From July 1, 2005 until December 31, 2005, a factor of 16%; and
24 From January 1, 2006 until June 30, 2006, a factor of 34%.

25 The amount of the reduction in the employer contributions
26 stipulated by this subparagraph (H) shall be in addition to the
27 amount of the reduction in the employer contributions stipulated by
28 subparagraph (G) of this paragraph (5), except that the rate of
29 contribution of an employer who has a deficit reserve ratio of
30 negative 35.0% or under shall not be reduced pursuant to this
31 subparagraph (H) to less than 5.4% and the rate of contribution of
32 any other employer shall not be reduced to less than 0.0%.

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

34 (J) On or after July 1, 2001, notwithstanding any other
35 provisions of this paragraph (5), the contribution rate for each
36 employer liable to pay contributions, as computed under
37 subparagraph (E) of this paragraph (5), shall be decreased by
38 0.0175%, except that, during any experience rating year starting on
39 or after July 1, 2001, in which the fund reserve ratio is equal to or
40 greater than 3.5%, there shall be no decrease pursuant to this
41 subparagraph (J) in the contribution of any employer who has a
42 deficit reserve ratio of negative 35.00% or under. The amount of the
43 reduction in the employer contributions stipulated by this
44 subparagraph (J) shall be in addition to the amount of the reduction
45 in the employer contributions stipulated by subparagraphs (G) and
46 (H) of this paragraph (5), except that the rate of contribution of an
47 employer who has a deficit reserve ratio of negative 35.0% or under
48 shall not be reduced pursuant to this subparagraph (J) to less than

1 5.4% and the rate of contribution of any other employer shall not be
2 reduced to less than 0.0%.

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

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

13 (ii) Equal to or greater than 7.5% but less than 10.0%, the
14 contribution rate for each employer liable to pay contributions, as
15 computed under subparagraph (E) of this paragraph (5), shall be
16 reduced by a factor of 50% computed to the nearest multiple of
17 1/10% if not already a multiple thereof except that there shall be no
18 decrease pursuant to this subparagraph (K) in the contribution of
19 any employer who has a deficit reserve ratio of 35.00% or under.

20 (L) Notwithstanding any other provision of this paragraph (5)
21 and notwithstanding the actual fund reserve ratio, the contribution
22 rate for employers liable to pay contributions, as computed under
23 subparagraph (E) of this paragraph (5), shall be, for fiscal year
24 2011, the rates set by column "C" of the table in that subparagraph.

25 (6) Additional contributions.

26 Notwithstanding any other provision of law, any employer who
27 has been assigned a contribution rate pursuant to subsection (c) of
28 this section for the year commencing July 1, 1948, and for any year
29 commencing July 1 thereafter, may voluntarily make payment of
30 additional contributions, and upon such payment shall receive a
31 recomputation of the experience rate applicable to such employer,
32 including in the calculation the additional contribution so made,
33 except that, following a transfer as described under R.S.43:21-
34 7(c)(7)(D), neither the predecessor nor successor in interest shall be
35 eligible to make a voluntary payment of additional contributions
36 during the year the transfer occurs and the next full calendar year.
37 Any such additional contribution shall be made during the 30-day
38 period following the date of the mailing to the employer of the
39 notice of his contribution rate as prescribed in this section, unless,
40 for good cause, the time for payment has been extended by the
41 controller for not to exceed an additional 60 days; provided that in
42 no event may such payments which are made later than 120 days
43 after the beginning of the year for which such rates are effective be
44 considered in determining the experience rate for the year in which
45 the payment is made. Any employer receiving any extended period
46 of time within which to make such additional payment and failing
47 to make such payment timely shall be, in addition to the required
48 amount of additional payment, liable for a penalty of 5% thereof or

1 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
2 under this subsection shall be made only in the form of credits
3 against accrued or future contributions.

4 (7) Transfers.

5 (A) Upon the transfer of the organization, trade or business, or
6 substantially all the assets of an employer to a successor in interest,
7 whether by merger, consolidation, sale, transfer, descent or
8 otherwise, the controller shall transfer the employment experience
9 of the predecessor employer to the successor in interest, including
10 credit for past years, contributions paid, annual payrolls, benefit
11 charges, et cetera, applicable to such predecessor employer,
12 pursuant to regulation, if it is determined that the employment
13 experience of the predecessor employer with respect to the
14 organization, trade, assets or business which has been transferred
15 may be considered indicative of the future employment experience
16 of the successor in interest. The successor in interest may, within
17 four months of the date of such transfer of the organization, trade,
18 assets or business, or thereafter upon good cause shown, request a
19 reconsideration of the transfer of employment experience of the
20 predecessor employer. The request for reconsideration shall
21 demonstrate, to the satisfaction of the controller, that the
22 employment experience of the predecessor is not indicative of the
23 future employment experience of the successor.

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

42 (C) A transfer of the employment experience in whole or in part
43 having become final, the predecessor employer thereafter shall not
44 be entitled to consideration for an adjusted rate based upon his or its
45 experience or the part thereof, as the case may be, which has thus
46 been transferred. A successor in interest to whom employment
47 experience or a part thereof is transferred pursuant to this
48 subsection shall, as of the date of the transfer of the organization,

1 trade, assets or business, or part thereof, immediately become an
2 employer if not theretofore an employer subject to this chapter
3 (R.S.43:21-1 et seq.).

4 (D) If an employer transfers in whole or in part his or its
5 organization, trade, assets or business to a successor in interest,
6 whether by merger, consolidation, sale, transfer, descent or
7 otherwise and both the employer and successor in interest are at the
8 time of the transfer under common ownership, management or
9 control, then the employment experience attributable to the
10 transferred business shall also be transferred to and combined with
11 the employment experience of the successor in interest. The transfer
12 of the employment experience is mandatory and not subject to
13 appeal or protest.

14 (E) The transfer of part of an employer's employment experience
15 to a successor in interest shall become effective as of the first day of
16 the calendar quarter following the acquisition by the successor in
17 interest. As of the effective date, the successor in interest shall have
18 its employer rate recalculated by merging its existing employment
19 experience, if any, with the employment experience acquired. If the
20 successor in interest is not an employer as of the date of acquisition,
21 it shall be assigned the new employer rate until the effective date of
22 the transfer of employment experience.

23 (F) Upon the transfer in whole or in part of the organization,
24 trade, assets or business to a successor in interest, the employment
25 experience shall not be transferred if the successor in interest is not
26 an employer at the time of the acquisition and the controller finds
27 that the successor in interest acquired the business solely or
28 primarily for the purpose of obtaining a lower rate of contributions.

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

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

45 (B) Effective January 1, 1978 there shall be no contributions by
46 workers in the employ of any governmental or nongovernmental
47 employer electing or required to make payments in lieu of
48 contributions unless the employer is covered by the State plan under

1 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
2 that case contributions shall be at the rate of 1/2 of 1%, except that
3 commencing July 1, 1986, workers in the employ of any
4 nongovernmental employer electing or required to make payments
5 in lieu of contributions shall be required to make contributions to
6 the fund at the same rate prescribed for workers of other
7 nongovernmental employers.

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

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

35 (D) Notwithstanding any other provisions of this paragraph (1),
36 during the period starting January 1, 1993 and ending June 30,
37 1994, each worker shall contribute to the unemployment
38 compensation fund 0.5% of wages paid with respect to the worker's
39 employment with a governmental employer electing or required to
40 pay contributions or nongovernmental employer, including a
41 nonprofit organization which is an employer as defined under
42 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
43 whether that nonprofit organization elects or is required to finance
44 its benefit costs with contributions to the fund or by payments in
45 lieu of contributions, after that employer has satisfied the conditions
46 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
47 an employer. No contributions, however, shall be made by the
48 worker while the worker is covered by an approved private plan

1 under the "Temporary Disability Benefits Law," P.L.1948, c.110
2 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
3 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
4 provided that the contributions shall be at the rate of 0.50% of
5 wages paid with respect to employment with the State of New
6 Jersey or any other governmental entity or instrumentality electing
7 or required to make payments in lieu of contributions and which is
8 covered by the State plan under the "Temporary Disability Benefits
9 Law," except that, while the worker is exempt from the provisions
10 of the "Temporary Disability Benefits Law" under section 7 of that
11 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
12 law, or is covered for disability benefits by an approved private plan
13 of the employer, no contributions shall be made to the fund.

14 Each worker shall, starting on January 1, 1996 and ending March
15 31, 1996, contribute to the unemployment compensation fund
16 0.60% of wages paid with respect to the worker's employment with
17 a governmental employer electing or required to pay contributions
18 or nongovernmental employer, including a nonprofit organization
19 which is an employer as defined under paragraph (6) of subsection
20 (h) of R.S.43:21-19, regardless of whether that nonprofit
21 organization elects or is required to finance its benefit costs with
22 contributions to the fund or by payments in lieu of contributions,
23 after that employer has satisfied the conditions set forth in
24 subsection (h) of R.S.43:21-19 with respect to becoming an
25 employer, provided that the contributions shall be at the rate of
26 0.10% of wages paid with respect to employment with the State of
27 New Jersey or any other governmental entity or instrumentality
28 electing or required to make payments in lieu of contributions.

29 Each worker shall, starting on January 1, 1998 and ending
30 December 31, 1998, contribute to the unemployment compensation
31 fund 0.10% of wages paid with respect to the worker's employment
32 with a governmental employer electing or required to pay
33 contributions or nongovernmental employer, including a nonprofit
34 organization which is an employer as defined under paragraph (6)
35 of subsection (h) of R.S.43:21-19, regardless of whether that
36 nonprofit organization elects or is required to finance its benefit
37 costs with contributions to the fund or by payments in lieu of
38 contributions, after that employer has satisfied the conditions set
39 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
40 employer, provided that the contributions shall be at the rate of
41 0.10% of wages paid with respect to employment with the State of
42 New Jersey or any other governmental entity or instrumentality
43 electing or required to make payments in lieu of contributions.

44 Each worker shall, starting on January 1, 1999 until December
45 31, 1999, contribute to the unemployment compensation fund
46 0.15% of wages paid with respect to the worker's employment with
47 a governmental employer electing or required to pay contributions
48 or nongovernmental employer, including a nonprofit organization

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

11 Each worker shall, starting on January 1, 2000 until December
12 31, 2001, contribute to the unemployment compensation fund
13 0.20% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 2002 until June 30,
27 2004, contribute to the unemployment compensation fund 0.1825%
28 of wages paid with respect to the worker's employment with a
29 governmental employer electing or required to pay contributions or
30 a nongovernmental employer, including a nonprofit organization
31 which is an employer as defined under paragraph (6) of subsection
32 (h) of R.S.43:21-19, regardless of whether that nonprofit
33 organization elects or is required to finance its benefit costs with
34 contributions to the fund or by payments in lieu of contributions,
35 after that employer has satisfied the conditions set forth in
36 subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.0825% of wages paid with respect to employment with the State
39 of New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on and after July 1, 2004, contribute
42 to the unemployment compensation fund 0.3825% of wages paid
43 with respect to the worker's employment with a governmental
44 employer electing or required to pay contributions or
45 nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,
2 after that employer has satisfied the conditions set forth in
3 subsection (h) of R.S.43:21-19 with respect to becoming an
4 employer, provided that the contributions shall be at the rate of
5 0.0825% of wages paid with respect to employment with the State
6 of New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 (E) Each employer shall, notwithstanding any provision of law
9 in this State to the contrary, withhold in trust the amount of his
10 workers' contributions from their wages at the time such wages are
11 paid, shall show such deduction on his payroll records, shall furnish
12 such evidence thereof to his workers as the division or controller
13 may prescribe, and shall transmit all such contributions, in addition
14 to his own contributions, to the office of the controller in such
15 manner and at such times as may be prescribed. If any employer
16 fails to deduct the contributions of any of his workers at the time
17 their wages are paid, or fails to make a deduction therefor at the
18 time wages are paid for the next succeeding payroll period, he alone
19 shall thereafter be liable for such contributions, and for the purpose
20 of R.S.43:21-14, such contributions shall be treated as employer's
21 contributions required from him.

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

25 (G) (i) Each worker shall, starting on July 1, 1994 and ending on
26 December 31, 2011, contribute to the State disability benefits fund
27 an amount equal to 0.50% of wages paid with respect to the
28 worker's employment with a government employer electing or
29 required to pay contributions to the State disability benefits fund or
30 nongovernmental employer, including a nonprofit organization
31 which is an employer as defined under paragraph (6) of subsection
32 (h) of R.S.43:21-19, unless the employer is covered by an approved
33 private disability plan or is exempt from the provisions of the
34 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
35 et al.) under section 7 of that law (C.43:21-31) or any other
36 provision of that law. Each worker, with respect to the worker's
37 employment with a government employer electing or required to
38 pay contributions to the State disability benefits fund or
39 nongovernmental employer, including a nonprofit organization
40 which is an employer as defined under paragraph (6) of subsection
41 (h) of R.S.43:21-19, unless the employer is covered by an approved
42 private disability plan or is exempt from the provisions of the
43 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
44 et al.) under section 7 of that law (C.43:21-31) or any other
45 provision of that law, shall, for calendar year 2012 and each
46 subsequent calendar year, make contributions to the State disability
47 benefits fund at the annual rate of contribution necessary to obtain a
48 total amount of contributions, which, when added to employer

1 contributions made to the State disability benefits fund pursuant to
2 subsection (e) of this section, is equal to 125% of the benefits paid
3 for periods of disability, excluding periods of family temporary
4 disability, during the immediately preceding calendar year plus an
5 amount equal to 100% of the cost of administration of the payment
6 of those benefits during the immediately preceding calendar year,
7 less the amount of net assets remaining in the State disability
8 benefits fund, excluding net assets remaining in the Family
9 Disability Leave Account of that fund, as of December 31 of the
10 immediately preceding year. The rates of employer contributions
11 determined pursuant to subsection (e) of this section for any year
12 shall be determined prior to the determination of the rate of
13 employee contributions pursuant to this subparagraph (i) and any
14 consideration of employee contributions in determining employer
15 rates for any year shall be based on amounts of employee
16 contributions made prior to the year to which the rate of employee
17 contributions applies and shall not be based on any projection or
18 estimate of the amount of employee contributions for the year to
19 which that rate applies.

20 (ii) Each worker shall contribute to the State disability benefits
21 fund, in addition to any amount contributed pursuant to
22 subparagraph (i) of this paragraph (1)(G), an amount equal to,
23 during calendar year 2009, 0.09%, and during calendar year 2010
24 0.12%, of wages paid with respect to the worker's employment with
25 any covered employer, including a governmental employer which is
26 an employer as defined under R.S.43:21-19(h)(5), unless the
27 employer is covered by an approved private disability plan for
28 benefits during periods of family temporary disability leave. The
29 contributions made pursuant to this subparagraph (ii) to the State
30 disability benefits fund shall be deposited into an account of that
31 fund reserved for the payment of benefits during periods of family
32 temporary disability leave as defined in section 3 of the "Temporary
33 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
34 administration of those payments and shall not be used for any other
35 purpose. This account shall be known as the "Family Temporary
36 Disability Leave Account." For calendar year 2011 and each
37 subsequent calendar year, the annual rate of contribution to be paid
38 by workers pursuant to this subparagraph (ii) shall be the rate
39 necessary to obtain a total amount of contributions equal to 125% of
40 the benefits paid for periods of family temporary disability leave
41 during the immediately preceding calendar year plus an amount
42 equal to 100% of the cost of administration of the payment of those
43 benefits during the immediately preceding calendar year, less the
44 amount of net assets remaining in the account as of December 31 of
45 the immediately preceding year. Necessary administrative costs
46 shall include the cost of an outreach program to inform employees
47 of the availability of the benefits and the cost of issuing the reports
48 required or permitted pursuant to section 13 of P.L.2008, c.17

1 (C.43:21-39.4). No monies, other than the funds in the "Family
2 Temporary Disability Leave Account," shall be used for the
3 payment of benefits during periods of family temporary disability
4 leave or for the administration of those payments, with the sole
5 exception that, during calendar years 2008 and 2009, a total amount
6 not exceeding \$25 million may be transferred to that account from
7 the revenues received in the State disability benefits fund pursuant
8 to subparagraph (i) of this paragraph (1)(G) and be expended for
9 those payments and their administration, including the
10 administration of the collection of contributions made pursuant to
11 this subparagraph (ii) and any other necessary administrative costs.
12 Any amount transferred to the account pursuant to this
13 subparagraph (ii) shall be repaid during a period beginning not later
14 than January 1, 2011 and ending not later than December 31, 2015.
15 No monies, other than the funds in the "Family Temporary
16 Disability Leave Account," shall be used under any circumstances
17 after December 31, 2009, for the payment of benefits during periods
18 of family temporary disability leave or for the administration of
19 those payments, including for the administration of the collection of
20 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

28 (3) (A) If an employee receives wages from more than one
29 employer during any calendar year, and either the sum of his
30 contributions deposited in and credited to the State disability
31 benefits fund plus the amount of his contributions, if any, required
32 towards the costs of benefits under one or more approved private
33 plans under the provisions of section 9 of the "Temporary Disability
34 Benefits Law" (C.43:21-33) and deducted from his wages, or the
35 sum of such latter contributions, if the employee is covered during
36 such calendar year only by two or more private plans, exceeds an
37 amount equal to 1/2 of 1% of the "wages" determined in accordance
38 with the provisions of R.S.43:21-7(b)(3) during the calendar years
39 beginning on or after January 1, 1976 or, during calendar year 2012
40 or any subsequent calendar year, the total amount of his
41 contributions for the year exceeds the amount set by the annual rate
42 of contribution determined by the Commissioner of Labor and
43 Workforce Development pursuant to subparagraph (i) of
44 paragraph(1)(G) of this subsection (d), the employee shall be
45 entitled to a refund of the excess if he makes a claim to the
46 controller within two years after the end of the calendar year in
47 which the wages are received with respect to which the refund is
48 claimed and establishes his right to such refund. Such refund shall

1 be made by the controller from the State disability benefits fund. No
2 interest shall be allowed or paid with respect to any such refund.
3 The controller shall, in accordance with prescribed regulations,
4 determine the portion of the aggregate amount of such refunds made
5 during any calendar year which is applicable to private plans for
6 which deductions were made under section 9 of the "Temporary
7 Disability Benefits Law" (C.43:21-33) such determination to be
8 based upon the ratio of the amount of such wages exempt from
9 contributions to such fund, as provided in subparagraph (B) of
10 paragraph (1) of this subsection with respect to coverage under
11 private plans, to the total wages so exempt plus the amount of such
12 wages subject to contributions to the disability benefits fund, as
13 provided in subparagraph (G) of paragraph (1) of this subsection.
14 The controller shall, in accordance with prescribed regulations,
15 prorate the amount so determined among the applicable private
16 plans in the proportion that the wages covered by each plan bear to
17 the total private plan wages involved in such refunds, and shall
18 assess against and recover from the employer, or the insurer if the
19 insurer has indemnified the employer with respect thereto, the
20 amount so prorated. The provisions of R.S.43:21-14 with respect to
21 collection of employer contributions shall apply to such
22 assessments. The amount so recovered by the controller shall be
23 paid into the State disability benefits fund.

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

1 which deductions were made under section 9 of the "Temporary
2 Disability Benefits Law" (C.43:21-33), with that determination
3 based upon the ratio of the amount of such wages exempt from
4 contributions to the fund, as provided in paragraph (1)(B) of this
5 subsection (d) with respect to coverage under private plans, to the
6 total wages so exempt plus the amount of such wages subject to
7 contributions to the "Family Temporary Disability Leave Account"
8 of the State disability benefits fund, as provided in subparagraph (ii)
9 of paragraph (1)(G) of this subsection (d). The controller shall, in
10 accordance with prescribed regulations, prorate the amount so
11 determined among the applicable private plans in the proportion
12 that the wages covered by each plan bear to the total private plan
13 wages involved in such refunds, and shall assess against and
14 recover from the employer, or the insurer if the insurer has
15 indemnified the employer with respect thereto, the prorated amount.
16 The provisions of R.S.43:21-14 with respect to collection of
17 employer contributions shall apply to such assessments. The
18 amount so recovered by the controller shall be paid into the "Family
19 Temporary Disability Leave Account" of the State disability
20 benefits fund.

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

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

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

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

47 (1) Except as hereinafter provided, each employer shall, in
48 addition to the contributions required by subsections (a), (b), and

1 (c) of this section, contribute 1/2 of 1% of the wages paid by such
2 employer to workers with respect to employment unless he is not a
3 covered employer as defined in subsection (a) of section 3 of the
4 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
5 the rate for the State of New Jersey shall be 1/10 of 1% for the
6 calendar year 1980 and for the first six months of 1981. Prior to
7 July 1, 1981 and prior to July 1 each year thereafter, the controller
8 shall review the experience accumulated in the account of the State
9 of New Jersey and establish a rate for the next following fiscal year
10 which, in combination with worker contributions, will produce
11 sufficient revenue to keep the account in balance; except that the
12 rate so established shall not be less than 1/10 of 1%. Such
13 contributions shall become due and be paid by the employer to the
14 controller for the State disability benefits fund as established by
15 law, in accordance with such regulations as may be prescribed, and
16 shall not be deducted, in whole or in part, from the remuneration of
17 individuals in his employ. In the payment of any contributions, a
18 fractional part of a cent shall be disregarded unless it amounts to
19 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

1 commencement of such disability or by whom he was last
2 employed, if out of employment.

3 (C) The controller may prescribe regulations for the
4 establishment, maintenance, and dissolution of joint accounts by
5 two or more employers, and shall, in accordance with such
6 regulations and upon application by two or more employers to
7 establish such an account, or to merge their several individual
8 accounts in a joint account, maintain such joint account as if it
9 constituted a single employer's account.

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

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

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

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

26 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
27 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

28 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds 1
29 $\frac{1}{2}$ % of his average annual payroll.

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

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

40 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
41 1% of his average annual payroll;

42 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
43 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

44 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
45 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

46 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
47 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

1 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
2 1% of his average annual payroll.

3 (5) Determination of the preliminary rate as specified in
4 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
5 to the condition that it shall in no event be decreased by more than
6 1/10 of 1% of wages or increased by more than 2/10 of 1% of
7 wages from the preliminary rate determined for the preceding year
8 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever
9 shall have been applicable.

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

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

28 (i) If the percentage determined in accordance with
29 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
30 final employer rates shall be the preliminary rates determined as
31 provided in subparagraph (D) hereof, except that if the employer's
32 preliminary rate is determined as provided in subparagraph (D)(2)
33 or subparagraph (D)(3) hereof, the final employer rate shall be the
34 preliminary employer rate decreased by such percentage of excess
35 taken to the nearest 5/100 of 1%, but in no case shall such final rate
36 be less than 1/10 of 1%.

37 (ii) If the percentage determined in accordance with
38 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%
39 and is less than 1 1/4 of 1%, the final employer rates shall be the
40 preliminary employer rates.

41 (iii) If the percentage determined in accordance with
42 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
43 excess of 1/4 of 1%, the final employer rates shall be the
44 preliminary employer rates determined as provided in subparagraph
45 (D) hereof increased by the difference between 3/4 of 1% and such
46 percentage taken to the nearest 5/100 of 1%; provided, however,
47 that no such final rate shall be more than 1/4 of 1% in the case of an
48 employer whose preliminary rate is determined as provided in

1 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
2 employer whose preliminary rate is determined as provided in
3 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
4 3/4 of 1% in the case of an employer whose preliminary rate is
5 determined as provided in subparagraph (D)(4) hereof.

6 (iv) If the amount of the State disability benefits fund determined
7 as provided in subparagraph (E)(1) of this paragraph is equal to or
8 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case
9 of an employer whose preliminary rate is determined as provided in
10 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer
11 whose preliminary rate is determined as provided in subparagraph
12 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
13 employer whose preliminary rate is determined as provided in
14 subparagraph (D)(4) hereof. Notwithstanding any other provision of
15 law or any determination made by the controller with respect to any
16 12-month period commencing on July 1, 1970, the final rates for all
17 employers for the period beginning January 1, 1971, shall be as set
18 forth herein.

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

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

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

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

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

33

34 2. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
35 read as follows:

36 11. (a) If the division is furnished satisfactory evidence that a
37 majority of the employees covered by an approved private plan
38 have made election in writing to discontinue such plan, the division
39 shall withdraw its approval of such plan effective at the end of the
40 calendar quarter next succeeding that in which such evidence is
41 furnished. Upon receipt of a petition therefor signed by not less
42 than 10% of the employees covered by an approved private plan,
43 the division shall require the employer upon 30 days' written notice
44 to conduct an election by ballot in writing to determine whether or
45 not a majority of the employees covered by such private plan favor
46 discontinuance thereof; provided, that such election shall not be
47 required more often than once in any 12-month period.

1 (b) Unless sooner permitted, for cause, by the division, no
2 approved private plan shall be terminated by an employer, in whole
3 or in part, until at least 30 days after written notice of intention so
4 to do has been given by the employer to the division and after
5 notices are conspicuously posted so as reasonably to assure their
6 being seen, or after individual notices are given to the employees
7 concerned.

8 (c) The division may, after notice and hearing, withdraw its
9 approval of any approved private plan if it finds that there is danger
10 that the benefits accrued or to accrue will not be paid, that the
11 security for such payment is insufficient, or for other good cause
12 shown. No employer, and no union or association representing
13 employees, shall so administer or apply the provisions of an
14 approved private plan as to derive any profit therefrom. The
15 division may withdraw its approval from any private plan which is
16 administered or applied in violation of this provision.

17 (d) No termination of an approved private plan shall affect the
18 payment of benefits, in accordance with the provisions of the plan,
19 to employees whose period of disability commenced prior to the
20 date of termination. Employees who have ceased to be covered by
21 an approved private plan because of its termination shall, subject to
22 the limitations and restrictions of this act, become eligible forthwith
23 for benefits from the State Disability Benefits Fund for a period of
24 disability commencing after such cessation, and contributions with
25 respect to their wages shall immediately become payable as
26 otherwise provided by law. Any withdrawal of approval of a
27 private plan pursuant to this section shall be reviewable by writ of
28 certiorari or by such other procedure as may be provided by law.
29 With respect to a period of family temporary disability leave
30 immediately after the individual has a period of disability during the
31 individual's own disability, the period of disability is deemed, for
32 the purposes of determining whether the period of disability
33 commenced prior to the date of the termination, to have commenced
34 at the beginning of the period of disability during the individual's
35 own disability, not the period of family temporary disability leave.

36 (e) Anything in this act to the contrary notwithstanding, a
37 covered employer who, under an approved private plan, is
38 providing benefits at least equal to those required by the State plan,
39 may modify the benefits under the private plan so as to provide
40 benefits not less than the benefits required by the State plan.
41 Individuals covered under a private plan shall not be required to
42 contribute to the plan at a rate exceeding $\frac{3}{4}$ of 1% of the amount of
43 "wages" established for any calendar year under the provisions of
44 R.S.43:21-7(b) prior to January 1, 1975, and $\frac{1}{2}$ of 1% for calendar
45 years beginning on or after January 1, 1975 and before January 1,
46 2009. For a calendar year beginning on or after January 1, 2009
47 and before January 1, 2012: an employer providing a private plan
48 only for benefits for employees during their own disabilities may

1 require the employees to contribute to the plan at a rate not
2 exceeding 0.5% of the amount of "wages" established for the
3 calendar year under the provisions of R.S.43:21-7(b); an employer
4 providing a private plan only for benefits for employees during
5 periods of family temporary disability may require the individuals
6 covered by the private plan to contribute an amount not exceeding
7 the amount the individuals would pay pursuant to R.S.43:21-
8 7(d)(1)(G)(ii); an employer providing a private plan both for
9 benefits for employees during their own disabilities and for benefits
10 during periods of family temporary disability may require the
11 employees to contribute to the plan at a rate not exceeding 0.5% of
12 the amount of "wages" established for the calendar year under the
13 provisions of R.S.43:21-7(b) plus an additional amount not
14 exceeding the amount the individuals would pay pursuant to
15 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after
16 January 1, 2012: an employer providing a private plan only for
17 benefits for employees during their own disabilities may require the
18 employees to contribute to the plan at a rate not exceeding the
19 amount the individuals would pay pursuant to R.S.43:21-
20 7(d)(1)(G)(i); an employer providing a private plan only for
21 benefits for employees during periods of family temporary
22 disability may require the individuals covered by the private plan to
23 contribute an amount not exceeding the amount the individuals
24 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
25 providing a private plan both for benefits for employees during their
26 own disabilities and for benefits during periods of family temporary
27 disability may require the employees to contribute to the plan an
28 amount not exceeding the amount the individuals would pay
29 pursuant to R.S.43:21-7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(ii).
30 Notification of the proposed modification shall be given by the
31 employer to the division and to the individuals covered under the
32 plan.

33 (cf: P.L. 2008, c.17, s.4)

34

35 3. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill provides for annual adjustments in temporary disability
41 benefit contribution rates by employees commencing in calendar
42 year 2012.

43 The bill, for calendar year 2012 and each subsequent calendar
44 year, requires that a determination be made of the annual rate of
45 contribution to be paid by workers into the State disability benefits
46 fund, which shall be the rate which is sufficient, when added to
47 employer contributions, to obtain a total amount of contributions
48 equal to 125% of the benefits estimated by the commissioner to be

1 payable for family disability leave benefits during the calendar year
2 plus 100% of the amount estimated by the commissioner to be
3 necessary for the cost to administer the benefits, less the amount of
4 net assets remaining in the fund at the end of the immediately
5 preceding year. The bill also limits the rate of worker contributions
6 which may be charged under a private plan for disability benefits to
7 not higher than the rate of worker contributions into the State
8 disability benefits fund set pursuant to the bill.

9 These annual adjustments in the contribution rate are designed to
10 prevent excessive accumulations in the State disability benefits
11 fund. In past years, large surpluses in the fund have sometimes
12 resulted in the diversion of significant amounts of monies from the
13 fund to the General Fund. Since 1994, \$748 million has been
14 diverted from the fund, with the most recent diversion occurring in
15 the current fiscal year. If, as has occurred during most years, total
16 contributions paid into the fund substantially exceed total benefits
17 paid out of the fund, the provisions of this bill would cause a
18 reduction in tax rate for workers.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2609

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2011

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 2609.

This bill provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

As amended by the committee, the bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by workers into the State disability benefits fund, which shall be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110% of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year, less the amount of net assets remaining in the fund at the end of the immediately preceding calendar year. The bill also limits the rate of worker contributions which may be charged under a private plan for disability benefits to not higher than the rate of worker contributions into the State disability benefits fund set pursuant to the bill.

These annual adjustments in the contribution rate are designed to prevent excessive accumulations in the State disability benefits fund. In past years, large surpluses in the fund have sometimes resulted in the diversion of significant amounts of monies from the fund to the General Fund. Since 1994, \$773 million has been diverted from the fund, with the most recent diversion occurring in the current fiscal year. If, as has occurred during most years, total contributions paid into the fund substantially exceed total benefits paid out of the fund, the provisions of this bill would cause a reduction in tax rate for workers.

The amendments adopted by the committee provide that the employee contribution rate be set at a level such that the total amount of combined employee and employer contributions equal 110% of the benefits estimated for the coming year, instead of the amount proposed in the bill as introduced, of 125% of the estimated benefits and 100% percent of estimated administrative costs. This reduction of the goal of

total contributions from 125% to 110% of estimated benefits takes into consideration that annual increases in total benefits are almost always much lower than 10%, having averaged 2.4% in the last 20 years. The provision to assess 100% of administrative costs was deleted because an assessment for the cost of administering the temporary disability benefits program is already provided for in another section of the law, N.J.S.A.43:21-46.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2609

STATE OF NEW JERSEY

DATED: MARCH 3, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2609 (1R).

This bill provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by workers into the State disability benefits fund, which shall be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110% of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year, less the amount of net assets remaining in the fund at the end of the immediately preceding calendar year. The bill also limits the rate of worker contributions which may be charged under a private plan for disability benefits to not higher than the rate of worker contributions into the State disability benefits fund set pursuant to the bill.

These annual adjustments in the contribution rate are designed to prevent excessive accumulations in the State disability benefits fund. Since 1994, \$773 million has been transferred from the fund to the General Fund as State revenue, with the most recent diversion occurring in the current fiscal year. If, as has occurred during most years, total contributions paid into the fund substantially exceed total benefits paid out of the fund, the provisions of this bill would cause a reduction in tax rate for workers.

FISCAL IMPACT:

This bill may result in decreased revenue collected from the employees' tax for the State Disability Benefits Fund (SDBF). The decreased revenue should not adversely impact the ability of the SBDF to meet its obligations to fund benefits for persons in New Jersey.

As noted in the below chart, annual growth of benefits has averaged 2.6 percent since 1994, while annual growth of the tax has increased 3.1 percent per year since 1994. This discrepancy has resulted in enough surplus funds to permit over \$773 million in

diversions from the SDBF to the General Fund during this period. If instead, the employee tax is adjusted to equal, when added to the employer tax, 110 percent of the assumed benefits each year, minus the surplus, it is reasonable to conclude that, upon implementation, employees will receive a reduced tax rate. However, it is not possible to determine the exact amount of the rate reduction, or reduced revenue to the SBDF.

	Employer TDI Tax in \$ millions	Worker TDI Tax in \$ millions	Total TDI Tax in \$ millions	Annual growth of tax	Total TDI Benefits in \$ millions	Annual growth of benefits	Diversions in \$ millions
1994	\$179.4	\$172.4	\$351.8	9.6%	\$320.8	8.4%	\$0.0
1995	\$167.8	\$192.4	\$360.2	2.4%	\$325.5	1.5%	\$0.0
1996	\$165.0	\$196.6	\$361.6	0.4%	\$325.6	0.0%	\$221.6
1997	\$155.8	\$206.6	\$362.4	0.2%	\$325.0	-0.2%	\$28.4
1998	\$137.3	\$215.2	\$352.5	-2.7%	\$338.2	4.1%	\$0.0
1999	\$144.3	\$234.3	\$378.6	7.4%	\$351.5	3.9%	\$0.0
2000	\$162.8	\$252.7	\$415.5	9.7%	\$394.9	12.3%	\$0.0
2001	\$178.1	\$250.9	\$429.0	3.2%	\$411.7	4.3%	\$0.0
2002	\$183.9	\$275.1	\$459.0	7.0%	\$427.2	3.8%	\$83.0
2003	\$186.1	\$269.6	\$455.7	-0.7%	\$434.2	1.6%	\$0.0
2004	\$191.2	\$283.3	\$474.5	4.1%	\$454.1	4.6%	\$30.0
2005	\$199.5	\$293.4	\$492.9	3.9%	\$453.5	-0.1%	\$20.0
2006	\$213.6	\$313.0	\$526.6	6.8%	\$460.0	1.4%	\$90.0
2007	\$218.9	\$317.7	\$536.6	1.9%	\$475.1	3.3%	\$50.0
2008	\$220.4	\$329.5	\$549.9	2.5%	\$472.0	-0.7%	\$75.0
2009	\$204.5	\$305.8	\$510.3	-7.2%	\$445.7	-5.6%	\$50.0
2010	\$212.6	\$317.8	\$530.4	3.9%	\$452.4	1.5%	\$125.0
Total or average	\$3,121.2	\$4,426.3	\$7,547.5	3.1%	\$6,867.4	2.6%	\$773.0

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2609

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: MARCH 4, 2011

SUMMARY

- Synopsis:** Provides for annual adjustments in worker taxes paid into the State Disability Benefits Fund.
- Type of Impact:** Possible revenue decrease, State Disability Benefits Fund
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Revenue Decrease			
State Disability Benefits Fund			Indeterminate – See comments below

- This bill provides for annual adjustments in temporary disability benefit contribution rates by employees into the State Disability Benefits Fund (SDBF) commencing in calendar year 2012. The new rate will be that which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year, less the amount of net assets remaining in the fund at the end of the immediately preceding calendar year. The rate will be established annually by the Commissioner of the Department of Labor and Workforce Development.
- The bill may result in decreased revenue collected from the employees' tax dedicated to the SDBF. However, the decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund disability benefits for persons in New Jersey.
- If, as has occurred during most years, total contributions paid into the SDBF exceed total benefits paid out of the fund, the provisions of this bill may cause a reduction in the employees' tax rate.

BILL DESCRIPTION

Senate Bill No. 2609 (1R) of 2011 provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

Currently, the SDBF is funded by two revenue sources, a 0.5 percent wage tax paid by employees and an experience rating tax applied to wages paid by employers.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by employees into the SDBF, which will be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year, less the amount of net assets remaining in the fund at the end of the immediately preceding calendar year. The bill also limits the rate of employee contributions which may be charged under a private plan for disability benefits to not higher than the rate of employee contributions to the SDBF set pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Senate Bill No. 2609 (1R) of 2011 may result in decreased revenue collected from the employees' tax for the SDBF. The decreased revenue should not adversely impact the ability of the SBDF to meet its obligations to fund benefits for persons in New Jersey.

As one will note in the below chart, annual growth of benefits has averaged 2.6 percent since 1994, while annual growth of the tax has increased 3.1 percent per year since 1994. This discrepancy has resulted in enough surplus funds to permit over \$773 million in diversions during this period. If instead, the employee tax is adjusted to equal, when added to the employer tax, 110 percent of the assumed benefits each year, minus the surplus, it is reasonable to conclude that, upon implementation, employees will receive a reduced tax rate. However, it is not possible to determine the exact amount of the rate reduction, or reduced revenue to the SBDF.

	Employer TDI Tax in \$ millions	Worker TDI Tax in \$ millions	Total TDI Tax in \$ millions	Annual growth of tax	Total TDI Benefits in \$ millions	Annual growth of benefits	Diversions in \$ millions
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Total or average	\$3,121.2	\$4,426.3	\$7,547.5	3.1%	\$6,867.4	2.6%	\$773.0

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate 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.).

STATEMENT TO
[First Reprint]
SENATE, No. 2609

with Senate Floor Amendments
(Proposed by Senator TURNER)

ADOPTED: MARCH 21, 2011

These Senate amendments provide that the employee contribution rate for temporary disability insurance (TDI) be set at a level such that the total amount of combined employee and employer TDI contributions equal, in addition to the amount provided in the bill of 110% of the TDI benefits estimated for the coming year, a further amount equal to 100% percent of estimated TDI administrative costs (less any surplus funds from the previous year). This is needed because, while another section of the TDI law, N.J.S.A.43:21-46, credits a portion of TDI funds into an account reserved for TDI administrative costs, it makes no adjustment in the total amount of TDI funds collected to cover administrative costs.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2609

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: MAY 3, 2011

SUMMARY

- Synopsis:** Provides for annual adjustments in worker taxes paid into the State Disability Benefits Fund.
- Type of Impact:** Possible revenue decrease, State Disability Benefits Fund
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Revenue Decrease			
State Disability Benefits Fund		Indeterminate - See comments below	

- This bill provides for annual adjustments in temporary disability benefit contribution rates by employees into the State Disability Benefits Fund (SDBF) commencing in calendar year 2012. The new rate will be that which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits in the upcoming year, plus an amount equal to 100 percent of the costs to administer those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The rate will be established annually by the Commissioner of the Department of Labor and Workforce Development.
- The bill may result in decreased revenue collected from the employees' tax dedicated to the SDBF. However, the decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund disability benefits for persons in New Jersey.
- If, as has occurred during most years, total contributions paid into the SDBF exceed total benefits paid out of the fund, the provisions of this bill may cause a reduction in the employees' tax rate.

BILL DESCRIPTION

Senate Bill No. 2609 (2R) of 2011 provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

Currently, the SDBF is funded by two revenue sources, a 0.5 percent wage tax paid by employees and an experience rating tax applied to wages paid by employers.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made by the Commissioner of the Department of Labor and Workforce Development of the annual rate of contribution to be paid by employees into the SDBF. The rate will equal that which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 110 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the next calendar year, plus an amount equal to 100 percent of the cost of the administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The bill also limits the rate of employee contributions which may be charged under a private plan for disability benefits to not higher than the rate of employee contributions to the SDBF set pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Senate Bill No. 2609 (2R) of 2011 may result in decreased revenue collected from the employees' tax for the SDBF. The decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund benefits for persons in New Jersey.

As one will note in the below chart, annual growth of benefits has averaged 2.6 percent since 1994, while annual growth of revenue collected from the tax has increased 3.1 percent per year since 1994. This discrepancy has resulted in enough surplus funds to permit over \$773 million in diversions during this period. If instead, the employee tax is adjusted to equal, when added to the employer tax, 110 percent of the assumed benefits each year, plus 100 percent of the administrative costs, minus the surplus, it is reasonable to conclude that, upon implementation, employees will receive a reduced tax rate. However, it is not possible to determine the exact amount of the rate reduction, or reduced revenue to the SDBF.

	Employer TDI Tax in \$ millions	Worker TDI Tax in \$ millions	Total TDI Tax in \$ millions	Annual growth of tax	Total TDI Benefits in \$ millions	Annual growth of benefits	Diversions in \$ millions
1994	\$179.4	\$172.4	\$351.8	9.6%	\$320.8	8.4%	\$0.0
1995	\$167.8	\$192.4	\$360.2	2.4%	\$325.5	1.5%	\$0.0
1996	\$165.0	\$196.6	\$361.6	0.4%	\$325.6	0.0%	\$221.6
1997	\$155.8	\$206.6	\$362.4	0.2%	\$325.0	-0.2%	\$28.4
1998	\$137.3	\$215.2	\$352.5	-2.7%	\$338.2	4.1%	\$0.0
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2009	\$204.5	\$305.8	\$510.3	-7.2%	\$445.7	-5.6%	\$50.0
2010	\$212.6	\$317.8	\$530.4	3.9%	\$452.4	1.5%	\$125.0
Total or average	\$3,121.2	\$4,426.3	\$7,547.5	3.1%	\$6,867.4	2.6%	\$773.0

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.).

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2609

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2011

The Assembly Labor Committee reports favorably and with committee amendments Senate Bill No. 2609(2R).

This bill provides for annual adjustments in temporary disability insurance (TDI) contribution rates by employees commencing in calendar year 2012.

As amended, the bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by workers into the State disability benefits fund, which shall be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120% of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year, in addition to an amount equal to 100% of estimated TDI administrative costs, less the amount of net assets remaining in the fund at the end of the immediately preceding calendar year. The bill also limits the rate of worker contributions which may be charged under a private plan for disability benefits to not higher than the rate of worker contributions into the State disability benefits fund set pursuant to the bill.

These annual adjustments in the contribution rate are designed to prevent excessive accumulations in the State disability benefits fund. In past years, large surpluses in the fund have sometimes resulted in the diversion of significant amounts of monies from the fund to the General Fund. Since 1994, \$773 million has been diverted from the fund, with the most recent diversion occurring in the current fiscal year. If, as has occurred during most years, total contributions paid into the fund substantially exceed total benefits paid out of the fund, the provisions of this bill would cause a reduction in the tax rate for workers.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that the employee contribution rate be set at a level such that the total amount of

combined employee and employer contributions equal 120% of the benefits estimated for the coming year plus 100% of the amount estimated by the commissioner to be necessary for the cost to administer the benefits (less any surplus funds from the previous year), instead of 110% of the estimated benefits and 100% of estimated administrative costs, as is provided in the current version of the bill. These amendments make this bill identical to Assembly Bill No. 3792 (1R), released by the Assembly Labor Committee on May 5, 2011.

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2609

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: MAY 16, 2011

SUMMARY

- Synopsis:** Provides for annual adjustments in worker taxes paid into the State disability benefits fund.
- Type of Impact:** Possible revenue decrease, State disability benefits fund
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Revenue Decrease			
State disability benefits fund	Indeterminate	Indeterminate	Indeterminate

- This bill provides for annual adjustments in temporary disability benefit contribution rates by employees into the State disability benefits fund (SDBF) commencing in calendar year 2012. The new rate will be that which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits in the upcoming year, plus an amount equal to 100 percent of the costs to administer those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The rate will be established annually by the Commissioner of Labor and Workforce Development.
- The bill may result in decreased revenue collected from the employees' tax dedicated to the SDBF. However, the decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund disability benefits for persons in New Jersey. If, as has occurred during most years, total contributions paid into the SDBF exceed total benefits paid out of the fund, the provisions of this bill may cause a reduction in the employees' tax rate.

BILL DESCRIPTION

Senate Bill No. 2609 (3R) of 2011 provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

Currently, the SDBF is funded by two revenue sources, a 0.5 percent wage tax paid by employees and an experience rating tax applied to wages paid by employers.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made by the Commissioner of Labor and Workforce Development of the annual rate of contribution to be paid by employees into the SDBF. The rate will equal that amount which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the next calendar year, plus an amount equal to 100 percent of the cost of the administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The bill also limits the rate of employee contributions which may be charged under a private plan for disability benefits to not higher than the rate of employee contributions to the SDBF set pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Senate Bill No. 2609 (3R) of 2011 may result in decreased revenue collected from the employees' tax for the SDBF. The decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund benefits for persons in New Jersey.

As one will note in the below chart, annual growth of benefits has averaged 2.6 percent since 1994, while annual growth of revenue collected from the tax has increased 3.1 percent per year since 1994. This discrepancy has resulted in enough surplus funds to permit over \$773 million in diversions during this period. If instead, the employee tax is adjusted to equal, when added to the employer tax, 120 percent of the estimated benefits each year, plus 100 percent of the administrative costs, minus the surplus, it is reasonable to conclude that, upon implementation, employees will receive a reduced tax rate. However, it is not possible to determine the exact amount of the rate reduction, or reduced revenue to the SDBF.

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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.).

ASSEMBLY, No. 3792

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 10, 2011

Sponsored by:

Assemblyman MATTHEW W. MILAM

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides for annual adjustments in worker taxes paid into the State disability benefits fund.

CURRENT VERSION OF TEXT

As introduced.



A3792 MILAM

2

1 AN ACT concerning contributions by employees into the State
2 disability benefits fund and amending R.S.43:21-7 and P.L.1948,
3 c.110.

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

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

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

20 (a) Payment.

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

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

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

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

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

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

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

33 (c) Future rates based on benefit experience.

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

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

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

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

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

36 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2
37 8/10%, except as otherwise provided in the following provisions.
38 No employer's rate for the 12 months commencing July 1 of any
39 calendar year shall be other than 2 8/10%, unless as of the
40 preceding January 31 such employer shall have paid contributions
41 with respect to wages paid in each of the three calendar years
42 immediately preceding such year, in which case such employer's
43 rate for the 12 months commencing July 1 of any calendar year
44 shall be determined on the basis of his record up to the beginning of
45 such calendar year. If, at the beginning of such calendar year, the
46 total of all his contributions, paid on his own behalf, for all past
47 years exceeds the total benefits charged to his account for all such
48 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, the new employer rate or the unemployment
36 experience rate of an employer under this section shall be the rate
37 which appears in the column headed by the Unemployment Trust
38 Fund Reserve Ratio as of the applicable calculation date and on the
39 line with the Employer Reserve Ratio, as defined in paragraph (4)
40 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
41 table:

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1	EXPERIENCE RATING TAX TABLE					
2	Fund Reserve Ratio ¹					
3	1.40%	1.00%	0.75%	0.50%	0.49%	
4	and	to	to	to	and	
5	Over	1.39%	0.99%	0.74%	Under	
6	Ratio ²	A	B	C	D	E
7	Positive Reserve Ratio:					
8	17% and over	0.3	0.4	0.5	0.6	1.2
9	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
10	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
11	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
12	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
13	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
14	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
15	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
16	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
17	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
18	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
19	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
20	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
21	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
22	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
23	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
24	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
25	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
26	Deficit Reserve Ratio:					
27	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
28	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
29	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
30	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
31	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
32	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
33	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
34	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
35	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
36	-35.00% and under	5.4	5.4	5.8	6.4	7.0
37	New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

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

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

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

44 (iii) With respect to experience rating years beginning on or after
45 July 1, 2004, if the fund reserve ratio, based on the fund balance as
46 of the prior March 31, is less than 0.50%, the contribution rate for
47 each employer liable to pay contributions, as computed under
48 subparagraph (E) of this paragraph (5), shall be increased by a

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

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

14 (H) On and after January 1, 1998 until December 31, 2000 and
15 on or after January 1, 2002 until June 30, 2006, the contribution rate
16 for each employer liable to pay contributions, as computed under
17 subparagraph (E) of this paragraph (5), shall be decreased by a
18 factor, as set out below, computed to the nearest multiple of 1/10%,
19 except that, if an employer has a deficit reserve ratio of negative
20 35.0% or under, the employer's rate of contribution shall not be
21 reduced pursuant to this subparagraph (H) to less than 5.4%:

22 From January 1, 1998 until December 31, 1998, a factor of 12%;
23 From January 1, 1999 until December 31, 1999, a factor of 10%;
24 From January 1, 2000 until December 31, 2000, a factor of 7%;
25 From January 1, 2002 until March 31, 2002, a factor of 36%;
26 From April 1, 2002 until June 30, 2002, a factor of 85%;
27 From July 1, 2002 until June 30, 2003, a factor of 15%;
28 From July 1, 2003 until June 30, 2004, a factor of 15%;
29 From July 1, 2004 until June 30, 2005, a factor of 7%;
30 From July 1, 2005 until December 31, 2005, a factor of 16%; and
31 From January 1, 2006 until June 30, 2006, a factor of 34%.

32 The amount of the reduction in the employer contributions
33 stipulated by this subparagraph (H) shall be in addition to the
34 amount of the reduction in the employer contributions stipulated by
35 subparagraph (G) of this paragraph (5), except that the rate of
36 contribution of an employer who has a deficit reserve ratio of
37 negative 35.0% or under shall not be reduced pursuant to this
38 subparagraph (H) to less than 5.4% and the rate of contribution of
39 any other employer shall not be reduced to less than 0.0%.

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

41 (J) On or after July 1, 2001, notwithstanding any other
42 provisions of this paragraph (5), the contribution rate for each
43 employer liable to pay contributions, as computed under
44 subparagraph (E) of this paragraph (5), shall be decreased by
45 0.0175%, except that, during any experience rating year starting on
46 or after July 1, 2001, in which the fund reserve ratio is equal to or
47 greater than 3.5%, there shall be no decrease pursuant to this
48 subparagraph (J) in the contribution of any employer who has a

1 deficit reserve ratio of negative 35.00% or under. The amount of the
2 reduction in the employer contributions stipulated by this
3 subparagraph (J) shall be in addition to the amount of the reduction
4 in the employer contributions stipulated by subparagraphs (G) and
5 (H) of this paragraph (5), except that the rate of contribution of an
6 employer who has a deficit reserve ratio of negative 35.0% or under
7 shall not be reduced pursuant to this subparagraph (J) to less than
8 5.4% and the rate of contribution of any other employer shall not be
9 reduced to less than 0.0%.

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

13 (i) Equal to or greater than 5.00% but less than 7.5%, the
14 contribution rate for each employer liable to pay contributions, as
15 computed under subparagraph (E) of this paragraph (5), shall be
16 reduced by a factor of 25% computed to the nearest multiple of
17 1/10% if not already a multiple thereof except that there shall be no
18 decrease pursuant to this subparagraph (K) in the contribution of
19 any employer who has a deficit reserve ratio of 35.00% or under ;

20 (ii) Equal to or greater than 7.5% but less than 10.0%, the
21 contribution rate for each employer liable to pay contributions, as
22 computed under subparagraph (E) of this paragraph (5), shall be
23 reduced by a factor of 50% computed to the nearest multiple of
24 1/10% if not already a multiple thereof except that there shall be no
25 decrease pursuant to this subparagraph (K) in the contribution of
26 any employer who has a deficit reserve ratio of 35.00% or under.

27 (L) Notwithstanding any other provision of this paragraph (5)
28 and notwithstanding the actual fund reserve ratio, the contribution
29 rate for employers liable to pay contributions, as computed under
30 subparagraph (E) of this paragraph (5), shall be, for fiscal year
31 2011, the rates set by column "C" of the table in that subparagraph.

32 (6) Additional contributions.

33 Notwithstanding any other provision of law, any employer who
34 has been assigned a contribution rate pursuant to subsection (c) of
35 this section for the year commencing July 1, 1948, and for any year
36 commencing July 1 thereafter, may voluntarily make payment of
37 additional contributions, and upon such payment shall receive a
38 recomputation of the experience rate applicable to such employer,
39 including in the calculation the additional contribution so made,
40 except that, following a transfer as described under R.S.43:21-
41 7(c)(7)(D), neither the predecessor nor successor in interest shall be
42 eligible to make a voluntary payment of additional contributions
43 during the year the transfer occurs and the next full calendar year.
44 Any such additional contribution shall be made during the 30-day
45 period following the date of the mailing to the employer of the
46 notice of his contribution rate as prescribed in this section, unless,
47 for good cause, the time for payment has been extended by the
48 controller for not to exceed an additional 60 days; provided that in

1 no event may such payments which are made later than 120 days
2 after the beginning of the year for which such rates are effective be
3 considered in determining the experience rate for the year in which
4 the payment is made. Any employer receiving any extended period
5 of time within which to make such additional payment and failing
6 to make such payment timely shall be, in addition to the required
7 amount of additional payment, liable for a penalty of 5% thereof or
8 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
9 under this subsection shall be made only in the form of credits
10 against accrued or future contributions.

11 (7) Transfers.

12 (A) Upon the transfer of the organization, trade or business, or
13 substantially all the assets of an employer to a successor in interest,
14 whether by merger, consolidation, sale, transfer, descent or
15 otherwise, the controller shall transfer the employment experience
16 of the predecessor employer to the successor in interest, including
17 credit for past years, contributions paid, annual payrolls, benefit
18 charges, et cetera, applicable to such predecessor employer,
19 pursuant to regulation, if it is determined that the employment
20 experience of the predecessor employer with respect to the
21 organization, trade, assets or business which has been transferred
22 may be considered indicative of the future employment experience
23 of the successor in interest. The successor in interest may, within
24 four months of the date of such transfer of the organization, trade,
25 assets or business, or thereafter upon good cause shown, request a
26 reconsideration of the transfer of employment experience of the
27 predecessor employer. The request for reconsideration shall
28 demonstrate, to the satisfaction of the controller, that the
29 employment experience of the predecessor is not indicative of the
30 future employment experience of the successor.

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

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

11 (D) If an employer transfers in whole or in part his or its
12 organization, trade, assets or business to a successor in interest,
13 whether by merger, consolidation, sale, transfer, descent or
14 otherwise and both the employer and successor in interest are at the
15 time of the transfer under common ownership, management or
16 control, then the employment experience attributable to the
17 transferred business shall also be transferred to and combined with
18 the employment experience of the successor in interest. The transfer
19 of the employment experience is mandatory and not subject to
20 appeal or protest.

21 (E) The transfer of part of an employer's employment experience
22 to a successor in interest shall become effective as of the first day of
23 the calendar quarter following the acquisition by the successor in
24 interest. As of the effective date, the successor in interest shall have
25 its employer rate recalculated by merging its existing employment
26 experience, if any, with the employment experience acquired. If the
27 successor in interest is not an employer as of the date of acquisition,
28 it shall be assigned the new employer rate until the effective date of
29 the transfer of employment experience.

30 (F) Upon the transfer in whole or in part of the organization,
31 trade, assets or business to a successor in interest, the employment
32 experience shall not be transferred if the successor in interest is not
33 an employer at the time of the acquisition and the controller finds
34 that the successor in interest acquired the business solely or
35 primarily for the purpose of obtaining a lower rate of contributions.

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

38 (1) (A) For periods after January 1, 1975, each worker shall
39 contribute to the fund 1% of his wages with respect to his
40 employment with an employer, which occurs on and after January
41 1, 1975, after such employer has satisfied the condition set forth in
42 subsection (h) of R.S.43:21-19 with respect to becoming an
43 employer; provided, however, that such contributions shall be at the
44 rate of 1/2 of 1% of wages paid with respect to employment while
45 the worker is in the employ of the State of New Jersey, or any
46 governmental entity or instrumentality which is an employer as
47 defined under R.S.43:21-19(h)(5), or is covered by an approved
48 private plan under the "Temporary Disability Benefits Law" or

1 while the worker is exempt from the provisions of the "Temporary
2 Disability Benefits Law" under section 7 of that law, P.L.1948,
3 c.110 (C.43:21-31).

4 (B) Effective January 1, 1978 there shall be no contributions by
5 workers in the employ of any governmental or nongovernmental
6 employer electing or required to make payments in lieu of
7 contributions unless the employer is covered by the State plan under
8 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
9 that case contributions shall be at the rate of 1/2 of 1%, except that
10 commencing July 1, 1986, workers in the employ of any
11 nongovernmental employer electing or required to make payments
12 in lieu of contributions shall be required to make contributions to
13 the fund at the same rate prescribed for workers of other
14 nongovernmental employers.

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

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

42 (D) Notwithstanding any other provisions of this paragraph (1),
43 during the period starting January 1, 1993 and ending June 30,
44 1994, each worker shall contribute to the unemployment
45 compensation fund 0.5% of wages paid with respect to the worker's
46 employment with a governmental employer electing or required to
47 pay contributions or nongovernmental employer, including a
48 nonprofit organization which is an employer as defined under

1 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
2 whether that nonprofit organization elects or is required to finance
3 its benefit costs with contributions to the fund or by payments in
4 lieu of contributions, after that employer has satisfied the conditions
5 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
6 an employer. No contributions, however, shall be made by the
7 worker while the worker is covered by an approved private plan
8 under the "Temporary Disability Benefits Law," P.L.1948, c.110
9 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
10 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
11 provided that the contributions shall be at the rate of 0.50% of
12 wages paid with respect to employment with the State of New
13 Jersey or any other governmental entity or instrumentality electing
14 or required to make payments in lieu of contributions and which is
15 covered by the State plan under the "Temporary Disability Benefits
16 Law," except that, while the worker is exempt from the provisions
17 of the "Temporary Disability Benefits Law" under section 7 of that
18 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
19 law, or is covered for disability benefits by an approved private plan
20 of the employer, no contributions shall be made to the fund.

21 Each worker shall, starting on January 1, 1996 and ending March
22 31, 1996, contribute to the unemployment compensation fund
23 0.60% of wages paid with respect to the worker's employment with
24 a governmental employer electing or required to pay contributions
25 or 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 0.10% of wages paid with respect to employment with the State of
34 New Jersey or any other governmental entity or instrumentality
35 electing or required to make payments in lieu of contributions.

36 Each worker shall, starting on January 1, 1998 and ending
37 December 31, 1998, contribute to the unemployment compensation
38 fund 0.10% of wages paid with respect to the worker's employment
39 with a governmental employer electing or required to pay
40 contributions or nongovernmental employer, including a nonprofit
41 organization which is an employer as defined under paragraph (6)
42 of subsection (h) of R.S.43:21-19, 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 (h) of R.S.43:21-19 with respect to becoming an
47 employer, provided that the contributions shall be at the rate of
48 0.10% of wages paid with respect to employment with the State of

1 New Jersey or any other governmental entity or instrumentality
2 electing or required to make payments in lieu of contributions.

3 Each worker shall, starting on January 1, 1999 until December
4 31, 1999, contribute to the unemployment compensation fund
5 0.15% of wages paid with respect to the worker's employment with
6 a governmental employer electing or required to pay contributions
7 or nongovernmental employer, including a nonprofit organization
8 which is an employer as defined under paragraph (6) of subsection
9 (h) of R.S.43:21-19, regardless of whether that nonprofit
10 organization elects or is required to finance its benefit costs with
11 contributions to the fund or by payments in lieu of contributions,
12 after that employer has satisfied the conditions set forth in
13 subsection (h) of R.S.43:21-19 with respect to becoming an
14 employer, provided that the contributions shall be at the rate of
15 0.10% of wages paid with respect to employment with the State of
16 New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

18 Each worker shall, starting on January 1, 2000 until December
19 31, 2001, contribute to the unemployment compensation fund
20 0.20% of wages paid with respect to the worker's employment with
21 a governmental employer electing or required to pay contributions
22 or nongovernmental employer, including a nonprofit organization
23 which is an employer as defined under paragraph (6) of subsection
24 (h) of R.S.43:21-19, regardless of whether that nonprofit
25 organization elects or is required to finance its benefit costs with
26 contributions to the fund or by payments in lieu of contributions,
27 after that employer has satisfied the conditions set forth in
28 subsection (h) of R.S.43:21-19 with respect to becoming an
29 employer, provided that the contributions shall be at the rate of
30 0.10% of wages paid with respect to employment with the State of
31 New Jersey or any other governmental entity or instrumentality
32 electing or required to make payments in lieu of contributions.

33 Each worker shall, starting on January 1, 2002 until June 30,
34 2004, contribute to the unemployment compensation fund 0.1825%
35 of wages paid with respect to the worker's employment with a
36 governmental employer electing or required to pay contributions or
37 a nongovernmental employer, including a nonprofit organization
38 which is an employer as defined under paragraph (6) of subsection
39 (h) of R.S.43:21-19, regardless of whether that nonprofit
40 organization elects or is required to finance its benefit costs with
41 contributions to the fund or by payments in lieu of contributions,
42 after that employer has satisfied the conditions set forth in
43 subsection (h) of R.S.43:21-19 with respect to becoming an
44 employer, provided that the contributions shall be at the rate of
45 0.0825% of wages paid with respect to employment with the State
46 of New Jersey or any other governmental entity or instrumentality
47 electing or required to make payments in lieu of contributions.

1 Each worker shall, starting on and after July 1, 2004, contribute
2 to the unemployment compensation fund 0.3825% of wages paid
3 with respect to the worker's employment with a governmental
4 employer electing or required to pay contributions or
5 nongovernmental employer, including a nonprofit organization
6 which is an employer as defined under paragraph (6) of subsection
7 (h) of R.S.43:21-19, regardless of whether that nonprofit
8 organization elects or is required to finance its benefit costs with
9 contributions to the fund or by payments in lieu of contributions,
10 after that employer has satisfied the conditions set forth in
11 subsection (h) of R.S.43:21-19 with respect to becoming an
12 employer, provided that the contributions shall be at the rate of
13 0.0825% of wages paid with respect to employment with the State
14 of New Jersey or any other governmental entity or instrumentality
15 electing or required to make payments in lieu of contributions.

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

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

33 (G) (i) Each worker shall, starting on July 1, 1994 and ending on
34 December 31, 2011, contribute to the State disability benefits fund
35 an amount equal to 0.50% of wages paid with respect to the
36 worker's employment with a government employer electing or
37 required to pay contributions to the State disability benefits fund or
38 nongovernmental employer, including a nonprofit organization
39 which is an employer as defined under paragraph (6) of subsection
40 (h) of R.S.43:21-19, unless the employer is covered by an approved
41 private disability plan or is exempt from the provisions of the
42 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
43 et al.) under section 7 of that law (C.43:21-31) or any other
44 provision of that law. Each worker, with respect to the worker's
45 employment with a government employer electing or required to
46 pay contributions to the State disability benefits fund or
47 nongovernmental employer, including a nonprofit organization
48 which is an employer as defined under paragraph (6) of subsection

1 (h) of R.S.43:21-19, unless the employer is covered by an approved
2 private disability plan or is exempt from the provisions of the
3 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
4 et al.) under section 7 of that law (C.43:21-31) or any other
5 provision of that law, shall, for calendar year 2012 and each
6 subsequent calendar year, make contributions to the State disability
7 benefits fund at the annual rate of contribution necessary to obtain a
8 total amount of contributions, which, when added to employer
9 contributions made to the State disability benefits fund pursuant to
10 subsection (e) of this section, is equal to 125% of the benefits paid
11 for periods of disability, excluding periods of family temporary
12 disability, during the immediately preceding calendar year plus an
13 amount equal to 100% of the cost of administration of the payment
14 of those benefits during the immediately preceding calendar year,
15 less the amount of net assets remaining in the State disability
16 benefits fund, excluding net assets remaining in the Family
17 Disability Leave Account of that fund, as of December 31 of the
18 immediately preceding year. The rates of employer contributions
19 determined pursuant to subsection (e) of this section for any year
20 shall be determined prior to the determination of the rate of
21 employee contributions pursuant to this subparagraph (i) and any
22 consideration of employee contributions in determining employer
23 rates for any year shall be based on amounts of employee
24 contributions made prior to the year to which the rate of employee
25 contributions applies and shall not be based on any projection or
26 estimate of the amount of employee contributions for the year to
27 which that rate applies.

28 (ii) Each worker shall contribute to the State disability benefits
29 fund, in addition to any amount contributed pursuant to
30 subparagraph (i) of this paragraph (1)(G), an amount equal to,
31 during calendar year 2009, 0.09%, and during calendar year 2010
32 0.12%, of wages paid with respect to the worker's employment with
33 any covered employer, including a governmental employer which is
34 an employer as defined under R.S.43:21-19(h)(5), unless the
35 employer is covered by an approved private disability plan for
36 benefits during periods of family temporary disability leave. The
37 contributions made pursuant to this subparagraph (ii) to the State
38 disability benefits fund shall be deposited into an account of that
39 fund reserved for the payment of benefits during periods of family
40 temporary disability leave as defined in section 3 of the "Temporary
41 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
42 administration of those payments and shall not be used for any other
43 purpose. This account shall be known as the "Family Temporary
44 Disability Leave Account." For calendar year 2011 and each
45 subsequent calendar year, the annual rate of contribution to be paid
46 by workers pursuant to this subparagraph (ii) shall be the rate
47 necessary to obtain a total amount of contributions equal to 125% of
48 the benefits paid for periods of family temporary disability leave

1 during the immediately preceding calendar year plus an amount
2 equal to 100% of the cost of administration of the payment of those
3 benefits during the immediately preceding calendar year, less the
4 amount of net assets remaining in the account as of December 31 of
5 the immediately preceding year. Necessary administrative costs
6 shall include the cost of an outreach program to inform employees
7 of the availability of the benefits and the cost of issuing the reports
8 required or permitted pursuant to section 13 of P.L.2008, c.17
9 (C.43:21-39.4). No monies, other than the funds in the "Family
10 Temporary Disability Leave Account," shall be used for the
11 payment of benefits during periods of family temporary disability
12 leave or for the administration of those payments, with the sole
13 exception that, during calendar years 2008 and 2009, a total amount
14 not exceeding \$25 million may be transferred to that account from
15 the revenues received in the State disability benefits fund pursuant
16 to subparagraph (i) of this paragraph (1)(G) and be expended for
17 those payments and their administration, including the
18 administration of the collection of contributions made pursuant to
19 this subparagraph (ii) and any other necessary administrative costs.
20 Any amount transferred to the account pursuant to this
21 subparagraph (ii) shall be repaid during a period beginning not later
22 than January 1, 2011 and ending not later than December 31, 2015.
23 No monies, other than the funds in the "Family Temporary
24 Disability Leave Account," shall be used under any circumstances
25 after December 31, 2009, for the payment of benefits during periods
26 of family temporary disability leave or for the administration of
27 those payments, including for the administration of the collection of
28 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

36 (3) (A) If an employee receives wages from more than one
37 employer during any calendar year, and either the sum of his
38 contributions deposited in and credited to the State disability
39 benefits fund plus the amount of his contributions, if any, required
40 towards the costs of benefits under one or more approved private
41 plans under the provisions of section 9 of the "Temporary Disability
42 Benefits Law" (C.43:21-33) and deducted from his wages, or the
43 sum of such latter contributions, if the employee is covered during
44 such calendar year only by two or more private plans, exceeds an
45 amount equal to 1/2 of 1% of the "wages" determined in accordance
46 with the provisions of R.S.43:21-7(b)(3) during the calendar years
47 beginning on or after January 1, 1976 or, during calendar year 2012
48 or any subsequent calendar year, the total amount of his

1 contributions for the year exceeds the amount set by the annual rate
2 of contribution determined by the Commissioner of Labor and
3 Workforce Development pursuant to subparagraph (i) of
4 paragraph(1)(G) of this subsection (d), the employee shall be
5 entitled to a refund of the excess if he makes a claim to the
6 controller within two years after the end of the calendar year in
7 which the wages are received with respect to which the refund is
8 claimed and establishes his right to such refund. Such refund shall
9 be made by the controller from the State disability benefits fund. No
10 interest shall be allowed or paid with respect to any such refund.
11 The controller shall, in accordance with prescribed regulations,
12 determine the portion of the aggregate amount of such refunds made
13 during any calendar year which is applicable to private plans for
14 which deductions were made under section 9 of the "Temporary
15 Disability Benefits Law" (C.43:21-33) such determination to be
16 based upon the ratio of the amount of such wages exempt from
17 contributions to such fund, as provided in subparagraph (B) of
18 paragraph (1) of this subsection with respect to coverage under
19 private plans, to the total wages so exempt plus the amount of such
20 wages subject to contributions to the disability benefits fund, as
21 provided in subparagraph (G) of paragraph (1) of this subsection.
22 The controller shall, in accordance with prescribed regulations,
23 prorate the amount so determined among the applicable private
24 plans in the proportion that the wages covered by each plan bear to
25 the total private plan wages involved in such refunds, and shall
26 assess against and recover from the employer, or the insurer if the
27 insurer has indemnified the employer with respect thereto, the
28 amount so prorated. The provisions of R.S.43:21-14 with respect to
29 collection of employer contributions shall apply to such
30 assessments. The amount so recovered by the controller shall be
31 paid into the State disability benefits fund.

32 (B) If an employee receives wages from more than one employer
33 during any calendar year, and the sum of his contributions deposited
34 in the "Family Temporary Disability Leave Account" of the State
35 disability benefits fund plus the amount of his contributions, if any,
36 required towards the costs of family temporary disability leave
37 benefits under one or more approved private plans under the
38 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
39 et al.) and deducted from his wages, exceeds an amount equal to,
40 during calendar year 2009, 0.09% of the "wages" determined in
41 accordance with the provisions of R.S.43:21-7(b)(3), or during
42 calendar year 2010, 0.12% of those wages, or, during calendar year
43 2011 or any subsequent calendar year, the percentage of those
44 wages set by the annual rate of contribution determined by the
45 Commissioner of Labor and Workforce Development pursuant to
46 subparagraph (ii) of paragraph(1)(G) of this subsection (d), the
47 employee shall be entitled to a refund of the excess if he makes a
48 claim to the controller within two years after the end of the calendar

1 year in which the wages are received with respect to which the
2 refund is claimed and establishes his right to the refund. The refund
3 shall be made by the controller from the "Family Temporary
4 Disability Leave Account" of the State disability benefits fund. No
5 interest shall be allowed or paid with respect to any such refund.
6 The controller shall, in accordance with prescribed regulations,
7 determine the portion of the aggregate amount of the refunds made
8 during any calendar year which is applicable to private plans for
9 which deductions were made under section 9 of the "Temporary
10 Disability Benefits Law" (C.43:21-33), with that determination
11 based upon the ratio of the amount of such wages exempt from
12 contributions to the fund, as provided in paragraph (1)(B) of this
13 subsection (d) with respect to coverage under private plans, to the
14 total wages so exempt plus the amount of such wages subject to
15 contributions to the "Family Temporary Disability Leave Account"
16 of the State disability benefits fund, as provided in subparagraph (ii)
17 of paragraph (1)(G) of this subsection (d). The controller shall, in
18 accordance with prescribed regulations, prorate the amount so
19 determined among the applicable private plans in the proportion
20 that the wages covered by each plan bear to the total private plan
21 wages involved in such refunds, and shall assess against and
22 recover from the employer, or the insurer if the insurer has
23 indemnified the employer with respect thereto, the prorated amount.
24 The provisions of R.S.43:21-14 with respect to collection of
25 employer contributions shall apply to such assessments. The
26 amount so recovered by the controller shall be paid into the "Family
27 Temporary Disability Leave Account" of the State disability
28 benefits fund.

29 (4) If an individual does not receive any wages from the
30 employing unit which for the purposes of this chapter (R.S.43:21-1
31 et seq.) is treated as his employer, or receives his wages from some
32 other employing unit, such employer shall nevertheless be liable for
33 such individual's contributions in the first instance; and after
34 payment thereof such employer may deduct the amount of such
35 contributions from any sums payable by him to such employing
36 unit, or may recover the amount of such contributions from such
37 employing unit, or, in the absence of such an employing unit, from
38 such individual, in a civil action; provided proceedings therefor are
39 instituted within three months after the date on which such
40 contributions are payable. General rules shall be prescribed
41 whereby such an employing unit may recover the amount of such
42 contributions from such individuals in the same manner as if it were
43 the employer.

44 (5) Every employer who has elected to become an employer
45 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
46 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
47 the provisions of R.S.43:21-8, shall post and maintain printed
48 notices of such election on his premises, of such design, in such

1 numbers, and at such places as the director may determine to be
2 necessary to give notice thereof to persons in his service.

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

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

7 (1) Except as hereinafter provided, each employer shall, in
8 addition to the contributions required by subsections (a), (b), and
9 (c) of this section, contribute 1/2 of 1% of the wages paid by such
10 employer to workers with respect to employment unless he is not a
11 covered employer as defined in subsection (a) of section 3 of the
12 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
13 the rate for the State of New Jersey shall be 1/10 of 1% for the
14 calendar year 1980 and for the first six months of 1981. Prior to
15 July 1, 1981 and prior to July 1 each year thereafter, the controller
16 shall review the experience accumulated in the account of the State
17 of New Jersey and establish a rate for the next following fiscal year
18 which, in combination with worker contributions, will produce
19 sufficient revenue to keep the account in balance; except that the
20 rate so established shall not be less than 1/10 of 1%. Such
21 contributions shall become due and be paid by the employer to the
22 controller for the State disability benefits fund as established by
23 law, in accordance with such regulations as may be prescribed, and
24 shall not be deducted, in whole or in part, from the remuneration of
25 individuals in his employ. In the payment of any contributions, a
26 fractional part of a cent shall be disregarded unless it amounts to
27 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

36 (B) A separate disability benefits account shall be maintained for
37 each employer required to contribute to the State disability benefits
38 fund and such account shall be credited with contributions
39 deposited in and credited to such fund with respect to employment
40 occurring on and after January 1, 1949. Each employer's account
41 shall be credited with all contributions paid on or before January 31
42 of any calendar year on his own behalf and on behalf of individuals
43 in his service with respect to employment occurring in preceding
44 calendar years; provided, however, that if January 31 of any
45 calendar year falls on a Saturday or Sunday an employer's account
46 shall be credited as of January 31 of such calendar year with all the
47 contributions which he has paid on or before the next succeeding
48 day which is not a Saturday or Sunday. But nothing in this act shall

1 be construed to grant any employer or individuals in his service
2 prior claims or rights to the amounts paid by him to the fund either
3 on his own behalf or on behalf of such individuals. Benefits paid to
4 any covered individual in accordance with Article III of the
5 "Temporary Disability Benefits Law" on or before December 31 of
6 any calendar year with respect to disability in such calendar year
7 and in preceding calendar years shall be charged against the account
8 of the employer by whom such individual was employed at the
9 commencement of such disability or by whom he was last
10 employed, if out of employment.

11 (C) The controller may prescribe regulations for the
12 establishment, maintenance, and dissolution of joint accounts by
13 two or more employers, and shall, in accordance with such
14 regulations and upon application by two or more employers to
15 establish such an account, or to merge their several individual
16 accounts in a joint account, maintain such joint account as if it
17 constituted a single employer's account.

18 (D) Prior to July 1 of each calendar year, the controller shall
19 make a preliminary determination of the rate of contribution for the
20 12 months commencing on such July 1 for each employer subject to
21 the contribution requirements of this subsection (e).

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

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

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

34 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
35 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

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

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

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

- 1 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
2 1% of his average annual payroll;
- 3 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
4 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;
- 5 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
6 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;
- 7 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
8 3/4 of 1% but is less than 1% of his average annual payroll;
- 9 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
10 1% of his average annual payroll.

11 (5) Determination of the preliminary rate as specified in
12 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
13 to the condition that it shall in no event be decreased by more than
14 1/10 of 1% of wages or increased by more than 2/10 of 1% of
15 wages from the preliminary rate determined for the preceding year
16 in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever
17 shall have been applicable.

18 (E) (1) Prior to July 1 of each calendar year the controller shall
19 determine the amount of the State disability benefits fund as of
20 December 31 of the preceding calendar year, increased by the
21 contributions paid thereto during January of the current calendar
22 year with respect to employment occurring in the preceding
23 calendar year. If such amount exceeds the net amount withdrawn
24 from the unemployment trust fund pursuant to section 23 of the
25 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
26 plus the amount at the end of such preceding calendar year of the
27 unemployment disability account as defined in section 22 of said
28 law (C.43:21-46), such excess shall be expressed as a percentage of
29 the wages on which contributions were paid to the State disability
30 benefits fund on or before January 31 with respect to employment
31 in the preceding calendar year.

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

36 (i) If the percentage determined in accordance with
37 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
38 final employer rates shall be the preliminary rates determined as
39 provided in subparagraph (D) hereof, except that if the employer's
40 preliminary rate is determined as provided in subparagraph (D)(2)
41 or subparagraph (D)(3) hereof, the final employer rate shall be the
42 preliminary employer rate decreased by such percentage of excess
43 taken to the nearest 5/100 of 1%, but in no case shall such final rate
44 be less than 1/10 of 1%.

45 (ii) If the percentage determined in accordance with
46 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%
47 and is less than 1 1/4 of 1%, the final employer rates shall be the
48 preliminary employer rates.

1 (iii) If the percentage determined in accordance with
2 subparagraph (E)(1) of this paragraph is less than $\frac{3}{4}$ of 1%, but in
3 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the
4 preliminary employer rates determined as provided in subparagraph
5 (D) hereof increased by the difference between $\frac{3}{4}$ of 1% and such
6 percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
7 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case of an
8 employer whose preliminary rate is determined as provided in
9 subparagraph (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
10 employer whose preliminary rate is determined as provided in
11 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
12 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
13 determined as provided in subparagraph (D)(4) hereof.

14 (iv) If the amount of the State disability benefits fund determined
15 as provided in subparagraph (E)(1) of this paragraph is equal to or
16 less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case
17 of an employer whose preliminary rate is determined as provided in
18 subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer
19 whose preliminary rate is determined as provided in subparagraph
20 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
21 employer whose preliminary rate is determined as provided in
22 subparagraph (D)(4) hereof. Notwithstanding any other provision of
23 law or any determination made by the controller with respect to any
24 12-month period commencing on July 1, 1970, the final rates for all
25 employers for the period beginning January 1, 1971, shall be as set
26 forth herein.

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

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

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

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

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

41

42 2. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
43 read as follows:

44 11. (a) If the division is furnished satisfactory evidence that a
45 majority of the employees covered by an approved private plan
46 have made election in writing to discontinue such plan, the division
47 shall withdraw its approval of such plan effective at the end of the
48 calendar quarter next succeeding that in which such evidence is

1 furnished. Upon receipt of a petition therefor signed by not less
2 than 10% of the employees covered by an approved private plan,
3 the division shall require the employer upon 30 days' written notice
4 to conduct an election by ballot in writing to determine whether or
5 not a majority of the employees covered by such private plan favor
6 discontinuance thereof; provided, that such election shall not be
7 required more often than once in any 12-month period.

8 (b) Unless sooner permitted, for cause, by the division, no
9 approved private plan shall be terminated by an employer, in whole
10 or in part, until at least 30 days after written notice of intention so
11 to do has been given by the employer to the division and after
12 notices are conspicuously posted so as reasonably to assure their
13 being seen, or after individual notices are given to the employees
14 concerned.

15 (c) The division may, after notice and hearing, withdraw its
16 approval of any approved private plan if it finds that there is danger
17 that the benefits accrued or to accrue will not be paid, that the
18 security for such payment is insufficient, or for other good cause
19 shown. No employer, and no union or association representing
20 employees, shall so administer or apply the provisions of an
21 approved private plan as to derive any profit therefrom. The
22 division may withdraw its approval from any private plan which is
23 administered or applied in violation of this provision.

24 (d) No termination of an approved private plan shall affect the
25 payment of benefits, in accordance with the provisions of the plan,
26 to employees whose period of disability commenced prior to the
27 date of termination. Employees who have ceased to be covered by
28 an approved private plan because of its termination shall, subject to
29 the limitations and restrictions of this act, become eligible forthwith
30 for benefits from the State Disability Benefits Fund for a period of
31 disability commencing after such cessation, and contributions with
32 respect to their wages shall immediately become payable as
33 otherwise provided by law. Any withdrawal of approval of a
34 private plan pursuant to this section shall be reviewable by writ of
35 certiorari or by such other procedure as may be provided by law.
36 With respect to a period of family temporary disability leave
37 immediately after the individual has a period of disability during the
38 individual's own disability, the period of disability is deemed, for
39 the purposes of determining whether the period of disability
40 commenced prior to the date of the termination, to have commenced
41 at the beginning of the period of disability during the individual's
42 own disability, not the period of family temporary disability leave.

43 (e) Anything in this act to the contrary notwithstanding, a
44 covered employer who, under an approved private plan, is
45 providing benefits at least equal to those required by the State plan,
46 may modify the benefits under the private plan so as to provide
47 benefits not less than the benefits required by the State plan.
48 Individuals covered under a private plan shall not be required to

1 contribute to the plan at a rate exceeding 3/4 of 1% of the amount of
2 "wages" established for any calendar year under the provisions of
3 R.S.43:21-7(b) prior to January 1, 1975, and 1/2 of 1% for calendar
4 years beginning on or after January 1, 1975 and before January 1,
5 2009. For a calendar year beginning on or after January 1, 2009
6 and before January 1, 2012: an employer providing a private plan
7 only for benefits for employees during their own disabilities may
8 require the employees to contribute to the plan at a rate not
9 exceeding 0.5% of the amount of "wages" established for the
10 calendar year under the provisions of R.S.43:21-7(b); an employer
11 providing a private plan only for benefits for employees during
12 periods of family temporary disability may require the individuals
13 covered by the private plan to contribute an amount not exceeding
14 the amount the individuals would pay pursuant to R.S.43:21-
15 7(d)(1)(G)(ii); an employer providing a private plan both for
16 benefits for employees during their own disabilities and for benefits
17 during periods of family temporary disability may require the
18 employees to contribute to the plan at a rate not exceeding 0.5% of
19 the amount of "wages" established for the calendar year under the
20 provisions of R.S.43:21-7(b) plus an additional amount not
21 exceeding the amount the individuals would pay pursuant to
22 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after
23 January 1, 2012: an employer providing a private plan only for
24 benefits for employees during their own disabilities may require the
25 employees to contribute to the plan at a rate not exceeding the
26 amount the individuals would pay pursuant to R.S.43:21-
27 7(d)(1)(G)(i); an employer providing a private plan only for
28 benefits for employees during periods of family temporary
29 disability may require the individuals covered by the private plan to
30 contribute an amount not exceeding the amount the individuals
31 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
32 providing a private plan both for benefits for employees during their
33 own disabilities and for benefits during periods of family temporary
34 disability may require the employees to contribute to the plan an
35 amount not exceeding the amount the individuals would pay
36 pursuant to R.S.43:21-7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(ii).
37 Notification of the proposed modification shall be given by the
38 employer to the division and to the individuals covered under the
39 plan.

40 (cf: P.L. 2008, c.17, s.4)

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42 3. This act shall take effect immediately.

STATEMENT

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This bill provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by workers into the State disability benefits fund, which shall be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 125% of the benefits estimated by the commissioner to be payable for family disability leave benefits during the calendar year plus 100% of the amount estimated by the commissioner to be necessary for the cost to administer the benefits, less the amount of net assets remaining in the fund at the end of the immediately preceding year. The bill also limits the rate of worker contributions which may be charged under a private plan for disability benefits to not higher than the rate of worker contributions into the State disability benefits fund set pursuant to the bill.

These annual adjustments in the contribution rate are designed to prevent excessive accumulations in the State disability benefits fund. In past years, large surpluses in the fund have sometimes resulted in the diversion of significant amounts of monies from the fund to the General Fund. Since 1994, \$748 million has been diverted from the fund, with the most recent diversion occurring in the current fiscal year. If, as has occurred during most years, total contributions paid into the fund substantially exceed total benefits paid out of the fund, the provisions of this bill would cause a reduction in tax rate for workers.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3792

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2011

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 3792.

This bill provides for annual adjustments in temporary disability insurance (TDI) contribution rates by employees commencing in calendar year 2012.

As amended, the bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made of the annual rate of contribution to be paid by workers into the State disability benefits fund, which shall be the rate which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120% of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the calendar year plus 100% of the amount estimated by the commissioner to be necessary for the cost to administer the benefits, less the amount of net assets remaining in the fund at the end of the immediately preceding year. The bill also limits the rate of worker contributions which may be charged under a private plan for disability benefits to not higher than the rate of worker contributions into the State disability benefits fund set pursuant to the bill.

These annual adjustments in the contribution rate are designed to prevent excessive accumulations in the State disability benefits fund. In past years, large surpluses in the fund have sometimes resulted in the diversion of significant amounts of monies from the fund to the General Fund. Since 1994, \$748 million has been diverted from the fund, with the most recent diversion occurring in the current fiscal year. If, as has occurred during most years, total contributions paid into the fund substantially exceed total benefits paid out of the fund, the provisions of this bill would cause a reduction in the tax rate for workers.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that the employee contribution rate be set at a level such that the total amount of combined employee and employer contributions equal 120% of the benefits estimated for the coming year plus 100% of the amount

estimated by the commissioner to be necessary for the cost to administer the benefits (less any surplus funds from the previous year), instead of 125% of the estimated benefits and 100% of estimated administrative costs, as is provided in the current version of the bill. These amendments make this bill identical to Senate Bill No. 2690 (3R), released by the Assembly Labor Committee on May 5, 2011.

MINORITY STATEMENT

by Assemblymen Dancer, Peterson and Webber

We applaud and support the intent of the measure. However, as currently written, this bill has no cap on the tax rate charged to employees, which ultimately could lead to higher TDI tax rates for employees than those they currently pay. It should include a cap. We also would prefer that the bill consider lowering tax rates on employers as a way to promote parity between the revenue sources for the TDI fund.

We cannot support the release of this bill because the proposal allows for future employee tax increases without additional action by the Legislature and fails to provide equivalent tax relief to employers.

The variable tax rate for employees this bill creates is unacceptable. While it is projected that this variable rate structure will result in lower rates in the short term, there is no protection against an automatic rate increase on employees in the future. The Legislature should not abdicate its responsibility in the law making process by enacting proposals that allow for automatic increases in tax rates in future years. If tax rates in New Jersey are to rise, then they should only do so as the direct result of action by the political branches—the Legislature and Executive.

Requiring the affirmative vote of the Legislature for tax increases promotes and enforces accountability for elected representatives. It is also an important incentive to lawmakers to closely monitor and adjust the level of funds entering the program and the benefits provided by it. A “hands-off-the-wheel” approach to tax rates leads to neglect, and ultimately, financial instability. Recent experience with New Jersey’s bankrupt unemployment insurance fund highlights the perils of the approach suggested by this bill.

We would support a measure that sets a ceiling on the tax rate paid by employees equal to what employees pay today, and otherwise allows the tax rate to float up or down below that fixed level depending on the health of the TDI fund. Short of that, we cannot support a bill that would raise taxes on New Jerseyans without a specific vote of their elected representatives.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3792

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: MAY 16, 2011

SUMMARY

- Synopsis:** Provides for annual adjustments in worker taxes paid into the State disability benefits fund.
- Type of Impact:** Possible revenue decrease, State disability benefits fund
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Revenue Decrease			
State disability benefits fund	Indeterminate	Indeterminate	Indeterminate

- This bill provides for annual adjustments in temporary disability benefit contribution rates by employees into the State disability benefits fund (SDBF) commencing in calendar year 2012. The new rate will be that which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits in the upcoming year, plus an amount equal to 100 percent of the costs to administer those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The rate will be established annually by the Commissioner of Labor and Workforce Development.
- The bill may result in decreased revenue collected from the employees' tax dedicated to the SDBF. However, the decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund disability benefits for persons in New Jersey.
- If, as has occurred during most years, total contributions paid into the SDBF exceed total benefits paid out of the fund, the provisions of this bill may cause a reduction in the employees' tax rate.

BILL DESCRIPTION

Assembly Bill No. 3792 (1R) of 2011 provides for annual adjustments in temporary disability benefit contribution rates by employees commencing in calendar year 2012.

Currently, the SDBF is funded by two revenue sources, a 0.5 percent wage tax paid by employees and an experience rating tax applied to wages paid by employers.

The bill, for calendar year 2012 and each subsequent calendar year, requires that a determination be made by the Commissioner of Labor and Workforce Development of the annual rate of contribution to be paid by employees into the SDBF. The rate will equal that amount which is sufficient, when added to employer contributions, to obtain a total amount of contributions equal to 120 percent of the benefits estimated by the commissioner to be payable for temporary disability leave benefits during the next calendar year, plus an amount equal to 100 percent of the cost of the administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the fund at the end of the preceding calendar year. The bill also limits the rate of employee contributions which may be charged under a private plan for disability benefits to not higher than the rate of employee contributions to the SDBF set pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Assembly Bill No. 3792 (1R) of 2011 may result in decreased revenue collected from the employees' tax for the SDBF. The decreased revenue should not adversely impact the ability of the SDBF to meet its obligations to fund benefits for persons in New Jersey.

As one will note in the below chart, annual growth of benefits has averaged 2.6 percent since 1994, while annual growth of revenue collected from the tax has increased 3.1 percent per year since 1994. This discrepancy has resulted in enough surplus funds to permit over \$773 million in diversions during this period. If instead, the employee tax is adjusted to equal, when added to the employer tax, 120 percent of the estimated benefits each year, plus 100 percent of the administrative costs, minus the surplus, it is reasonable to conclude that, upon implementation, employees will receive a reduced tax rate. However, it is not possible to determine the exact amount of the rate reduction, or reduced revenue to the SDBF.

	Employer TDI Tax in \$ millions	Worker TDI Tax in \$ millions	Total TDI Tax in \$ millions	Annual growth of tax	Total TDI Benefits in \$ millions	Annual growth of benefits	Diversions in \$ millions
1994	\$179.4	\$172.4	\$351.8	9.6%	\$320.8	8.4%	\$0.0
1995	\$167.8	\$192.4	\$360.2	2.4%	\$325.5	1.5%	\$0.0
1996	\$165.0	\$196.6	\$361.6	0.4%	\$325.6	0.0%	\$221.6
1997	\$155.8	\$206.6	\$362.4	0.2%	\$325.0	-0.2%	\$28.4
1998	\$137.3	\$215.2	\$352.5	-2.7%	\$338.2	4.1%	\$0.0
1999	\$144.3	\$234.3	\$378.6	7.4%	\$351.5	3.9%	\$0.0
2000	\$162.8	\$252.7	\$415.5	9.7%	\$394.9	12.3%	\$0.0
2001	\$178.1	\$250.9	\$429.0	3.2%	\$411.7	4.3%	\$0.0
2002	\$183.9	\$275.1	\$459.0	7.0%	\$427.2	3.8%	\$83.0
2003	\$186.1	\$269.6	\$455.7	-0.7%	\$434.2	1.6%	\$0.0
2004	\$191.2	\$283.3	\$474.5	4.1%	\$454.1	4.6%	\$30.0
2005	\$199.5	\$293.4	\$492.9	3.9%	\$453.5	-0.1%	\$20.0
2006	\$213.6	\$313.0	\$526.6	6.8%	\$460.0	1.4%	\$90.0
2007	\$218.9	\$317.7	\$536.6	1.9%	\$475.1	3.3%	\$50.0
2008	\$220.4	\$329.5	\$549.9	2.5%	\$472.0	-0.7%	\$75.0
2009	\$204.5	\$305.8	\$510.3	-7.2%	\$445.7	-5.6%	\$50.0
2010	\$212.6	\$317.8	\$530.4	3.9%	\$452.4	1.5%	\$125.0
Total or average	\$3,121.2	\$4,426.3	\$7,547.5	3.1%	\$6,867.4	2.6%	\$773.0

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.).

Governor Christie Signs Legislation to Responsibly Reduce Tax Burden on New Jersey Workers

Tuesday, July 5, 2011 Tags: [Bill Action](#)

Trenton, NJ – Acting again on his commitment to reduce taxes for hardworking New Jerseyans, Governor Chris Christie signed legislation on Friday July 1, 2011 that provides for reductions in worker taxes paid into the State disability benefits fund, lowering the amount of payroll taxes deducted from many New Jerseyans' paychecks. The bill, S-2609/A-3792 (Turner, Madden/Milam), revises the methodology for funding the State's temporary disability benefits system by replacing the current flat tax rate of one-half of one percent (0.5%) on each worker's taxable wage base. This revised funding system takes effect on January 1, 2012 and will result in a payroll tax reduction for New Jersey workers covered under either the State temporary disability benefits plan or an approved private plan. The move responsibly decreases the overall tax burden on New Jersey residents without jeopardizing the health of the Temporary Disability Fund (TDI).

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Governor Christie also signed the following bills into law:

MS
8/6

S-483 w/GR/A-3295 (Lesniak/Coutinho, Quigley, Wagner, Watson Coleman)
– Expands availability of general development plan approvals and long-term vesting of preliminary and final site plan approvals in Smart Growth areas

MS
8/1

S-2580/A-3794 (Turner, Madden, Greenstein/DeAngelo, Barnes, Gusciora) – Requires specific instructions for workers filing unemployment insurance claims

Press Contact:
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