

43:21-7

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2010 **CHAPTER:** 37

NJSA: 43:21-7 (Reduces employer unemployment taxes during fiscal year 2011)

BILL NO: S1813 (Substituted for A2624)

SPONSOR(S) Madden and others

DATE INTRODUCED: March 16, 2010

COMMITTEE: **ASSEMBLY:** ---

SENATE: Labor

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2010

SENATE: June 28, 2010

DATE OF APPROVAL: July 1, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S1813

SPONSOR'S STATEMENT: (Begins on page 24 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

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: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A2624

SPONSOR'S STATEMENT: (Begins on page 24 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

VETO MESSAGE: Yes

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Public hearing before Senate Labor Committee [and] Assembly Labor Committee : testimony regarding the fiscal condition of the state Unemployment Insurance Trust Fund and related issues : [March 18, 2010, Trenton, New Jersey]/hearing transcribed by the Office of Legislative Services, Public Information Office, Hearing Unit. Trenton, N.J. 2010. <http://www.njstatelib.org/digit/u55/u552010.pdf>

LAW/KR

[First Reprint]

SENATE, No. 1813

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 16, 2010

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOSEPH V. EGAN

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District 35 (Bergen and Passaic)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

**Senator Norcross, Assemblyman Diegnan, Assemblywoman Quijano,
Assemblyman Coughlin, Assemblywoman Watson Coleman, Assemblymen
Wisniewski and Fuentes**

SYNOPSIS

Reduces employer unemployment taxes during fiscal year 2011.

CURRENT VERSION OF TEXT

As amended on June 28, 2010 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 5/21/2010)

1 AN ACT reducing employer unemployment taxes and amending
2 R.S.43:21-7.

3

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

6

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

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

19 (a) Payment.

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

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

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

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

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

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 amendments adopted in accordance with Governor's recommendations

June 28, 2010.

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 [Federal Unemployment Tax
28 Act, Chapter 23 of the] Internal Revenue Code of 1986 (26 U.S.C.
29 s.3306(b)), the wages as determined in this paragraph in any
30 calendar year shall be raised to equal the amount established under
31 the "Federal Unemployment Tax Act," chapter 23 of the Internal
32 Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar
33 year.

34 (c) Future rates based on benefit experience.

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

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

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

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

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

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

1 years exceeds the total benefits charged to his account for all such
2 years, his contribution rate shall be:

3 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
4 5%, of his average annual payroll (as defined in paragraph (2),
5 subsection (a) of R.S.43:21-19);

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

8 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
9 than 7%, of his average annual payroll;

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

12 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
13 than 9%, of his average annual payroll;

14 (6) 1%, if such excess equals or exceeds 9%, but is less than
15 10%, of his average annual payroll;

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

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

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

24 (1) 4%, if such excess is less than 10% of his average annual
25 payroll;

26 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
27 than 20%, of his average annual payroll;

28 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
29 average annual payroll.

30 (C) Specially assigned rates.

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

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

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

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

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

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

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

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

43 (B) If on March 31 of any calendar year the balance in the
44 unemployment trust fund equals or exceeds 10% but is less than $12\frac{1}{2}\%$
45 of the total taxable wages reported to the controller as of that
46 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 Reserve Ratio, which shall be
29 calculated by dividing the balance of the unemployment trust fund
30 as of the prior March 31 by total taxable wages reported to the
31 controller by all employers as of March 31 with respect to their
32 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:

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

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

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

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

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

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under 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 **[(1)] (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 ;

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

28 (L) Notwithstanding any other provision of this paragraph (5)
29 and notwithstanding the actual fund reserve ratio, the contribution
30 rate for employers liable to pay contributions, as computed under
31 subparagraph (E) of this paragraph (5), shall be, for fiscal year
32 2011, the rates set by column "C" of the table in that subparagraph.

33 (6) Additional contributions.

34 Notwithstanding any other provision of law, any employer who
35 has been assigned a contribution rate pursuant to subsection (c) of
36 this section for the year commencing July 1, 1948, and for any year
37 commencing July 1 thereafter, may voluntarily make payment of
38 additional contributions, and upon such payment shall receive a
39 recomputation of the experience rate applicable to such employer,
40 including in the calculation the additional contribution so made,
41 except that, following a transfer as described under R.S.43:21-
42 7(c)(7)(D), neither the predecessor nor successor in interest shall be
43 eligible to make a voluntary payment of additional contributions
44 during the year the transfer occurs and the next full calendar year.
45 Any such additional contribution shall be made during the 30-day
46 period following the date of the mailing to the employer of the
47 notice of his contribution rate as prescribed in this section, unless,
48 for good cause, the time for payment has been extended by the

1 controller for not to exceed an additional 60 days; provided that in
2 no event may such payments which are made later than 120 days
3 after the beginning of the year for which such rates are effective be
4 considered in determining the experience rate for the year in which
5 the payment is made. Any employer receiving any extended period
6 of time within which to make such additional payment and failing
7 to make such payment timely shall be, in addition to the required
8 amount of additional payment, liable for a penalty of 5% thereof or
9 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
10 under this subsection shall be made only in the form of credits
11 against accrued or future contributions.

12 (7) Transfers.

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

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

1 employer with respect to that part of the organization, trade, assets
2 or business transferred.

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

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

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

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

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

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

1 defined under R.S.43:21-19(h)(5), or is covered by an approved
2 private plan under the "Temporary Disability Benefits Law" or
3 while the worker is exempt from the provisions of the "Temporary
4 Disability Benefits Law" under section 7 of that law, P.L.1948,
5 c.110 (C.43:21-31).

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

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

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

44 (D) Notwithstanding any other provisions of this paragraph (1),
45 during the period starting January 1, 1993 and ending June 30,
46 1994, each worker shall contribute to the unemployment
47 compensation fund 0.5% of wages paid with respect to the worker's
48 employment with a governmental employer electing or required to

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

23 Each worker shall, starting on January 1, 1996 and ending March
24 31, 1996, contribute to the unemployment compensation fund
25 0.60% of wages paid with respect to the worker's employment with
26 a governmental employer electing or required to pay contributions
27 or nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.10% of wages paid with respect to employment with the State of
36 New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

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

1 employer, provided that the contributions shall be at the rate of
2 0.10% of wages paid with respect to employment with the State of
3 New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

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

20 Each worker shall, starting on January 1, 2000 until December
21 31, 2001, contribute to the unemployment compensation fund
22 0.20% 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, 2002 until June 30,
36 2004, contribute to the unemployment compensation fund 0.1825%
37 of wages paid with respect to the worker's employment with a
38 governmental employer electing or required to pay contributions or
39 a 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, regardless of whether that nonprofit
42 organization elects or is required to finance its benefit costs with
43 contributions to the fund or by payments in lieu of contributions,
44 after that employer has satisfied the conditions set forth in
45 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 0.0825% of wages paid with respect to employment with the State

1 of 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 and after July 1, 2004, contribute
4 to the unemployment compensation fund 0.3825% of wages paid
5 with respect to the worker's employment with a governmental
6 employer electing or required to pay contributions or
7 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 0.0825% of wages paid with respect to employment with the State
16 of New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

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

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

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

46 (ii) Each worker shall contribute to the State disability benefits
47 fund, in addition to any amount contributed pursuant to
48 subparagraph (i) of this paragraph (1)(G), an amount equal to,

1 during calendar year 2009, 0.09%, and during calendar year 2010
2 0.12%, of wages paid with respect to the worker's employment with
3 any covered employer, including a governmental employer which is
4 an employer as defined under R.S.43:21-19(h)(5), unless the
5 employer is covered by an approved private disability plan for
6 benefits during periods of family temporary disability leave. The
7 contributions made pursuant to this subparagraph (ii) to the State
8 disability benefits fund shall be deposited into an account of that
9 fund reserved for the payment of benefits during periods of family
10 temporary disability leave as defined in section 3 of the "Temporary
11 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
12 administration of those payments and shall not be used for any other
13 purpose. This account shall be known as the "Family Temporary
14 Disability Leave Account." For calendar year 2011 and each
15 subsequent calendar year, the annual rate of contribution to be paid
16 by workers pursuant to this subparagraph (ii) shall be the rate
17 necessary to obtain a total amount of contributions equal to 125% of
18 the benefits paid for periods of family temporary disability leave
19 during the immediately preceding calendar year plus an amount
20 equal to 100% of the cost of administration of the payment of those
21 benefits during the immediately preceding calendar year, less the
22 amount of net assets remaining in the account as of December 31
23 of the immediately preceding year. Necessary administrative costs
24 shall include the cost of an outreach program to inform employees
25 of the availability of the benefits and the cost of issuing the reports
26 required or permitted pursuant to section 13 of P.L.2008, c.17
27 (C.43:21-39.4). No monies, other than the funds in the "Family
28 Temporary Disability Leave Account," shall be used for the
29 payment of benefits during periods of family temporary disability
30 leave or for the administration of those payments, with the sole
31 exception that, during calendar years 2008 and 2009, a total amount
32 not exceeding \$25 million may be transferred to that account from
33 the revenues received in the State disability benefits fund pursuant
34 to subparagraph (i) of this paragraph (1)(G) and be expended for
35 those payments and their administration, including the
36 administration of the collection of contributions made pursuant to
37 this subparagraph (ii) and any other necessary administrative costs.
38 Any amount transferred to the account pursuant to this
39 subparagraph (ii) shall be repaid during a period beginning not later
40 than January 1, 2011 and ending not later than December 31, 2015.
41 No monies, other than the funds in the "Family Temporary
42 Disability Leave Account," shall be used under any circumstances
43 after December 31, 2009, for the payment of benefits during periods
44 of family temporary disability leave or for the administration of
45 those payments, including for the administration of the collection of
46 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

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

45 (B) If an employee receives wages from more than one employer
46 during any calendar year, and the sum of his contributions deposited
47 in the "Family Temporary Disability Leave Account" of the State
48 disability benefits fund plus the amount of his contributions, if any,

1 required towards the costs of family temporary disability leave
2 benefits under one or more approved private plans under the
3 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
4 et [seq.] al.) and deducted from his wages, exceeds an amount
5 equal to, during calendar year 2009, 0.09% of the "wages"
6 determined in accordance with the provisions of R.S.43:21-7(b)(3),
7 or during calendar year 2010, 0.12% of those wages, or, during
8 calendar year 2011 or any subsequent calendar year, the percentage
9 of those wages set by the annual rate of contribution determined by
10 the Commissioner of Labor and Workforce Development pursuant
11 to subparagraph (ii) of paragraph(1)(G) of this subsection (d), the
12 employee shall be entitled to a refund of the excess if he makes a
13 claim to the controller within two years after the end of the calendar
14 year in which the wages are received with respect to which the
15 refund is claimed and establishes his right to the refund. The refund
16 shall be made by the controller from the "Family Temporary
17 Disability Leave Account" of the State disability benefits fund. No
18 interest shall be allowed or paid with respect to any such refund.
19 The controller shall, in accordance with prescribed regulations,
20 determine the portion of the aggregate amount of the refunds made
21 during any calendar year which is applicable to private plans for
22 which deductions were made under section 9 of the "Temporary
23 Disability Benefits Law" (C.43:21-33), with that determination
24 based upon the ratio of the amount of such wages exempt from
25 contributions to the fund, as provided in paragraph (1)(B) of this
26 subsection (d) with respect to coverage under private plans, to the
27 total wages so exempt plus the amount of such wages subject to
28 contributions to the "Family Temporary Disability Leave Account"
29 of the State disability benefits fund, as provided in subparagraph (ii)
30 of paragraph (1)(G) of this subsection (d). The controller shall, in
31 accordance with prescribed regulations, prorate the amount so
32 determined among the applicable private plans in the proportion
33 that the wages covered by each plan bear to the total private plan
34 wages involved in such refunds, and shall assess against and
35 recover from the employer, or the insurer if the insurer has
36 indemnified the employer with respect thereto, the prorated amount.
37 The provisions of R.S.43:21-14 with respect to collection of
38 employer contributions shall apply to such assessments. The
39 amount so recovered by the controller shall be paid into the "Family
40 Temporary Disability Leave Account" of the State disability
41 benefits fund.

42 (4) If an individual does not receive any wages from the
43 employing unit which for the purposes of this chapter (R.S.43:21-1
44 et [al.] seq.) is treated as his employer, or receives his wages from
45 some other employing unit, such employer shall nevertheless be
46 liable for such individual's contributions in the first instance; and
47 after payment thereof such employer may deduct the amount of
48 such contributions from any sums payable by him to such

1 employing unit, or may recover the amount of such contributions
2 from such employing unit, or, in the absence of such an employing
3 unit, from such individual, in a civil action; provided proceedings
4 therefor are instituted within three months after the date on which
5 such contributions are payable. General rules shall be prescribed
6 whereby such an employing unit may recover the amount of such
7 contributions from such individuals in the same manner as if it were
8 the employer.

9 (5) Every employer who has elected to become an employer
10 subject to this chapter (R.S.43:21-1 et [al.] seq.), or to cease to be
11 an employer subject to this chapter (R.S.43:21-1 et [al.] seq.),
12 pursuant to the provisions of R.S.43:21-8, shall post and maintain
13 printed notices of such election on his premises, of such design, in
14 such numbers, and at such places as the director may determine to
15 be necessary to give notice thereof to persons in his service.

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

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

20 (1) Except as hereinafter provided, each employer shall, in
21 addition to the contributions required by subsections (a), (b), and
22 (c) of this section, contribute 1/2 of 1% of the wages paid by such
23 employer to workers with respect to employment unless he is not a
24 covered employer as defined in subsection (a) of section 3 of the
25 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
26 the rate for the State of New Jersey shall be 1/10 of 1% for the
27 calendar year 1980 and for the first six months of 1981. Prior to
28 July 1, 1981 and prior to July 1 each year thereafter, the controller
29 shall review the experience accumulated in the account of the State
30 of New Jersey and establish a rate for the next following fiscal year
31 which, in combination with worker contributions, will produce
32 sufficient revenue to keep the account in balance; except that the
33 rate so established shall not be less than 1/10 of 1%. Such
34 contributions shall become due and be paid by the employer to the
35 controller for the State disability benefits fund as established by
36 law, in accordance with such regulations as may be prescribed, and
37 shall not be deducted, in whole or in part, from the remuneration of
38 individuals in his employ. In the payment of any contributions, a
39 fractional part of a cent shall be disregarded unless it amounts to
40 \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

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

31 (D) Prior to July 1 of each calendar year, the controller shall
32 make a preliminary determination of the rate of contribution for the
33 12 months commencing on such July 1 for each employer subject to
34 the contribution requirements of this subsection (e).

35 (1) Such preliminary rate shall be 1/2 of 1% unless on the
36 preceding January 31 of such year such employer shall have been a
37 covered employer who has paid contributions to the State disability
38 benefits fund with respect to employment in the three calendar
39 years immediately preceding such year.

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

44 (i) 2/10 of 1% if such excess over \$500.00 exceeds 1% but is
45 less than 1 1/4% of his average annual payroll as defined in this
46 chapter (R.S.43:21-1 et **[al.]** seq.);

47 (ii) 15/100 of 1% if such excess over \$500.00 equals or exceeds
48 1 1/4% but is less than 1 1/2% of his average annual payroll;

1 (iii) 1/10 of 1% if such excess over \$500.00 equals or exceeds 1
2 1/2% of his average annual payroll.

3 (3) If the minimum requirements in subparagraph (D) (1) above
4 have been fulfilled and the contributions credited exceed the
5 benefits charged but by not more than \$500.00 plus 1% of his
6 average annual payroll, or if the benefits charged exceed the
7 contributions credited but by not more than \$500.00, the
8 preliminary rate shall be 1/4 of 1%.

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

13 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
14 1% of his average annual payroll;

15 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
16 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

17 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
18 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

19 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
20 3/4 of 1% but is less than 1% of his average annual payroll;

21 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
22 1% of his average annual payroll.

23 (5) Determination of the preliminary rate as specified in
24 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
25 to the condition that it shall in no event be decreased by more than
26 1/10 of 1% of wages or increased by more than 2/10 of 1% of
27 wages from the preliminary rate determined for the preceding year
28 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
29 shall have been applicable.

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

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

1 (i) If the percentage determined in accordance with
2 subparagraph (E)(1) of this **subsection** paragraph equals or
3 exceeds 1 1/4%, the final employer rates shall be the preliminary
4 rates determined as provided in subparagraph (D) hereof, except
5 that if the employer's preliminary rate is determined as provided in
6 subparagraph (D)(2) or subparagraph (D)(3) hereof, the final
7 employer rate shall be the preliminary employer rate decreased by
8 such percentage of excess taken to the nearest 5/100 of 1%, but in
9 no case shall such final rate be less than 1/10 of 1%.

10 (ii) If the percentage determined in accordance with
11 subparagraph (E)(1) of this subsection equals or exceeds 3/4 of 1%
12 and is less than 1 1/4 of 1%, the final employer rates shall be the
13 preliminary employer rates.

14 (iii) If the percentage determined in accordance with
15 subparagraph (E)(1) of this **subsection** paragraph is less than 3/4
16 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be
17 the preliminary employer rates determined as provided in
18 subparagraph (D) hereof increased by the difference between 3/4 of
19 1% and such percentage taken to the nearest 5/100 of 1%; provided,
20 however, that no such final rate shall be more than 1/4 of 1% in the
21 case of an employer whose preliminary rate is determined as
22 provided in subparagraph (D)(2) hereof, more than 1/2 of 1% in the
23 case of an employer whose preliminary rate is determined as
24 provided in subparagraph (D)(1) and subparagraph (D)(3) hereof,
25 nor more than 3/4 of 1% in the case of an employer whose
26 preliminary rate is determined as provided in subparagraph (D)(4)
27 hereof.

28 (iv) If the amount of the State disability benefits fund determined
29 as provided in subparagraph (E)(1) of this **subsection** paragraph
30 is equal to or less than 1/4 of 1%, then the final rate shall be 2/5
31 of 1% in the case of an employer whose preliminary rate is determined
32 as provided in subparagraph (D)(2) hereof, 7/10 of 1% in the case
33 of an employer whose preliminary rate is determined as provided in
34 subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in
35 the case of an employer whose preliminary rate is determined as
36 provided in subparagraph (D)(4) hereof. Notwithstanding any other
37 provision of law or any determination made by the controller with
38 respect to any 12-month period commencing on July 1, 1970, the
39 final rates for all employers for the period beginning January 1,
40 1971, shall be as set forth herein.

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

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

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

4 (iii) No amounts were transferred from the State disability
5 benefits funds to the "Family Temporary Disability Leave Account"
6 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.
7 (cf: P.L. 2009, c.195 s.1)

8
9 '2. R.S.43:21-5 is amended to read as follows:

10 43:21-5. An individual shall be disqualified for benefits:

11 (a) For the week in which the individual has left work
12 voluntarily without good cause attributable to such work, and for
13 each week thereafter until the individual becomes reemployed and
14 works **[four]** eight weeks in employment, which may include
15 employment for the federal government, and has earned in
16 employment at least **[six]** ten times the individual's weekly benefit
17 rate, as determined in each case. This subsection shall apply to any
18 individual seeking unemployment benefits on the basis of
19 employment in the production and harvesting of agricultural crops,
20 including any individual who was employed in the production and
21 harvesting of agricultural crops on a contract basis and who has
22 refused an offer of continuing work with that employer following
23 the completion of the minimum period of work required to fulfill
24 the contract.

25 (b) For the week in which the individual has been suspended or
26 discharged for misconduct connected with the work, and for the
27 **[five]** seven weeks which immediately follow that week, as
28 determined in each case.

29 For the week in which the individual has been suspended or
30 discharged for severe misconduct connected with the work, and for
31 each week thereafter until the individual becomes reemployed and
32 works four weeks in employment, which may include employment
33 for the federal government, and has earned in employment at least
34 six times the individual's weekly benefit rate, as determined in each
35 case. Examples of severe misconduct include, but are not
36 necessarily limited to, the following: repeated violations of an
37 employer's rule or policy, repeated lateness or absences after a
38 written warning by an employer, falsification of records, physical
39 assault or threats that do not constitute gross misconduct as defined
40 in this section, misuse of benefits, misuse of sick time, abuse of
41 leave, theft of company property, excessive use of intoxicants or
42 drugs on work premises, theft of time, or where the behavior is
43 malicious and deliberate but is not considered gross misconduct as
44 defined in this section.

45 In the event the discharge should be rescinded by the employer
46 voluntarily or as a result of mediation or arbitration, this subsection
47 (b) shall not apply, provided, however, an individual who is
48 restored to employment with back pay shall return any benefits

1 received under this chapter for any week of unemployment for
2 which the individual is subsequently compensated by the employer.

3 If the discharge was for gross misconduct connected with the
4 work because of the commission of an act punishable as a crime of
5 the first, second, third or fourth degree under the "New Jersey Code
6 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
7 disqualified in accordance with the disqualification prescribed in
8 subsection (a) of this section and no benefit rights shall accrue to
9 any individual based upon wages from that employer for services
10 rendered prior to the day upon which the individual was discharged.

11 The director shall insure that any appeal of a determination
12 holding the individual disqualified for gross misconduct in
13 connection with the work shall be expeditiously processed by the
14 appeal tribunal.

15 (c) If it is found that the individual has failed, without good
16 cause, either to apply for available, suitable work when so directed
17 by the employment office or the director or to accept suitable work
18 when it is offered, or to return to the individual's customary self-
19 employment (if any) when so directed by the director. The
20 disqualification shall continue for the week in which the failure
21 occurred and for the three weeks which immediately follow that
22 week, as determined:

23 (1) In determining whether or not any work is suitable for an
24 individual, consideration shall be given to the degree of risk
25 involved to health, safety, and morals, the individual's physical
26 fitness and prior training, experience and prior earnings, the
27 individual's length of unemployment and prospects for securing
28 local work in the individual's customary occupation, and the
29 distance of the available work from the individual's residence. In
30 the case of work in the production and harvesting of agricultural
31 crops, the work shall be deemed to be suitable without regard to the
32 distance of the available work from the individual's residence if all
33 costs of transportation are provided to the individual and the terms
34 and conditions of hire are as favorable or more favorable to the
35 individual as the terms and conditions of the individual's base year
36 employment.

37 (2) Notwithstanding any other provisions of this chapter, no
38 work shall be deemed suitable and benefits shall not be denied
39 under this chapter to any otherwise eligible individual for refusing
40 to accept new work under any of the following conditions: the
41 position offered is vacant due directly to a strike, lockout, or other
42 labor dispute; the remuneration, hours, or other conditions of the
43 work offered are substantially less favorable to the individual than
44 those prevailing for similar work in the locality; or, the individual,
45 as a condition of being employed, would be required to join a
46 company union or to resign from or refrain from joining any bona
47 fide labor organization.

1 (d) If it is found that this unemployment is due to a stoppage of
2 work which exists because of a labor dispute at the factory,
3 establishment or other premises at which the individual is or was
4 last employed.

5 (1) No disqualification under this subsection (d) shall apply if it
6 is shown that:

7 (a) The individual is not participating in or financing or directly
8 interested in the labor dispute which caused the stoppage of work;
9 and

10 (b) The individual does not belong to a grade or class of workers
11 of which, immediately before the commencement of the stoppage,
12 there were members employed at the premises at which the
13 stoppage occurs, any of whom are participating in or financing or
14 directly interested in the dispute; provided that if in any case in
15 which (a) or (b) above applies, separate branches of work which are
16 commonly conducted as separate businesses in separate premises
17 are conducted in separate departments of the same premises, each
18 department shall, for the purpose of this subsection, be deemed to
19 be a separate factory, establishment, or other premises.

20 (2) For any claim for a period of unemployment commencing on
21 or after December 1, 2004, no disqualification under this subsection
22 (d) shall apply if it is shown that the individual has been prevented
23 from working by the employer, even though the individual's
24 recognized or certified majority representative has directed the
25 employees in the individual's collective bargaining unit to work
26 under the preexisting terms and conditions of employment, and the
27 employees had not engaged in a strike immediately before being
28 prevented from working.

29 (e) For any week with respect to which the individual is
30 receiving or has received remuneration in lieu of notice.

31 (f) For any week with respect to which or a part of which the
32 individual has received or is seeking unemployment benefits under
33 an unemployment compensation law of any other state or of the
34 United States; provided that if the appropriate agency of the other
35 state or of the United States finally determines that the individual is
36 not entitled to unemployment benefits, this disqualification shall not
37 apply.

38 (g) (1) For a period of one year from the date of the discovery
39 by the division of the illegal receipt or attempted receipt of benefits
40 contrary to the provisions of this chapter, as the result of any false
41 or fraudulent representation; provided that any disqualification may
42 be appealed in the same manner as any other disqualification
43 imposed hereunder; and provided further that a conviction in the
44 courts of this State arising out of the illegal receipt or attempted
45 receipt of these benefits in any proceeding instituted against the
46 individual under the provisions of this chapter or any other law of
47 this State shall be conclusive upon the appeals tribunal and the
48 board of review.

1 (2) A disqualification under this subsection shall not preclude
2 the prosecution of any civil, criminal or administrative action or
3 proceeding to enforce other provisions of this chapter for the
4 assessment and collection of penalties or the refund of any amounts
5 collected as benefits under the provisions of R.S.43:21-16, or to
6 enforce any other law, where an individual obtains or attempts to
7 obtain by theft or robbery or false statements or representations any
8 money from any fund created or established under this chapter or
9 any negotiable or nonnegotiable instrument for the payment of
10 money from these funds, or to recover money erroneously or
11 illegally obtained by an individual from any fund created or
12 established under this chapter.

13 (h) (1) Notwithstanding any other provisions of this chapter
14 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
15 denied benefits for any week because the individual is in training
16 approved under section 236(a)(1) of the "Trade Act of 1974,"
17 Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be
18 denied benefits by reason of leaving work to enter this training,
19 provided the work left is not suitable employment, or because of the
20 application to any week in training of provisions in this chapter
21 (R.S.43:21-1 et seq.), or any applicable federal unemployment
22 compensation law, relating to availability for work, active search
23 for work, or refusal to accept work.

24 (2) For purposes of this subsection (h), the term "suitable"
25 employment means, with respect to an individual, work of a
26 substantially equal or higher skill level than the individual's past
27 adversely affected employment, as defined for purposes of the
28 "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and
29 wages for this work at not less than 80% of the individual's average
30 weekly wage, as determined for the purposes of the "Trade Act of
31 1974."

32 (i) For benefit years commencing after June 30, 1984, for any
33 week in which the individual is a student in full attendance at, or on
34 vacation from, an educational institution, as defined in subsection
35 (y) of R.S.43:21-19; except that this subsection shall not apply to
36 any individual attending a training program approved by the
37 division to enhance the individual's employment opportunities, as
38 defined under subsection (c) of R.S.43:21-4; nor shall this
39 subsection apply to any individual who, during the individual's base
40 year, earned sufficient wages, as defined under subsection (e) of
41 R.S.43:21-4, while attending an educational institution during
42 periods other than established and customary vacation periods or
43 holiday recesses at the educational institution, to establish a claim
44 for benefits. For purposes of this subsection, an individual shall be
45 treated as a full-time student for any period:

46 (1) During which the individual is enrolled as a full-time student
47 at an educational institution, or

1 (2) Which is between academic years or terms, if the individual
2 was enrolled as a full-time student at an educational institution for
3 the immediately preceding academic year or term.

4 (j) Notwithstanding any other provisions of this chapter
5 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
6 denied benefits because the individual left work or was discharged
7 due to circumstances resulting from the individual being a victim of
8 domestic violence as defined in section 3 of P.L.1991, c.261
9 (C.2C:25-19). No employer's account shall be charged for the
10 payment of benefits to an individual who left work due to
11 circumstances resulting from the individual being a victim of
12 domestic violence.

13 For the purposes of this subsection (j), the individual shall be
14 treated as being a victim of domestic violence if the individual
15 provides one or more of the following:

16 (1) A restraining order or other documentation of equitable
17 relief issued by a court of competent jurisdiction;

18 (2) A police record documenting the domestic violence;

19 (3) Documentation that the perpetrator of the domestic violence
20 has been convicted of one or more of the offenses enumerated in
21 section 3 of P.L.1991, c.261 (C.2C:25-19);

22 (4) Medical documentation of the domestic violence;

23 (5) Certification from a certified Domestic Violence Specialist
24 or the director of a designated domestic violence agency that the
25 individual is a victim of domestic violence; or

26 (6) Other documentation or certification of the domestic
27 violence provided by a social worker, member of the clergy, shelter
28 worker or other professional who has assisted the individual in
29 dealing with the domestic violence.

30 For the purposes of this subsection (j):

31 "Certified Domestic Violence Specialist" means a person who
32 has fulfilled the requirements of certification as a Domestic
33 Violence Specialist established by the New Jersey Association of
34 Domestic Violence Professionals; and "designated domestic
35 violence agency" means a county-wide organization with a primary
36 purpose to provide services to victims of domestic violence, and
37 which provides services that conform to the core domestic violence
38 services profile as defined by the Division of Youth and Family
39 Services in the Department of Children and Families and is under
40 contract with the division for the express purpose of providing such
41 services.

42 (k) Notwithstanding any other provisions of this chapter (R.S.
43 43:21-1 et seq.), no otherwise eligible individual shall be denied
44 benefits for any week in which the individual left work voluntarily
45 and without good cause attributable to the work, if the individual
46 left work to accompany his or her spouse who is an active member
47 of the United States Armed Forces, as defined in N.J.S.38A:1-1(g),
48 to a new place of residence outside the State, due to the armed

1 forces member's transfer to a new assignment in a different
2 geographical location outside the State, and the individual moves to
3 the new place of residence not more than nine months after the
4 spouse is transferred, and upon arrival at the new place of residence
5 the individual was in all respects available for suitable work. No
6 employer's account shall be charged for the payment of benefits to
7 an individual who left work under the circumstances contained in
8 this subsection (k), except that this shall not be construed as
9 relieving the State of New Jersey and any other governmental entity
10 or instrumentality or nonprofit organization electing or required to
11 make payments in lieu of contributions from its responsibility to
12 make all benefit payments otherwise required by law and from
13 being charged for those benefits as otherwise required by law.¹

14 (cf: P.L.2007, c.162, s.1)

15

16 ¹3. (New section) a. There is created a task force to be known
17 as the "New Jersey Unemployment Insurance Task Force," which
18 shall be an independent body in, but not of, the Department of
19 Labor and Workforce Development. The task force shall consist of
20 12 members, including:

21 (1) Six non-voting members as follows: the Chairpersons of the
22 Senate Labor committee and the Assembly Labor Committee, ex
23 officio, a Senator nominated by the Minority Leader of the Senate, a
24 member of the General Assembly nominated by the Minority
25 Leader of the General Assembly, the Commissioner of Labor and
26 Workforce Development, ex officio, an individual appointed by the
27 Governor who has expertise in employment, unemployment and
28 unemployment insurance programs; and

29 (2) Six voting members appointed by the Governor. Three
30 members to be appointed by the Governor from the following
31 organizations: the New Jersey State Chamber of Commerce, the
32 New Jersey Business and Industry Association, the New Jersey
33 branch of the National Federation of Independent Business, the
34 New Jersey Food Council, the New Jersey Restaurant Association,
35 or the New Jersey Commerce and Industry Association. Three
36 members to be appointed by the Governor from the following
37 organizations: the New Jersey State AFL-CIO, the New Jersey State
38 Building Trades Council, the American Federation of State, County
39 and Municipal Employees, the Mechanical and Allied Crafts
40 Council of New Jersey, the New Jersey State Council of the Service
41 Employees International Union, or the New Jersey Regional
42 Council of Carpenters.

43 b. The task force shall have co-chairs who are elected by the
44 voting members: one co-chair shall be from the New Jersey State
45 Chamber of Commerce, the New Jersey Business and Industry
46 Association, the New Jersey branch of the National Federation of
47 Independent Business, the New Jersey Food Council, the New
48 Jersey Restaurant Association, or the New Jersey Commerce and

1 Industry Association; and one co-chair shall be from the New Jersey
2 State AFL-CIO, the New Jersey State Building Trades Council, the
3 New Jersey State Council of the Service Employees International
4 Union, the American Federation of State, County and Municipal
5 Employees, the Mechanical and Allied Crafts Council of New
6 Jersey, or the New Jersey Regional Council of Carpenters. Members
7 shall be appointed as soon as practicable. Members shall be
8 appointed for three-year terms and may be re-appointed for any
9 number of terms. Any member of the task force who is not a
10 legislator may be removed from office by the Governor, for cause,
11 upon notice and opportunity to be heard. Vacancies shall be filled in
12 the same manner as the original appointment for the balance of the
13 unexpired term. A member shall continue to serve upon the
14 expiration of his term until a successor is appointed and qualified,
15 unless the member is removed by the Governor.

16 c. Action may be taken by the task force by an affirmative vote
17 of a majority of its voting members. A majority of the voting
18 members and a majority of the non-voting members of the task
19 force shall constitute a quorum for the transaction of any business,
20 for the performance of any duty, or for the exercise of any power of
21 the task force.

22 d. Members of the task force shall serve without compensation,
23 but may be reimbursed for the actual and necessary expenses
24 incurred in the performance of their duties as members of the task
25 force within the limits of funds appropriated or otherwise made
26 available for that purpose.¹

27
28 ¹4. a. The task force shall study and assess the current
29 unemployment insurance crisis and recommend how the State can
30 stabilize the unemployment insurance fund. Specifically, the work
31 of the task force shall include, but not necessarily be limited to, an
32 evaluation of the following: eligibility standards; benefit levels;
33 certain definitions, such as "suitable work;" the statutory matrix for
34 payroll tax triggers; contributions and the experience rating table;
35 collections of overpayments of unemployment; methods used in
36 order to get individuals off unemployment insurance benefits; the
37 statutory and regulatory framework for the treatment of misconduct;
38 and other areas relevant to the short-term and long-term solvency of
39 the unemployment insurance fund.

40 b. In furtherance of its evaluation, the task force may hold
41 public meetings or hearings within the State on any matter or
42 matters related to the provisions of this act, and call to its assistance
43 and avail itself of the services of the Rutgers School of
44 Management and Labor Relations, the John J. Heldrich Center for
45 Workforce Development, and the employees of any State
46 department, board, task force or agency which the task force
47 determines possesses relevant data, analytical and professional
48 expertise or other resources which may assist the task force in

1 discharging its duties under this act. Each department, board,
2 commission or agency of this State is hereby directed, to the extent
3 not inconsistent with law, to cooperate fully with the task force and
4 to furnish such information and assistance as is necessary to
5 accomplish the purposes of this act. The task force shall submit a
6 written report of its findings regarding the subjects of its review and
7 evaluation of the unemployment insurance program, including any
8 recommendations of the task force regarding possible legislation or
9 changes in administrative procedures based on its review and
10 evaluation, to the Governor and to the Legislature by October 1,
11 2010, and for three years thereafter, unless an extension is deemed
12 necessary and appropriate by the Governor, who shall immediately
13 review each task force report upon its receipt. The task force
14 created under the provisions of this act shall expire upon the
15 issuance of the task force final report issued by October 1, 2013.¹

16

17 ¹5. Section 16 of P.L.1948, c.446 (C.34:1A-16) is hereby
18 repealed.¹

19

20 ¹[2.] 6.¹ This act shall take effect immediately.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 1813

STATE OF NEW JERSEY

DATED: MAY 10, 2010

The Senate Labor Committee reports favorably Senate Bill No. 1813.

This bill reduces the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal year 2011 by setting them based on the "C" column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2010 is based on column "B" of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge. The bill reduces the UI tax burden on employers by providing that the "C" schedule will stay in effect throughout fiscal year 2011.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1813
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: MAY 13, 2010

SUMMARY

- Synopsis:** Reduces employer unemployment taxes during fiscal year 2011.
- Type of Impact:** Revenue loss to Unemployment Insurance (UI) Compensation Trust Fund. Future expenditure increase from UI Trust Fund due to increased federal loan. Future expenditure increase and matching revenue increase for the Unemployment Compensation Auxiliary Fund (UCAF) to pay the related accrued interest obligations.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
UI Trust Fund revenue	(\$700 million)	_____	_____
UCAF			
Expenditure	\$0	\$28 million	\$29.7 million
Revenue	\$0	\$28 million	\$29.7 million

- The Office of Legislative Services (OLS) notes that Senate Bill No. 1813 will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$700 million for taxes paid in FY 2011.
- The UI Trust Fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI Trust Fund will regain solvency approximately one Fiscal Year later than under current law.
- The OLS analysis also indicates that S-1813 may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State

employer unemployment insurance tax to pay back the additional \$700 million in principal borrowed from the federal government.

- Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$700 million in principal borrowed from the federal government will equal approximately \$28 million and \$29.7 million in interest in FY 2012 and FY 2013 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. S-1831 will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$700 million loan.

BILL DESCRIPTION

Senate Bill No. 1813 of 2010 reduces the unemployment insurance (UI) tax rates which will be imposed on employers during Fiscal Year 2011 by setting them based on the “C” column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2010 is based on column “B” of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the “E” column, plus an additional 10 percent surcharge. The bill reduces the UI tax burden on employers by providing that the “C” schedule will stay in effect throughout Fiscal Year 2011.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The department did not provide a formal Executive Branch analysis for this bill. However, the department did provide, in its response to the OLS discussion points during the review of the FY 2011 Recommended Budget, numerous charts and data on the UI Trust Fund and estimates on possible changes to the tax and the effect of these changes on the UI Trust Fund balance. These schedules and answers were relied on heavily for this analysis and can be located at http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that Senate Bill No. 1813 will reduce the revenue collected from the employer paid unemployment insurance tax for the Unemployment Insurance (UI) Compensation Trust Fund by approximately \$700 million in FY2011¹. Since the bill provides for a one year change to the tax rate, no future revenue collections should be affected.

The OLS analysis indicates that, in addition to the \$700 million reduction in revenue, S-1813 will have the following effects: it will increase future UI Trust Fund expenditures used to repay the federal loan to the UI Trust Fund; it will lengthen by one year the date in which the UI Trust fund will gain solvency; it may increase the length of time employers are charged the additional

¹ http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf, (comparison of Schedule III, page 2 and 3 and Schedule II, page 2 and 3 (employer contributions are the sum of last 9 months of the fiscal year and first 3 months of next fiscal year)).

Federal Unemployment Tax Act (FUTA) tax to pay back the federal loan; it will most likely increase the amount of time the employers are charged the higher unemployment insurance tax rate in the future; and it may increase the State imposed UCAF assessment to pay back the interest on the federal loan.

To determine these outcomes, the OLS conducted its analysis using data extracted from the Department of Labor and Workforce Development's answers to discussion points during the review of the FY 2011 Budget Recommendation. It is very difficult to estimate the future affects of changes to the unemployment insurance system, because of the many variables involved in the analysis. For example, it is not possible to predict with great accuracy the rate of unemployment or wage data into the future. Both of these factors could change slightly from the OLS and department assumptions and have significant cumulative effects on the results of this analysis. It is for this reason that long term estimates for UI Trust Fund solvency cannot be made with any level of certainty.

For the purposes of its analysis, the OLS made the following assumptions: the economy is going to slowly recover and not experience another downturn in the next seven years; unemployment will continue to decrease slightly over the next seven years; benefit payments will drop due to decreased unemployment at 2 percent per year; all benefits programs will remain constant; employer and employee contributions will increase at 2 percent each year; and the federal government will continue to pay 100 percent of the federal extended benefits until January 1, 2011.

The OLS analysis indicates that S-1813 will also increase future UI Trust fund expenditures used to repay the current federal loan and UCAF expenditures to pay the interest on that loan. As of April 30, 2010, the State has borrowed \$1.75 billion from the federal government to pay unemployment insurance benefits. The department anticipates that the State will continue to borrow funds into FY 2012 to pay benefits, possibly borrowing a total of \$2.8 billion under current law. The federal loan is advanced interest free until January 1, 2011. After that date, interest will begin to accrue at the federally established rate, currently set at 4 percent annually. The OLS analysis indicates that, pursuant to the changes proposed in this bill, the UI Trust fund will regain solvency approximately one fiscal year later than under current law.

S-1813 may also affect the length of time employers are required to pay an additional federal tax. Unemployment insurance is funded jointly through the federal unemployment tax, more commonly referred to as "FUTA" (for the Federal Unemployment Tax Act under which it was established), and levied on employers, and a state unemployment insurance tax levied on employers and employees. The current FUTA tax rate is 6.2 percent of the first \$7,000 in wages. This rate is offset with a credit of 5.4 percent, yielding a net tax of 0.8 percent on eligible employees first \$7,000 in wages.

Federal law requires that if a state has borrowed from the federal government for its UI Trust Fund and maintains a deficit two years after the state initiated the borrowing, then a reduction to the employers' FUTA credit is initiated. Therefore, if New Jersey is in deficit to the federal government in March 2011, the 5.4 percent credit will be gradually phased out (at 0.3 percent annually) and the employer will begin to pay more taxes on the first \$7,000 in wages paid to each employee. The higher the balance of the federal loan, the longer it will take employers to repay the loan through their FUTA tax.

According to the OLS analysis, pursuant to S-1813 and current law, the repayment through the FUTA tax will commence in FY 2012 and be complete in FY 2014. However, it should be noted that, in the OLS analysis of S-1813, there is a very small margin between solvency and insolvency at the conclusion of FY 2015. There is a much greater margin of solvency for the UI Trust Fund under the provisions of the current law. Therefore, it is very possible that the passage of S-1813 will require FUTA tax payments into FY 2015.

Additionally, federal law requires that all interest accrued on federal advances to the State UI Trust fund must be repaid through appropriations not dedicated to the State UI Trust Fund. Section 24 of P.L.1984, c. 24(N.J.S.A.43:21-14.3), provides that the Commissioner of Labor and Workforce Development must, on or before June 30 of each year, review the amount of interest owed to the United States Treasury for advances made from the federal unemployment account to pay State UI benefits and determine if the Unemployment Compensation Auxiliary Fund (UCAF)² has the needed funds to repay the interest to the federal government by September of that calendar year. If it is determined by the commissioner that the UCAF has insufficient funds to repay the accrued interest, then the statute provides for a special assessment on employers, except governmental entities and nonprofit organizations. The assessment is determined by the department as a ratio of the amount of interest owed to 95 percent of the total employer contributions payable for UI on taxable wages during the preceding calendar year. This ratio is then applied to the individual employer's amount of unemployment contributions payable in the previous year to determine the amount of assessment.

The monies borrowed from the federal government are interest free until January 1, 2011. Therefore, in 2011, the commissioner must determine whether the UCAF has the funds available to repay the interest accrued from January 1, 2011 to June, 2011 by September, 2011 and whether an assessment would occur in FY 2012. Under the current law, the department estimated that the amount of interest owed will equal approximately \$110 million in FY 2011, \$100 million in FY 2012 and \$75 million in FY2013. The UCAF assessment rate would equal approximately 0.1 percent of the taxable wage base (currently \$29,700) in FY 2011 and FY 2012 and approximately 0.07 percent in FY2012.³ Due to a lack of specific employer data available to the OLS, it is not possible to present more specifics on the increase to this assessment. However, pursuant to the changes proposed in S-1813, the total interest owed would most likely increase by \$29 million in FY 2012 and FY 2013, resulting in a higher assessment on employers.

Furthermore, this bill may increase the length of time employers will be charged at a higher State UI tax rate in the future. The UI tax rate, which is paid by employers and is the primary source of funding for the UI Trust Fund⁴, is dependent upon the annual experience of the State UI Trust Fund, as calculated through the determination of the overall fund reserve ratio. The overall fund reserve ratio is determined each year by dividing the fund balance on a specific date by the taxable wages from the previous calendar year. Therefore, the lower the fund balance, the higher the tax rate. Any actions that result in a reduction to the fund balance will result in a higher tax rate for a longer period of time. Since, pursuant to this bill, the fund will be losing \$700 million in revenue in FY 2011, it is likely that the fund will remain in a higher tax column for an additional year. The OLS analysis indicates that the fund could be out of the highest tax column "E +10 percent" in FY 2017 pursuant to the changes proposed in S-1813, as compared to FY 2016 under current law. It is not possible to know this for certain because of the numerous variables affecting the future of the UI Trust Fund, as discussed above.

² The Unemployment Compensation Auxiliary Fund (UCAF), established in subsection (g) of N.J.S.A.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of unemployment insurance regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI Trust fund, for the repayment of any interest bearing advances made for the federal unemployment account and for essential and necessary expenditures in connection with programs, as determined by the Commissioner.

³ http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf, Schedule VII..

⁴ In addition to the federal tax, state governments also levy payroll taxes on employers and in three states, including New Jersey, payroll taxes on employees. In New Jersey, the tax on the employee is levied at a rate of 0.03825% on the first \$29,700 of income earned. Thus, in 2010, the maximum employee contribution is approximately \$113 per employee (0.003825 x 29,700).

In summary, the OLS notes that S-1813 will reduce by approximately \$700 million the revenue collected from the employer paid unemployment insurance tax for the UI Trust Fund for FY 2011. Since the bill provides for a one year change to the tax rate, no future revenue collections should be affected. Additionally, S-1813 will also affect future UI Trust Fund expenditures used to repay the federal loan and future UCAF expenditures to repay the interest on this loan. S-1813 may also increase the length of time employers are charged the following: the additional FUTA tax to pay back the federal loan; an additional State assessment to pay back the interest on the federal loan; and the higher unemployment insurance tax rate in the future. However, there is too much uncertainty in key variables to make any future estimates with absolute confidence.

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.).

SENATE BILL NO. 1813

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1813 with my recommendations for reconsideration.

A. Summary of Bill

This bill would reduce the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal year 2011 by setting them based on the "C" column of the UI tax table. The UI tax rate which is being charged to employers during FY 2010 is based on the "B" column of the tax table. Due to the significant deficit in the UI trust fund, under current law, the tax rate would increase, starting on July 1, 2010, to the highest tax rate set by the law, which is the rate found in the "E" column, plus an additional 10 percent surcharge.

B. Recommended Action

I commend the sponsors of the bill for their efforts in crafting this legislation, which recognizes that the scheduled payroll tax increase on employers would do enormous harm to an economy already staggering from the recession. However, this bill simply does not go far enough to solve the fundamental problems with UI that will persist without bold reform. As you know, from 1992 to 2006, approximately \$4.6 billion was diverted from the UI fund. In addition, since March 2009, the State has borrowed over \$1.75 billion from the federal government. I am advised that if no immediate action is taken, the debt owed to the federal government will increase dramatically. This is simply unacceptable, and will prove catastrophic for the employer community, the labor community, and the overall

economy. The State can no longer pursue the status quo, but must take immediate action.

It is time for the State to achieve comprehensive reform in the State's unemployment compensation system in order to bring the fund back to solvency in a fair and balanced way. There is a broad consensus that the current statutory framework for our treatment of misconduct cases is not in line with the practices of a majority of other states. Under the current statutory structure about 90 percent of the misconduct cases have the same penalty without regard to the individual's level of misconduct. This treatment is not balanced. I am advised that by redefining "misconduct" by carving out a "severe misconduct" tier, as well as creating a more proportional unemployment benefit penalty structure, the individuals seeking unemployment insurance would be treated more equitably, and the Unemployment Insurance Trust Fund would realize a significant savings each year. In this regard, I believe it would be equitable to reform this section of the law to ensure that the penalty for the misconduct is treated proportionately to the level of misconduct.

Moreover, I will advise the Department of Labor & Workforce Development to change any regulations that are not consistent with the above recommendation, and, also, to propose appropriate regulations to require that an employer provide written documentation to show that the employee's actions constitute either misconduct, severe misconduct, or gross misconduct.

Additionally, I recommend that an Unemployment Insurance Fund Task Force be established to study and assess the current unemployment insurance crisis and recommend how the State can restore the trust fund in a way that balances the interests of workers, employers, and the overall economy. The Unemployment Insurance Fund Task Force would replace the Employment Security

Council, a group that has not met in over half a decade. A comprehensive review and assessment of the State's unemployment compensation system would include an evaluation of: eligibility standards; benefit levels; certain definitions in the unemployment compensation law; the statutory matrix for the payroll tax triggers; contributions to the unemployment insurance fund and the experience rating table; and other areas relevant to the short-term and long-term solvency of the unemployment insurance fund.

Lastly, in light of the State's fiscal crisis, and the insolvency of the State's UI fund, I am requesting that the Legislature not consider benefit increases while a task force is in place, and if a bill increasing unemployment benefits is passed by the Legislature while the task force is in place, I will not sign it.

Accordingly, I herewith return Senate Bill No. 1813 and recommend that it be amended as follows:

Page 23, Section 2, Line 47: Insert new section 2 to read as follows:

"R.S. 43:21-5 is amended to read as follows:

An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight [four] weeks in employment, which may include employment for the federal government, and has earned in employment at least ten [six] times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual

who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the [five] seven weeks which immediately follow that week, as determined in each case. [In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week or unemployment for which the individual is subsequently compensated by the employer.]

For the week in which the individual has been suspended or discharged for severe misconduct connected with the work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. Examples of severe misconduct include, but are not necessarily limited to, the following: repeated violations of an employer's rule or policy, repeated lateness or absences after a written warning by an employer, falsification of records, physical assault or threats that do not constitute gross misconduct as defined in this section, misuse of benefits, misuse of sick time, abuse of leave, theft of company property, excessive use of intoxicants or drugs on work premises, theft of time, or where the behavior is malicious and deliberate but is not considered gross misconduct as defined in this section.

In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from the employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal."

cf: P.L. 2007, c.162.

3. (New Section) a. There is created a task force to be known as the "New Jersey Unemployment Insurance Task Force," which shall be an independent body in, but not of, the Department of Labor and Workforce Development. The task force shall consist of 12 members, including:

(1) Six non-voting members as follows: the Chairpersons of the Senate Labor Committee and the Assembly Labor Committee, ex officio, a Senator nominated by the Minority Leader of the Senate, a member of the General Assembly nominated by the Minority Leader of the General Assembly, the Commissioner of Labor and

Workforce Development, ex officio, an individual appointed by the Governor who has expertise in employment, unemployment and unemployment insurance programs; and

(2) Six voting members appointed by the Governor. Three members to be appointed by the Governor from the following organizations: the New Jersey State Chamber of Commerce, the New Jersey Business and Industry Association, the New Jersey branch of the National Federation of Independent Business, the New Jersey Food Council, the New Jersey Restaurant Association, or the New Jersey Commerce & Industry Association. Three members to be appointed by the Governor from the following organizations: the New Jersey State AFL-CIO, the New Jersey State Building Trades Council, the American Federation of State, County and Municipal Employees, the Mechanical & Allied Crafts Council of New Jersey, the New Jersey State Council of the Service Employees International Union, or the New Jersey Regional Council of Carpenters.

b. The task force shall have co-chairs who are elected by the voting members: one co-chair shall be from the New Jersey State Chamber of Commerce, the New Jersey Business and Industry Association, the New Jersey branch of the National Federation of Independent Business, the New Jersey Food Council, the New Jersey Restaurant Association, or the New Jersey Commerce & Industry Association; and one co-chair shall be from the New Jersey State AFL-CIO, the New Jersey State Building Trades Council, the New Jersey State Council of the Service Employees International Union, the American Federation of State, County and Municipal Employees, the Mechanical & Allied Crafts Council of New Jersey, or the New Jersey Regional Council of Carpenters. Members shall be appointed as soon as practicable. Members shall be appointed for three-year terms and may be re-

appointed for any number of terms. Any member of the task force who is not a legislator may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member shall continue to serve upon the expiration of his term until a successor is appointed and qualified, unless the member is removed by the Governor.

c. Action may be taken by the task force by an affirmative vote of a majority of its voting members. A majority of the voting members and a majority of the non-voting members of the task force shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the task force.

d. Members of the task force shall serve without compensation, but may be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the task force within the limits of funds appropriated or otherwise made available for that purpose.

4. (New Section) a. The task force shall study and assess the current unemployment insurance crisis and recommend how the state can stabilize the unemployment insurance fund. Specifically, the work of the task force shall include, but not necessarily be limited to, an evaluation of the following: eligibility standards; benefit levels; certain definitions, such as "suitable work"; the statutory matrix for payroll tax triggers; contributions and the experience rating table; collections of overpayments of unemployment; methods used in order to get individuals off unemployment insurance benefits; the statutory and regulatory framework for the treatment of misconduct; and other areas relevant to the short-term and long-term solvency of the unemployment insurance fund.

b. In furtherance of its evaluation, the task force may hold public meetings or hearings within the State on any matter or matters related to the provisions of this act, and call to its assistance and avail itself of the services of the Rutgers School of Management and Labor Relations, the John J. Heldrich Center for Workforce Development, and the employees of any State department, board, task force or agency which the task force determines possesses relevant data, analytical and professional expertise or other resources which may assist the task force in discharging its duties under this act. Each department, board, commission or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the task force and to furnish such information and assistance as is necessary to accomplish the purposes of this act. The task force shall submit a written report of its findings regarding the subjects of its review and evaluation of the unemployment insurance program, including any recommendations of the task force regarding possible legislation or changes in administrative procedures based on its review and evaluation, to the Governor and to the Legislature by October 1, 2010, and for three years thereafter, unless an extension is deemed necessary and appropriate by the Governor, who shall immediately review each task force report upon its receipt. The task force created under the provisions of this act shall expire upon the issuance of the task force final report issued by October 1, 2013.

5. N.J.S.A. 34:1A-16 is hereby repealed. ~~There shall be within the Department of Labor an Employment Security Council, which shall consist of nine members, not more than five of whom shall be of the same political affiliation. Three of the nine members of the council shall be persons who by reason of vocation, employment or affiliation, may fairly be~~

~~regarded as representative of employers, three shall be persons who by reason of vocation, employment or affiliation, may fairly be regarded as representative of employees, and three shall represent the general public. Each member of the council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and shall serve until his successor has been appointed and has qualified.~~

~~Each Governor shall designate one of the members of the council representing the general public as chairman of such council. Any member of the council so designated shall serve as such chairman at the pleasure of the Governor designating him and until his successor has been designated. The chairman of the council shall be its presiding officer.~~

~~Any vacancies in the membership of said council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.~~

~~The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.~~

Page 23, Section 2, Line 47: Renumber Section 2 as Section 6

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor

SENATE, No. 1813

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 16, 2010

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

**Senator Norcross, Assemblyman Diegnan, Assemblywoman Quijano,
Assemblyman Coughlin, Assemblywoman Watson Coleman, Assemblymen
Wisniewski and Fuentes**

SYNOPSIS

Reduces employer unemployment taxes during fiscal year 2011.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2010)

1 AN ACT reducing employer unemployment taxes and amending
2 R.S.43:21-7.

3

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

6

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

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

19 (a) Payment.

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

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

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

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

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

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

Matter underlined thus is new matter.

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

13 (3) For calendar years beginning on and after January 1, 1976,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b), shall be established and
16 promulgated by the Commissioner of Labor and Workforce
17 Development on or before September 1 of the preceding year and
18 shall be, 28 times the Statewide average weekly remuneration paid
19 to workers by employers, as determined under R.S.43:21-3(c),
20 raised to the next higher multiple of \$100.00 if not already a
21 multiple thereof, provided that if the amount of wages so
22 determined for a calendar year is less than the amount similarly
23 determined for the preceding year, the greater amount will be used;
24 provided, further, that if the amount of such wages so determined
25 does not equal or exceed the amount of wages as defined in
26 subsection (b) of section 3306 of the [Federal Unemployment Tax
27 Act, Chapter 23 of the] Internal Revenue Code of 1986 (26 U.S.C.
28 s.3306(b)), the wages as determined in this paragraph in any
29 calendar year shall be raised to equal the amount established under
30 the "Federal Unemployment Tax Act," chapter 23 of the Internal
31 Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar
32 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
47 commencing on and after January 1, 1953, to any individual on or
48 before December 31 of any calendar year with respect to

1 unemployment in such calendar year and in preceding calendar
2 years shall be charged against the account or accounts of the
3 employer or employers in whose employment such individual
4 established base weeks constituting the basis of such benefits,
5 except that, with respect to benefit years commencing after January
6 4, 1998, an employer's account shall not be charged for benefits
7 paid to a claimant if the claimant's employment by that employer
8 was ended in any way which, pursuant to subsection (a), (b), (c),
9 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
10 for benefits if the claimant had applied for benefits at the time when
11 that employment ended. Benefits paid under a given benefit
12 determination shall be charged against the account of the employer
13 to whom such determination relates. When each benefit payment is
14 made, either a copy of the benefit check or other form of
15 notification shall be promptly sent to the employer against whose
16 account the benefits are to be charged. Such copy or notification
17 shall identify the employer against whose account the amount of
18 such payment is being charged, shall show at least the name and
19 social security account number of the claimant and shall specify the
20 period of 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
37 $2 \frac{8}{10}\%$, 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 $2 \frac{8}{10}\%$, 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 Reserve Ratio, which shall be
 25 calculated by dividing the balance of the unemployment trust fund
 26 as of the prior March 31 by total taxable wages reported to the
 27 controller by all employers as of March 31 with respect to their
 28 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

	Fund Reserve Ratio ¹				
	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 **[(1)] (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 ;

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

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

26 (6) Additional contributions.

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

1 amount of additional payment, liable for a penalty of 5% thereof or
2 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
3 under this subsection shall be made only in the form of credits
4 against accrued or future contributions.

5 (7) Transfers.

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

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

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

1 subsection shall, as of the date of the transfer of the organization,
2 trade, assets or business, or part thereof, immediately become an
3 employer if not theretofore an employer subject to this chapter
4 (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (ii) Each worker shall contribute to the State disability benefits
38 fund, in addition to any amount contributed pursuant to
39 subparagraph (i) of this paragraph (1)(G), an amount equal to,
40 during calendar year 2009, 0.09%, and during calendar year 2010
41 0.12%, of wages paid with respect to the worker's employment with
42 any covered employer, including a governmental employer which is
43 an employer as defined under R.S.43:21-19(h)(5), unless the
44 employer is covered by an approved private disability plan for
45 benefits during periods of family temporary disability leave. The
46 contributions made pursuant to this subparagraph (ii) to the State
47 disability benefits fund shall be deposited into an account of that
48 fund reserved for the payment of benefits during periods of family

1 temporary disability leave as defined in section 3 of the "Temporary
2 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
3 administration of those payments and shall not be used for any other
4 purpose. This account shall be known as the "Family Temporary
5 Disability Leave Account." For calendar year 2011 and each
6 subsequent calendar year, the annual rate of contribution to be paid
7 by workers pursuant to this subparagraph (ii) shall be the rate
8 necessary to obtain a total amount of contributions equal to 125% of
9 the benefits paid for periods of family temporary disability leave
10 during the immediately preceding calendar year plus an amount
11 equal to 100% of the cost of administration of the payment of those
12 benefits during the immediately preceding calendar year, less the
13 amount of net assets remaining in the account as of December 31
14 of the immediately preceding year. Necessary administrative costs
15 shall include the cost of an outreach program to inform employees
16 of the availability of the benefits and the cost of issuing the reports
17 required or permitted pursuant to section 13 of P.L.2008, c.17
18 (C.43:21-39.4). No monies, other than the funds in the "Family
19 Temporary Disability Leave Account," shall be used for the
20 payment of benefits during periods of family temporary disability
21 leave or for the administration of those payments, with the sole
22 exception that, during calendar years 2008 and 2009, a total amount
23 not exceeding \$25 million may be transferred to that account from
24 the revenues received in the State disability benefits fund pursuant
25 to subparagraph (i) of this paragraph (1)(G) and be expended for
26 those payments and their administration, including the
27 administration of the collection of contributions made pursuant to
28 this subparagraph (ii) and any other necessary administrative costs.
29 Any amount transferred to the account pursuant to this
30 subparagraph (ii) shall be repaid during a period beginning not later
31 than January 1, 2011 and ending not later than December 31, 2015.
32 No monies, other than the funds in the "Family Temporary
33 Disability Leave Account," shall be used under any circumstances
34 after December 31, 2009, for the payment of benefits during periods
35 of family temporary disability leave or for the administration of
36 those payments, including for the administration of the collection of
37 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

45 (3) (A) If an employee receives wages from more than one
46 employer during any calendar year, and either the sum of his
47 contributions deposited in and credited to the State disability
48 benefits fund plus the amount of his contributions, if any, required

1 towards the costs of benefits under one or more approved private
2 plans under the provisions of section 9 of the "Temporary Disability
3 Benefits Law" (C.43:21-33) and deducted from his wages, or the
4 sum of such latter contributions, if the employee is covered during
5 such calendar year only by two or more private plans, exceeds an
6 amount equal to 1/2 of 1% of the "wages" determined in accordance
7 with the provisions of R.S.43:21-7(b)(3) during the calendar years
8 beginning on or after January 1, 1976, 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.
14 No 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 [seq.] al.) and deducted from his wages, exceeds an amount
44 equal to, during calendar year 2009, 0.09% of the "wages"
45 determined in accordance with the provisions of R.S.43:21-7(b)(3),
46 or during calendar year 2010, 0.12% of those wages, or, during
47 calendar year 2011 or any subsequent calendar year, the percentage
48 of those wages set by the annual rate of contribution determined by

1 the Commissioner of Labor and Workforce Development pursuant
2 to 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 [al.] seq.) is treated as his employer, or receives his wages from
36 some other employing unit, such employer shall nevertheless be
37 liable for such individual's contributions in the first instance; and
38 after payment thereof such employer may deduct the amount of
39 such contributions from any sums payable by him to such
40 employing unit, or may recover the amount of such contributions
41 from such employing unit, or, in the absence of such an employing
42 unit, from such individual, in a civil action; provided proceedings
43 therefor are instituted within three months after the date on which
44 such 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 [al.] seq.), or to cease to be
3 an employer subject to this chapter (R.S.43:21-1 et [al.] seq.),
4 pursuant to the provisions of R.S.43:21-8, shall post and maintain
5 printed notices of such election on his premises, of such design, in
6 such numbers, and at such places as the director may determine to
7 be 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 **[al.]** 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 1
42 $\frac{1}{2}$ % 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 subparagraph (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 **subsection** paragraph equals or
42 exceeds 1 1/4%, the final employer rates shall be the preliminary
43 rates determined as provided in subparagraph (D) hereof, except
44 that if the employer's preliminary rate is determined as provided in
45 subparagraph (D)(2) or subparagraph (D)(3) hereof, the final
46 employer rate shall be the preliminary employer rate decreased by
47 such percentage of excess taken to the nearest 5/100 of 1%, but in
48 no case shall such final rate be less than 1/10 of 1%.

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

19 (iv) If the amount of the State disability benefits fund determined
20 as provided in subparagraph (E)(1) of this **[subsection]** paragraph
21 is equal to or less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of
22 1% in the case of an employer whose preliminary rate is determined
23 as provided in subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case
24 of an employer whose preliminary rate is determined as provided in
25 subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in
26 the case of an employer whose preliminary rate is determined as
27 provided in subparagraph (D)(4) hereof. Notwithstanding any other
28 provision of law or any determination made by the controller with
29 respect to any 12-month period commencing on July 1, 1970, the
30 final rates for all employers for the period beginning January 1,
31 1971, shall be as set forth herein.

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

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

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

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

45 (cf: P.L. 2009, c.195 s.1)

46

47 2. This act shall take effect immediately.

1 STATEMENT

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This bill reduces the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal year 2011 by setting them based on the "C" column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2009 is based on column "B" of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge. The bill reduces the UI tax burden on employers by providing that the "C" schedule will stay in effect throughout fiscal year 2011.

ASSEMBLY, No. 2624

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 6, 2010

Sponsored by:

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

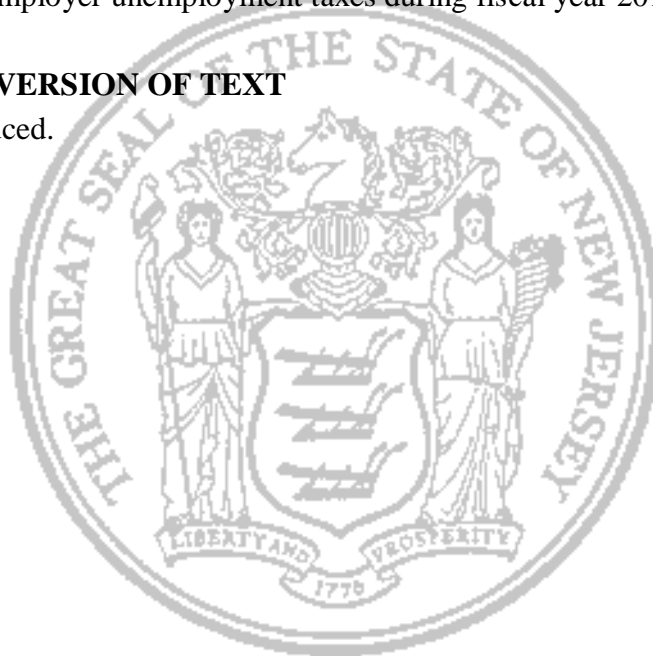
Assemblyman Diegnan, Assemblywoman Quijano, Assemblyman Coughlin, Assemblywoman Watson Coleman, Assemblymen Wisniewski and Fuentes

SYNOPSIS

Reduces employer unemployment taxes during fiscal year 2011.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2010)

1 AN ACT reducing employer unemployment taxes and amending
2 R.S.43:21-7.

3

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

6

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

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

19 (a) Payment.

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

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

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

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

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

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

Matter underlined thus is new matter.

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

13 (3) For calendar years beginning on and after January 1, 1976,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b), shall be established and
16 promulgated by the Commissioner of Labor and Workforce
17 Development on or before September 1 of the preceding year and
18 shall be, 28 times the Statewide average weekly remuneration paid
19 to workers by employers, as determined under R.S.43:21-3(c),
20 raised to the next higher multiple of \$100.00 if not already a
21 multiple thereof, provided that if the amount of wages so
22 determined for a calendar year is less than the amount similarly
23 determined for the preceding year, the greater amount will be used;
24 provided, further, that if the amount of such wages so determined
25 does not equal or exceed the amount of wages as defined in
26 subsection (b) of section 3306 of the [Federal Unemployment Tax
27 Act, Chapter 23 of the] Internal Revenue Code of 1986 (26 U.S.C.
28 s.3306(b)), the wages as determined in this paragraph in any
29 calendar year shall be raised to equal the amount established under
30 the "Federal Unemployment Tax Act," chapter 23 of the Internal
31 Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar
32 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
47 commencing on and after January 1, 1953, to any individual on or
48 before December 31 of any calendar year with respect to

1 unemployment in such calendar year and in preceding calendar
2 years shall be charged against the account or accounts of the
3 employer or employers in whose employment such individual
4 established base weeks constituting the basis of such benefits,
5 except that, with respect to benefit years commencing after January
6 4, 1998, an employer's account shall not be charged for benefits
7 paid to a claimant if the claimant's employment by that employer
8 was ended in any way which, pursuant to subsection (a), (b), (c),
9 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
10 for benefits if the claimant had applied for benefits at the time when
11 that employment ended. Benefits paid under a given benefit
12 determination shall be charged against the account of the employer
13 to whom such determination relates. When each benefit payment is
14 made, either a copy of the benefit check or other form of
15 notification shall be promptly sent to the employer against whose
16 account the benefits are to be charged. Such copy or notification
17 shall identify the employer against whose account the amount of
18 such payment is being charged, shall show at least the name and
19 social security account number of the claimant and shall specify the
20 period of 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
37 $2 \frac{8}{10}\%$, 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 $2 \frac{8}{10}\%$, 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 Reserve Ratio, which shall be
 25 calculated by dividing the balance of the unemployment trust fund
 26 as of the prior March 31 by total taxable wages reported to the
 27 controller by all employers as of March 31 with respect to their
 28 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 Ratio ¹				
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

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

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

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

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

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

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

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

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

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

16 From January 1, 1998 until December 31, 1998, a factor of 12%;

17 From January 1, 1999 until December 31, 1999, a factor of 10%;

18 From January 1, 2000 until December 31, 2000, a factor of 7%;

19 From January 1, 2002 until March 31, 2002, a factor of 36%;

20 From April 1, 2002 until June 30, 2002, a factor of 85%;

21 From July 1, 2002 until June 30, 2003, a factor of 15%;

22 From July 1, 2003 until June 30, 2004, a factor of 15%;

23 From July 1, 2004 until June 30, 2005, a factor of 7%;

24 From July 1, 2005 until December 31, 2005, a factor of 16%; and

25 From January 1, 2006 until June 30, 2006, a factor of 34%.

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

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

35 (J) On or after July 1, 2001, notwithstanding any other
36 provisions of this paragraph (5), the contribution rate for each
37 employer liable to pay contributions, as computed under
38 subparagraph (E) of this paragraph (5), shall be decreased by
39 0.0175%, except that, during any experience rating year starting on
40 or after July 1, 2001, in which the fund reserve ratio is equal to or
41 greater than 3.5%, there shall be no decrease pursuant to this
42 subparagraph (J) in the contribution of any employer who has a
43 deficit reserve ratio of negative 35.00% or under. The amount of the
44 reduction in the employer contributions stipulated by this
45 subparagraph (J) shall be in addition to the amount of the reduction
46 in the employer contributions stipulated by subparagraphs (G) and
47 (H) of this paragraph (5), except that the rate of contribution of an
48 employer who has a deficit reserve ratio of negative 35.0% or under

1 shall not be reduced pursuant to this subparagraph (J) to less than
2 5.4% and the rate of contribution of any other employer shall not be
3 reduced to less than 0.0%.

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

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

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

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

27 (6) Additional contributions.

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

1 to make such payment timely shall be, in addition to the required
2 amount of additional payment, liable for a penalty of 5% thereof or
3 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
4 under this subsection shall be made only in the form of credits
5 against accrued or future contributions.

6 (7) Transfers.

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

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

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

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

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

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

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

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

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

47 (B) Effective January 1, 1978 there shall be no contributions by
48 workers in the employ of any governmental or nongovernmental

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

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

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

37 (D) Notwithstanding any other provisions of this paragraph (1),
38 during the period starting January 1, 1993 and ending June 30,
39 1994, each worker shall contribute to the unemployment
40 compensation fund 0.5% of wages paid with respect to the worker's
41 employment with a governmental employer electing or required to
42 pay contributions or nongovernmental employer, including a
43 nonprofit organization which is an employer as defined under
44 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
45 whether that nonprofit organization elects or is required to finance
46 its benefit costs with contributions to the fund or by payments in
47 lieu of contributions, after that employer has satisfied the conditions
48 set forth in subsection (h) of R.S.43:21-19 with respect to becoming

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

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

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

46 Each worker shall, starting on January 1, 1999 until December
47 31, 1999, contribute to the unemployment compensation fund
48 0.15% of wages paid with respect to the worker's employment with

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

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

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

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

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

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

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

38 (ii) Each worker shall contribute to the State disability benefits
39 fund, in addition to any amount contributed pursuant to
40 subparagraph (i) of this paragraph (1)(G), an amount equal to,
41 during calendar year 2009, 0.09%, and during calendar year 2010
42 0.12%, of wages paid with respect to the worker's employment with
43 any covered employer, including a governmental employer which is
44 an employer as defined under R.S.43:21-19(h)(5), unless the
45 employer is covered by an approved private disability plan for
46 benefits during periods of family temporary disability leave. The
47 contributions made pursuant to this subparagraph (ii) to the State
48 disability benefits fund shall be deposited into an account of that

1 fund reserved for the payment of benefits during periods of family
2 temporary disability leave as defined in section 3 of the "Temporary
3 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
4 administration of those payments and shall not be used for any other
5 purpose. This account shall be known as the "Family Temporary
6 Disability Leave Account." For calendar year 2011 and each
7 subsequent calendar year, the annual rate of contribution to be paid
8 by workers pursuant to this subparagraph (ii) shall be the rate
9 necessary to obtain a total amount of contributions equal to 125% of
10 the benefits paid for periods of family temporary disability leave
11 during the immediately preceding calendar year plus an amount
12 equal to 100% of the cost of administration of the payment of those
13 benefits during the immediately preceding calendar year, less the
14 amount of net assets remaining in the account as of December 31
15 of the immediately preceding year. Necessary administrative costs
16 shall include the cost of an outreach program to inform employees
17 of the availability of the benefits and the cost of issuing the reports
18 required or permitted pursuant to section 13 of P.L.2008, c.17
19 (C.43:21-39.4). No monies, other than the funds in the "Family
20 Temporary Disability Leave Account," shall be used for the
21 payment of benefits during periods of family temporary disability
22 leave or for the administration of those payments, with the sole
23 exception that, during calendar years 2008 and 2009, a total amount
24 not exceeding \$25 million may be transferred to that account from
25 the revenues received in the State disability benefits fund pursuant
26 to subparagraph (i) of this paragraph (1)(G) and be expended for
27 those payments and their administration, including the
28 administration of the collection of contributions made pursuant to
29 this subparagraph (ii) and any other necessary administrative costs.
30 Any amount transferred to the account pursuant to this
31 subparagraph (ii) shall be repaid during a period beginning not later
32 than January 1, 2011 and ending not later than December 31, 2015.
33 No monies, other than the funds in the "Family Temporary
34 Disability Leave Account," shall be used under any circumstances
35 after December 31, 2009, for the payment of benefits during periods
36 of family temporary disability leave or for the administration of
37 those payments, including for the administration of the collection of
38 contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

46 (3) (A) If an employee receives wages from more than one
47 employer during any calendar year, and either the sum of his
48 contributions deposited in and credited to the State disability

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

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

1 of those wages set by the annual rate of contribution determined by
2 the Commissioner of Labor and Workforce Development pursuant
3 to subparagraph (ii) of paragraph(1)(G) of this subsection (d), the
4 employee shall be entitled to a refund of the excess if he makes a
5 claim to the controller within two years after the end of the calendar
6 year in which the wages are received with respect to which the
7 refund is claimed and establishes his right to the refund. The refund
8 shall be made by the controller from the "Family Temporary
9 Disability Leave Account" of 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 the 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), with that determination
16 based upon the ratio of the amount of such wages exempt from
17 contributions to the fund, as provided in paragraph (1)(B) of this
18 subsection (d) with respect to coverage under private plans, to the
19 total wages so exempt plus the amount of such wages subject to
20 contributions to the "Family Temporary Disability Leave Account"
21 of the State disability benefits fund, as provided in subparagraph (ii)
22 of paragraph (1)(G) of this subsection (d). The controller shall, in
23 accordance with prescribed regulations, prorate the amount so
24 determined among the applicable private plans in the proportion
25 that the wages covered by each plan bear to the total private plan
26 wages involved in such refunds, and shall assess against and
27 recover from the employer, or the insurer if the insurer has
28 indemnified the employer with respect thereto, the prorated amount.
29 The provisions of R.S.43:21-14 with respect to collection of
30 employer contributions shall apply to such assessments. The
31 amount so recovered by the controller shall be paid into the "Family
32 Temporary Disability Leave Account" of the State disability
33 benefits fund.

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

1 (5) Every employer who has elected to become an employer
2 subject to this chapter (R.S.43:21-1 et [al.] seq.), or to cease to be
3 an employer subject to this chapter (R.S.43:21-1 et [al.] seq.),
4 pursuant to the provisions of R.S.43:21-8, shall post and maintain
5 printed notices of such election on his premises, of such design, in
6 such numbers, and at such places as the director may determine to
7 be 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 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) 2/10 of 1% if such excess over \$500.00 exceeds 1% but is
37 less than 1 1/4% of his average annual payroll as defined in this
38 chapter (R.S.43:21-1 et **[al.]** seq.);

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

41 (iii) 1/10 of 1% if such excess over \$500.00 equals or exceeds 1
42 1/2% 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 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 subparagraph (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 **subsection** paragraph equals or
42 exceeds 1 1/4%, the final employer rates shall be the preliminary
43 rates determined as provided in subparagraph (D) hereof, except
44 that if the employer's preliminary rate is determined as provided in
45 subparagraph (D)(2) or subparagraph (D)(3) hereof, the final
46 employer rate shall be the preliminary employer rate decreased by
47 such percentage of excess taken to the nearest 5/100 of 1%, but in
48 no case shall such final rate be less than 1/10 of 1%.

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

19 (iv) If the amount of the State disability benefits fund determined
20 as provided in subparagraph (E)(1) of this **[subsection]** paragraph
21 is equal to or less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of
22 1% in the case of an employer whose preliminary rate is determined
23 as provided in subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case
24 of an employer whose preliminary rate is determined as provided in
25 subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in
26 the case of an employer whose preliminary rate is determined as
27 provided in subparagraph (D)(4) hereof. Notwithstanding any other
28 provision of law or any determination made by the controller with
29 respect to any 12-month period commencing on July 1, 1970, the
30 final rates for all employers for the period beginning January 1,
31 1971, shall be as set forth herein.

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

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

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

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

45 (cf: P.L. 2009, c.195 s.1)

46

47 2. This act shall take effect immediately.

1 STATEMENT

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This bill reduces the unemployment insurance (UI) tax rates which will be imposed on employers during fiscal year 2011 by setting them based on the "C" column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2009 is based on column "B" of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the "E" column, plus an additional 10% surcharge. The bill reduces the UI tax burden on employers by providing that the "C" schedule will stay in effect throughout fiscal year 2011.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2624

STATE OF NEW JERSEY

DATED: MAY 13, 2010

The Assembly Labor Committee reports favorably Assembly Bill No. 2624.

This bill reduces the unemployment insurance (UI) tax rates which will be imposed on employers during Fiscal Year 2011 by setting them based on the “C” column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2010 is based on column “B” of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the “E” column, plus an additional 10% surcharge. The bill reduces the UI tax burden on employers by providing that the “C” schedule will stay in effect throughout fiscal year 2011.

MINORITY STATEMENT

By Assemblymen Dancer, Schroeder and Webber

We must oppose the release of this bill because in its current form, it will lead to higher unemployment and more State debt than available alternatives.

By unnecessarily prolonging the period in which the State Unemployment Insurance (UI) trust fund remains insolvent, the bill will result in the need for the State to borrow more money from the federal government in order to meet the State’s obligations. This debt, coupled with a greater reduction in employer tax credits under the Federal Unemployment Tax Act (FUTA) due to the fund’s prolonged insolvency, will inevitably harm job creation during a time when it is most needed.

Furthermore, by providing for only a temporary, one-year delay in massive employer tax increases rather than a multi-year solution, this bill forces employers to allocate money toward higher tax liabilities in Fiscal Year 2012 rather than toward job retention and expansion. The unemployed and underemployed will suffer the consequences of this short-sightedness.

This bill omits necessary reform measures to promote job growth and retention in New Jersey. It represents a temporary “quick fix” approach rather than the long-term structural reform effort needed to rebalance the UI trust fund, stabilize business planning and ensure job

creation throughout the State. Rather than making the structural reforms to return to a stable, sustainable and solvent UI trust fund, this bill merely creates the conditions for new problems for the trust fund, employers and employees.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2624
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: MAY 25, 2010

SUMMARY

- Synopsis:** Reduces employer unemployment taxes during fiscal year 2011.
- Type of Impact:** Revenue loss to Unemployment Insurance (UI) Compensation Trust Fund. Future expenditure increase from UI Trust Fund due to increased federal loan. Future expenditure increase and matching revenue increase for the Unemployment Compensation Auxiliary Fund (UCAF) to pay the related accrued interest obligations.
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
UI Trust Fund revenue	(\$700 million)	_____	_____
UCAF			
Expenditure	\$0	\$28 million	\$29.7 million
Revenue	\$0	\$28 million	\$29.7 million

- The Office of Legislative Services (OLS) notes that Assembly Bill No. 2624 will reduce the revenue otherwise collected from the employer paid unemployment insurance tax for the State Unemployment Insurance (UI) Compensation Trust Fund by approximately \$700 million for taxes paid in FY 2011.
- The UI Trust Fund is currently operating at a deficit and is borrowing funds from the federal government to pay UI benefits. Thus, any reduction in revenue pursuant to this bill will be offset by funds borrowed from the federal government that will need to be repaid with interest to the federal government. The OLS analysis indicates that, pursuant to changes proposed in this bill, the UI Trust Fund will regain solvency approximately one Fiscal Year later than under current law.
- The OLS analysis also indicates that A-2624 may extend the length of time employers are subject to an increased Federal Unemployment Tax Act (FUTA) tax and an increased State

employer unemployment insurance tax to pay back the additional \$700 million in principal borrowed from the federal government.

- Furthermore, the OLS analysis indicates that interest payments accrued on the additional \$700 million in principal borrowed from the federal government will equal approximately \$28 million and \$29.7 million in interest in FY 2012 and FY 2013 respectively and will continue to accrue until the federal loan is repaid. State law requires an additional assessment on employers which is deposited in the Unemployment Compensation Auxiliary Fund (UCAF) be used to pay this accrued interest. A-2624 will increase the revenue generated for the UCAF from this assessment and increase the expenditures from the UCAF to pay the interest accrued on the additional \$700 million loan.

BILL DESCRIPTION

Assembly Bill No. 2624 of 2010 reduces the UI tax rates which will be imposed on employers during Fiscal Year 2011 by setting them based on the “C” column of the UI tax table in R.S.43:21-7. The UI tax rate which is being charged to employers during FY 2010 is based on column “B” of the tax table. Because the UI trust fund is currently in deficit, the tax rate, under current law, would increase, starting on July 1, 2010, to the highest tax rates set by the law, the rates found in the “E” column, plus an additional 10 percent surcharge. The bill reduces the UI tax burden on employers by providing that the “C” schedule will stay in effect throughout Fiscal Year 2011.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The department did not provide a formal Executive Branch analysis for this bill. However, the department did provide, in its response to the OLS discussion points during the review of the FY 2011 Recommended Budget, numerous charts and data on the UI Trust Fund and estimates on possible changes to the tax and the effect of these changes on the UI Trust Fund balance. These schedules and answers were relied on heavily for this analysis and can be located at http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that Assembly Bill No. 2624 will reduce the revenue collected from the employer paid unemployment insurance tax for the Unemployment Insurance (UI) Compensation Trust Fund by approximately \$700 million in FY2011¹. Since the bill provides for a one year change to the tax rate, no future revenue collections should be affected.

The OLS analysis indicates that, in addition to the \$700 million reduction in revenue, A-2624 will have the following effects: it will increase future UI Trust Fund expenditures used to repay the federal loan to the UI Trust Fund; it will lengthen by one year the date in which the UI Trust fund will gain solvency; it may increase the length of time employers are charged the additional

¹ http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf, (comparison of Schedule III, page 2 and 3 and Schedule II, page 2 and 3 (employer contributions are the sum of last 9 months of the fiscal year and first 3 months of next fiscal year)).

FUTA tax to pay back the federal loan; it will most likely increase the amount of time the employers are charged the higher unemployment insurance tax rate in the future; and it may increase the State imposed UCAF assessment to pay back the interest on the federal loan.

To determine these outcomes, the OLS conducted its analysis using data extracted from the Department of Labor and Workforce Development's answers to discussion points during the review of the FY 2011 Budget Recommendation. It is very difficult to estimate the future effects of changes to the unemployment insurance system, because of the many variables involved in the analysis. For example, it is not possible to predict with great accuracy the rate of unemployment or wage data into the future. Both of these factors could change slightly from the OLS and department assumptions and have significant cumulative effects on the results of this analysis. It is for this reason that long term estimates for UI Trust Fund solvency cannot be made with any level of certainty.

For the purposes of its analysis, the OLS made the following assumptions: the economy is going to slowly recover and not experience another downturn in the next seven years; unemployment will continue to decrease slightly over the next seven years; benefit payments will drop due to decreased unemployment at 2 percent per year; all benefits programs will remain constant; employer and employee contributions will increase at 2 percent each year; and the federal government will continue to pay 100 percent of the federal extended benefits until January 1, 2011.

The OLS analysis indicates that A-2624 will also increase future UI Trust fund expenditures used to repay the current federal loan and UCAF expenditures to pay the interest on that loan. As of April 30, 2010, the State has borrowed \$1.75 billion from the federal government to pay unemployment insurance benefits. The department anticipates that the State will continue to borrow funds into FY 2012 to pay benefits, possibly borrowing a total of \$2.8 billion under current law. The federal loan is advanced interest free until January 1, 2011. After that date, interest will begin to accrue at the federally established rate, currently set at 4 percent annually. The OLS analysis indicates that, pursuant to the changes proposed in this bill, the UI Trust fund will regain solvency approximately one fiscal year later than under current law.

A-2624 may also affect the length of time employers are required to pay an additional federal tax. Unemployment insurance is funded jointly through the federal unemployment tax, more commonly referred to as "FUTA" (for the Federal Unemployment Tax Act under which it was established), and levied on employers, and a state unemployment insurance tax levied on employers and employees. The current FUTA tax rate is 6.2 percent of the first \$7,000 in wages. This rate is offset with a credit of 5.4 percent, yielding a net tax of 0.8 percent on eligible employees first \$7,000 in wages.

Federal law requires that if a state has borrowed from the federal government for its UI Trust Fund and maintains a deficit two years after the state initiated the borrowing, then a reduction to the employers' FUTA credit is initiated. Therefore, if New Jersey is in deficit to the federal government in March 2011, the 5.4 percent credit will be gradually phased out (at 0.3 percent annually) and the employer will begin to pay more taxes on the first \$7,000 in wages paid to each employee. The higher the balance of the federal loan, the longer it will take employers to repay the loan through their FUTA tax.

According to the OLS analysis, pursuant to A-2624 and current law, the repayment through the FUTA tax will commence in FY 2012 and be complete in FY 2014. However, it should be noted that, in the OLS analysis of A-2624, there is a very small margin between solvency and insolvency at the conclusion of FY 2015. There is a much greater margin of solvency for the UI Trust Fund under the provisions of the current law. Therefore, it is very possible that the passage of A-2624 will require FUTA tax payments into FY 2015.

Additionally, federal law requires that all interest accrued on federal advances to the State UI Trust fund must be repaid through appropriations not dedicated to the State UI Trust Fund. Section 24 of P.L.1984, c. 24(N.J.S.A.43:21-14.3), provides that the Commissioner of Labor and Workforce Development must, on or before June 30 of each year, review the amount of interest owed to the United States Treasury for advances made from the federal unemployment account to pay State UI benefits and determine if the UCAF² has the needed funds to repay the interest to the federal government by September of that calendar year. If it is determined by the commissioner that the UCAF has insufficient funds to repay the accrued interest, then the statute provides for a special assessment on employers, except governmental entities and nonprofit organizations. The assessment is determined by the department as a ratio of the amount of interest owed to 95 percent of the total employer contributions payable for UI on taxable wages during the preceding calendar year. This ratio is then applied to the individual employer's amount of unemployment contributions payable in the previous year to determine the amount of assessment.

The monies borrowed from the federal government are interest free until January 1, 2011. Therefore, in 2011, the commissioner must determine whether the UCAF has the funds available to repay the interest accrued from January 1, 2011 to June, 2011 by September, 2011 and whether an assessment would occur in FY 2012. Under the current law, the department estimated that the amount of interest owed will equal approximately \$110 million in FY 2011, \$100 million in FY 2012 and \$75 million in FY2013. The UCAF assessment rate would equal approximately 0.1 percent of the taxable wage base (currently \$29,700) in FY 2011 and FY 2012 and approximately 0.07 percent in FY2012.³ Due to a lack of specific employer data available to the OLS, it is not possible to present more specifics on the increase to this assessment. However, pursuant to the changes proposed in A-2624, the total interest owed would most likely increase by \$29 million in FY 2012 and FY 2013, resulting in a higher assessment on employers.

Furthermore, this bill may increase the length of time employers will be charged at a higher State UI tax rate in the future. The UI tax rate, which is paid by employers and is the primary source of funding for the UI Trust Fund⁴, is dependent upon the annual experience of the State UI Trust Fund, as calculated through the determination of the overall fund reserve ratio. The overall fund reserve ratio is determined each year by dividing the fund balance on a specific date by the taxable wages from the previous calendar year. Therefore, the lower the fund balance, the higher the tax rate. Any actions that result in a reduction to the fund balance will result in a higher tax rate for a longer period of time. Since, pursuant to this bill, the fund will be losing \$700 million in revenue in FY 2011, it is likely that the fund will remain in a higher tax column for an additional year. The OLS analysis indicates that the fund could be out of the highest tax column "E +10 percent" in FY 2017 pursuant to the changes proposed in A-2624, as compared to FY 2016 under current law. It is not possible to know this for certain because of the numerous variables affecting the future of the UI Trust Fund, as discussed above.

² The Unemployment Compensation Auxiliary Fund (UCAF), established in subsection (g) of N.J.S.A.43:21-14, is a repository for all interest and penalties imposed upon employers for violation of unemployment insurance regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI Trust fund, for the repayment of any interest bearing advances made for the federal unemployment account and for essential and necessary expenditures in connection with programs, as determined by the Commissioner.

³ http://www.njleg.state.nj.us/legislativepub/budget_2011/Department_Response/DOL_response.pdf, Schedule VII..

⁴ In addition to the federal tax, state governments also levy payroll taxes on employers and in three states, including New Jersey, payroll taxes on employees. In New Jersey, the tax on the employee is levied at a rate of 0.03825 percent on the first \$29,700 of income earned. Thus, in 2010, the maximum employee contribution is approximately \$113 per employee (0.003825 x 29,700).

In summary, the OLS notes that A-2624 will reduce by approximately \$700 million the revenue collected from the employer paid unemployment insurance tax for the UI Trust Fund for FY 2011. Since the bill provides for a one year change to the tax rate, no future revenue collections should be affected. Additionally, A-2624 will also affect future UI Trust Fund expenditures used to repay the federal loan and future UCAF expenditures to repay the interest on this loan. A-2624 may also increase the length of time employers are charged the following: the additional FUTA tax to pay back the federal loan; an additional State assessment to pay back the interest on the federal loan; and the higher unemployment insurance tax rate in the future. However, there is too much uncertainty in key variables to make any future estimates with absolute confidence.

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate Fiscal Analysis*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

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

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Governor Chris Christie Signs S-1813 to Protect New Jersey Small Businesses and Reform UI Trust Fund

Friday, July 2 2010 Tags [Jobs and the Economy](#)

Trenton, NJ - Governor Chris Christie has signed S-1813 into law to protect New Jersey small businesses by preventing a devastating tax hike of up to \$683 per employee for employers who fund the Unemployment Insurance Trust Fund. The bill maintains revisions made by Governor Christie in his June 24, 2010 conditional veto of the legislation. As a result, the bill signed into law today achieves the Governor's goals of maintaining critical reforms on unemployment insurance eligibility, minimizing the tax impact on businesses, and setting the course for the Unemployment Insurance Trust Fund's return to solvency.

"There is no question that such an onerous a tax hike right now on New Jersey's job creators would seriously damage our economy and derail our recovery," Governor Christie said. "I am thankful to the legislature and the bill's sponsors for coming together to mitigate the financial impact on our state's small businesses, while taking the necessary steps to begin restoring solvency to the system."

The bill as signed into law maintains the most time-critical aspect of the Governor's original proposed changes to the Unemployment Insurance Trust Fund and those of the sponsors of S-1813: averting an automatic, per-employee tax increase on July 1 of up to \$683 that would have been needed to fund an insolvent Unemployment Insurance Trust Fund. Instead, the average increase will be reduced to \$130 per employee.

"The action taken by Governor Christie is great news for New Jersey's small businesses," said Labor Commissioner Hal Wirths. "Through the Governor's strong leadership on this issue and the bipartisan, cooperative efforts of the legislature, we were able to take real, timely action for our economy and job market. I look forward to the work of the newly created task force and finding a long-term solution to fix the UI trust fund and bring the necessary reform to prevent small businesses from facing these circumstances in the future."

Additionally, S-1813 includes key reforms to unemployment insurance benefits for employees who lose their jobs due to misconduct - reforms which will result in estimated annual savings of between \$150 and \$175 million, significantly helping to restore the Trust Fund's solvency over time. A three-tiered structure is now established (misconduct, severe misconduct and gross misconduct) which either prohibit payment of unemployment benefits or extend the waiting period before benefits can be paid.

The Governor's June 24 conditional veto of S-1813 also provided for the creation of an Unemployment Insurance Fund Task Force to study and assess, among other things, the current unemployment insurance crisis and recommend how the state can restore the trust fund to solvency in a way that balances the interests of workers, employers and the overall economy. The task force will replace the Employment Security Council, a group which has not met in over a five years.

The newly established task force will conduct a comprehensive review of all eligibility standards, benefit levels, definitions in the unemployment compensation law, statutory payroll tax triggers, contributions and experience rating tables and more.

In February, in the face of a fiscal emergency and 10.1 percent unemployment, Governor Christie took action to propose reforms that would suspend an automatic employer payroll increase of as much as \$683 per employee that would have been need to fund an insolvent UI Trust Fund after years of being raided by the Legislature. The bill, as signed today, is consistent with the goals outlined by Governor Christie then to ease the burden on small businesses, reforming misconduct standards and setting a course for future reforms to guarantee the strength and fiscal health of the trust fund in the future.

The UI fund ran out of cash in March 2009, forcing New Jersey to borrow, to date, \$1.75 billion from the federal government to pay unemployment claims. By law, business payroll withholding for UI automatically increases once the fund goes below a certain level. On July 1, employers would have experienced an average per-employee hike of \$400 - a 52 percent increase - while some employers would see an increase of up to \$683.

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