

# 34:15-94

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**LAWS OF:** 1999                    **CHAPTER:** 408

**NJSA:** 34:15-94            (Reduces surcharges 2<sup>nd</sup> injury fund)

**BILL NO:** S2008            (Substituted for A3265)

**SPONSOR(S):** Allen

**DATE INTRODUCED:** June 14, 1999

**COMMITTEE:**            **ASSEMBLY:** ----

**SENATE:** Budget

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** June 24, 2000            **Re-enacted:** January 10, 2000

**SENATE:** June 24, 2000            **Re-enacted:** January 10, 2000

**DATE OF APPROVAL:** January 18, 2000

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL:** 2<sup>nd</sup> Reprint  
(Amendments during passage denoted by superscript number)

#### **S2008**

**SPONSORS STATEMENT:** (Begins on page 6 of original bill)            [Yes](#)

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

**SENATE:** [Yes](#)

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### **A3265**

**SPONSORS STATEMENT:** (Begins on page 6 of original bill)            [Yes](#)  
Bill and Sponsors Statement identical to S2008

**COMMITTEE STATEMENT:**                                    **ASSEMBLY:** [Yes](#)  
Identical to Senate Statement for S2008

**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** [Yes](#)

**GOVERNOR'S PRESS RELEASE ON CONDITIONAL VETO:** [Yes](#)

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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Yes

**REPORTS:**

Comments on proposed legislation in:

NJ 974.901 **Budget in Brief, Fiscal Year 1999-2000**

G53.3 Trenton, New Jersey: Office of the Governor, 1999.  
1999 [see page 79]

NJ 974.901 **Analysis of the New Jersey Fiscal Year 1999-2000 Budget**

G53.4 Trenton, New Jersey: Office of Legislative Services.  
1999-2000 [see pp. 19-21]

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 1999, CHAPTER 408, *approved January 18, 2000*  
Senate, No. 2008 (*Second Reprint*)

1 AN ACT reducing surcharges for the Second Injury Fund, and  
2 amending R.S.34:15-94.

3

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

6

7 1. R.S.34:15-94 is amended to read as follows:

8 34:15-94. a. **[**Each mutual association or stock company writing  
9 compensation or employer's liability insurance in this State, and each  
10 self-insurer, shall pay to the Commissioner of Labor a sum equal to  
11 that proportion of 150% of the total amount of moneys paid under  
12 R.S.34:15-95 during the preceding calendar year, less the amount of  
13 net assets exceeding \$5,000,000.00 remaining in such fund as of  
14 December 31 of said preceding calendar year, which the total  
15 compensation payments of such mutual association, stock company or  
16 self-insurer bear to the total compensation payments made by all such  
17 mutual associations, stock companies, and self-insurers during such  
18 preceding calendar year. Such sum shall be paid by the Commissioner  
19 of Labor to the State Treasurer.

20 On or before August 1, 1986 the Commissioner of Labor shall  
21 recalculate payments due for calendar year 1986 in accordance with  
22 the formula provided above, and levy supplemental assessments to  
23 adjust for any difference due to be paid in satisfaction of obligations  
24 for calendar year 1986, giving full credit for payments previously due  
25 and paid on or before August 15, 1986. Such supplemental  
26 assessments, if necessary to be levied, shall be paid on or before  
27 September 15, 1986. Commencing January 1, 1987, and each calendar  
28 year thereafter, annual payments shall be calculated by the  
29 commissioner and sums due shall be paid in equal quarterly  
30 installments on or before March 15, on or before June 15, on or before  
31 September 15 and on or before December 15 of each year.

32 The assessment established in this subsection shall be terminated  
33 effective December 31, 1988. **]** (~~Deleted by amendment, P.L. .c. .~~)

34 b. Commencing January 1, 1989 and on the first day of each year  
35 thereafter, the Commissioner of Labor shall levy an annual surcharge  
36 upon all policyholders and self-insured employers for the purpose of  
37 providing moneys to the Second Injury Fund. Each policyholder and  
38 self-insured employer shall be liable for payment of the annual  
39 surcharge in accordance with the provisions of this section and all  
40 regulations promulgated pursuant hereto. The annual surcharge levied  
41 under this section shall be applied to all workers' compensation and

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SBA committee amendments adopted June 21, 1999.

<sup>2</sup> Senate amendments adopted in accordance with Governor's recommendations  
January 10, 2000.

1 employer's liability insurance policies providing coverage on or after  
2 January 1, 1989 and, in the case of self-insured employers, to coverage  
3 provided on or after January 1, 1989. Notwithstanding any law to the  
4 contrary, the surcharge levied pursuant to this section shall not apply:  
5 to any reinsurance or retrocessional transaction; to the State or any  
6 political subdivision thereof which acts as a self-insured employer; or  
7 to any workers' compensation endorsement required pursuant to  
8 section 1 of P.L.1979, c.380 (C.17:36-5.29).

9 c. On or before July 31 of 1988 and of each year thereafter:

10 (1) Each insurer and self-insured employer shall submit to the  
11 Commissioner of Labor, in a form and manner prescribed by the  
12 Commissioner of Labor, a report of the total compensation payments  
13 made by the insurer or self-insured employer during the 12-month  
14 period ending on the immediately preceding June 30th;

15 (2) Each insurer shall submit to the Commissioner of Banking and  
16 Insurance, in a form and manner prescribed by the Commissioner of  
17 Banking and Insurance, a report of the total earned premiums  
18 collected by the insurer on all workers' compensation or employer's  
19 liability policies written on risks located in this State pursuant to the  
20 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
21 on the immediately preceding June 30th;

22 (3) The Commissioner of Labor shall estimate the amount of  
23 special adjustment and supplemental benefits payable by each insurer  
24 writing workers' compensation or employer's liability insurance in the  
25 State and by each self-insured employer pursuant to R.S.34:15-95  
26 during the then current fiscal year;

27 (4) The Commissioner of Labor shall <sup>1</sup>~~establish~~ make a  
28 determination of<sup>1</sup> the aggregate annual surcharge to be levied upon  
29 policyholders and self-insured employers during the next following  
30 calendar year, which shall be an amount equal to (a) 150%, in the case  
31 of any calendar year commencing prior to January 1, 2000, and (b)  
32 125%, in the case of any calendar year commencing after  
33 December 31, 1999, of the <sup>1</sup>~~moneys~~ compensation and benefits<sup>1</sup>  
34 estimated by the Commissioner of Labor to be payable from the  
35 Second Injury Fund during the next following calendar year <sup>2</sup>plus 100  
36 % of the amount estimated by the Commissioner of Labor to be  
37 necessary for the cost of administration of the Division of Workers'  
38 Compensation in the Department of Labor<sup>2</sup>, less the estimated amount  
39 of net assets exceeding \$5,000,000.00 which will remain in the Second  
40 Injury Fund on December 31st of the then current calendar year<sup>1</sup>, and  
41 the Commissioner of Labor shall <sup>2</sup>~~make public and~~<sup>2</sup> submit <sup>2</sup>an  
42 informational copy<sup>2</sup> to the Joint Budget Oversight Committee <sup>2</sup>~~for~~  
43 the committee's review and approval the amount the commissioner has  
44 determined to be the aggregate annual surcharge during the following  
45 calendar year. The submission by the Commissioner of Labor to the  
46 Joint Budget Oversight Committee shall include the estimates used by  
47 the Commissioner of Labor to make his determination, the estimates

1 made by the Commissioner of Labor of the amounts payable from the  
2 Second Injury Fund during the two preceding calendar years, and the  
3 amounts that were actually paid during those years<sup>1</sup>2;

4 (5) The Commissioner of Labor shall <sup>2</sup>1, upon the approval of the  
5 surcharges by the Joint Budget Oversight Committee,<sup>1</sup>2 apportion the  
6 aggregate annual surcharge calculated pursuant to paragraph (4) of  
7 this subsection among policyholders as a group and self-insured  
8 employers as a separate group. Policyholders shall be liable to pay that  
9 portion of the aggregate annual surcharge that is equal to the  
10 proportion that the compensation payments made by all policyholders  
11 during the 12-month period ending on the immediately preceding June  
12 30th bear to the total compensation payments made by all  
13 policyholders and self-insured employers during the 12-month period  
14 ending on the immediately preceding June 30th. Self-insured  
15 employers shall be liable to pay that portion of the aggregate annual  
16 surcharge that is equal to the proportion that the compensation  
17 payments made by all self-insured employers during the 12-month  
18 period ending on the immediately preceding June 30th bear to the total  
19 compensation payments made by all policyholders and self-insured  
20 employers during the 12-month period ending on the immediately  
21 preceding June 30th; and

22 (6) The Commissioner of Labor shall notify the Commissioner of  
23 Banking and Insurance of the aggregate annual surcharge amount  
24 applicable to policyholders during the next following calendar year.

25 d. On or before September 15 of 1988 and of each year thereafter:

26 (1) In consultation with the Commissioner of Labor, the  
27 Commissioner of Banking and Insurance shall determine the annual  
28 policyholder surcharge rate to be applied to each workers'  
29 compensation and employer's liability policy during the next following  
30 calendar year, and shall notify insurers of the annual policyholder  
31 surcharge rate to be applied to policy premiums during the next  
32 following calendar year. The annual policyholder surcharge rate shall  
33 be established as a percentage, which shall be equal to the percentage  
34 relationship that the annual surcharge amount which is applicable to all  
35 policyholders bears to the total earned premiums for workers'  
36 compensation and employer's liability coverage written on risks  
37 located in this State for the 12-month period ending on the  
38 immediately preceding June 30th.

39 (2) The Commissioner of Labor shall notify each self-insured  
40 employer of the amount of the annual surcharge applicable to that  
41 self-insured employer during the next following calendar year. The net  
42 annual surcharge for each self-insured employer shall be established as  
43 a pro rata portion of the annual surcharge applicable to all self-insured  
44 employers, which shall be chargeable to the self-insured employer in  
45 the proportion that the self-insured employer's compensation payments  
46 during the 12-month period ending on the immediately preceding June  
47 30th bear to the total compensation payments made by all self-insured

1 employers during the 12-month period ending on the immediately  
2 preceding June 30th, less the estimated amount of special adjustment  
3 and supplemental benefits payable by that self-insured employer  
4 pursuant to R.S.34:15-95 during the then current fiscal year.

5 e. (1) Every insurer providing workers' compensation and  
6 employer's liability insurance shall collect from each of its  
7 policyholders, on behalf of the Commissioner of Labor and in  
8 accordance with subsections b., c. and d. of this section, an amount  
9 equal to the annual policyholder surcharge rate established by the  
10 Commissioner of Banking and Insurance pursuant to subsection d. of  
11 this section, multiplied by the amount of the policyholder's premium.  
12 The surcharge to be collected from the policyholder shall be stated  
13 separately on the policy or billing statement and be collected at the  
14 same time and in the same manner that the premium or other charges  
15 for the coverage are collected. On or before the 30th day after the end  
16 of the calendar quarter commencing January 1, 1989, and on or before  
17 the 30th day following the end of each calendar quarter thereafter,  
18 each insurer shall report to the Commissioner of Labor, on forms as  
19 the commissioner may require, the total amount of its workers'  
20 compensation and employer's liability insurance earned premiums for  
21 the preceding quarterly accounting period, and remit the surcharge  
22 collected from policyholders on those premiums, less special  
23 adjustment and supplemental benefits paid during the preceding  
24 calendar quarter by the insurer pursuant to the workers' compensation  
25 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
26 any portion of any surcharge imposed pursuant to this section as a fee  
27 or commission for its collection nor shall that surcharge be subject to  
28 any taxes, licenses or fees.

29 (2) On or before the 30th day after the end of each calendar  
30 quarter commencing January 1, 1989, and on or before the 30th day  
31 following the end of each calendar quarter thereafter, each self-insured  
32 employer shall remit to the Commissioner of Labor an amount equal  
33 to one-fourth of the effective net annual surcharge as established for  
34 that self-insured employer during the then current calendar year  
35 pursuant to subsection d. of this section, less special adjustment and  
36 supplemental benefits paid during the preceding calendar quarter by  
37 the self-insured employer pursuant to the workers' compensation law,  
38 R.S.34:15-1 et seq.

39 f. The Commissioner of Labor shall promulgate within 180 days of  
40 the effective date of this act and in accordance with the  
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), any rules and regulations as may be necessary for the  
43 apportionment and collection of annual surcharges from policyholders  
44 and self-insured employers covered by this section.

45 g. The Commissioner of Banking and Insurance shall promulgate  
46 within 180 days of the effective date of this act and in accordance with  
47 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), any rules and regulations as may be necessary for the collection,  
2 and provision to the Commissioner of Labor, of information with  
3 respect to earned premiums of insurers and the establishment of the  
4 annual surcharge rate for policyholders.

5 h. For each 30-day period or part thereof during which a  
6 policyholder, self-insured employer, or insurer fails to make a payment  
7 or transfer of payment as required by this section or regulations  
8 promulgated pursuant hereto, a penalty of one-half of one percent  
9 (0.5%) of the amount of delinquent payment or transfer of payment  
10 shall be assessed against the delinquent policyholder, self-insured  
11 employer or insurer. In no case of single failure, however, shall  
12 penalties assessed under this section exceed five percent (5.0%) of the  
13 amount of surcharge unpaid or untransferred. Penalties assessed under  
14 this subsection shall be collected in a civil action by a summary  
15 proceeding brought by the Commissioner of Labor pursuant to "the  
16 penalty enforcement law," N.J.S.2A:58-1 et seq., and shall be  
17 deposited by the commissioner in the Second Injury Fund.

18 i. For each 30-day period during which an insurer or self-insured  
19 employer fails to file a report as required by this section, the  
20 Commissioner of Labor shall assess a penalty of \$100.00 against the  
21 insurer or self-insured employer and, upon collection thereof, shall  
22 deposit those monies in the "uninsured employer's fund." As a result  
23 of any single failure, however, no such penalty shall exceed a total of  
24 \$500.00. During the period of any such failure to file this report, the  
25 estimate by the Department of Labor of the amounts of such  
26 compensation payments or earned premiums shall be used for the  
27 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

28 j. The Commissioner of Labor may, with the authorization of and  
29 appropriation by the Legislature, transfer from the Second Injury Fund  
30 an amount necessary for the cost of administration of the Division of  
31 Workers' Compensation in the Department of Labor.

32 k. As used in this section, "policyholder" means a holder of a  
33 policy of workers' compensation or employer's liability insurance  
34 issued by an insurer. "Insurer" means a domestic, foreign or alien  
35 mutual association or stock company writing workers' compensation  
36 or employer's liability insurance on risks located in this State and  
37 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
38 seq.). "Self-insured employer" means an employer which self-insures  
39 for workers' compensation or employer's liability insurance pursuant  
40 to the provisions of R.S.34:15-77.

41 (cf: P.L.1990, c.46, s.1)

42  
43 2. This act shall take effect immediately.

44  
45 \_\_\_\_\_  
46  
47 Reduces surcharges to Second Injury Fund.

**SENATE, No. 2008**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED JUNE 14, 1999

**Sponsored by:**

**Senator DIANE ALLEN**

**District 7 (Burlington and Camden)**

**SYNOPSIS**

Reduces surcharges to Second Injury Fund.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT reducing surcharges for the Second Injury Fund, and  
2 amending R.S.34:15-94.

3

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

6

7 1. R.S.34:15-94 is amended to read as follows:

8 34:15-94. a. **[**Each mutual association or stock company writing  
9 compensation or employer's liability insurance in this State, and each  
10 self-insurer, shall pay to the Commissioner of Labor a sum equal to  
11 that proportion of 150% of the total amount of moneys paid under  
12 R.S.34:15-95 during the preceding calendar year, less the amount of  
13 net assets exceeding \$5,000,000.00 remaining in such fund as of  
14 December 31 of said preceding calendar year, which the total  
15 compensation payments of such mutual association, stock company or  
16 self-insurer bear to the total compensation payments made by all such  
17 mutual associations, stock companies, and self-insurers during such  
18 preceding calendar year. Such sum shall be paid by the Commissioner  
19 of Labor to the State Treasurer.

20 On or before August 1, 1986 the Commissioner of Labor shall  
21 recalculate payments due for calendar year 1986 in accordance with  
22 the formula provided above, and levy supplemental assessments to  
23 adjust for any difference due to be paid in satisfaction of obligations  
24 for calendar year 1986, giving full credit for payments previously due  
25 and paid on or before August 15, 1986. Such supplemental  
26 assessments, if necessary to be levied, shall be paid on or before  
27 September 15, 1986. Commencing January 1, 1987, and each calendar  
28 year thereafter, annual payments shall be calculated by the  
29 commissioner and sums due shall be paid in equal quarterly  
30 installments on or before March 15, on or before June 15, on or before  
31 September 15 and on or before December 15 of each year.

32 The assessment established in this subsection shall be terminated  
33 effective December 31, 1988. **]** (Deleted by amendment, P.L. .c. )

34 b. Commencing January 1, 1989 and on the first day of each year  
35 thereafter, the Commissioner of Labor shall levy an annual surcharge  
36 upon all policyholders and self-insured employers for the purpose of  
37 providing moneys to the Second Injury Fund. Each policyholder and  
38 self-insured employer shall be liable for payment of the annual  
39 surcharge in accordance with the provisions of this section and all  
40 regulations promulgated pursuant hereto. The annual surcharge levied  
41 under this section shall be applied to all workers' compensation and  
42 employer's liability insurance policies providing coverage on or after  
43 January 1, 1989 and, in the case of self-insured employers, to coverage

**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 provided on or after January 1, 1989. Notwithstanding any law to the  
2 contrary, the surcharge levied pursuant to this section shall not apply:  
3 to any reinsurance or retrocessional transaction; to the State or any  
4 political subdivision thereof which acts as a self-insured employer; or  
5 to any workers' compensation endorsement required pursuant to  
6 section 1 of P.L.1979, c.380 (C.17:36-5.29).

7 c. On or before July 31 of 1988 and of each year thereafter:

8 (1) Each insurer and self-insured employer shall submit to the  
9 Commissioner of Labor, in a form and manner prescribed by the  
10 Commissioner of Labor, a report of the total compensation payments  
11 made by the insurer or self-insured employer during the 12-month  
12 period ending on the immediately preceding June 30th;

13 (2) Each insurer shall submit to the Commissioner of Banking and  
14 Insurance, in a form and manner prescribed by the Commissioner of  
15 Banking and Insurance, a report of the total earned premiums  
16 collected by the insurer on all workers' compensation or employer's  
17 liability policies written on risks located in this State pursuant to the  
18 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
19 on the immediately preceding June 30th;

20 (3) The Commissioner of Labor shall estimate the amount of  
21 special adjustment and supplemental benefits payable by each insurer  
22 writing workers' compensation or employer's liability insurance in the  
23 State and by each self-insured employer pursuant to R.S.34:15-95  
24 during the then current fiscal year;

25 (4) The Commissioner of Labor shall establish the aggregate annual  
26 surcharge to be levied upon policyholders and self-insured employers  
27 during the next following calendar year, which shall be an amount  
28 equal to (a) 150%, in the case of any calendar year commencing prior  
29 to January 1, 2000, and (b) 125%, in the case of any calendar year  
30 commencing after December 31, 1999, of the moneys estimated by the  
31 Commissioner of Labor to be payable from the Second Injury Fund  
32 during the next following calendar year, less the estimated amount of  
33 net assets exceeding \$5,000,000.00 which will remain in the Second  
34 Injury Fund on December 31st of the then current calendar year;

35 (5) The Commissioner of Labor shall apportion the aggregate  
36 annual surcharge calculated pursuant to paragraph (4) of this  
37 subsection among policyholders as a group and self-insured employers  
38 as a separate group. Policyholders shall be liable to pay that portion of  
39 the aggregate annual surcharge that is equal to the proportion that the  
40 compensation payments made by all policyholders during the 12-month  
41 period ending on the immediately preceding June 30th bear to the total  
42 compensation payments made by all policyholders and self-insured  
43 employers during the 12-month period ending on the immediately  
44 preceding June 30th. Self-insured employers shall be liable to pay that  
45 portion of the aggregate annual surcharge that is equal to the  
46 proportion that the compensation payments made by all self-insured

1 employers during the 12-month period ending on the immediately  
2 preceding June 30th bear to the total compensation payments made by  
3 all policyholders and self-insured employers during the 12-month  
4 period ending on the immediately preceding June 30th; and

5 (6) The Commissioner of Labor shall notify the Commissioner of  
6 Banking and Insurance of the aggregate annual surcharge amount  
7 applicable to policyholders during the next following calendar year.

8 d. On or before September 15 of 1988 and of each year thereafter:

9 (1) In consultation with the Commissioner of Labor, the  
10 Commissioner of Banking and Insurance shall determine the annual  
11 policyholder surcharge rate to be applied to each workers'  
12 compensation and employer's liability policy during the next following  
13 calendar year, and shall notify insurers of the annual policyholder  
14 surcharge rate to be applied to policy premiums during the next  
15 following calendar year. The annual policyholder surcharge rate shall  
16 be established as a percentage, which shall be equal to the percentage  
17 relationship that the annual surcharge amount which is applicable to all  
18 policyholders bears to the total earned premiums for workers'  
19 compensation and employer's liability coverage written on risks  
20 located in this State for the 12-month period ending on the  
21 immediately preceding June 30th.

22 (2) The Commissioner of Labor shall notify each self-insured  
23 employer of the amount of the annual surcharge applicable to that  
24 self-insured employer during the next following calendar year. The net  
25 annual surcharge for each self-insured employer shall be established as  
26 a pro rata portion of the annual surcharge applicable to all self-insured  
27 employers, which shall be chargeable to the self-insured employer in  
28 the proportion that the self-insured employer's compensation payments  
29 during the 12-month period ending on the immediately preceding June  
30 30th bear to the total compensation payments made by all self-insured  
31 employers during the 12-month period ending on the immediately  
32 preceding June 30th, less the estimated amount of special adjustment  
33 and supplemental benefits payable by that self-insured employer  
34 pursuant to R.S.34:15-95 during the then current fiscal year.

35 e. (1) Every insurer providing workers' compensation and  
36 employer's liability insurance shall collect from each of its  
37 policyholders, on behalf of the Commissioner of Labor and in  
38 accordance with subsections b., c. and d. of this section, an amount  
39 equal to the annual policyholder surcharge rate established by the  
40 Commissioner of Banking and Insurance pursuant to subsection d. of  
41 this section, multiplied by the amount of the policyholder's premium.  
42 The surcharge to be collected from the policyholder shall be stated  
43 separately on the policy or billing statement and be collected at the  
44 same time and in the same manner that the premium or other charges  
45 for the coverage are collected. On or before the 30th day after the end  
46 of the calendar quarter commencing January 1, 1989, and on or before

1 the 30th day following the end of each calendar quarter thereafter,  
2 each insurer shall report to the Commissioner of Labor, on forms as  
3 the commissioner may require, the total amount of its workers'  
4 compensation and employer's liability insurance earned premiums for  
5 the preceding quarterly accounting period, and remit the surcharge  
6 collected from policyholders on those premiums, less special  
7 adjustment and supplemental benefits paid during the preceding  
8 calendar quarter by the insurer pursuant to the workers' compensation  
9 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
10 any portion of any surcharge imposed pursuant to this section as a fee  
11 or commission for its collection nor shall that surcharge be subject to  
12 any taxes, licenses or fees.

13 (2) On or before the 30th day after the end of each calendar  
14 quarter commencing January 1, 1989, and on or before the 30th day  
15 following the end of each calendar quarter thereafter, each self-insured  
16 employer shall remit to the Commissioner of Labor an amount equal  
17 to one-fourth of the effective net annual surcharge as established for  
18 that self-insured employer during the then current calendar year  
19 pursuant to subsection d. of this section, less special adjustment and  
20 supplemental benefits paid during the preceding calendar quarter by  
21 the self-insured employer pursuant to the workers' compensation law,  
22 R.S.34:15-1 et seq.

23 f. The Commissioner of Labor shall promulgate within 180 days  
24 of the effective date of this act and in accordance with the  
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
26 seq.), any rules and regulations as may be necessary for the  
27 apportionment and collection of annual surcharges from policyholders  
28 and self-insured employers covered by this section.

29 g. The Commissioner of Banking and Insurance shall promulgate  
30 within 180 days of the effective date of this act and in accordance with  
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
32 seq.), any rules and regulations as may be necessary for the collection,  
33 and provision to the Commissioner of Labor, of information with  
34 respect to earned premiums of insurers and the establishment of the  
35 annual surcharge rate for policyholders.

36 h. For each 30-day period or part thereof during which a  
37 policyholder, self-insured employer, or insurer fails to make a payment  
38 or transfer of payment as required by this section or regulations  
39 promulgated pursuant hereto, a penalty of one-half of one percent  
40 (0.5%) of the amount of delinquent payment or transfer of payment  
41 shall be assessed against the delinquent policyholder, self-insured  
42 employer or insurer. In no case of single failure, however, shall  
43 penalties assessed under this section exceed five percent (5.0%) of the  
44 amount of surcharge unpaid or untransferred. Penalties assessed under  
45 this subsection shall be collected in a civil action by a summary  
46 proceeding brought by the Commissioner of Labor pursuant to "the

1 penalty enforcement law," N.J.S.2A:58-1 et seq., and shall be  
2 deposited by the commissioner in the Second Injury Fund.

3 i. For each 30-day period during which an insurer or self-insured  
4 employer fails to file a report as required by this section, the  
5 Commissioner of Labor shall assess a penalty of \$100.00 against the  
6 insurer or self-insured employer and, upon collection thereof, shall  
7 deposit those monies in the "uninsured employer's fund." As a result  
8 of any single failure, however, no such penalty shall exceed a total of  
9 \$500.00. During the period of any such failure to file this report, the  
10 estimate by the Department of Labor of the amounts of such  
11 compensation payments or earned premiums shall be used for the  
12 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

13 j. The Commissioner of Labor may, with the authorization of and  
14 appropriation by the Legislature, transfer from the Second Injury Fund  
15 an amount necessary for the cost of administration of the Division of  
16 Workers' Compensation in the Department of Labor.

17 k. As used in this section, "policyholder" means a holder of a  
18 policy of workers' compensation or employer's liability insurance  
19 issued by an insurer. "Insurer" means a domestic, foreign or alien  
20 mutual association or stock company writing workers' compensation  
21 or employer's liability insurance on risks located in this State and  
22 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
23 seq.). "Self-insured employer" means an employer which self-insures  
24 for workers' compensation or employer's liability insurance pursuant  
25 to the provisions of R.S.34:15-77.

26 (cf: P.L.1990, c.46, s.1)

27

28 2. This act shall take effect immediately.

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### STATEMENT

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33 This bill amends R.S.34:15-94 to reduce the surcharge levied  
34 annually on workers' compensation insurance policy holders and self-  
35 insured employers to finance the Second Injury Fund. The bill reduces  
36 that surcharge from 150% to 125% of the amount of benefits  
37 estimated to be payable from the fund during the following year, minus  
38 the portion of net assets of the fund at the end of the current year  
39 exceeding \$5 million.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2008**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 1999

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2008.

This bill amends R.S.34:15-94 to reduce the surcharge levied annually on workers' compensation insurance policy holders and self-insured employers to finance the Second Injury Fund.

The Second Injury Fund (SIF) is the source of worker's compensation benefits for workers already partially disabled who subsequently experience a second work-related injury and who are rendered totally disabled by the two work-related injuries taken together. The SIF encourages employers to hire disabled workers by limiting, in the case of further injury, the last employer's liability for compensation payments to amounts only applicable to the last injury.

The SIF is currently funded from an assessment on self-insured employers and workers' compensation insurers equal to 150% of the amount estimated by the Commissioner of Labor as necessary to pay SIF benefits and administrative costs in the following calendar year, reduced by the portion of net SIF assets at the end of the current year exceeding \$5 million. The bill reduces that surcharge percentage from 150% to 125%, and reduces the assessment base to exclude administrative costs.

The bill also requires Joint Budget Oversight Committee review of the proposed aggregate annual surcharge for the following calendar year. The Commissioner of Labor will submit to the committee estimates used to make the determination, estimates of the amounts payable from the Second Injury Fund during the two preceding calendar years, and the amounts that were actually paid during those years.

#### FISCAL IMPACT:

Total assessment in any year is determined by the estimated fund payments, the surcharge percentage, and the prior year-end assets. Based on the Office of Management and Budget estimate that \$135,100,000 in benefits and administrative costs will be paid from the SIF in calendar year 2001, the amount recovered in calendar year 2000

would be \$202,650,000 at 150%, reduced to \$168,875,000 at 125%. Eliminating the administrative costs from the assessment reduces the aggregate assessment from \$168,875,000 to \$146,500,000. If these were the only factors involved, the surcharge rate on individual insurers would be reduced from an estimated 8.94% to an estimated 5.53% for calendar year 2000. However, the aggregate assessment is also based on the portion of net SIF assets at the end of the current year exceeding \$5 million; the Governor's Budget Recommendation for State Fiscal Year 1999-2000 recommends that \$30,000,000 be transferred from the SIF to the General Fund as State revenue. If that transfer is made, the surcharge rate on individual insurers would be reduced from 8.9% to an estimated 7.35% for calendar year 2000.

COMMITTEE AMENDMENTS:

The amendments add the Joint Budget Oversight Committee provisions and limit the assessment base to exclude administrative costs.

**ASSEMBLY, No. 3265**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED JUNE 14, 1999

**Sponsored by:**

**Assemblyman GUY R. GREGG**

**District 24 (Sussex, Hunterdon and Morris)**

**SYNOPSIS**

Reduces surcharges to Second Injury Fund.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT reducing surcharges for the Second Injury Fund, and  
2 amending R.S.34:15-94.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S. 34:15-94 is amended to read as follows:

8 34:15-94. a. **[**Each mutual association or stock company writing  
9 compensation or employer's liability insurance in this State, and each  
10 self-insurer, shall pay to the Commissioner of Labor a sum equal to  
11 that proportion of 150% of the total amount of moneys paid under  
12 R.S.34:15-95 during the preceding calendar year, less the amount of  
13 net assets exceeding \$5,000,000.00 remaining in such fund as of  
14 December 31 of said preceding calendar year, which the total  
15 compensation payments of such mutual association, stock company or  
16 self-insurer bear to the total compensation payments made by all such  
17 mutual associations, stock companies, and self-insurers during such  
18 preceding calendar year. Such sum shall be paid by the Commissioner  
19 of Labor to the State Treasurer.

20 On or before August 1, 1986 the Commissioner of Labor shall  
21 recalculate payments due for calendar year 1986 in accordance with  
22 the formula provided above, and levy supplemental assessments to  
23 adjust for any difference due to be paid in satisfaction of obligations  
24 for calendar year 1986, giving full credit for payments previously due  
25 and paid on or before August 15, 1986. Such supplemental  
26 assessments, if necessary to be levied, shall be paid on or before  
27 September 15, 1986. Commencing January 1, 1987, and each calendar  
28 year thereafter, annual payments shall be calculated by the  
29 commissioner and sums due shall be paid in equal quarterly  
30 installments on or before March 15, on or before June 15, on or before  
31 September 15 and on or before December 15 of each year.

32 The assessment established in this subsection shall be terminated  
33 effective December 31, 1988. **]** (~~Deleted by amendment, P.L. .c. )~~

34 b. Commencing January 1, 1989 and on the first day of each year  
35 thereafter, the Commissioner of Labor shall levy an annual surcharge  
36 upon all policyholders and self-insured employers for the purpose of  
37 providing moneys to the Second Injury Fund. Each policyholder and  
38 self-insured employer shall be liable for payment of the annual  
39 surcharge in accordance with the provisions of this section and all  
40 regulations promulgated pursuant hereto. The annual surcharge levied  
41 under this section shall be applied to all workers' compensation and  
42 employer's liability insurance policies providing coverage on or after  
43 January 1, 1989 and, in the case of self-insured employers, to coverage

**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 provided on or after January 1, 1989. Notwithstanding any law to the  
2 contrary, the surcharge levied pursuant to this section shall not apply:  
3 to any reinsurance or retrocessional transaction; to the State or any  
4 political subdivision thereof which acts as a self-insured employer; or  
5 to any workers' compensation endorsement required pursuant to  
6 section 1 of P.L.1979, c.380 (C.17:36-5.29).

7 c. On or before July 31 of 1988 and of each year thereafter:

8 (1) Each insurer and self-insured employer shall submit to the  
9 Commissioner of Labor, in a form and manner prescribed by the  
10 Commissioner of Labor, a report of the total compensation payments  
11 made by the insurer or self-insured employer during the 12-month  
12 period ending on the immediately preceding June 30th;

13 (2) Each insurer shall submit to the Commissioner of Banking and  
14 Insurance, in a form and manner prescribed by the Commissioner of  
15 Banking and Insurance, a report of the total earned premiums  
16 collected by the insurer on all workers' compensation or employer's  
17 liability policies written on risks located in this State pursuant to the  
18 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
19 on the immediately preceding June 30th;

20 (3) The Commissioner of Labor shall estimate the amount of  
21 special adjustment and supplemental benefits payable by each insurer  
22 writing workers' compensation or employer's liability insurance in the  
23 State and by each self-insured employer pursuant to R.S.34:15-95  
24 during the then current fiscal year;

25 (4) The Commissioner of Labor shall establish the aggregate annual  
26 surcharge to be levied upon policyholders and self-insured employers  
27 during the next following calendar year, which shall be an amount  
28 equal to (a) 150%, in the case of any calendar year commencing prior  
29 to January 1, 2000, and (b) 125%, in the case of any calendar year  
30 commencing after December 31, 1999, of the moneys estimated by the  
31 Commissioner of Labor to be payable from the Second Injury Fund  
32 during the next following calendar year, less the estimated amount of  
33 net assets exceeding \$5,000,000.00 which will remain in the Second  
34 Injury Fund on December 31st of the then current calendar year;

35 (5) The Commissioner of Labor shall apportion the aggregate  
36 annual surcharge calculated pursuant to paragraph (4) of this  
37 subsection among policyholders as a group and self-insured employers  
38 as a separate group. Policyholders shall be liable to pay that portion of  
39 the aggregate annual surcharge that is equal to the proportion that the  
40 compensation payments made by all policyholders during the 12-month  
41 period ending on the immediately preceding June 30th bear to the total  
42 compensation payments made by all policyholders and self-insured  
43 employers during the 12-month period ending on the immediately  
44 preceding June 30th. Self-insured employers shall be liable to pay that  
45 portion of the aggregate annual surcharge that is equal to the  
46 proportion that the compensation payments made by all self-insured

1 employers during the 12-month period ending on the immediately  
2 preceding June 30th bear to the total compensation payments made by  
3 all policyholders and self-insured employers during the 12-month  
4 period ending on the immediately preceding June 30th; and

5 (6) The Commissioner of Labor shall notify the Commissioner of  
6 Banking and Insurance of the aggregate annual surcharge amount  
7 applicable to policyholders during the next following calendar year.

8 d. On or before September 15 of 1988 and of each year thereafter:

9 (1) In consultation with the Commissioner of Labor, the  
10 Commissioner of Banking and Insurance shall determine the annual  
11 policyholder surcharge rate to be applied to each workers'  
12 compensation and employer's liability policy during the next following  
13 calendar year, and shall notify insurers of the annual policyholder  
14 surcharge rate to be applied to policy premiums during the next  
15 following calendar year. The annual policyholder surcharge rate shall  
16 be established as a percentage, which shall be equal to the percentage  
17 relationship that the annual surcharge amount which is applicable to all  
18 policyholders bears to the total earned premiums for workers'  
19 compensation and employer's liability coverage written on risks  
20 located in this State for the 12-month period ending on the  
21 immediately preceding June 30th. (2) The Commissioner of Labor  
22 shall notify each self-insured employer of the amount of the annual  
23 surcharge applicable to that self-insured employer during the next  
24 following calendar year. The net annual surcharge for each  
25 self-insured employer shall be established as a pro rata portion of the  
26 annual surcharge applicable to all self-insured employers, which shall  
27 be chargeable to the self-insured employer in the proportion that the  
28 self-insured employer's compensation payments during the 12-month  
29 period ending on the immediately preceding June 30th bear to the total  
30 compensation payments made by all self-insured employers during the  
31 12-month period ending on the immediately preceding June 30th, less  
32 the estimated amount of special adjustment and supplemental benefits  
33 payable by that self-insured employer pursuant to R.S.34:15-95 during  
34 the then current fiscal year.

35 e. (1) Every insurer providing workers' compensation and  
36 employer's liability insurance shall collect from each of its  
37 policyholders, on behalf of the Commissioner of Labor and in  
38 accordance with subsections b., c. and d. of this section, an amount  
39 equal to the annual policyholder surcharge rate established by the  
40 Commissioner of Banking and Insurance pursuant to subsection d. of  
41 this section, multiplied by the amount of the policyholder's premium.  
42 The surcharge to be collected from the policyholder shall be stated  
43 separately on the policy or billing statement and be collected at the  
44 same time and in the same manner that the premium or other charges  
45 for the coverage are collected. On or before the 30th day after the end  
46 of the calendar quarter commencing January 1, 1989, and on or before

1 the 30th day following the end of each calendar quarter thereafter,  
2 each insurer shall report to the Commissioner of Labor, on forms as  
3 the commissioner may require, the total amount of its workers'  
4 compensation and employer's liability insurance earned premiums for  
5 the preceding quarterly accounting period, and remit the surcharge  
6 collected from policyholders on those premiums, less special  
7 adjustment and supplemental benefits paid during the preceding  
8 calendar quarter by the insurer pursuant to the workers' compensation  
9 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
10 any portion of any surcharge imposed pursuant to this section as a fee  
11 or commission for its collection nor shall that surcharge be subject to  
12 any taxes, licenses or fees.

13 (2) On or before the 30th day after the end of each calendar  
14 quarter commencing January 1, 1989, and on or before the 30th day  
15 following the end of each calendar quarter thereafter, each self-insured  
16 employer shall remit to the Commissioner of Labor an amount equal  
17 to one-fourth of the effective net annual surcharge as established for  
18 that self-insured employer during the then current calendar year  
19 pursuant to subsection d. of this section, less special adjustment and  
20 supplemental benefits paid during the preceding calendar quarter by  
21 the self-insured employer pursuant to the workers' compensation law,  
22 R.S.34:15-1 et seq.

23 f. The Commissioner of Labor shall promulgate within 180 days of  
24 the effective date of this act and in accordance with the  
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
26 seq.), any rules and regulations as may be necessary for the  
27 apportionment and collection of annual surcharges from policyholders  
28 and self-insured employers covered by this section.

29 g. The Commissioner of Banking and Insurance shall promulgate  
30 within 180 days of the effective date of this act and in accordance with  
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
32 seq.), any rules and regulations as may be necessary for the collection,  
33 and provision to the Commissioner of Labor, of information with  
34 respect to earned premiums of insurers and the establishment of the  
35 annual surcharge rate for policyholders.

36 h. For each 30-day period or part thereof during which a  
37 policyholder, self-insured employer, or insurer fails to make a payment  
38 or transfer of payment as required by this section or regulations  
39 promulgated pursuant hereto, a penalty of one-half of one percent  
40 (0.5%) of the amount of delinquent payment or transfer of payment  
41 shall be assessed against the delinquent policyholder, self-insured  
42 employer or insurer. In no case of single failure, however, shall  
43 penalties assessed under this section exceed five percent (5.0%) of the  
44 amount of surcharge unpaid or untransferred. Penalties assessed under  
45 this subsection shall be collected in a civil action by a summary  
46 proceeding brought by the Commissioner of Labor pursuant to "the

1 penalty enforcement law," N.J.S.2A:58-1 et seq., and shall be  
2 deposited by the commissioner in the Second Injury Fund.

3 i. For each 30-day period during which an insurer or self-insured  
4 employer fails to file a report as required by this section, the  
5 Commissioner of Labor shall assess a penalty of \$100.00 against the  
6 insurer or self-insured employer and, upon collection thereof, shall  
7 deposit those monies in the "uninsured employer's fund." As a result  
8 of any single failure, however, no such penalty shall exceed a total of  
9 \$500.00. During the period of any such failure to file this report, the  
10 estimate by the Department of Labor of the amounts of such  
11 compensation payments or earned premiums shall be used for the  
12 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

13 j. The Commissioner of Labor may, with the authorization of and  
14 appropriation by the Legislature, transfer from the Second Injury Fund  
15 an amount necessary for the cost of administration of the Division of  
16 Workers' Compensation in the Department of Labor.

17 k. As used in this section, "policyholder" means a holder of a  
18 policy of workers' compensation or employer's liability insurance  
19 issued by an insurer. "Insurer" means a domestic, foreign or alien  
20 mutual association or stock company writing workers' compensation  
21 or employer's liability insurance on risks located in this State and  
22 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
23 seq.). "Self-insured employer" means an employer which self-insures  
24 for workers' compensation or employer's liability insurance pursuant  
25 to the provisions of R.S.34:15-77.

26 (cf: P.L.1990, c.46)

27

28 2. This act shall take effect immediately.

29

30

31

### STATEMENT

32

33 This bill amends R.S.34:15-94 to reduce the surcharge levied  
34 annually on workers' compensation insurance policy holders and self-  
35 insured employers to finance the Second Injury Fund. The bill reduces  
36 that surcharge from 150% to 125% of the amount of benefits  
37 estimated to be payable from the fund during the following year, minus  
38 the portion of net assets of the fund at the end of the current year  
39 exceeding \$5 million.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3265**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3265 with committee amendments.

Assembly Bill No. 3265, as amended, amends R.S.34:15-94 to reduce the surcharge levied annually on workers' compensation insurance policy holders and self-insured employers to finance the Second Injury Fund.

The Second Injury Fund (SIF) is the source of worker's compensation benefits for workers already partially disabled who subsequently experience a second work-related injury and who are rendered totally disabled by the two work-related injuries taken together. The SIF encourages employers to hire disabled workers by limiting, in the case of further injury, the last employer's liability for compensation payments to amounts only applicable to the last injury.

The SIF is currently funded from an assessment on self-insured employers and workers' compensation insurers equal to 150% of the amount estimated by the Commissioner of Labor as necessary to pay SIF benefits and administrative costs in the following calendar year, reduced by the portion of net SIF assets at the end of the current year exceeding \$5 million. The bill reduces that surcharge percentage from 150% to 125%, and reduces the assessment base to exclude administrative costs.

The bill also requires Joint Budget Oversight Committee review of the proposed aggregate annual surcharge for the following calendar year. The Commissioner of Labor will submit to the committee estimates used to make the determination, estimates of the amounts payable from the Second Injury Fund during the two preceding calendar years, and the amounts that were actually paid during those years.

#### FISCAL IMPACT:

Total assessment in any year is determined by the estimated fund payments, the surcharge percentage, and the prior year-end assets. Based on the Office of Management and Budget estimate that \$135,100,000 in benefits and administrative costs will be paid from the SIF in calendar year 2001, the amount recovered in calendar year 2000

would be \$202,650,000 at 150%, reduced to \$168,875,000 at 125%. Eliminating the administrative costs from the assessment reduces the aggregate assessment from \$168,875,000 to \$146,500,000. If these were the only factors involved, the surcharge rate on individual insurers would be reduced from an estimated 8.94% to an estimated 5.53% for calendar year 2000. However, the aggregate assessment is also based on the portion of net SIF assets at the end of the current year exceeding \$5 million; the Governor's Budget Recommendation for State Fiscal Year 1999-2000 recommends that \$30,000,000 be transferred from the SIF to the General Fund as State revenue. If that transfer is made, the surcharge rate on individual insurers would be reduced from 8.9% to an estimated 7.35% for calendar year 2000.

COMMITTEE AMENDMENTS:

The amendments add the Joint Budget Oversight Committee provisions and limit the assessment base to exclude administrative costs.

## SENATE BILL NO. 2008 (FIRST REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2008 (First Reprint) with my recommendations for reconsideration.

### A. Summary of Bill

This bill amends current law to reduce the surcharge levied annually on workers' compensation insurance policy holders and self-insured employers. Specifically, the bill modifies the assessment formula to reduce the estimate used to calculate the surcharge from 150 percent to 125 percent of the estimated cost of the program. Second, the bill provides that the Commissioner must submit the surcharge rate to the Joint Budget Oversight Committee (JBOC) for review and approval.

### B. Recommended Action

I commend the Legislature for recognizing the need to periodically review existing assessment systems to ensure that businesses in the State are being treated fairly. After careful consideration, I have concluded it is appropriate to decrease the surcharge levied on New Jersey employers to fund the Second Injury Fund to reduce the burden on employers, while maintaining the financial stability of the fund for its beneficiaries. However, I am concerned that certain provisions of this bill place such stability in jeopardy. By replacement of the word "moneys" with "compensation and benefits" administrative costs were eliminated in the calculation. Such an amendment will result in a negative balance in the Fund in the near future. Accordingly, I recommend administrative costs not be removed from the assessment formula but be estimated at a rate of 100 percent rather than the current 150 percent.

Secondly, I am concerned with the language requiring the Commissioner of Labor to submit the assessment calculations to the Joint Budget Oversight Committee (JBOC) for "review and approval". This represents an inappropriate delegation of executive authority, vested within the executive branch pursuant to Article III of the New Jersey State Constitution to the legislative branch of government. As a result, I respectfully recommend



alternate language requiring the Commissioner of Labor to submit an informational copy of the assessment to JBOC.

Therefore, I herewith return Senate Bill No. 2008 (First Reprint) and recommend that it be amended as follows:

- Page 3, Section 1, Line 35: After “year” insert “plus 100% of the amount estimated by the Commissioner of Labor to be necessary for the cost of administration of the Division of Workers’ Compensation in the Department of Labor”
- Page 3, Section 1, Lines 38-39 Delete “make public and”; after “submit” insert “an informational copy”; delete “for the”
- Page 3, Section 1, Lines 40-46: Delete
- Page 4, Section 1, Line 1: Delete “amounts that were actually paid during those years”
- Page 4, Section 1, Lines 2-3: Delete “, upon the approval of the surcharge by the Joint Budget Oversight Committee,”

Respectfully,

Christine Todd Whitman  
Governor

Attest:

Richard S. Mroz  
Chief Counsel to the Governor

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Gene Herman  
609-777-2600

RELEASE: September 23, 1999

Gov. Christie Whitman today conditionally vetoed the following pieces of legislation:

**SCS For S-1220**, sponsored by the late Senator Wynona M. Lipman (D-Essex/Union) and Senator Joseph A. Palaia (R-Monmouth) and Assembly Members William D. Payne (D-Essex/Union) and Joseph V. Doria, Jr. (D-Hudson), establishes an at-risk youth mentoring program for public school students in the Department of Labor (DOL). The bill appropriates \$750,000 from the work First New Jersey - Work Activities account in the Department of Human Services to the Workforce Development Partnership Fund in the DOL to implement the provisions of the bill.

The Governor commended the sponsors of the legislation, especially the late Senator Lipman, for their efforts to establish a mentoring program for at-risk youth. She said the recommendations in her conditional veto would enhance the program's effectiveness. The Governor recommended that the bill be amended to create a three-year pilot program to allow for evaluation of the program's success and its role in relation to other public and private mentoring programs that are currently offered to at-risk youth. She said the mentoring programs also should use existing resources. The Governor recommended that the programs be designed to utilize public and private community organizations that provide employment, mental health, substance abuse, and family planning services to provide training for mentors and services for the at-risk youth served by the mentoring program. In order to provide for the effective use of available funds, Gov. Whitman recommended that the DOL have the authority to provide grants of up to \$50,000 instead of \$25,000 and that the maximum number of students served by a program be increased from 25 to 50 students.

**S-2008**, sponsored by Senator Diane B. Allen (R-Burlington/Camden) and Assembly Member Guy R. Gregg (R-Sussex/Hunterdon/Morris), would have amended current law to reduce the surcharge levied annually on workers' compensation insurance policy holders and self-insured employers. The bill would have modified the assignment formula to reduce the estimate used to calculate the surcharge from 150% to 125% of the estimated cost of the program. Use of an overestimate ensures that moneys will be sufficient to cover any unanticipated claims against the fund. In her conditional veto, the Governor recommended limiting the assessment formula to 100% of estimated administrative costs and requiring the Commissioner of Labor to submit an informational copy of the assessment to the Joint Budget Oversight Committee. The Governor said her action will serve to reduce the financial burden on employers and avoid overfunding, while maintaining adequate reserves for benefit payments and administrative costs.

**S-912**, sponsored by Senators Joseph A. Palaia (R-Monmouth) and Martha W. Bark (R-Atlantic/Burlington/Camden) and Assembly Members Joseph J. Roberts, Jr. (D-Camden/Gloucester) and George E. Geist (R-Camden/Gloucester), would have authorized certain changes to the offices of the county fire marshals and allowed for the creation of arson investigation units. The bill would have amended current laws to require county fire marshals to conduct investigations pertaining to the

elimination of fire hazards. The bill would also have amended certain statutorily defined responsibilities of a county fire marshal that a freeholder board is authorized to approve.

In her conditional veto, the Governor said that after a unanimous vote on the bill in both the Senate and Assembly, the sponsors requested that she issue a conditional veto in order to allow the part time fire marshals that serve the state's smaller counties to have greater flexibility within the new mandates. She commended the sponsors for their work in amending existing law in order to more accurately reflect the role of county fire marshals. The Governor recommended amending the bill to allow the fire marshals to determine whether to conduct or assist in an investigation pertaining to the cause and origin of a fire when requested by the fire department having jurisdiction over it.

She also recommended changing the entity to whom the fire marshal reports from the entity with control over the executive functions of the county to an authority designated by that entity. Also, the Governor recommended limiting situations for which a fire marshal may be required to render coordination and control to those for which a fire department has responsibility by way of local ordinance.

**S-235**, sponsored by Senator James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly Members Nicholas Asselta (R- Cape May/Atlantic/Cumberland) and John C. Gibson (R-Cape May/Atlantic/Cumberland), would have made certain changes in the requirements for an enforcement of cancellation of mortgages of record. Currently, when a mortgage is paid and satisfied, a mortgagee (lender) must request the mortgage be canceled as of record by the county recording officer (typically the county clerk). Upon payment of the requisite fee, the county clerk marks the mortgage cancelled and returns a copy to the mortgagee. The bill would have placed additional requirements upon the mortgagee/lender by mandating that the lender send the borrower the following three items at the same time the lender requests the mortgage cancellation from the county clerk: (1) the original mortgage noted marked "paid in full."; (2) a copy of the mortgage marked "canceled"; and (3) a copy of the mortgagee's letter to the county recording officer requesting that the mortgage be canceled of record.

In her conditional veto, the Governor said ensuring that New Jersey citizens and their families will be free from unwarranted clouds on the titles to their property is a worthy goal. However, she said, several financial institutions, lending institutions and the New Jersey State Bar Association have expressed concern that this bill will place New Jersey in a unique position by requiring lenders to send copies of canceled mortgages and original promissory notes to borrowers.

The Governor recommended the deletion of the requirement that mortgagees forward mortgages with the original note and a copy of the mortgage marked canceled. She recommended retaining the requirement that mortgagees forward to mortgagees copies of their transmittal letters requesting cancellation of mortgages by county recording officers.

**S-1492**, establishes a Physician-Dentist Fellowship and Education Program within the University of Medicine and Dentistry (UMDNJ) to provide health care to persons with developmental disabilities. The program will train physicians and dentists in providing medical and dental services to individuals with developmental disabilities to ensure that these services are accessible and available to such individuals. The training will occur at the residency, post-doctoral fellowship and continuing education

levels. The bill would have appropriated a \$5 million grant to the UMDNJ for the costs associated with the program.

The Governor commended the sponsors of the bill for addressing the serious health care needs of the developmentally disabled community by establishing the program. She said, however, that it was essential that the program be administered by an agency that has the expertise to effectively respond to the unique needs of the state's developmentally disabled community. She said the Department of Human Services, working through the Division of Developmental Disabilities, has significant experience in identifying those needs.

The Governor recommended that the funds to administer the program be appropriated to DHS to ensure that the DHS and UMDNJ work together to achieve the program's goals. In addition to taking advantage of DHS, Gov. Whitman said she believed it was important that the program utilize existing resources at UMDNJ, as well as other institutions, to assist in providing training to physicians and dentists in caring for the developmentally disabled. Further, the Governor said, she believed the state can make a significant commitment and accomplish the objectives of this program with a \$2.5 million appropriation rather than a \$5 million appropriation.

The bill was sponsored by Senators Jack Sinagra (R-Middlesex) and C. Louis Bassano (R-Essex/Union) and Assembly Members Nilsa Cruz- Perez (D-Camden/Gloucester) and Charlotte Vandervalk (R-Bergen).