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[Second Reprint]

**ASSEMBLY, No. 4108**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED JUNE 11, 2009

**Sponsored by:**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**Co-Sponsored by:**

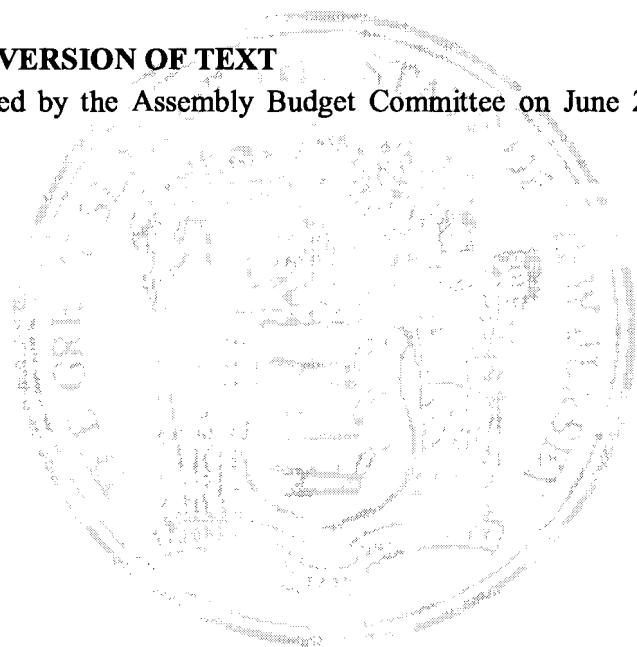
**Senator Sweeney**

**SYNOPSIS**

Concerns taxation of certain lines of insurance and dedicates certain additional revenues to the Health Care Subsidy Fund.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Budget Committee on June 22, 2009, with amendments.



**(Sponsorship Updated As Of: 6/26/2009)**

A4108 [2R] CRYAN, COUTINHO

2

1 AN ACT concerning the taxation of certain lines of insurance,  
2 dedicating certain additional revenues to the Health Care  
3 Subsidy Fund, amending P.L.1945, c.132 <sup>1</sup>[, P.L.1968, c.305]<sup>1</sup>  
4 <sup>2</sup>[and ] ,<sup>2</sup> P.L.1960, c.32 <sup>2</sup>[,]<sup>2</sup> and <sup>2</sup>P.L.1984, c.101,<sup>2</sup>  
5 supplementing P.L.1992, c.160 (C.26:2H-18.51 et al.) <sup>2</sup>, and  
6 making an appropriation<sup>2</sup>.

7

8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:

10

11 1. Section 2 of P.L.1945, c.132 (C.54:18A-2) is amended to  
12 read as follows:

13

14 2. (a) The tax specified in subsection (a) of section 1 of this  
15 act, except as to life insurance companies and except as to marine  
16 insurance as described by chapter 16 of Title 54 of the Revised  
17 Statutes, shall, except as hereinafter provided, be 2% upon the  
18 taxable premiums collected by such company during the year  
19 ending December 31 next preceding on all business of the company  
20 in this State, less the amount of taxes on its property, exclusive of  
21 taxes on real estate and of taxes payable pursuant to this section,  
22 paid in this State by the company pursuant to any law of this State  
23 during the said year. Any taxes paid to the treasurer of any  
24 firemen's relief association of this State pursuant to R.S.54:18-1  
25 shall be considered a part of the tax payable under this act. An  
26 additional tax of 0.1% upon such taxable premiums of such insurers  
27 shall also be paid, which amount shall be dedicated to the  
28 Department of Banking and Insurance for payment of  
29 administrative costs related to its statutory duties.

30

31 (b) Taxable premiums, collected after December 31, 1965 by an  
32 insurance company subject to the provisions of subsection (a)  
33 hereof under group accident and health insurance policies on  
34 residents of this State, and taxable premiums collected under legal  
35 insurance policies as defined in section 3 of P.L.1981, c.160  
(C.17:46C-3) on residents of this State, shall be subject to tax  
36 **[only]** at the following rates:

37

38	As to taxes payable in 1967	1 3/4 %
39	As to taxes payable in 1968	1 1/2 %
40	As to taxes payable in 1969	1 1/4 %
41	As to taxes payable in 1970 <b>[and thereafter]</b> <u>through 2008</u>	1%
42	<u>As to taxes payable in 2009</u> <sup>1</sup> <b>[and thereafter]</b> <sup>2</sup> <b>[2.25%]</b>	<u>1.35%</u> <sup>2</sup>
	<sup>1</sup> <u>As to taxes payable in 2010 and thereafter</u>	<u>1%</u> <sup>1</sup>

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 15, 2009.

<sup>2</sup>Assembly ABU committee amendments adopted June 22, 2009.

1 An additional tax of ~~[0.05%]~~ <sup>1</sup>~~[0.1%]~~ 0.05%<sup>1</sup> upon such taxable  
 2 premiums of such insurers shall also be paid, which amount shall be  
 3 dedicated to the Department of Banking and Insurance for payment  
 4 of administrative costs related to its statutory duties.  
 5 (cf: P.L.1990, c.8, s.82)

6

7 <sup>1</sup>2. Section 3 of P.L.1945, c.132 (C.54:18A-3) is amended to  
 8 read as follows:

9 3. Amount of tax, life insurance companies; deductions. (a)  
 10 The tax specified in subsection (a) of section 1 of this act as to life  
 11 insurance companies, shall, except as hereinafter provided, be 2%  
 12 upon the taxable premiums collected by the company during the  
 13 year ending December 31 next preceding under all policies or  
 14 contracts of insurance on residents of this State, less the amount of  
 15 taxes on its property, exclusive of taxes on real estate and of taxes  
 16 payable pursuant to this section, paid in this State by the company  
 17 pursuant to any law of this State during the said year. An additional  
 18 tax of 0.1% upon such taxable premiums of such insurers shall also  
 19 be paid, which amount shall be dedicated to the Department of  
 20 <sup>2</sup>Banking and<sup>2</sup> Insurance <sup>2</sup>~~[Banking and]~~<sup>2</sup> for payment of  
 21 administrative costs related to its statutory duties.

22 (b) Taxable premiums, collected after December 31, 1965 by an  
 23 insurance company subject to the provisions of subsection (a)  
 24 hereof under group accident and health insurance policies on  
 25 residents of this State, and taxable premiums collected under legal  
 26 insurance policies as defined in section 3 of P.L.1981, c.160  
 27 (C.17:46C-3) on residents of this State, shall be subject to tax  
 28 ~~[only]~~ at the following rates:

29	As to taxes payable in 1967	1 3/4%
30	As to taxes payable in 1968	1 1/2%
31	As to taxes payable in 1969	1 1/4%
32	As to taxes payable in 1970 <del>[and thereafter]</del> <u>through 2008</u>	1%
33	<u>As to taxes payable in 2009</u>	<sup>2</sup> <del>[2.25%]</del> 1.35% <sup>2</sup>
34	<u>As to taxes payable in 2010 and thereafter</u>	<u>1%</u>

35 An additional tax of 0.05% upon such taxable premiums of such  
 36 insurers shall also be paid, which amount shall be dedicated to the  
 37 Department of Banking and Insurance for payment of  
 38 administrative costs related to its statutory duties.<sup>1</sup>

39 (cf: P.L.1990, c.8, s.83)

40

41 <sup>2</sup>~~[1[2.] 3.]~~<sup>1</sup> Section 6 of P.L.1945, c.132 (C.54:18A-6) is  
 42 amended to read as follows:

43 6. a. In the event that the taxable premiums collected by any  
 44 company, as specified in sections 2 and 3 of this act, and all of its  
 45 affiliates as defined in the chapter entitled "Insurance Holding  
 46 Company Systems," P.L.1970, c.22 (C.17:27A-1 et seq.), during  
 47 any year ending December 31, exceed twelve and one-half

1 percentum (12 1/2%) of the total premiums collected by the  
2 company and all of its affiliates during the same year on all policies  
3 and contracts of insurance, whenever and wherever issued, the  
4 taxable premiums of such company shall not exceed a sum equal to  
5 twelve and one-half percentum (12 1/2%) of such company's total  
6 premiums collected during the same year on all policies and  
7 contracts of insurance, whenever and wherever issued, calculated as  
8 specified in sections 4 and 5 of this act; provided, however, a  
9 company to which section 2 of this act (C.54:18A-2) applies shall in  
10 no event be deemed to be an affiliate of a company to which section  
11 3 of this act (C.54:18A-3) applies and provided, further, that as to  
12 any company licensed in this State prior to June 30, 1984, the  
13 taxable premiums of that company shall be calculated without  
14 regard to the premiums collected by any affiliate.

15 b. On and after January 1, 2005 the provisions of subsection a.  
16 of this section shall not apply to a health service corporation  
17 established pursuant to the provisions of P.L.1985, c.236  
18 (C.17:48E-1 et [seq.] al.).

19 c. On and after January 1, 2009 the provisions of subsection a.  
20 of this section shall not apply to accident and health insurance  
21 premiums.  
22 (cf: P.L.2005, c.128, s.1)]<sup>2</sup>

23  
24 <sup>1</sup>[3.] <sup>2</sup>[4.1] <sup>3</sup> Section 16 of P.L.1945, c.132 (C.54:18A-9) is  
25 amended to read as follows:

26 16. a. This act shall not apply to any fraternal beneficiary  
27 society. For the purposes of this act, "insurance company" shall  
28 include a corporation, and any person, partnership or  
29 unincorporated association required as an insurer to procure from  
30 the Commissioner of Banking and Insurance the certificate  
31 prescribed by section 1 of an act entitled "An act to regulate the  
32 transaction of the business of insurance by individuals, partnerships  
33 and unincorporated associations in this State" approved July 11,  
34 1939 (P.L.1939, c.188; C.17:49-1), or under any other statute now  
35 in force or hereafter enacted, engaging in any kind or kinds of  
36 business specified in R.S.17:17-1, subject to the insurance laws of  
37 this State; provided, however, that no company or society, which by  
38 its act or certificate of incorporation has for its object the assistance  
39 of sick, needy or disabled members, the defraying of funeral  
40 expenses of deceased members and the provision for the wants of  
41 the surviving spouses and families of members after death, shall be  
42 deemed an insurance company within the purview of this act.

43 b. (1) For the purposes of P.L.1945, c.132 (C.54:18A-1 et  
44 [seq.] al.), "insurance company" shall include, beginning January  
45 1, 1992, a health service corporation established pursuant to the  
46 provisions of P.L.1985, c.236 (C.17:48E-1 et [seq.] al.), with  
47 respect to its experience rated health insurance. An "insurance

1 company" shall also include any life, accident, or health insurance  
2 company in which a health service corporation owns stock,  
3 controls, or otherwise becomes affiliated with, as provided in  
4 subsection e. of section 3 of P.L.1985, c.236 (C.17:48E-3).

5 (2) For the purposes of P.L.1945, c.132 (C.54:18A-1 et [seq.]  
6 al.), "insurance company" shall include, beginning January 1, 2005,  
7 a health service corporation established pursuant to the provisions  
8 of P.L.1985, c.236 (C.17:48E-1 et [seq.] al.), with respect to its  
9 experience rated and community rated health insurance. An  
10 "insurance company" shall also include any life, accident, or health  
11 insurance company in which a health service corporation owns  
12 stock, controls, or otherwise becomes affiliated with, as provided in  
13 subsection e. of section 3 of P.L.1985, c.236 (C.17:48E-3).

14 (3) For the purposes of P.L.1945, c.132 (C.54:18A-1 et al.),  
15 "insurance company" shall include, beginning January 1, 2009  
16 'through December 31, 2009' , a dental service corporation  
17 established pursuant to the provisions of P.L.1968, c.305  
18 (C.17:48C-1 et seq.) <sup>1</sup>, notwithstanding the provisions of section 32  
19 of P.L.1968, c.305 (C.17:48C-32) and any other law to the contrary,  
20 and provided that notwithstanding section 1 of P.L.1945, c.132  
21 (C.54:18A-1) as to the payment of tax, tax liability due on a dental  
22 service corporation's business done during that calendar year shall  
23 be paid on March 1, 2010, with the filing of a return in a manner as  
24 shall be specified by the Director of the Division of Taxation and  
25 the Commissioner of Banking and Insurance<sup>1</sup> .

26 (cf: P.L.2005, c.128, s.2)

27  
28 <sup>1</sup>[4. Section 32 of P.L.1968, c.305 (C.17:48C-32) is amended to  
29 read as follows:

30 32. Every dental service corporation is hereby declared to be a  
31 charitable and benevolent institution, and its funds and property  
32 shall be exempt from taxation by the State or any political  
33 subdivision thereof other than taxation on premiums pursuant to  
34 P.L.1945, c.132 (C.54:18A-1 et al.) as provided in section 16 of that  
35 act (C.54:18A-9).

36 (cf: P.L.1968, c.305, s.32)]<sup>1</sup>

37  
38 <sup>2</sup>[5.] <sup>4.</sup><sup>2</sup> Section 25 of P.L.1960, c.32 (C.17:22-6.59) is  
39 amended to read as follows:

40 25. The premiums charged for surplus lines coverages are  
41 subject to a premium receipts tax of [3%] 5% of all gross  
42 premiums less any return premiums charged for such insurance.  
43 The surplus lines agent shall collect from the insured, either directly  
44 or through the originating broker, the amount of the tax, in addition  
45 to the full amount of the gross premium charged by the insurer for  
46 the insurance; provided, however, that the tax on any unearned  
47 portion of the premium shall be returned to the policyholder by the

1 surplus lines agent. The surplus lines agent is prohibited from  
2 absorbing such tax, or, as an inducement for insurance or for any  
3 other reason, rebating all or any part of such tax or of his  
4 commission.

5 The surplus lines agent shall forward to the commissioner  
6 together with his quarterly report submitted pursuant to section 24  
7 of P.L.1960, c.32 (C.17:22-6.58) a check in the amount of the  
8 premium receipts tax due for that period made out to "the State of  
9 New Jersey," except that where the policies cover fire insurance on  
10 property in any municipality or portion of a township, or fire  
11 district in this State, which now has or may hereafter have, a duly  
12 incorporated firemen's relief association, 3% of the premium  
13 receipts tax covering such insurance shall be paid to the treasurer of  
14 the [association] New Jersey State Firemen's Association and the  
15 remaining 2% of the premium receipts tax shall be forwarded to the  
16 commissioner.

17 The tax imposed hereunder, if delinquent, shall be subject to the  
18 provisions of R.S.54:49-3 and R.S.54:49-4.

19 The check covering taxes paid under the provisions of this act  
20 shall be forwarded by the commissioner to the Director of the  
21 Division of Taxation and that portion of the premiums representing  
22 fire insurance shall be distributed by him in the amount now or  
23 hereafter provided by law as to taxes collected by him from fire  
24 insurance companies of other states and foreign countries. The  
25 commissioner shall ascertain and report to the Director of the  
26 Division of Taxation all facts necessary to enable the director to  
27 ascertain, fix and collect the amount of the tax to be paid by each  
28 licensee subject thereto under this act.

29 If a surplus lines policy covers risks or exposures only partially  
30 in this State, the tax payable shall be computed on the portion of the  
31 premium which is properly allocable to the risks or exposures  
32 located in this State.

33 This section does not apply as to insurance of or with respect to  
34 insurance of risks of the State Government or its agencies, or of any  
35 county or municipality or of any agency thereof.

36 (cf: P.L.1996, c.69, s.8)

37

38 <sup>2</sup>[<sup>1</sup>6.] 5.<sup>2</sup> Section 30 of P.L.1960, c.32 (C.17:22-6.64) is  
39 amended to read as follows:

40 30. Every insured who in this State procures or causes to be  
41 procured or continues or renews insurance with an unauthorized  
42 foreign or alien insurer, or any insured or self-insurer who procures  
43 or continues excess loss, catastrophe or other insurance, upon a  
44 subject of insurance resident, located or to be performed within this  
45 State, other than insurance procured through a surplus lines agent  
46 pursuant to the surplus lines law of this State or exempted from tax  
47 under section 25 of P.L.1960, c.32 (C.17:22-6.59), shall within 30  
48 days after the date such insurance was so procured, continued, or



1 renewed, file a report of the same with the commissioner in writing  
2 and upon forms designated by the commissioner and furnished to  
3 such an insured upon request. The report shall show the name and  
4 address of the insured or insureds, name and address of the insurer,  
5 the subject of the insurance, a general description of the coverage,  
6 the amount of premium currently charged therefor, and such  
7 additional pertinent information as is reasonably requested by the  
8 commissioner.

9 Any insurance in an unauthorized insurer procured through  
10 negotiations or an application, in whole or in part occurring or made  
11 within or from within this State, or for which premiums in whole or  
12 in part are remitted directly or indirectly from within this State,  
13 shall be deemed to be insurance procured, or continued or renewed  
14 in this State within the intent of this section.

15 There is hereby levied upon the obligation, chose in action, or  
16 right represented by the premium charged for such insurance, a tax  
17 at the rate of ~~[3%]~~ 5% of the gross amount of such premium less  
18 any return premiums charged for such insurance. Within 30 days  
19 after the insurance was so procured, continued or renewed, and  
20 coincidentally with the filing with the commissioner of the report  
21 provided for in this section, the insured shall pay the amount of the  
22 tax to the commissioner, who, after reviewing the above report,  
23 shall turn over the amount of the tax to the Director of the Division  
24 of Taxation along with a summary of the facts necessary to enable  
25 the director to ascertain and fix the proper amount of the tax ,  
26 except that where the policies cover fire insurance on property in  
27 any municipality or portion of a township, or fire district in this  
28 State, which now has or may hereafter have, a duly incorporated  
29 firemen's relief association, 3% of the premium receipts tax  
30 covering such insurance shall be paid to the treasurer of the New  
31 Jersey State Firemen's Association and the remaining 2% of the  
32 premium receipts tax shall be forwarded to the commissioner.

33 If the insured fails to withhold from the premium the amount of  
34 tax herein levied, the insured shall be liable for the amount thereof  
35 and shall pay the same to the commissioner within the time  
36 specified in this section.

37 The tax imposed hereunder if delinquent shall be subject to the  
38 provisions of R.S.54:49-3 and R.S.54:49-4.

39 The tax shall be collectible from the insured by civil action  
40 brought by the commissioner.

41 The amount of taxes paid to the Director of the Division of  
42 Taxation under the provisions of this section on premiums for fire  
43 insurance shall be distributed by him in the manner now or hereafter  
44 provided by law as to taxes collected by him from fire insurance  
45 companies of other states and foreign countries.

46 This section does not abrogate or modify, and shall not be  
47 construed or deemed to abrogate or modify, any provision of  
48 section 3 of P.L.1960, c.32 (C.17:22-6.37), representing or aiding

1 unauthorized insurer prohibited; section 4 of P.L.1960, c.32  
2 (C.17:22-6.38), penalty for representing unauthorized insurer; or  
3 section 5 of P.L.1960, c.32 (C.17:22-6.39), suits by unauthorized  
4 insurers prohibited; or any other provision of this Title.

5 This section does not apply as to life or disability insurances.<sup>1</sup>  
6 (cf: P.L.1996, c.69, s.11)

7

8 <sup>2</sup>6. Section 5 of P.L.1984, c.101 (C.17:22-6.74) is amended to  
9 read as follows:

10 5. a. The fund shall:

11 (1) Be obligated to the extent of the covered claims against an  
12 insolvent insurer incurred prior to or 30 days after the determination  
13 of insolvency, or before the policy expiration date, if less than 30  
14 days after that determination, or before the policyholder replaces  
15 the policy or causes its cancellation, if he does so within 30 days of  
16 the determination. The fund's obligation for covered claims shall  
17 not be greater than \$300,000.00 per occurrence, subject to any  
18 applicable deductible and self-insured retention contained in the  
19 policy. The commissioner may pay a portion of or defer the fund's  
20 obligations for covered claims based on the moneys available in the  
21 fund. In no event shall the fund be obligated to a policyholder or  
22 claimant in excess of the limits of liability of the insolvent insurer  
23 stated in the policy from which the claim arises. Any obligation of  
24 the fund to defend an insured shall cease upon the fund's payment  
25 or tender of an amount equal to the lesser of the fund's covered  
26 claim statutory limit or the applicable policy limit;

27 (2) Be deemed the insurer to the extent of its obligation on the  
28 covered claims and to such extent shall have all rights, duties, and  
29 obligations of the insolvent insurer as if the insurer had not become  
30 insolvent;

31 (3) Assess member insurers in accordance with section 6 of this  
32 act in amounts necessary to pay:

33 (a) Obligations of the fund under paragraph (1) of this  
34 subsection,

35 (b) Expenses of handling covered claims,

36 (c) Any other expenses incurred in the implementation of the  
37 provisions of this act;

38 (4) Investigate claims brought against the fund; and adjust,  
39 compromise, settle, and pay covered claims to the extent of the  
40 fund's obligation; and deny all other claims; and may review  
41 settlements, releases and judgments to which the insolvent insurer  
42 or its policyholders were parties to determine the extent to which  
43 the settlements, releases and judgments may be properly contested;

44 (5) Notify those persons as the commissioner directs under  
45 section 8 of this act;

46 (6) Handle claims through the association's employees or  
47 representatives, or through one or more insurers or other persons  
48 designated as servicing facilities;

1 (7) Pay the other expenses of the association in administering  
2 the provisions of this act; and

3 (8) (Deleted by amendment, P.L.2004, c.165.)

4 (9) Within 60 days of the enactment of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
5 (pending before the Legislature as this bill), transfer to the Health  
6 Care Subsidy Fund \$60,000,000 as provided by section 8 of that  
7 act.

8 b. The fund may:

9 (1) Sue or be sued;

10 (2) Negotiate and become a party to those contracts which are  
11 necessary to carry out the purpose of this act;

12 (3) Perform those other acts which are necessary or appropriate  
13 to effectuate the purpose of this act;

14 (4) (Deleted by amendment, P.L.2002, c.30.)

15 (5) With the approval of the commissioner, borrow and  
16 separately account for moneys from any source, including but not  
17 limited to the New Jersey Property-Liability Insurance Guaranty  
18 Association and the Unsatisfied Claim and Judgment Fund, in such  
19 amounts and on such terms as the New Jersey Property-Liability  
20 Insurance Guaranty Association may determine are necessary or  
21 appropriate to effectuate the purposes of P.L.2003, c.89 (C.17:30A-  
22 2.1 et al.) in accordance with the association's plan of operation;  
23 and

24 (6) Make loans, in such amounts and on such terms as the  
25 association may determine are necessary or appropriate, to the New  
26 Jersey Property-Liability Insurance Guaranty Association in  
27 accordance with the provisions of the "New Jersey Property-  
28 Liability Insurance Guaranty Association Act," P.L.1974, c.17  
29 (C.17:30A-1 et seq.) and the "Unsatisfied Claim and Judgment  
30 Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.).<sup>2</sup>

31 (cf: P.L.2004, c.165, s.3)

32  
33 <sup>1</sup>[6.] <sup>1</sup>7. (New section) <sup>1</sup>[Commencing with fiscal years]  
34 During the fiscal year<sup>1</sup> beginning on <sup>1</sup>[and after]<sup>1</sup> July 1, 2009,  
35 there shall be deposited <sup>1</sup>[annually]<sup>1</sup> in the Health Care Subsidy  
36 Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-  
37 18.58): the sum of <sup>2</sup>[\$74.5] <sup>2</sup>\$19.5<sup>2</sup> million from the revenue  
38 collected <sup>1</sup>[annually]<sup>1</sup> from the taxation of group accident and  
39 health insurance policies pursuant to subsection (b) of section 2 of  
40 P.L.1945, c.132 (C.54:18A-2) <sup>2</sup>[; and the sum of \$5 million from  
41 the taxation of dental service corporations pursuant to P.L.1945,  
42 c.132 (C.54:18A-1 et al.)] and subsection (b) of section 3 of  
43 P.L.1945, c.132 (C.54:18A-3)<sup>2</sup>.

44  
45 <sup>2</sup>8. (New section) Within 60 days of the effective date of  
46 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
47 there shall be deposited in the Health Care Subsidy Fund

1 established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-  
2 18.58) the sum of \$60,000,000 from the New Jersey Surplus Lines  
3 Insurance Guaranty Fund pursuant to paragraph (9) of subsection a.  
4 of section 5 of P.L.1984, c.110 (C.17:22-6.74).<sup>2</sup>

5  
6 <sup>29.</sup> (New section) During the State fiscal year commencing July  
7 1, 2009, if the Commissioner of Banking and Insurance, in  
8 consultation with the State Treasurer, determines that the balance  
9 remaining in the New Jersey Surplus Lines Insurance Guaranty  
10 Fund is insufficient to satisfy existing covered claims after the  
11 transfer of \$60,000,000 to the Health Care Subsidy Fund pursuant  
12 to section 8 of P.L. , c. (C. ) (pending before the Legislature  
13 as this bill), there is appropriated from the General Fund to the New  
14 Jersey Surplus Lines Insurance Guaranty Fund an amount not to  
15 exceed \$27,000,000, subject to the approval of the Director of the  
16 Division of Budget and Accounting in the Department of the  
17 Treasury.<sup>2</sup>

18  
19 <sup>1</sup>[7.] <sup>2</sup>[8.1] 10.<sup>2</sup> This act shall take effect immediately.

1 SPONSOR'S STATEMENT

2

3 This bill revises the tax treatment of certain lines of insurance  
4 and dedicates the revenue realized from some of that revised tax  
5 treatment to the Health Care Subsidy Fund.

6 The bill modifies the tax treatment of group accident and health  
7 insurance premiums. It increases the rate on those premiums from  
8 the current 1% to 2.25%. The bill also increases the additional tax  
9 dedicated to the Department of Banking and Insurance for payment  
10 of its administrative costs related to its statutory duties from 0.05%  
11 to 0.1%. In so doing, the bill creates greater parity in the tax rates  
12 imposed on the various types of carriers involved in the accident  
13 and health insurance market: health maintenance organizations  
14 (HMOs); health service corporations; and insurers.

15 The bill also eliminates the "1/8 rule" for all accident and health  
16 insurance premiums. Currently, taxable premiums of an insurer are  
17 "capped" at 12.5% of total premiums for any carrier whose taxable  
18 premiums in New Jersey exceed 12.5% of its total worldwide  
19 taxable premiums (the so-called "1/8 rule"). This change is being  
20 made simultaneously with the increase in the premium tax rate for  
21 group accident and health insurance, and for the same reason: to  
22 promote consistency in the taxation of different types of accident  
23 and health insurance carriers.

24 This bill also modifies the current tax exemption given to a  
25 dental service corporation to make it subject to the insurance  
26 premiums tax. Similar action was first taken in 1990 with regard to  
27 the exemption provided to health service corporations. See section  
28 2 of P.L.1989, c.295 (amending C.17:48E-41).

29 This bill increases the premium receipts tax for surplus lines  
30 coverage from 3% to 5%. In the case of surplus lines policies that  
31 cover fire insurance on property located in a municipality or fire  
32 district with a duly incorporated firemen's relief association, the bill  
33 provides that 3% of the premium receipts tax would be paid to the  
34 treasurer of the New Jersey State Firemen's Association, as is  
35 current practice, while the remaining 2% would be paid to the State.

36 Lastly, the bill annually dedicates the sum of \$74.5 million from  
37 the revenue collected annually from the taxation of group accident  
38 and health insurance policy premiums, and the sum of \$5 million  
39 from the taxation of dental service corporations, to the Health Care  
40 Subsidy Fund, commencing with fiscal years beginning on and after  
41 July 1, 2009.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4108

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 15, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 4108, with committee amendments.

As amended, this bill modifies the tax treatment of certain lines of insurance, in some cases for Fiscal Year 2010 only, and dedicates the revenue realized from some of that modified tax treatment to the Health Care Subsidy Fund for Fiscal Year 2010.

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1% to 2.25%. As amended, the bill restricts these tax increases to Fiscal Year 2010.

The bill also eliminates the "1/8 rule" for all accident and health insurance premiums. Currently, taxable premiums of an insurer are "capped" at 12.5% of total premiums for any carrier whose taxable premiums in New Jersey exceed 12.5% of its total worldwide taxable premiums (the so-called "1/8 rule"). This change is being made to promote consistency in the taxation of different types of accident and health insurance carriers.

As amended, this bill also modifies the current tax exemption given to a dental service corporation to make it subject to the insurance premiums tax for Fiscal Year 2010 only.

This bill increases the premium receipts tax for surplus lines coverage from 3% to 5%. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3% of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2% will be paid to the State.

Lastly, for Fiscal Year 2010, the bill dedicates the sum of \$74.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums, and the sum of \$5 million from the taxation of dental service corporations, to the Health Care Subsidy Fund.

**FISCAL IMPACT:**

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$98.6 million in revenue for Fiscal Year 2010. However, the bill as amended contains provisions that limit certain tax increases to Fiscal Year 2010. Therefore, it is estimated that revenue raised in Fiscal Year 2011 will be approximately \$30.4 million. Details of the revenue increases are as follows:

- Group accident and health insurers –Premium tax increase from 1.05% to 2.25%, effective only in Fiscal Year 2010 - \$63.2 million;
- Group accident and health insurers - Elimination of the “1/8 rule” - \$8.4 million;
- Dental service corporations - Imposition of 2.25% premium tax, effective only in Fiscal Year 2010 - \$5 million;
- Surplus lines carriers - Premium tax increase from 3% to 5% - \$22 million.

Furthermore, in Fiscal Year 2010, the bill dedicates \$74.5 million from the taxation of group accident and health insurance policy premiums, and the sum of \$5 million from the taxation of dental service corporations to the Health Care Subsidy Fund.

**COMMITTEE AMENDMENTS:**

The committee amendments remove the proposed increase (from 0.05% to 0.1%) to the additional premiums tax dedicated to the Department of Banking and Insurance for payment of its administrative costs related to its statutory duties. The amendments also provide that the tax increase to group accident and health insurers and the imposition of premiums taxes on dental service corporations will only be effective for Fiscal Year 2010.

Furthermore, the amendments limit the dedication of \$74.5 million and \$5 million, respectively, to the Health Care Subsidy Fund to Fiscal Year 2010.

The amendments also make a technical correction to amend an additional section of law in respect to the taxation of life and health insurance premiums, which amendment is necessary to fully capture the increased revenue amounts as discussed in the fiscal impact section of this statement.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 4108**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 22, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 4108 (1R), with committee amendments.

As amended, this bill modifies the tax treatment of certain lines of insurance and dedicates the revenue to the Health Care Subsidy Fund for Fiscal Year 2010. Additionally, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1% to 1.35% as to taxes payable in 2009.

As amended, this bill also modifies the current tax exemption given to a dental service corporation to make it subject to the 1.35% insurance premiums tax for taxes payable in 2009.

This bill, as amended, increases the premium receipts tax for surplus lines coverage from 3% to 5%. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3% of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2% will be paid to the State.

Additionally, for Fiscal Year 2010, the bill dedicates the sum of \$19.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

Lastly, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund and further provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the New Jersey Surplus Lines Guaranty Fund in the event that this transfer leaves that fund with insufficient funds to meet its obligations under the law.

In total, the bill provides \$79.5 million to the Health Care Subsidy Fund in Fiscal Year 2010 to support Charity Care Payments.



COMMITTEE AMENDMENTS:

The committee amendments reduce the increase in the tax rate on group accident and health insurance premiums and dental service corporations, for taxes payable in 2009, from 2.25% to 1.35%, which increased revenue will be received in Fiscal Year 2010.

The amendments also delete from the bill the amendment to the law which would have eliminated the "1/8 rule" for all accident and health insurance premiums, by which rule taxable premiums of an insurer are "capped" at 12.5% of total premiums for any carrier whose taxable premiums in New Jersey exceed 12.5% of its total worldwide taxable premiums. Thus, the current treatment of accident and health insurance premiums under the "1/8 rule" will remain unchanged.

The amendments also decrease from \$74.5 million to \$19.5 million the amounts dedicated from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund in FY2010 and eliminate the dedication of revenues generated from the dental services corporation premiums tax.

Additionally, the amendments make a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund and further provide for a contingency appropriation, not to exceed \$27 million, from the General Fund to the New Jersey Surplus Lines Insurance Guaranty Fund in the event that this transfer leaves that fund with insufficient funds to meet its obligations under the law.

The amendments also make a technical correction to reference an additional section of law in respect to the taxation of life and health insurance premiums, which amendment is necessary to fully capture the increased revenue amounts.

FISCAL IMPACT:

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue for Fiscal Year 2010. As amended, the bill contains provisions limiting certain tax increases to taxes payable in 2009 and collected by the State in Fiscal Year 2010. Due to the one year duration of some of the tax increases, it is estimated that revenue raised in Fiscal Year 2011 will decrease to approximately \$22 million.

Details of the revenue increases are as follows:

- Group accident and health insurers –Premiums tax increase from 1% to 1.35%, effective only for taxes payable in 2009 - \$12.9 million;
- Dental service corporations - Imposition of 1.35% premiums tax, effective only for taxes payable in 2009 - \$400,000;
- Surplus lines carriers - Premium tax increase from 3% to 5% - \$22 million.

Additionally, the bill authorizes a one time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.

The bill also dedicates \$19.5 million from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

In total, the bill provides \$79.5 million to the Health Care Subsidy Fund in Fiscal Year 2010 to support Charity Care Payments.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 4108

### STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 30, 2009

#### SUMMARY

**Synopsis:** Concerns taxation of certain lines of insurance and dedicates certain additional revenues to the Health Care Subsidy Fund.

**Type of Impact:** Revenue Increase – General Fund, Health Care Subsidy Fund  
Fund Decrease – New Jersey Surplus Lines Insurance Guaranty Fund

**Agencies Affected:** Department of Banking and Insurance, Department of the Treasury

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b>Fiscal Year 2010</b>	<b>Fiscal Year 2011</b>	<b>Fiscal Year 2012</b>
<b>State Revenue</b>	\$35.3 million	\$22.2 million	\$22.4 million

- According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue the first year of enactment. Certain tax provisions are only effective for one year and thus revenue is estimated to be \$22.2 million in the second year and \$22.4 million in the third year after enactment.
- The bill authorizes a one time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.
- The bill will increase the premium tax paid by group accident and health insurers from 1 percent to 1.35 percent on taxes payable in 2009 and collected by the State in FY2010, generating \$12.9 million;
- The bill will impose a 1.35 percent premium tax on dental service corporations on taxes payable in 2009 and collected by the State in FY2010, generating \$400,000.
- The bill will increase the premium tax paid by Surplus Lines Carriers from 3 percent to 5 percent, generating \$22 million.

- The bill dedicates \$19.5 million from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

## **BILL DESCRIPTION**

Assembly Bill No. 4108 (2R) of 2009 modifies the tax treatment of certain lines of insurance and dedicates the revenue to the Health Care Subsidy Fund for Fiscal Year 2010. Additionally, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund (SLIGA) to the Health Care Subsidy Fund (HCSF).

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1 percent to 1.35 percent as to taxes payable in 2009.

The bill also modifies the current tax exemption given to a dental service corporation to make it subject to the 1.35 percent insurance premiums tax for taxes payable in 2009.

Additionally, the bill increases the premium receipts tax for surplus lines coverage from 3 percent to 5 percent. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3 percent of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2 percent will be paid to the State.

Furthermore, the bill dedicates the sum of \$19.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums to the HCSF for Fiscal Year 2010.

Lastly, the bill makes a one-time transfer of \$60 million from the SLIGA to the HCSF and provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the SLIGA in the event that this transfer leaves that fund with insufficient monies to meet its obligations under the law.

In total, the bill provides \$79.5 million to the HCSF in Fiscal Year 2010 to support Charity Care Payments.

## **FISCAL ANALYSIS**

### ***OFFICE OF LEGISLATIVE SERVICES***

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue in FY2010. Certain tax provisions are only effective for one year and thus revenue is estimated to be \$22.2 million in the second year and \$22.4 million in the third year after enactment.

The revenue is increased through three increases to premiums taxes paid by certain insurers. Two of the three increases to premiums taxes will only be collected on taxes payable in 2009 and collected by the State in FY2010. An increase from 1 percent to 1.35 percent on premiums tax paid by insurers who write group accident and health insurance policies is expected to generate \$12.9 million in FY2010. The one year imposition of a 1.35 percent premiums tax on dental service corporations is expected to generate \$400,000 in FY2010. The third proposed increase is permanent and is an increase from 3 percent to 5 percent on premium receipts tax paid by surplus

lines insurers, expected to generate an additional \$22 million in State revenues in FY2010, \$22.2 million in FY2011 and \$22.4 million in FY2012. This slight increase each year is a function of a one percent inflation in premiums tax revenue from year to year. The figure of one percent is used because, according to the department, it is reflective of historical increases in premiums tax revenue.

Furthermore, the bill makes a one-time transfer of \$60 million from the SLIGA to the HCSF and further provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the SLIGA in the event that this transfer leaves that fund with insufficient monies to meet its obligations under the law.

According to the department, as of May 31, 2009, the balance of the SLIGA is \$72.7 million and the department estimates that the fund should maintain a balance of at least \$40 million to meet any future claims. The \$60 million transfer authorized by this bill would result in a \$12.7 million balance with the option to transfer up to \$27 million from the General Fund to the SLIGA should those funds be needed to satisfy any claims. In 2002, the SLIGA had a balance of \$80 million and \$40 million was transferred from the SLIGA to the General Fund. At that time, legislation was enacted that limited claims covered by the SLIGA to medical malpractice and homeowners insurance.

In addition to the \$60 million transfer from the SLIGA to the HCSF, the bill also dedicates \$19.5 million, in FY2010 only, from the taxation of group accident and health insurance policy premiums to the HCSF. In total, this bill authorizes \$79.5 million to be transferred to the HCSF for charity care.

The HCSF is expected to receive \$626.07 million in revenue in FY2010. The current sources for this revenue include various taxes, the HMO Assessment, the General Fund, investment earnings, and carryover from the previous year. The HCSF is expected to expend \$624.696 million in FY2010, leaving a fund balance of \$1.376 million.

*Section: Commerce, Labor and Industry*  
*Analyst: Robin C. Ford*  
*Associate Fiscal Analyst*  
*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-1 et seq.).

1 SPONSOR'S STATEMENT

2

3 This bill revises the tax treatment of certain lines of insurance  
4 and dedicates the revenue realized from some of that revised tax  
5 treatment to the Health Care Subsidy Fund.

6 The bill modifies the tax treatment of group accident and health  
7 insurance premiums. It increases the rate on those premiums from  
8 the current 1% to 2.25%. The bill also increases the additional tax  
9 dedicated to the Department of Banking and Insurance for payment  
10 of its administrative costs related to its statutory duties from 0.05%  
11 to 0.1%. In so doing, the bill creates greater parity in the tax rates  
12 imposed on the various types of carriers involved in the accident  
13 and health insurance market: health maintenance organizations  
14 (HMOs); health service corporations; and insurers.

15 The bill also eliminates the "1/8 rule" for all accident and health  
16 insurance premiums. Currently, taxable premiums of an insurer are  
17 "capped" at 12.5% of total premiums for any carrier whose taxable  
18 premiums in New Jersey exceed 12.5% of its total worldwide  
19 taxable premiums (the so-called "1/8 rule"). This change is being  
20 made simultaneously with the increase in the premium tax rate for  
21 group accident and health insurance, and for the same reason: to  
22 promote consistency in the taxation of different types of accident  
23 and health insurance carriers.

24 This bill also modifies the current tax exemption given to a  
25 dental service corporation to make it subject to the insurance  
26 premiums tax. Similar action was first taken in 1990 with regard to  
27 the exemption provided to health service corporations. See section  
28 2 of P.L.1989, c.295 (amending C.17:48E-41).

29 This bill increases the premium receipts tax for surplus lines  
30 coverage from 3% to 5%. In the case of surplus lines policies that  
31 cover fire insurance on property located in a municipality or fire  
32 district with a duly incorporated firemen's relief association, the bill  
33 provides that 3% of the premium receipts tax would be paid to the  
34 treasurer of the New Jersey State Firemen's Association, as is  
35 current practice, while the remaining 2% would be paid to the State.

36 Lastly, the bill annually dedicates the sum of \$74.5 million from  
37 the revenue collected annually from the taxation of group accident  
38 and health insurance policy premiums, and the sum of \$5 million  
39 from the taxation of dental service corporations, to the Health Care  
40 Subsidy Fund, commencing with fiscal years beginning on and after  
41 July 1, 2009.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2016**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 15, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2016, with committee amendments.

As amended, this bill modifies the tax treatment of certain lines of insurance, in some cases for Fiscal Year 2010 only, and dedicates the revenue realized from some of that modified tax treatment to the Health Care Subsidy Fund for Fiscal Year 2010.

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1% to 2.25%. As amended, the bill restricts these tax increases to Fiscal Year 2010.

The bill also eliminates the "1/8 rule" for all accident and health insurance premiums. Currently, taxable premiums of an insurer are "capped" at 12.5% of total premiums for any carrier whose taxable premiums in New Jersey exceed 12.5% of its total worldwide taxable premiums (the so-called "1/8 rule"). This change is being made to promote consistency in the taxation of different types of accident and health insurance carriers.

As amended, this bill also modifies the current tax exemption given to a dental service corporation to make it subject to the insurance premiums tax for Fiscal Year 2010 only.

This bill increases the premium receipts tax for surplus lines coverage from 3% to 5%. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3% of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2% will be paid to the State.

Lastly, for Fiscal Year 2010, the bill dedicates the sum of \$74.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums, and the sum of \$5 million from the taxation of dental service corporations, to the Health Care Subsidy Fund.

COMMITTEE AMENDMENTS:

The committee amendments remove the proposed increase (from 0.05% to 0.1%) to the additional premiums tax dedicated to the Department of Banking and Insurance for payment of its administrative costs related to its statutory duties. The amendments also provide that the tax increase to group accident and health insurers and the imposition of premiums taxes on dental service corporations will only be effective for Fiscal Year 2010.

Furthermore, the amendments limit the dedication of \$74.5 million and \$5 million, respectively, to the Health Care Subsidy Fund to Fiscal Year 2010.

The amendments also make a technical correction to amend an additional section of law in respect to the taxation of life and health insurance premiums, which amendment is necessary to fully capture the increased revenue amounts as discussed in the fiscal impact section of this statement.

FISCAL IMPACT:

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$98.6 million in revenue for Fiscal Year 2010. However, the bill as amended contains provisions that limit certain tax increases to Fiscal Year 2010. Therefore, it is estimated that revenue raised in Fiscal Year 2011 will be approximately \$30.4 million. Details of the revenue increases are as follows:

- Group accident and health insurers –Premium tax increase from 1.05% to 2.25%, effective only in Fiscal Year 2010 - \$63.2 million;
- Group accident and health insurers - Elimination of the “1/8 rule” - \$8.4 million;
- Dental service corporations - Imposition of 2.25% premium tax, effective only in Fiscal Year 2010 - \$5 million;
- Surplus lines carriers - Premium tax increase from 3% to 5% - \$22 million.

Furthermore, in Fiscal Year 2010, the bill dedicates \$74.5 million from the taxation of group accident and health insurance policy premiums, and the sum of \$5 million from the taxation of dental service corporations to the Health Care Subsidy Fund.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 2016**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 22, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2016 (1R), with committee amendments.

As amended, this bill modifies the tax treatment of certain lines of insurance and dedicates the revenue to the Health Care Subsidy Fund for Fiscal Year 2010. Additionally, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1% to 1.35% as to taxes payable in 2009.

As amended, this bill also modifies the current tax exemption given to a dental service corporation to make it subject to the 1.35% insurance premiums tax for taxes payable in 2009.

This bill, as amended, increases the premium receipts tax for surplus lines coverage from 3% to 5%. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3% of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2% will be paid to the State.

Additionally, for Fiscal Year 2010, the bill dedicates the sum of \$19.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

Lastly, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund and further provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the New Jersey Surplus Lines Guaranty Fund in the event that this transfer leaves that fund with insufficient funds to meet its obligations under the law.

In total, the bill provides \$79.5 million to the Health Care Subsidy Fund in Fiscal Year 2010 to support Charity Care Payments.

**COMMITTEE AMENDMENTS:**

The committee amendments reduce the increase in the tax rate on group accident and health insurance premiums and dental service corporations, for taxes payable in 2009, from 2.25% to 1.35%, which increased revenue will be received in Fiscal Year 2010.

The amendments also delete from the bill the amendment to the law which would have eliminated the "1/8 rule" for all accident and health insurance premiums, by which rule taxable premiums of an insurer are "capped" at 12.5% of total premiums for any carrier whose taxable premiums in New Jersey exceed 12.5% of its total worldwide taxable premiums. Thus, the current treatment of accident and health insurance premiums under the "1/8 rule" will remain unchanged.

The amendments also decrease from \$74.5 million to \$19.5 million the amounts dedicated from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund in FY2010 and eliminate the dedication of revenues generated from the dental services corporation premiums tax.

Additionally, the amendments make a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund and further provide for a contingency appropriation, not to exceed \$27 million, from the General Fund to the New Jersey Surplus Lines Insurance Guaranty Fund in the event that this transfer leaves that fund with insufficient funds to meet its obligations under the law.

The amendments also make a technical correction to reference an additional section of law in respect to the taxation of life and health insurance premiums, which amendment is necessary to fully capture the increased revenue amounts.

**FISCAL IMPACT:**

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue for Fiscal Year 2010. As amended, the bill contains provisions limiting certain tax increases to taxes payable in 2009 and collected by the State in Fiscal Year 2010. Due to the one year duration of some of the tax increases, it is estimated that revenue raised in Fiscal Year 2011 will decrease to approximately \$22 million.

Details of the revenue increases are as follows:

- Group accident and health insurers –Premiums tax increase from 1% to 1.35%, effective only for taxes payable in 2009 - \$12.9 million;
- Dental service corporations - Imposition of 1.35% premiums tax, effective only for taxes payable in 2009 - \$400,000;
- Surplus lines carriers - Premium tax increase from 3% to 5% - \$22 million.

Additionally, the bill authorizes a one time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.

The bill also dedicates \$19.5 million from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

In total, the bill provides \$79.5 million to the Health Care Subsidy Fund in Fiscal Year 2010 to support Charity Care Payments.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## SENATE, No. 2016

### STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 30, 2009

#### SUMMARY

**Synopsis:** Concerns taxation of certain lines of insurance and dedicates certain additional revenues to the Health Care Subsidy Fund.

**Type of Impact:** Revenue Increase -- General Fund, Health Care Subsidy Fund  
Fund Decrease -- New Jersey Surplus Lines Insurance Guaranty Fund

**Agencies Affected:** Department of Banking and Insurance, Department of the Treasury

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2010</u></b>	<b><u>Fiscal Year 2011</u></b>	<b><u>Fiscal Year 2012</u></b>
<b>State Revenue</b>	\$35.3 million	\$22.2 million	\$22.4 million

- According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue the first year of enactment. Certain tax provisions are only effective for one year and thus revenue is estimated to be \$22.2 million in the second year and \$22.4 million in the third year after enactment.
- The bill authorizes a one time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund to the Health Care Subsidy Fund.
- The bill will increase the premium tax paid by group accident and health insurers from 1 percent to 1.35 percent on taxes payable in 2009 and collected by the State in FY2010, generating \$12.9 million;
- The bill will impose a 1.35 percent premium tax on dental service corporations on taxes payable in 2009 and collected by the State in FY2010, generating \$400,000.
- The bill will increase the premium tax paid by Surplus Lines Carriers from 3 percent to 5 percent, generating \$22 million.

- The bill dedicates \$19.5 million from the taxation of group accident and health insurance policy premiums to the Health Care Subsidy Fund.

## **BILL DESCRIPTION**

Senate Bill No. 2016 (2R) of 2009 modifies the tax treatment of certain lines of insurance and dedicates the revenue to the Health Care Subsidy Fund for Fiscal Year 2010. Additionally, the bill makes a one-time transfer of \$60 million from the New Jersey Surplus Lines Insurance Guaranty Fund (SLIGA) to the Health Care Subsidy Fund (HCSF).

The bill modifies the tax treatment of group accident and health insurance premiums. It increases the rate on those premiums from the current 1 percent to 1.35 percent as to taxes payable in 2009.

The bill also modifies the current tax exemption given to a dental service corporation to make it subject to the 1.35 percent insurance premiums tax for taxes payable in 2009.

Additionally, the bill increases the premium receipts tax for surplus lines coverage from 3 percent to 5 percent. In the case of surplus lines policies that cover fire insurance on property located in a municipality or fire district with a duly incorporated firemen's relief association, the bill provides that 3 percent of the premium receipts tax will be paid to the treasurer of the New Jersey State Firemen's Association, as is current practice, while the remaining 2 percent will be paid to the State.

Furthermore, the bill dedicates the sum of \$19.5 million from the revenue collected from the taxation of group accident and health insurance policy premiums to the HCSF for Fiscal Year 2010.

Lastly, the bill makes a one-time transfer of \$60 million from the SLIGA to the HCSF and provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the SLIGA in the event that this transfer leaves that fund with insufficient monies to meet its obligations under the law.

In total, the bill provides \$79.5 million to the HCSF in Fiscal Year 2010 to support Charity Care Payments.

## **FISCAL ANALYSIS**

### ***OFFICE OF LEGISLATIVE SERVICES***

According to information provided to the Office of Legislative Services by the Department of Banking and Insurance, it is estimated that this bill will generate approximately \$35.3 million in revenue in FY2010. Certain tax provisions are only effective for one year and thus revenue is estimated to be \$22.2 million in the second year and \$22.4 million in the third year after enactment.

The revenue is increased through three increases to premiums taxes paid by certain insurers. Two of the three increases to premiums taxes will only be collected on taxes payable in 2009 and collected by the State in FY2010. An increase from 1 percent to 1.35 percent on premiums tax paid by insurers who write group accident and health insurance policies is expected to generate \$12.9 million in FY2010. The one year imposition of a 1.35 percent premiums tax on dental service corporations is expected to generate \$400,000 in FY2010. The third proposed increase is permanent and is an increase from 3 percent to 5 percent on premium receipts tax paid by surplus lines insurers, expected to generate an additional \$22 million in State revenues in FY2010, \$22.2 million in FY2011 and \$22.4 million in FY2012. This slight increase each year is a function of a

one percent inflation in premiums tax revenue from year to year. The figure of one percent is used because, according to the department, it is reflective of historical increases in premiums tax revenue.

Furthermore, the bill makes a one-time transfer of \$60 million from the SLIGA to the HCSF and further provides for a contingency appropriation, not to exceed \$27 million, from the General Fund to the SLIGA in the event that this transfer leaves that fund with insufficient monies to meet its obligations under the law.

According to the department, as of May 31, 2009, the balance of the SLIGA is \$72.7 million and the department estimates that the fund should maintain a balance of at least \$40 million to meet any future claims. The \$60 million transfer authorized by this bill would result in a \$12.7 million balance with the option to transfer up to \$27 million from the General Fund to the SLIGA should those funds be needed to satisfy any claims. In 2002, the SLIGA had a balance of \$80 million and \$40 million was transferred from the SLIGA to the General Fund. At that time, legislation was enacted that limited claims covered by the SLIGA to medical malpractice and homeowners insurance.

In addition to the \$60 million transfer from the SLIGA to the HCSF, the bill also dedicates \$19.5 million, in FY2010 only, from the taxation of group accident and health insurance policy premiums to the HCSF. In total, this bill authorizes \$79.5 million to be transferred to the HCSF for charity care.

The HCSF is expected to receive \$626.07 million in revenue in FY2010. The current sources for this revenue include various taxes, the HMO Assessment, the General Fund, investment earnings, and carryover from the previous year. The HCSF is expected to expend \$624.696 million in FY2010, leaving a fund balance of \$1.376 million.

*Section: Commerce, Labor and Industry*  
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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

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Governor**For Immediate Release:**  
**Date:** June 29, 2009**For More Information:**  
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## Governor Corzine Signs \$29 Billion State Budget That Reflects Ethic of Shared Responsibility

*Amid deep national recession, FY2010 budget makes the right choices: It prioritizes education, health care and seniors at the same time it provides unprecedented relief from property taxes to all New Jerseyans and direct tax rebates to 1 million working families.*

**TRENTON** – Governor Jon S. Corzine today signed legislation adopting a \$29 billion budget for FY2010 that is \$1.8 billion less than the first budget he signed four years ago.

"For over six decades, New Jersey Governors and Legislators have talked about the need to make state government leaner," Governor Corzine said. "But for over six decades, the size and cost have government have continued to grow – until now. The budget I signed is \$1.8 billion smaller than the first budget I signed in 2006 and is \$4 billion smaller than last year's budget, yet we have expanded my administration's unequalled investment in direct property tax relief for working families – \$7 billion in four years. We have proven that government can do more with less."

The bare-bones appropriations act (A-4100/S-2010) is an unprecedented reduction in the size of State government. Every department, agency and authority was ordered to make cuts. There were more than 850 line items eliminated or reduced – everything from \$300 million saved by renegotiating state worker union contracts to cutting up gas cards to consolidating office space and reducing the number of cars in the state motor pool.

Scarce resources presented tough choices, but the governor and Democratic lawmakers prioritized funding for education, health care and senior citizens. The budget also provides much-needed property tax relief for homeowners, including 1 million who will receive direct relief through rebate checks of as much as \$900 per household.

"Today, we can be proud of a budget that honors our commitment to our children, seniors, and the most vulnerable," Governor Corzine said. "It's a budget that protects the working-class taxpayer and one which asks a little more of those who can afford it. This budget reflects an ethic of shared responsibility."

The Governor thanked Democratic leaders in the Senate and the General Assembly for their efforts in holding public hearings and securing passage of the final spending plan.

"Everyone involved in crafting this year's budget should be commended for the level of civility and cooperation employed in a year that could have easily devolved into chaos," said Senate President Richard J. Codey (D-Essex). "Instead, what we have is a budget that is \$4 billion leaner, yet still provides vital services to our residents, and is being signed into law well before our deadline."

"We have always said that we would seek to provide as much property tax relief as possible, and this budget honors that commitment to put property taxpayers first," said Assembly Speaker Joseph J. Roberts, Jr. (D-Camden).

"Even with historic cuts, this budget focuses on our core mission as a state – educating our children, improving public health, keeping residents safe and providing vital property tax relief to middle-class families," said Assemblyman Louis Greenwald (D-Camden), chairman of the Assembly Budget Committee. "As other states continue to make unconscionable cuts to their residents' core values, we continue to strengthen ours."

### More Information

[Ten Good Things in the FY2010 Budget](#)[Video: What's in the FY2010 Budget?](#)[FY2010 Budget Documents](#)[Governor Recommends Restoration of Property Tax Relief](#)

The Governor earlier signed other budget related measures including:

- A-4101/S-2011 (Greenwald/Buono) – Makes FY 2009 supplemental appropriations totaling \$20,768,000 reduces FY 2009 appropriations by \$27,500,000 and amends and supplements various language provisions affecting appropriations in FY 2009
- A-4102/S-2015 (Watson Coleman/Buono) – Temporarily increases income tax rates for taxpayers with income exceeding \$400,000, temporarily adjusts property tax deduction for certain taxpayers with income exceeding \$150,000 and taxes New Jersey Lottery Prizes exceeding \$10,000
- A-4103/S-2012 (Diegnan/Codey) – Raises cigarette tax rate from \$2.575 to \$2.70 per pack and dedicates additional revenue to the Health Care Subsidy Fund
- A-4104/S-2013 (Wisniewski/Weinberg) – Increase tax rates on liquor and wines, vermouth, sparkling wines and hard cider and dedicates additional revenue to the Health Care Subsidy Fund
- A-4105/S-2014 (Pou, Evans/Sweeney) – Provides one year extension of 4% surcharge on corporation business tax liability and decouples corporation business tax from federal Internal Revenue Code deferral of certain discharge of indebtedness income
- A-4106/S-2018 (Green, Jasey/Sweeney) – Directs NJHMFA to transfer up to \$12 million in unencumbered reserves to the State for rental assistance program and makes appropriation
- A-4107/S-2017 (Quigley, Chivukula, Coutinho/Sweeney) – Directs EDA to transfer up to \$22 million in unencumbered reserves to qualifying capital investment grant component of InvestNJ Business Grant Program
- A-4108/S-2016 (Cryan, Coutinho/Sweeney) – Concerns taxation of certain lines of insurance and dedicates certain additional revenues to the Health Care Subsidy Fund
- S-2020/S-A-4109 (Codey/McKeon, Chivukula) – Provides for the allocation of the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009
- A-3973/S-2797 (McKeon, Gusciora/Beach, O'Toole) – Appropriates funds to DEP for clean water environmental infrastructure projects

Budget charts can be viewed on the New Jersey State Treasury web page,  
<http://www.state.nj.us/treasury/omb/publications/10budget/index.shtml>

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