

26:2H-18.51

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"Health Care Reform Act"

NJSA: 26:2H-18.51

LAWS OF. 1992 CHAPTER: 160

BILL NO: A2100

SPONSOR(S) Colburn, Haytaian and Felice

DATE INTRODUCED: November 30, 1992

COMMITTEE: ASSEMBLY: Health & Human Services;  
Appropriations

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage  
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DATE OF PASSAGE: ASSEMBLY: November 30, 1992

SENATE: November 30, 1992

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

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COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

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See newspaper clippings--attached

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[FIRST REPRINT]  
ASSEMBLY, No. 2100

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 20, 1992

By Assemblymen COLBURN, HAYTAIAN and Felice

1 AN ACT providing for health care system reform and revising  
2 parts of the statutory law.

3

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

6 1. (New section) The Legislature finds and declares that:

7 a. It is of paramount public interest for the State to take all  
8 necessary and appropriate actions to ensure access to and the  
9 provision of high quality and cost-effective hospital care to its  
10 citizens.

11 b. The highly regulated system under which acute care  
12 hospitals have been forced to operate in New Jersey since the  
13 enactment of P.L.1978, c.83 was intended to control health care  
14 costs and promote the efficient and effective delivery of health  
15 care; however, because health care costs have continued to  
16 increase at an alarming rate, the State clearly needs to eliminate  
17 the current Diagnosis Related Group (DRG) rate setting  
18 methodology it initiated in 1980 and move in the direction of a  
19 deregulated hospital reimbursement system which will provide  
20 hospitals with a truly competitive market environment and strong  
21 incentives to offer only those services which meet the demands  
22 of health care purchasers and consumers.

23 c. Access to quality health care shall not be denied to  
24 residents of this State because of their inability to pay for the  
25 care; there are many residents of this State who cannot afford to  
26 pay for needed hospital care and in order to ensure that these  
27 persons have equal access to hospital care, it is necessary to  
28 provide disproportionate share hospitals with a charity care  
29 subsidy supported by a broad-based funding mechanism.

30 d. In order to provide financial support to those hospitals with  
31 a disproportionately large number of Medicare patients, it is also  
32 necessary to provide for a Medicare hospital subsidy, also  
33 supported by a broad-based funding mechanism, as a temporary  
34 means to distribute payments to disproportionate share hospitals  
35 which experience a significant shortfall in their revenues due to  
36 the difference between the hospital's actual rates for health care  
37 services and the rates paid by the Medicare program for those  
38 services.

39 e. There is a need to continue this State's current system of  
40 providing disproportionate share payments to hospitals in the  
41 State, and in order to ensure continuity of these payments, this  
42 bill establishes the Health Care Subsidy Fund.

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:  
1 Assembly AHH committee amendments adopted November 23, 1992.

1 f. In order to ensure a smooth transition to a new, deregulated  
2 hospital reimbursement system that significantly alters the  
3 State's policy towards the delivery of health care, it is necessary  
4 to establish an independent commission which is not tied to past  
5 practices of hospital rate regulation.

6 2. (New section) As used in sections 1 through 17 of this act:

7 "Administrator" means the administrator of the Health Care  
8 Subsidy Fund appointed by the New Jersey Essential Health  
9 Services Commission.

10 "Charity care" means care provided at disproportionate share  
11 hospitals that may be eligible for a charity care subsidy pursuant  
12 to this act.

13 "Charity care subsidy" means the component of the  
14 disproportionate share payment that is attributable to care  
15 provided at a disproportionate share hospital to persons unable to  
16 pay for that care, as provided in this act.

17 "Commission" means the New Jersey Essential Health Services  
18 Commission established pursuant to section 4 of this act.

19 "Disproportionate share hospital" means a hospital designated  
20 by the Commissioner of Human Services pursuant to Pub.L.89-97  
21 (42 U.S.C. §1396a et seq.) <sup>1</sup>and Pub.L.102-234<sup>1</sup>.

22 "Disproportionate share payment" means those payments  
23 <sup>1</sup>[received from the Health Care Subsidy Fund by  
24 disproportionate share hospitals] made by the Division of Medical  
25 Assistance and Health Services in the Department of Human  
26 Services to hospitals defined as disproportionate share hospitals  
27 by the Commissioner of Human Services in accordance with  
28 federal laws and regulations applicable to hospitals serving a  
29 disproportionate number of low income patients<sup>1</sup>.

30 "Fund" means the Health Care Subsidy Fund in the New Jersey  
31 Essential Health Services Commission established pursuant to  
32 section 8 of this act.

33 "Hospital" means a general acute care hospital licensed by the  
34 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et  
35 seq.).

36 "Medicaid" means the New Jersey Medical Assistance and  
37 Health Services Program in the Department of Human Services  
38 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

39 "Medicare" means the program established pursuant to  
40 Pub.L.89-97 (42 U.S.C. §1395 et seq.).

41 <sup>1</sup>"Other uncompensated care" means all costs not reimbursed  
42 by hospital payers excluding charity care, graduate medical  
43 education, discounts, bad debt and reduction in Medicaid  
44 payments.<sup>1</sup>

45 "Poverty level" means the official poverty level based on  
46 family size established and adjusted under Section 673(2) of  
47 Subtitle B, the "Community Services Block Grant Act," Pub.L.  
48 97-35 (42 U.S.C. § 9902(2)).

49 <sup>1</sup>"Preliminary cost base" means the preliminary cost base  
50 defined in section 2 of P.L.1971, c.136 (C.26:2H-2), as  
51 determined by the Hospital Rate Setting Commission.<sup>1</sup>

52 3. (New section) a. For the period January 1, 1993 to  
53 December 31, 1993, hereinafter referred to as the "transition  
54 year," the Hospital Rate Setting Commission shall establish a

1 revenue cap for each hospital whose rates had been established  
2 prior to this period by the Hospital Rate Setting Commission  
3 under the diagnosis related group methodology pursuant to  
4 P.L.1978, c.83. The <sup>1</sup>[commission] Hospital Rate Setting  
5 Commission<sup>1</sup> shall establish the revenue cap effective January 1,  
6 1993.

7 The revenue cap shall establish the maximum amount a hospital  
8 may collect in revenues in 1993 from all payers, but shall not  
9 include payments from the fund. The revenue cap shall be based  
10 upon the same financial elements used to prepare the preliminary  
11 cost base for 1992, but shall not include any amounts provided in  
12 1992 for a subsidy to Blue Cross and Blue Shield of New Jersey,  
13 Inc. and for patient appeals. The revenue cap shall include:

14 (1) a component for a hospital's bad debt as determined by the  
15 hospital's payment for bad debt from the New Jersey Health  
16 Care Trust Fund in 1992 pursuant to P.L.1991, c.187  
17 (C.26:2H-18.24 et al.), but the total amount allowed for bad debt  
18 plus the amount a hospital is eligible to receive from the fund for  
19 its charity care subsidy shall not exceed the total amount of  
20 uncompensated care payments the hospital received in 1992 from  
21 the New Jersey Health Care Trust Fund;

22 (2) the hospital specific amount agreed to by a hospital and the  
23 Hospital Rate Setting Commission pursuant to the 1990 voluntary  
24 settlement program (N.J.A.C.8:31B-3.65); and

25 (3) an amount to be determined by the Hospital Rate Setting  
26 Commission which represents a hospital's share of the total  
27 outstanding reconciliation amounts as of December 31, 1992,  
28 including any reasonably projected reconciliation amounts for  
29 calendar year 1992<sup>1</sup>, which total amount shall be adjusted so that  
30 a hospital's revenue cap does not exceed the hospital's  
31 preliminary cost base for 1992<sup>1</sup>.

32 A hospital shall continue to provide any public health services  
33 which were formerly supported by grant funds but whose costs  
34 were included in that hospital's preliminary cost base for 1992  
35 and shall <sup>1</sup>[continue to]<sup>1</sup> provide for its regional hemophilia  
36 center and regional maternal and child health consortia, as  
37 applicable.

38 b. The department shall provide for an audit of a hospital's  
39 revenues for 1993 in a time frame established by the department.

40 c. A hospital whose revenues exceeded its revenue cap during  
41 1993 shall be liable to a civil penalty of payment of an amount  
42 not to exceed 1.5 times the amount of revenue in excess of the  
43 revenue cap.

44 The civil penalty provided for in this section shall be recovered  
45 in an administrative proceeding held pursuant to the  
46 "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1 et  
47 seq.). Any monies recovered pursuant to this penalty shall be  
48 deposited in the fund.

49 d. <sup>1</sup>[A hospital may enter into any agreement or contract with  
50 a third party payer to charge a discount or reduced rate for  
51 hospital services; however, the discount or reduced rate should be  
52 based on sound business practices so as not to jeopardize a  
53 hospital's revenue base during the transition to an unregulated  
54 hospital reimbursement system.] In order to minimize the

1 disruption in the transition year, any discounts negotiated  
2 between hospitals and non-governmental third party payers shall  
3 reflect cost savings resulting from the efficient use of resources  
4 and not merely cost shifts from one payer to another. The final  
5 rate shall be mutually agreeable to both parties.<sup>1</sup>

6 e. In the event that the revenues collected by a hospital during  
7 the transition year are insufficient, the State shall not be liable  
8 for any deficiency.

9 4. (New section) a. There is established in the Executive  
10 Branch of the State Government, the New Jersey Essential  
11 Health Services Commission. For the purposes of complying with  
12 the provisions of Article V, Section IV, paragraph 1 of the New  
13 Jersey Constitution, the commission is allocated within the  
14 Department of Health, but notwithstanding that allocation, the  
15 commission shall be independent of any supervision or control by  
16 the department or by any board or officer thereof.

17 b. The commission shall consist of 11 members, including the  
18 Commissioners of Health, Human Services and Insurance, or their  
19 designees, who shall serve ex officio and eight public members to  
20 be appointed by the Governor with the advice and consent of the  
21 Senate, no more than four of whom shall be of the same political  
22 party. Three of the public members shall have expertise in the  
23 area of hospital financing, three of the public members shall have  
24 experience in the delivery of health care services or in health  
25 insurance, and two of the public members shall be health care  
26 consumers and not health care providers. To the extent possible,  
27 the public members shall be representative of the various  
28 geographic regions of the State.

29 c. The Governor shall appoint the public members within 60  
30 days of the effective date of this act.

31 d. The term of office of each public member shall be three  
32 years, except that of the members first appointed two shall be  
33 appointed for a term of one year, three for a term of two years  
34 and three for a term of three years. A vacancy shall be filled for  
35 an unexpired term in the manner provided for the original  
36 appointment. A member may be removed from office by the  
37 Governor, for good cause.

38 e. The members of the commission shall annually elect a  
39 chairman and a vice-chairman from among the public members.  
40 The chairman shall be the chief executive officer of the  
41 commission, shall preside at all meetings of the commission and  
42 shall perform other duties that the commission may prescribe.

43 f. A majority of members of the commission shall constitute a  
44 quorum and no action of the commission shall be taken except  
45 upon the vote of a majority of the members present.

46 g. The public members of the commission shall receive  
47 compensation of \$150 per day for their services and shall be  
48 entitled to reimbursement for reasonable expenses incurred in the  
49 performance of their duties.

50 5. (New section) The commission shall:

51 a. Administer the fund and establish a mechanism to allocate  
52 monies received from the Commissioner of Labor pursuant to  
53 section 29 of P.L. , c. (C. )(pending before the Legislature  
54 as this bill) to the appropriate accounts in the fund as

- 1 specified in this act;
- 2 b. Establish eligibility determination and claims processing  
3 systems for the charity care component of the disproportionate  
4 share subsidy, including the development of uniform forms for  
5 determining eligibility and submitting claims. The commission  
6 may contract with a private claims administrator or processor for  
7 the purpose of processing hospital claims for charity care  
8 pursuant to this act;
- 9 c. Establish a schedule of payments for reimbursement of the  
10 charity care component of the disproportionate share payment  
11 for services provided to emergency room patients who do not  
12 require those services on an emergency basis;
- 13 d. Develop and provide for the implementation by January 1,  
14 1994 of the New Jersey SHIELD program pursuant to section 15  
15 of this act<sup>1</sup>;
- 16 e. Study and, if feasible, establish hospital cost and outcome  
17 reports to provide assistance to consumers of health care in this  
18 State in making prudent health care choices;
- 19 f. Compile demographic information on recipients of, and  
20 types of services paid for by, the charity care component of the  
21 disproportionate share payment and include a summary of this  
22 information in the commission's annual report to the Governor  
23 and Legislature. The demographic information shall include, at a  
24 minimum, the recipient's age, sex, marital status, employment  
25 status, type of health insurance coverage, if any, and if the  
26 recipient is a child under 18 years of age who does not have  
27 health insurance coverage or a married person who does not have  
28 health insurance coverage, whether the child's parent or the  
29 married person's spouse, as the case may be, has health insurance;
- 30 g. Review the level of hospital charges and assess their  
31 appropriateness in relation to hospitals in neighboring states;
- 32 h. Review and assess the adequacy of Medicare hospital  
33 reimbursement rates as established by the federal government;
- 34 i. Review and assess the level of Medicaid reimbursement  
35 rates for physicians and other health care providers with the  
36 purpose of encouraging their increased participation in less costly  
37 and more appropriate methods of treatment, particularly,  
38 preventive care services and managed care;
- 39 j. Assess adherence by third party payers and hospitals to  
40 recognized fair market contracting standards and recommend to  
41 the Governor and Legislature whenever the commission deems  
42 appropriate, safeguards to prevent unfair or discriminatory  
43 contracting or pricing policies;
- 44 k. Ensure that charity care services financed pursuant to this  
45 act are provided in the most appropriate and cost effective  
46 manner and assess the feasibility of shifting services received  
47 by hospital charity care payments from fee-for-service  
48 reimbursement patients to a managed care system;
- 49 l. Encourage the use of centralized data storage and  
50 transmission technology that utilizes personal and image  
51 identification systems as well as identity verification technology  
52 for the purposes of enabling a hospital to access medical history,  
53 insurance information and other personal information, as  
54 appropriate;

1 m. Review and examine <sup>1</sup>[all] medical malpractice reform  
2 initiatives, including but not limited to, mediation programs and<sup>1</sup>  
3 practice protocols established by the United States Agency for  
4 Health Care Policy and Research and include any  
5 recommendations for legislative action the commission deems  
6 appropriate for implementing the use of such <sup>1</sup>[protocols] reform  
7 initiatives<sup>1</sup> in the commission's annual report to the Governor  
8 and the Legislature;

9 n. Consult with the Health Care Facilities Financing Authority  
10 on the development of a program to establish a hospital bond  
11 reserve fund;

12 o. Take such other actions to provide for efficient and  
13 effective health care financing as the commission deems  
14 necessary and appropriate pursuant to this act; and

15 p. Report annually to the Governor and the Legislature by  
16 November 1 of each year on the status of the fund and the  
17 activities of the commission, and include in the report any  
18 recommendations for legislative action the commission deems  
19 appropriate.

20 6. (New section) The commission is authorized to:

21 a. Maintain offices at such places within the State as it may  
22 designate;

23 b. Employ an executive director with a professional  
24 background in the area of health care financing and other  
25 personnel as may be necessary, whose employment shall be in the  
26 unclassified service of the State, except that employees  
27 performing stenographic or clerical duties shall be appointed  
28 pursuant to Title 11A of the New Jersey Statutes. The executive  
29 director shall serve as secretary to the commission and shall  
30 carry out its policies under the direction of the chairman;

31 c. Apply for and accept any grant of money from the federal  
32 government for which the commission may be eligible;

33 d. Enter into contracts with individuals, organizations and  
34 institutions necessary or incidental to the performance of its  
35 duties and the execution of its powers under this act;

36 e. Accept gifts, grants and bequests of funds from individuals,  
37 foundations, corporations, governmental agencies and other  
38 organizations and institutions in compliance with the "New  
39 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12  
40 et seq.);

41 f. Invest monies collected by the fund, as appropriate, in  
42 investments approved by the Division of Investment in the  
43 Department of the Treasury; and

44 g. Adopt rules and regulations necessary to carry out their  
45 assigned duties pursuant to the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.).

47 7. (New section) Effective January 1, 1994, the Department  
48 of Health shall assess each hospital a per adjusted admission  
49 charge of \$10.00.

50 Of the revenues raised by the assessment, \$5.00 per adjusted  
51 admission shall be used by the commission to fund its  
52 administrative costs and \$5.00 per adjusted admission shall be  
53 used by the Department of Health for administrative costs  
54 related to health planning.

1 8. (New section) There is established the Health Care Subsidy  
2 Fund in the New Jersey Essential Health Services Commission.

3 a. The fund shall be comprised of revenues from employee and  
4 employer contributions made pursuant to section 29 of P.L. , c.  
5 (C. )(pending before the Legislature as this bill), revenues from  
6 the hospital assessment made pursuant to section 12 of this act,  
7 revenues from interest and penalties collected pursuant to this  
8 act and revenues from such other sources as the Legislature shall  
9 determine. Interest earned on the monies in the fund shall be  
10 credited to the fund.

11 The fund shall be a nonlapsing fund dedicated for use by the  
12 State to: (1) distribute <sup>1</sup>charity care and other uncompensated  
13 care<sup>1</sup> disproportionate share payments to hospitals <sup>1</sup>[which  
14 provide charity care and hospitals which experience a significant  
15 shortfall in their revenues due to the difference between the  
16 hospital's actual rates or charges for health care services and the  
17 rates paid by the Medicare program for those services]<sup>1</sup>, and  
18 provide subsidies for the New Jersey SHIELD program  
19 established pursuant to section 15 of this act; and (2) provide  
20 financial assistance for <sup>1</sup>[disproportionate share]<sup>1</sup> hospitals and  
21 other health care initiatives and hospital bond assistance.

22 b. The fund shall be administered by a person appointed by the  
23 commission.

24 The administrator of the fund is responsible for overseeing and  
25 coordinating the collection and reimbursement of fund monies.  
26 The administrator is responsible for promptly informing the  
27 commission if monies are not or are not reasonably expected to  
28 be collected or disbursed or if the fund's reserve as established in  
29 subsection c. of this section falls below the required level.

30 c. The fund shall maintain a reserve in an amount not to  
31 exceed \$20 million. The commission shall adopt rules and  
32 regulations to govern the use of the reserve and to ensure the  
33 integrity of the fund, pursuant to the "Administrative Procedure  
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

35 d. The administrator shall establish separate accounts for the  
36 charity care component of the disproportionate share hospital  
37 subsidy, <sup>1</sup>[Medicare] other uncompensated care<sup>1</sup> component of  
38 the disproportionate share hospital subsidy, <sup>1</sup>[disproportionate  
39 share]<sup>1</sup> hospital and other health care initiatives and bond  
40 assistance funding and the payments for subsidies for insurance  
41 premiums to provide care in disproportionate share hospitals,  
42 known as the New Jersey SHIELD subsidy account, respectively.

43 9. (New section) a. The commission shall <sup>1</sup>[annually]<sup>1</sup> allocate  
44 such funds as specified in this section to the charity care  
45 component of the disproportionate share hospital subsidy  
46 account. Such funds as may be necessary shall be <sup>1</sup>[appropriated  
47 by] transferred by<sup>1</sup> the commission from the <sup>1</sup>[account] fund<sup>1</sup> to  
48 the Division of Medical Assistance and Health Services in the  
49 Department of Human Services for <sup>1</sup>[payment to] approved<sup>1</sup>  
50 disproportionate share <sup>1</sup>[hospitals for payment of approved  
51 charity care costs] payments to hospitals<sup>1</sup>.

52 b. For the period January 1, 1993 to December 31, 1993, the  
53 commission shall allocate \$500 million to the charity care  
54 component of the disproportionate share hospital subsidy  
55 account. The Department of Health shall <sup>1</sup>[determine]



1 recommend<sup>1</sup> the amount that the Division of Medical Assistance  
 2 and Health Services shall pay to an eligible hospital on a  
 3 provisional, monthly basis pursuant to paragraphs (1) and (2) of  
 4 this subsection. The department shall also advise the commission  
 5 and each eligible hospital of the amount a hospital is entitled to  
 6 receive.

7 (1) The department shall determine if a hospital is eligible to  
 8 receive a charity care subsidy in 1993 based on the following:

$$\begin{array}{l} 9 \\ 10 \quad \frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Hospital Specific Preliminary Cost Base-1992}} \\ 11 \\ 12 \\ 13 \quad = \text{Hospital Specific \% Uncompensated Care (\%UC)} \\ 14 \end{array}$$

15 A hospital is eligible for a charity care subsidy in 1993 if, upon  
 16 establishing a rank order of the %UC for all hospitals, the  
 17 hospital is among the 80% of hospitals with the highest %UC.

18 (2) The maximum amount of the charity care subsidy an eligible  
 19 hospital may receive in 1993 shall be based on the following:

$$\begin{array}{l} 20 \\ 21 \quad \frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Total Approved Uncompensated Care All Eligible Hospitals-1991}} \\ 22 \\ 23 \\ 24 \quad \times \$500 \text{ million} \\ 25 \\ 26 \quad = \text{Maximum Amount of Hospital Specific} \\ 27 \quad \text{Charity Care Subsidy for 1993} \\ 28 \end{array}$$

29 (3) A hospital shall be required to submit all claims for charity  
 30 care cost reimbursement, as well as demographic information  
 31 about the persons who qualify for charity care, to the department  
 32 in a manner and time frame specified by the Commissioner of  
 33 Health, in order to continue to be eligible for a charity care  
 34 subsidy in 1993 and in subsequent years.

35 The demographic information shall include the recipient's age,  
 36 sex, marital status, employment status, type of health insurance  
 37 coverage, if any, and if the recipient is a child under 18 years of  
 38 age who does not have health insurance coverage or a married  
 39 person who does not have health insurance coverage, whether the  
 40 child's parent or the married person's spouse, as the case may  
 41 be, has health insurance.

42 (4) A hospital shall be reimbursed for the cost of eligible  
 43 charity care at the same rate paid to that hospital by the  
 44 Medicaid program; except that charity care services provided to  
 45 emergency room patients who do not require those services on an  
 46 emergency basis shall be reimbursed at a rate appropriate for  
 47 primary care, according to a schedule of payments developed by  
 48 the commission.

49 (5) The department shall provide for an audit of a hospital's  
 50 charity care for 1993 within a time frame established by the  
 51 department.

52 c. Beginning January 1, 1994, a hospital shall receive <sup>1</sup>[charity  
 53 care subsidy] disproportionate share<sup>1</sup> payments <sup>1</sup>from the  
 54 Division of Medical Assistance and Health Services<sup>1</sup> based on  
 55 <sup>1</sup>[actual claims for] the amount of<sup>1</sup> charity care submitted to the

1 commission or its designated agent, in a form and manner  
 2 specified by the commission. The commission or its designated  
 3 agent shall review and process all charity care claims and notify  
 4 the Division of Medical Assistance and Health Services of the  
 5 amount it shall pay to each hospital on a monthly basis based on  
 6 actual <sup>1</sup>[claims received and approved for payment] services  
 7 rendered<sup>1</sup>.

8 (1) A hospital that chooses to receive charity care subsidy  
 9 payments shall notify the commission by November 30 preceding  
 10 the year in which the subsidy is to be received and provide the  
 11 commission with any information required by the commission to  
 12 establish the hospital's maximum subsidy allotment for the next  
 13 year.

14 The maximum charity care subsidy allotment a hospital may  
 15 receive in a year shall be based on the following:

$$\begin{array}{r}
 17 \quad \frac{\text{Hospital Specific Approved Charity Care for Previous Year}}{\text{Total Approved Charity Care}} \\
 18 \quad \quad \quad \text{All Eligible Hospitals for Previous Year} \\
 19 \\
 20 \\
 21 \quad \times \text{ Total Amount of Charity Care Subsidy for Year} \\
 22 \\
 23 \quad \quad \quad = \text{Maximum Hospital Specific Charity Care} \\
 24 \quad \quad \quad \quad \quad \text{Subsidy Allotment for Year} \\
 25
 \end{array}$$

26 In 1994, the total amount of charity care subsidy shall be \$450  
 27 million, in 1995, it shall be \$400 million, in 1996, it shall be \$350  
 28 million, and in 1997 and each year thereafter, it shall be \$300  
 29 million; except that, the commission may adjust the annual  
 30 allotments, by regulation and in accordance with the availability  
 31 of monies in other accounts in the fund, if necessary to ensure  
 32 access to hospital care for indigent persons.

33 (2) If the commission is not able to fully implement the charity  
 34 care claims processing system by January 1, 1994, the  
 35 commission shall continue to make provisional <sup>1</sup>[charity care]  
 36 disproportionate share<sup>1</sup> payments to hospitals, through the  
 37 Division of Medical Assistance and Health Services, based on the  
 38 charity care costs incurred by all hospitals in 1993, until such  
 39 time as the commission is able to implement the claims  
 40 processing system.

41 (3) A hospital shall be reimbursed for the cost of eligible  
 42 charity care at the same rate paid to that hospital by the  
 43 Medicaid program; except that, charity care services provided to  
 44 emergency room patients who do not require those services on an  
 45 emergency basis shall be reimbursed at a rate appropriate for  
 46 primary care, according to a schedule of payments developed by  
 47 the commission.

48 (4) A hospital shall submit demographic information about the  
 49 persons who qualify for charity care to the commission in a  
 50 manner and time frame specified by the commission, in order to  
 51 receive its charity care subsidy.

52 The demographic information shall include the recipient's age,  
 53 sex, marital status, employment status, type of health insurance  
 54 coverage, if any, and if the recipient is a child under 18 years of  
 55 age who does not have health insurance coverage or a married

1 person who does not have health insurance coverage, whether the  
2 child's parent or the married person's spouse, as the case may  
3 be, has health insurance.

4 d. A hospital which does not receive a charity care subsidy  
5 pursuant to this act shall submit to the commission on a quarterly  
6 basis, the following demographic information about individuals to  
7 whom it provides uncompensated care: the individual's age, sex,  
8 marital status, employment status, type of health insurance  
9 coverage, if any, and if the individual is a child under 18 years of  
10 age who does not have health insurance coverage or a married  
11 person who does not have health insurance coverage, whether the  
12 child's parent or the married person's spouse, as the case may  
13 be, has health insurance.

14 10. (New section) a. The commission shall establish a uniform  
15 charity care eligibility and reimbursement claim form that a  
16 hospital shall be required to use in order to receive  
17 reimbursement for charity care under this act.

18 b. A person whose individual or, if applicable, family gross  
19 income is less than or equal to 300% of the poverty level shall be  
20 eligible for charity care or reduced charge charity care for  
21 necessary health care services provided at a hospital.

22 The commission shall establish:

23 (1) the maximum level of income at which a person is eligible  
24 for full charity care;

25 (2) a sliding scale based on income which specifies the  
26 percentage of hospital charges for which a person who is eligible  
27 for reduced charity care is responsible; and

28 (3) assets eligibility criteria for full charity care and reduced  
29 charge charity care, respectively.

30 11. (New section) a. The monies in the <sup>1</sup>[Medicare] other  
31 uncompensated care<sup>1</sup> component of the disproportionate share  
32 hospital subsidy account shall be distributed to eligible hospitals  
33 in accordance with the formulas provided in subsections b. and c.  
34 of this section. In 1993, the fund shall distribute \$100 million in  
35 subsidies to eligible hospitals; in 1994, the fund shall distribute  
36 \$67 million to eligible hospitals; and in 1995, the fund shall  
37 distribute \$33 million to eligible hospitals.

38 Such funds as may be necessary shall be <sup>1</sup>[appropriated]  
39 transferred<sup>1</sup> by the commission from the <sup>1</sup>[account] fund<sup>1</sup> to the  
40 Division of Medical Assistance and Health Services in the  
41 Department of Human Services for payment to disproportionate  
42 share hospitals.

43 b. The determination of whether a hospital is eligible to  
44 receive a subsidy shall be based on the following:

45

$$\frac{\text{Hospital Specific } ^1[\text{Medicare Revenue}] \\ \text{Other Uncompensated Care}^1 \text{ for Year}}{\text{Hospital Specific Revenue for Year}}$$

48

$$= \text{Hospital Specific } \% ^1[\text{Medicare Share } (\% \text{Medicare})] \\ \text{Other Uncompensated Care } (\% \text{OUC})^1$$

52 A hospital is eligible for a subsidy if, upon establishing a rank  
53 order of the <sup>1</sup>[%Medicare] %OUC<sup>1</sup> for all hospitals:

54 (1) in 1993, the hospital is among the 45% of hospitals with  
55 the highest <sup>1</sup>[%Medicare] %OUC<sup>1</sup>;

1 (2) in 1994, the hospital is among the 30% of hospitals with  
2 the highest <sup>1</sup>[%Medicare] %OUC<sup>1</sup>; and

3 (3) in 1995, the hospital is among the 15% of hospitals with  
4 the highest <sup>1</sup>[%Medicare] %OUC<sup>1</sup>.

5 c. The amount of the subsidy an eligible hospital shall receive  
6 shall be based on the following:

$$\frac{\text{Hospital Specific } ^1[\text{Medicare Revenue}] \text{ Other Uncompensated Care}^1 \text{ for Year}}{\text{Total } ^1[\text{Medicare Revenue}] \text{ Other Uncompensated Care}^1 \text{ for All Eligible Hospitals for Year}}$$

7  
8  
9  
10  
11  
12  
13 X Total Amount of Subsidy Allocated for the Year

14  
15 = Hospital Specific Subsidy for the Year

16  
17 In 1993, the formulas shall use 1991 Hospital Specific  
18 <sup>1</sup>[Medicare Revenue ] Other Uncompensated Care<sup>1</sup> and Total  
19 <sup>1</sup>[Medicare Revenue] Other Uncompensated Care<sup>1</sup> for All Eligible  
20 Hospitals, and a hospital's 1992 preliminary cost base established  
21 pursuant to section 18 of P.L.1971, c.136 (C.26:2H-18), for  
22 "Hospital Specific Revenue for Year."

23 In 1994 and 1995, the formulas shall use 1992 Hospital Specific  
24 <sup>1</sup>[Medicare Revenue] Other Uncompensated Care<sup>1</sup> and Total  
25 <sup>1</sup>[Medicare Revenue] Other Uncompensated Care<sup>1</sup> for All Eligible  
26 Hospitals, and a hospital's 1993 revenue cap established pursuant  
27 to section 3 of this act for "Hospital Specific Revenue for Year."

28 d. The commission shall notify the Division of Medical  
29 Assistance and Health Services of the amount of <sup>1</sup>[Medicare]  
30 Other Uncompensated Care<sup>1</sup> hospital subsidy payment <sup>1</sup>[it shall  
31 pay to each eligible hospital on a monthly basis] to be included in  
32 the disproportionate share payment to each eligible hospital<sup>1</sup>.

33 12. <sup>1</sup>(New section)<sup>1</sup> a. The monies in the hospital and other  
34 health care initiatives and bond assistance account are  
35 appropriated for the purposes specified in this subsection.

36 (1) Establishment of a hospital bond reserve fund in  
37 consultation with the Health Care Facilities Financing Authority;  
38 and

39 (2) Establishment of a program which will assist hospitals and  
40 other health care facilities in the underwriting of innovative and  
41 necessary health care services and provide funding for public or  
42 private health care programs, which may include any program  
43 funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47),  
44 as determined by the commission.

45 The commission shall develop equitable regulations regarding  
46 eligibility for and access to the financial assistance, within six  
47 months of the effective date of this act.

48 b. Such funds as may be necessary shall be <sup>1</sup>[appropriated]  
49 transferred<sup>1</sup> by the commission from the <sup>1</sup>[account] fund<sup>1</sup> to the  
50 Division of Medical Assistance and Health Services in the  
51 Department of Human Services for payment to disproportionate  
52 share hospitals <sup>1</sup>[for payment of approved charity care costs]<sup>1</sup>.

53 c. Notwithstanding any law to the contrary, each hospital  
54 whose revenue cap is established by the <sup>1</sup>[commission] Hospital  
55 Rate Setting Commission<sup>1</sup> in 1993 pursuant to P.L. , c.

1 (C. )(pending before the Legislature as this bill) shall pay .53%  
2 of its approved revenue base for 1992, as that base was  
3 established by the Hospital Rate Setting Commission pursuant to  
4 P.L.1978, c.83, to the commission for deposit in the Health Care  
5 Subsidy Fund. The hospital shall make monthly payments to the  
6 commission beginning July 1, 1993, except that the total amount  
7 paid into the Health Care Subsidy Fund plus interest shall not  
8 exceed \$40 million per year. The commission shall determine the  
9 manner in which the payments shall be made.

10 d. The monies paid by the hospitals shall be credited to the  
11 hospital and other health care initiatives and bond assistance  
12 account.

13 13. (New section) a. A person who makes a false statement or  
14 misrepresentation of a material fact in order to qualify for  
15 charity care benefits to which he is not entitled under this act,  
16 and a hospital or an employee thereof in the course of his  
17 employment who makes a false statement or misrepresentation of  
18 a material fact in order to receive disproportionate share hospital  
19 subsidy payments to which the hospital is not entitled under this  
20 act, shall be liable to civil penalties of:

21 (1) payment of interest on the amount of the excess charity  
22 care benefits or subsidy payments at the maximum legal rate in  
23 effect on the date the benefits were provided to the person or  
24 payment was made to the hospital, for the period from the date  
25 upon which benefits were provided or payment was made to the  
26 date upon which repayment is made to the commission; and

27 (2) payment of an amount not to exceed three times the  
28 amount of the excess charity care benefit or subsidy payment.

29 b. A hospital which, without intent to violate this act, obtains a  
30 subsidy payment in excess of the amount to which it is entitled,  
31 shall be liable to a civil penalty of payment of interest on the  
32 amount of the excess payment at the maximum legal rate in  
33 effect on the date the payment was made to the hospital, from  
34 the date upon which payment was made to the date upon which  
35 repayment is made to the commission, except that a hospital  
36 shall not be liable to the civil penalty when an excess subsidy  
37 payment is obtained by the hospital as a result of an error made  
38 by the commission, as determined by the commission.

39 c. All interest and civil penalties provided for in this section  
40 shall be recovered in an administrative proceeding held pursuant  
41 to the "Administrative Procedure Act," P.L.1968, c.410 (C.  
42 52:14B-1 et seq.).

43 d. In order to satisfy any recovery claim asserted against a  
44 hospital under this section, whether or not that claim has been  
45 the subject of final agency adjudication, the commission is  
46 authorized to withhold subsidy payments otherwise payable under  
47 this act to the hospital.

48 14. (New section) No hospital shall deny <sup>1</sup>any<sup>1</sup> admission <sup>1</sup>or  
49 appropriate service<sup>1</sup> to a patient on the basis of that patient's  
50 ability to pay or source of payment.

51 A hospital which violates this section shall be liable to a civil  
52 penalty of \$10,000 for each violation. The penalty shall be sued  
53 for and recovered pursuant to "the penalty enforcement law,"  
54 N.J.S.2A:58-1 et seq. and shall be deposited in the fund.

1 15. (New section) There is established in the New Jersey  
2 Essential Health Services Commission the New Jersey SHIELD  
3 program. The purpose of the program is to provide subsidies for  
4 health benefits coverage, in order to provide for health care  
5 which shall be delivered in disproportionate share hospitals and by  
6 other community-based health care providers for working people  
7 and those temporarily unemployed, based on a sliding income  
8 scale with modest copayments. The program shall include the  
9 provision of early preventive and primary care to help reduce  
10 costs for families and individuals.

11 The commission shall contract with health insurance carriers,  
12 health maintenance organizations and other appropriate entities  
13 in the State to administer the program.

14 16. (New section) The New Jersey SHIELD subsidy account  
15 shall be allocated \$50 million in 1994, \$100 million in 1995, \$150  
16 million in 1996 and \$200 million in 1997 and each year thereafter.

17 17. (New section) The commission and the Department of  
18 Health shall each take such actions as are necessary to establish  
19 and maintain a cooperative working relationship on all matters of  
20 mutual concern pursuant to this act which shall include the  
21 sharing of relevant information related to the development,  
22 coordination, implementation and assessment of Statewide health  
23 care policy.

24 18. (New section) a. Every carrier issuing health benefits plans  
25 in this State shall file its paid hospital expense claims paid by  
26 January 30, 1993 and by January 30, 1994, respectively, in  
27 accordance with the following:

28 (1) A carrier issuing individual health benefits plans shall file  
29 with the board created pursuant to P. L. , c. (C. )(pending  
30 before the Legislature as Senate Bill 1023 of 1992) and with the  
31 Commissioner of Insurance the aggregate hospital expense claims  
32 paid for the calendar year 1992 which are attributable to its  
33 policies or contracts for individual health benefits plans.

34 (2) A carrier issuing small employer or small group health  
35 benefits plans shall file with the board created pursuant to  
36 P.L. , c. (C. )(pending before the Legislature as Senate Bill  
37 371 of 1992) and with the Commissioner of Insurance the  
38 aggregate hospital expense claims paid for the calendar year 1992  
39 which are attributable to its policies or contracts for small  
40 employer or small group health benefits plans.

41 (3) A carrier issuing group health benefits plans other than  
42 small employer or small group health benefits plans shall file with  
43 the Commissioner of Insurance the aggregate hospital expense  
44 claims paid for the calendar year 1992 which are attributable to  
45 its policies or contracts for group health benefits plans.

46 b. (1) In formulating policy or contract rates for calendar year  
47 1993, a carrier shall take into account any modifications in  
48 exposure for hospital expenses which may be brought about by the  
49 changes in billing procedures established pursuant to the  
50 provisions of P.L. , c. (C. )(pending before the Legislature  
51 as this bill), and shall modify its premiums accordingly as is  
52 appropriate to reflect those modifications.

53 (2) No later than March 1, 1994, the board created pursuant to  
54 P. L. , c. (C. ) (pending before the Legislature as Senate

1 Bill 1023), the board created pursuant to P. L. , c. )C.  
2 )(pending before the Legislature as Senate Bill 371), and the  
3 Commissioner of Insurance shall determine if any premium  
4 modifications made in accordance with this subsection accurately  
5 reflect any differential in claims paid for hospital expenses  
6 between calendar years 1992 and 1993 which are attributable to  
7 the changes in hospital billing procedures pursuant to the  
8 provisions of P. L. , c. (C. ) (pending before the  
9 Legislature as this bill), as opposed to any differential in expenses  
10 which may be caused by changes in utilization, cost, and  
11 morbidity normally used in trending. To the extent that further  
12 modifications may need to be made in the premium level as a  
13 result of the changes in loss experience reflected by any  
14 extraordinary differential between the claims paid in 1992 and  
15 1993, the boards and the Commissioner of Insurance shall require  
16 that rates be modified accordingly.

17 c. For the purposes of this section:

18 (1) "Carrier" means an insurance company, health service  
19 corporation or health maintenance organization authorized to  
20 issue health benefits plans in this State;

21 (2) "Health benefits plans" means a hospital and medical  
22 expense insurance policy; health service corporation contract; or  
23 health maintenance organization subscriber contract delivered or  
24 issued for delivery in this State;

25 (3) "Hospital expenses" means any charges billed by, and  
26 payable directly by, a carrier to a hospital.

27 19. (New section) Notwithstanding the provisions of section 7  
28 of P.L.1971, c.136 (C.26:2H-7) to the contrary, the following are  
29 exempt from the certificate of need requirement:

30 Community-based primary care centers;

31 Outpatient drug and alcohol services;

32 Ambulance and invalid coach services;

33 Mental health services which are non-bed related outpatient  
34 services;

35 Changes in residential health care facility services;

36 Mandatory renovations to existing facilities;

37 Mandatory replacement of fixed or moveable equipment;

38 Transfer of ownership interest except in the case of an acute  
39 care hospital, or a long-term care facility in which the owner  
40 does not satisfy the Department of Health's review of the  
41 owner's prior operating experience as well as any requirements  
42 established by the federal government pursuant to Titles XVIII  
43 and XIX of the Social Security Act;

44 Change of site for approved certificate of need within the  
45 same county;

46 Relocation or replacement of a health care facility within the  
47 same county, except for an acute care hospital;

48 Continuing care retirement communities authorized pursuant  
49 to P.L.1986, c.103 (C.52:27D-330 et seq.);

50 Acquisition by a hospital of a magnetic resonance imager that  
51 is already in operation in the State by another health care  
52 provider or entity;

53 Adult day health care facilities;

54 Pediatric day health care facilities; and

1 Chronic renal dialysis facilities.

2 20. (New section) Notwithstanding the provisions of section 7  
3 of P.L.1971, c.136 (C.26:2H-7) to the contrary, a hospital shall be  
4 exempt from the certificate of need requirement if the total  
5 project or purchase cost does not exceed 5% of that hospital's  
6 operating revenues for the year in which the project or purchase  
7 is undertaken. Except that, this exemption shall not apply to the  
8 initiation <sup>1</sup>or expansion<sup>1</sup> of any health care service as provided in  
9 section 2 of P.L.1971, c.136 (C.26:2H-2), which includes a health  
10 care service that is the subject of a health planning regulation  
11 adopted by the Department of Health; the expansion of a  
12 hospital's physical plant; or the construction of a new health care  
13 facility.

14 21. Section 1 of P.L.1971, c.136 (C. 26:2H-1) is amended to  
15 read as follows:

16 1. It is hereby declared to be the public policy of the State  
17 that hospital and related health care services of the highest  
18 quality, of demonstrated need, efficiently provided and properly  
19 utilized at a reasonable cost are of vital concern to the public  
20 health. In order to provide for the protection and promotion of  
21 the health of the inhabitants of the State, [promote the financial  
22 solvency of hospitals and similar health care facilities and  
23 contain the rising cost of health care services,] the State  
24 Department of Health shall have the central[, comprehensive]  
25 responsibility for the development and administration of the  
26 State's policy with respect to health planning, hospital and  
27 related health care services and health care facility cost  
28 containment programs, and all public and private institutions,  
29 whether State, county, municipal, incorporated or not  
30 incorporated, serving principally as residential health care  
31 facilities, nursing or maternity homes or as facilities for the  
32 prevention, diagnosis, or treatment of human disease, pain,  
33 injury, deformity or physical condition, shall be subject to the  
34 provisions of this act.

35 (cf:P.L.1991, c.187, s.27)

36 22. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to  
37 read as follows:

38 2. The following words or phrases, as used in this act, shall  
39 have the following meanings, unless the context otherwise  
40 requires:

41 a. "Health care facility" means the facility or institution  
42 whether public or private, engaged principally in providing  
43 services for health maintenance organizations, diagnosis of  
44 treatment of human disease, pain, injury, deformity or physical  
45 condition, including, but not limited to, a general hospital, special  
46 hospital, mental hospital, public health center, diagnostic center,  
47 treatment center, rehabilitation center, extended care facility,  
48 skilled nursing home, nursing home, intermediate care facility,  
49 tuberculosis hospital, chronic disease hospital, maternity hospital,  
50 outpatient clinic, dispensary, home health care agency, residential  
51 health care facility and bioanalytical laboratory (except as  
52 specifically excluded hereunder) or central services facility  
53 serving one or more such institutions but excluding institutions  
54 that provide healing solely by prayer and excluding such



1 bioanalytical laboratories as are independently owned and  
2 operated, and are not owned, operated, managed or controlled, in  
3 whole or in part, directly or indirectly by any one or more health  
4 care facilities, and the predominant source of business of which is  
5 not by contract with health care facilities within the State of  
6 New Jersey and which solicit or accept specimens and operate  
7 predominantly in interstate commerce.

8 b. "Health care service" means the preadmission, outpatient,  
9 inpatient and postdischarge care provided in or by a health care  
10 facility, and such other items or services as are necessary for  
11 such care, which are provided by or under the supervision of a  
12 physician for the purpose of health maintenance organizations,  
13 diagnosis or treatment of human disease, pain, injury, disability,  
14 deformity or physical condition, including, but not limited to,  
15 nursing service, home care nursing and other paramedical service,  
16 ambulance service, service provided by an intern, resident in  
17 training or physician whose compensation is provided through  
18 agreement with a health care facility, laboratory service,  
19 medical social service, drugs, biologicals, supplies, appliances,  
20 equipment, bed and board, but excluding services provided by a  
21 physician in his private practice, except as provided in section 7  
22 of P.L.1971, c.136 (C.26:2H-7), or by practitioners of healing  
23 solely by prayer, and services provided first aid, rescue and  
24 ambulance squads as defined in the "New Jersey Highway Safety  
25 Act of 1971," P.L.1971, c.351 (C.27:5F-1 et seq.).

26 c. "Construction" means the erection, building, or substantial  
27 acquisition, alteration, reconstruction, improvement, renovation,  
28 extension or modification of a health care facility, including its  
29 equipment, the inspection and supervision thereof; and the  
30 studies, surveys, designs, plans, working drawings, specifications,  
31 procedures, and other actions necessary thereto.

32 d. "Board" means the Health Care Administration Board  
33 established pursuant to this act.

34 e. "Commission" means the Hospital Rate Setting Commission  
35 established pursuant to this act.

36 f. "Government agency" means a department, board, bureau,  
37 division, office, agency, public benefit or other corporation, or  
38 any other unit, however described, of the State or political  
39 subdivision thereof.

40 g. (Deleted by amendment, P.L.1991, c.187).

41 h. (Deleted by amendment, P.L.1991, c.187).

42 i. "Department" means the State Department of Health.

43 j. "Commissioner" means the State Commissioner of Health.

44 k. "Preliminary cost base" means that proportion of a  
45 hospital's current cost which may reasonably be required to be  
46 reimbursed to a properly utilized hospital for the efficient and  
47 effective delivery of appropriate and necessary health care  
48 services of high quality required by such hospital's mix of  
49 patients. The preliminary cost base initially may include costs  
50 identified by the commissioner and approved or adjusted by the  
51 commission as being in excess of that proportion of a hospital's  
52 current costs identified above, which excess costs shall be  
53 eliminated in a timely and reasonable manner prior to  
54 certification of the revenue base. The preliminary cost base shall

1 be established in accordance with regulations proposed by the  
2 commissioner and approved by the board.

3 l. ["Certified revenue base" means the preliminary cost base  
4 adjusted by the commission, as appropriate and necessary  
5 pursuant to regulations proposed by the commissioner and  
6 approved by the board, to provide for the financial solvency of a  
7 hospital which is properly utilized and which delivers, effectively  
8 and efficiently, appropriate and necessary health care services of  
9 a high quality required by its mix of patients.] Deleted by  
10 amendment, P.L. , c. )(pending before the Legislature as this  
11 bill).

12 m. "Provider of health care" means an individual (1) who is a  
13 direct provider of health care service in that the individual's  
14 primary activity is the provision of health care services to  
15 individuals or the administration of health care facilities in which  
16 such care is provided and, when required by State law, the  
17 individual has received professional training in the provision of  
18 such services or in such administration and is licensed or certified  
19 for such provision or administration; or (2) who is an indirect  
20 provider of health care in that the individual (a) holds a fiduciary  
21 position with, or has a fiduciary interest in, any entity described  
22 in subparagraph b(ii) or subparagraph b(iv); provided, however,  
23 that a member of the governing body of a county or any elected  
24 official shall not be deemed to be a provider of health care unless  
25 he is a member of the board of trustees of a health care facility  
26 or a member of a board, committee or body with authority  
27 similar to that of a board of trustees, or unless he participates in  
28 the direct administration of a health care facility; or (b)  
29 received, either directly or through his spouse, more than  
30 one-tenth of his gross annual income for any one or more of the  
31 following:

32 (i) Fees or other compensation for research into or instruction  
33 in the provision of health care services;

34 (ii) Entities engaged in the provision of health care services or  
35 in research or instruction in the provision of health care services;

36 (iii) Producing or supplying drugs or other articles for  
37 individuals or entities for use in the provision of or in research  
38 into or instruction in the provision of health care services;

39 (iv) Entities engaged in producing drugs or such other articles.

40 n. "Private long-term health care facility" means a nursing  
41 home, skilled nursing home or intermediate care facility  
42 presently in operation and licensed as such prior to the adoption  
43 of the 1967 Life Safety Code by the State Department of Health  
44 in 1972 and which has a maximum 50-bed capacity and which  
45 does not accommodate Medicare or Medicaid patients.

46 o. "Local advisory board" means an independent, private  
47 nonprofit corporation which is not a health care facility, a  
48 subsidiary thereof or an affiliated corporation of a health care  
49 facility, that is designated by the Commissioner of Health to  
50 serve as the regional health planning agency for a designated  
51 region in the State.

52 p. "State Health Planning Board" means the board established  
53 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to  
54 prepare and review the State Health Plan and to conduct

1 certificate of need review activities.

2 (cf:P.L.1991, c.187, s.28)

3 23. Section 5 of P.L.1978, c.83 (C. 26:2H-4.1) is amended to  
4 read as follows:

5 5. a. There is hereby established in the State Department of  
6 Health a Hospital Rate Setting Commission which shall consist of  
7 five members who shall be appointed by the Governor with the  
8 advice and consent of the Senate for terms of four years. Of the  
9 appointees added pursuant to P.L.1991, c.187 (C.26:2H-18.24 et  
10 al.), one shall serve for a term of two years and one for a term of  
11 three years. No member shall be eligible for appointment for  
12 more than two full consecutive terms. Three of the members  
13 appointed by the Governor shall be consumers of health care  
14 services who are not providers of health care services, one shall  
15 represent either business or organized labor as a purchaser of  
16 health care services and one shall have experience in hospital  
17 administration or finance, but shall not be an employee of a  
18 hospital. The commission shall annually select a chairman from  
19 among its members. Three members of the commission shall  
20 constitute a quorum and no action of the commission shall be  
21 taken except upon the affirmative vote of a majority of its  
22 members.

23 The members of the commission shall each receive  
24 compensation at \$150.00 per day. The commission members shall  
25 also be entitled to reasonable expenses incurred in the  
26 performance of their duties. Any such member may be removed  
27 from office by the Governor, for good cause shown. Any vacancy  
28 occurring in the membership of the commission for any cause  
29 shall be filled in the same manner as the original appointment but  
30 for the unexpired term only. A member shall otherwise continue  
31 to serve after expiration of his term until a new appointment is  
32 made.

33 The commission shall select an executive secretary and the  
34 commissioner shall provide to the commission such clerical staff,  
35 supplies and equipment as may be necessary for it to faithfully  
36 discharge its duties.

37 The commission shall be established and its members appointed  
38 by January 1, 1979.

39 b. The commissioner shall determine the order in which  
40 hospitals shall have their preliminary cost base and appropriate  
41 schedule of rates approved by the commission. The commissioner  
42 shall propose and the commission approve or adjust the  
43 preliminary cost base, and the commission shall approve an  
44 appropriate schedule of rates for all hospitals by January 1,  
45 1983. The schedule of rates shall be reasonable and sufficient to  
46 provide the revenue requirements of the preliminary cost base  
47 and shall be adjusted from time to time, as appropriate, to reach  
48 the certified revenue base.

49 The commission shall certify the revenue [base, provided the  
50 conditions described in subsections k. and l. of section 2 of this  
51 act have been met,] cap pursuant to section 3 of P.L. , c.  
52 (C. )(pending before the Legislature as this bill) and shall  
53 perform such other duties as are specified elsewhere in [this act]  
54 P.L.1978, c.83.

1 A hospital shall continue to be reimbursed under the rate  
2 setting system in effect on the day preceding the effective date  
3 of [this act] P.L.1978, c.83, except as said system is amended by  
4 regulation, until the commission approves the hospital's  
5 preliminary cost base.

6 (cf: P.L.1991, c.187, s.29)

7 24. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to  
8 read as follows:

9 7. No health care facility shall be constructed or expanded,  
10 and no new health care service shall be instituted after the  
11 effective date of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon  
12 application for and receipt of a certificate of need as provided by  
13 P.L.1971, c.136 (C.26:2H-1 et seq.). No agency of the State or of  
14 any county or municipal government shall approve any grant of  
15 funds for, or issue any license to, a health care facility which is  
16 constructed or expanded, or which institutes a new health care  
17 service, in violation of the provisions of P.L.1971, c.136  
18 (C.26:2H-1 et seq.).

19 [The] Except as provided in section 19 and 20 of P.L. , c. .  
20 (C. )(pending before the Legislature as this bill), the provisions  
21 of this section shall apply to:

22 a. The initiation of any health care service as provided in  
23 section 2 of P.L.1971, c.136 (C.26:2H-2);

24 b. The initiation by any person of a health care service which  
25 is the subject of a health planning regulation adopted by the  
26 Department of Health;

27 c. The purchase by any person of major moveable equipment  
28 whose total cost is over \$1 million;

29 d. The expenditure by a licensed health care facility of over \$1  
30 million for modernization or renovation of its physical plant, or  
31 for construction of a new health care facility; and

32 e. The modernization, renovation or construction of a facility  
33 by any person, whose total project cost exceeds \$1 million, if the  
34 facility-type is the subject of a health planning regulation  
35 adopted by the Department of Health.

36 The commissioner may periodically increase the monetary  
37 thresholds established in this section, by regulation, to reflect  
38 inflationary increases in the costs of health care equipment or  
39 construction.

40 For the purposes of this section, "health care service" shall  
41 include any service which is the subject of a health planning  
42 regulation adopted by the Department of Health, and "person"  
43 shall include a corporation, company, association, society, firm,  
44 partnership and joint stock company, as well as an individual.

45 A physician who initiates a health care service which is the  
46 subject of a health planning regulation or purchases major  
47 moveable equipment pursuant to subsection b. or c. of this  
48 section, may apply to the commissioner for a waiver of the  
49 certificate of need requirement if: the equipment or health care  
50 service is such an essential, fundamental and integral component  
51 of the physician's practice specialty, that the physician would be  
52 unable to practice his specialty according to the acceptable  
53 medical standards of that specialty without the health care  
54 service or equipment; the physician bills at least 75% of his total

1 amount of charges in the practice specialty which uses the health  
2 care service or equipment; and the health care service or  
3 equipment is not otherwise available and accessible to patients,  
4 pursuant to standards established by the commissioner, by  
5 regulation. The commissioner shall make a determination about  
6 whether to grant or deny the waiver, within 120 days from the  
7 date the request for the waiver is received by the commissioner  
8 and shall so notify the physician who requested the waiver. If the  
9 request is denied, the commissioner shall include in that  
10 notification the reason for the denial. If the request is denied,  
11 the initiation of a health care service or the purchase of major  
12 moveable equipment shall be subject to the certificate of need  
13 requirements pursuant to this section.

14 A health maintenance organization which furnishes at least  
15 basic comprehensive care health services on a prepaid basis to  
16 enrollees either through providers employed by the health  
17 maintenance organization or through a medical group or groups  
18 which contract directly with the health maintenance  
19 organization, which initiates a health care service, or  
20 modernizes, renovates or constructs a health care facility  
21 pursuant to subsection a., b., d. or e. of this section, may apply to  
22 the commissioner for a waiver of the certificate of need  
23 requirement if: the initiation of the health care service or the  
24 modernization, renovation or construction is in the best interests  
25 of State health planning; and the health maintenance organization  
26 is in compliance with the provisions of P.L.1973, c.337 (C.26:2J-1  
27 et seq.) and complies with the provisions of subsection d. of  
28 section 3 of P.L.1973, c.337 (C.26:2J-3) regarding notification to  
29 the commissioner. The commissioner shall make a determination  
30 about whether to grant or deny the waiver within 45 days from  
31 the date the request for the waiver is received by the  
32 commissioner and shall so notify the health maintenance  
33 organization. If the request for a waiver is denied on the basis  
34 that the request would not be in the best interests of State health  
35 planning, the commissioner shall state in that notification the  
36 reason why the request would not be in the best interests of State  
37 health planning. If the request for a waiver is denied, the health  
38 maintenance organization's initiation of a health care service or  
39 modernization, renovation or construction project shall be subject  
40 to the certificate of need requirements pursuant to this section.

41 The requirement to obtain a certificate of need for major  
42 moveable equipment pursuant to subsection c. of this section  
43 shall not apply if a contract to purchase that equipment was  
44 entered into prior to July 1, 1991.

45 (cf:P.L.1991, c.187, s.30)

46 25. Section 18 of P.L.1971, c.136 (C.26:2H-18) is amended to  
47 read as follows:

48 18. a. No government agency and no [hospital] health service  
49 corporation organized under the laws of the State and no other  
50 purchasers of health care services shall purchase, pay for or make  
51 reimbursement or grant-in-aid for any health care service  
52 provided by a health care facility unless at the time the service  
53 was provided, the health care facility possessed a valid license or  
54 was otherwise authorized to provide such service.

1 b. [Payment by government agencies other than those made  
2 through the Medical Assistance and Health Services Act,  
3 P.L.1968, c. 413 (C. 30:4D-1 et seq.), and payment by hospital  
4 service corporations organized under the laws of this State for  
5 health care services provided by a hospital shall be at reasonable  
6 rates approved by the commission as provided for by regulations  
7 proposed by the commissioner and approved by the board.

8 The schedule of rates shall be reasonable and sufficient to  
9 provide the revenue requirements of the certified revenue base of  
10 a hospital, considering the health care system as a whole and  
11 based on financial elements approved by the commissioner.  
12 Nothing herein shall be construed to prohibit the Commissioner of  
13 Human Services from contracting with the Commissioner of  
14 Health for the commission to approve rates, on behalf of the  
15 Commissioner of Health, by which hospitals are reimbursed  
16 pursuant to the Medical Assistance and Health Services Act,  
17 P.L.1968, c. 413 (C. 30:4D-1 et seq.). Rates of payment by  
18 hospital service corporations organized under the law of this  
19 State for health care services provided by a hospital shall be set  
20 by the commission. Payment by all other purchasers of health  
21 care services provided by a hospital shall be at reasonable rates  
22 approved by the commission as provided in this act. All payment  
23 rates shall be equitable for each payor or class of payors without  
24 discrimination or individual preference except for quantifiable  
25 economic benefits rendered to the institution or to the health  
26 care delivery system taken as a whole. In addition to other such  
27 benefits which the commission may consider, it shall consider the  
28 following, if found to be quantifiable: (1) degree of promptness  
29 and volume of payments to hospitals so that hospitals are  
30 provided with funds for current financing of their services; and  
31 (2) broad provision of health insurance coverages which are not  
32 otherwise affordable or obtainable at premium rates which are  
33 not self-supporting. In determining the quantifiable economic  
34 benefits to which consideration shall be given in approving  
35 payment rates, the commission may consider overall financial  
36 benefits to society which are provided by programs offered by a  
37 payor or class of payors.] (Deleted by amendment, P.L. , c. )  
38 (pending before the Legislature as this bill).

39 c. Payment by government agencies other than those made  
40 through the Medical Assistance and Health Services Act,  
41 P.L.1968, c. 413 (C. 30:4D-1 et seq.), and payment by [hospital]  
42 health service corporations organized under the laws of this State  
43 for health services provided by health care facilities other than  
44 hospitals shall be at reasonable rates set by the commissioner  
45 based on financial elements approved by him; provided, however,  
46 that nothing herein shall be construed to prohibit the  
47 Commissioner of Human Services from contracting with the  
48 commissioner for the setting of rates by which health care  
49 facilities other than hospitals are reimbursed pursuant to the  
50 Medical Assistance and Health Services Act, P.L.1968, c. 413 (C.  
51 30:4D-1 et seq.). Rates of payment by [hospital] health service  
52 corporations organized under the laws of this State for health  
53 care services provided by a health care facility other than  
54 hospitals shall be set in consultation with the Commissioner of

1 Insurance.

2 d. [The financial elements of the preliminary cost base and of  
3 the certified revenue base shall include the reasonable cost of the  
4 following, as defined in regulations proposed by the commissioner  
5 and approved by the board: direct patient care; principal and  
6 interest payments; paid taxes, excluding income taxes;  
7 educational, research and training programs, not otherwise paid  
8 for by the State; the provision of health care services to  
9 individuals unable to pay for them for reasons of indigency; bad  
10 debts, provided adequate recovery procedures are followed;  
11 preservation, replacement and improvement of facility and  
12 equipment subject to appropriate planning requirements; and  
13 reasonable working capital. Said financial elements may include,  
14 where applicable and appropriate, a reasonable return on  
15 investment where a hospital is operating efficiently and  
16 effectively. In determining proposed payments to hospitals, the  
17 commissioner shall take into account a facility's income from all  
18 sources, including specific purpose grants and other funds from  
19 governmental sources, but excluding income and principal from  
20 board or donor restricted funds, gifts and special fund raising  
21 projects.] (Deleted by amendment, P.L. , c. )(pending before  
22 the Legislature as this bill).

23 e. To establish and maintain a fair and equitable system for  
24 determining such payments, the commissioner shall require each  
25 health care facility to report such financial, statistical and  
26 patient information as may be required, in accordance with a  
27 uniform system of reporting established by him. The  
28 commissioner may propose regulations for approval by the board  
29 which assess penalties for failure to report such information  
30 within such time as may be prescribed therein.  
31 (cf: P.L.1978, c.83, s.10)

32 26. Section 9 of P.L.1991, c.187 (C.26:2H-18.32) is amended to  
33 read as follows:

34 9. The Commissioner of Health, in consultation with the  
35 Commissioner of Human Services, shall designate those hospitals  
36 at which an employee from the county welfare agency shall be  
37 stationed, on either a full or part-time basis, as appropriate, to  
38 perform eligibility determinations for the Medicaid program  
39 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

40 A designated hospital shall reimburse the county welfare  
41 agency for the nonfederal share of costs associated with the  
42 county welfare agency employee, as certified by the  
43 Commissioner of Human Services. The Commissioner of Human  
44 Services shall bill the hospital quarterly for the nonfederal share  
45 of costs and reimburse the county welfare agency upon receipt of  
46 payment from the hospital.

47 [A hospital shall be fully reimbursed for the nonfederal share of  
48 costs associated with a county welfare agency employee  
49 stationed at the hospital through the reimbursement rates of the  
50 hospital, as established by the commission.]

51 (cf: P.L.1991, c.187, s.9)

52 27. Section 86 of P.L.1991, c.187 is amended to read as follows:

53 86. This act shall take effect on the 30th day after enactment,  
54 except that sections 1 through 26, inclusive, shall take effect on

1 July 1, 1991, sections 1 through 8 and 11 through 24, inclusive,  
2 and section 26 shall expire on [November 30, 1992] December 31,  
3 1992, section 29 shall take effect on the 120th day after  
4 enactment, sections 31 and 32 shall take effect on January 1,  
5 1992 and sections 50, 52, 54, 56 and 58 shall take effect on the  
6 90th day after enactment.

7 (cf: P.L.1992, c.25, s.4)

8 28. (New section) As used in sections 28 through 34 of this act:  
9 "Commissioner" means the Commissioner of Labor or his  
10 designee.

11 "Department" means the Department of Labor.

12 "Employee" means a person who performs services for  
13 remuneration for an employer.

14 "Employer" means an employer as defined in subsection (h) of  
15 R.S.43:21-19.

16 "Fund" means the "Health Care <sup>1</sup>[Trust] Subsidy<sup>1</sup> Fund"  
17 established pursuant to <sup>1</sup>section 8 of<sup>1</sup> P.L., c. (C. ) (pending  
18 before the Legislature as this bill).

19 "Taxable wages" means wages as determined in accordance  
20 with paragraph (3) of subsection (b) of R.S.43:21-7.

21 "Total wages" means wages as defined in subsection (o) of  
22 R.S.43:21-19.

23 29. (New section) a. Beginning January 1, 1993 <sup>1</sup>until  
24 December 31, 1995<sup>1</sup>, except as provided pursuant to subsection b.  
25 of this section, each employee shall, in such a manner and at such  
26 times as determined by the commissioner, contribute to the fund  
27 an amount equal to 0.6% of the employee's taxable wages.

28 Also beginning on January 1, 1993 <sup>1</sup>until December 31, 1995<sup>1</sup>,  
29 except as provided pursuant to subsection b. of this section, each  
30 employer shall, in such a manner and at such times as determined  
31 by the commissioner, contribute to the fund an amount equal to  
32 the amount that the employer's contribution to the  
33 <sup>1</sup>[Unemployment Compensation Fund] unemployment  
34 compensation fund<sup>1</sup> is decreased pursuant to subparagraph (H) of  
35 paragraph (5) of subsection (c) of R.S.43:21-7.

36 b. If the unemployment compensation fund reserve ratio, as  
37 determined pursuant to paragraph (5) of subsection (c) of  
38 R.S.43:21-7, decreases to a level of less than 4.00% on March 31  
39 of <sup>1</sup>[any]<sup>1</sup> calendar year <sup>1</sup>[commencing on or after January 1,]<sup>1</sup>  
40 1994 <sup>1</sup>or calendar year 1995<sup>1</sup>, the provisions of subsection a. of  
41 this section shall cease to be in effect as of July 1 of that  
42 calendar year and each employer who would be subject to making  
43 the contributions pursuant to subsection a. of this section if that  
44 subsection were in effect shall, beginning on July 1 of that  
45 calendar year, <sup>1</sup>[shall]<sup>1</sup> contribute to the fund an amount equal to  
46 0.62% of the total wages paid by the employer <sup>1</sup>and shall  
47 continue to contribute that amount until December 31, 1995<sup>1</sup>.

48 c. If the total amount of contributions to the fund pursuant to  
49 this section during the calendar year 1993 exceeds \$600 million,  
50 all contributions which exceed \$600 million shall be deposited in  
51 the unemployment compensation fund. If the total amount of  
52 contributions to the fund pursuant to this section during <sup>1</sup>[any]<sup>1</sup>  
53 calendar year <sup>1</sup>[following calendar year 1993] 1994 or calendar  
54 year 1995<sup>1</sup> exceeds \$500 million, all contributions which exceed



1 \$500 million shall be deposited in the unemployment  
2 compensation fund.

3 d. All necessary administrative costs related to the collection  
4 of contributions pursuant to this section shall be paid from the  
5 contributions.

6 30. (New section) Notwithstanding the provisions of any other  
7 law to the contrary, each employer shall: withhold in trust the  
8 amount of all workers' contributions from their wages at the  
9 time wages are paid, show the deduction on the payroll records,  
10 furnish the evidence thereof and permit any inspection of the  
11 records as prescribed by the commissioner, and transmit all  
12 workers' contributions and other contributions due from the  
13 employer pursuant to this act to the fund in a manner and at the  
14 times that the commissioner, in consultation with the Essential  
15 Health Services Commission established pursuant to P.L. , c.  
16 (C. )(pending before the Legislature as this bill), prescribes.  
17 Interest and any expense to the department of recovery may be  
18 assessed by the commissioner on payments not made within the  
19 prescribed due dates at the same rate as provided for pursuant to  
20 paragraph (1) of subsection (a) of R.S.43:21-14. If any employer  
21 fails to deduct the contributions of any workers at the time their  
22 wages are paid, or fails to make a deduction therefor at the time  
23 wages are paid for the next succeeding payroll period, the  
24 employer shall be solely liable for those contributions.

25 31. (New section) If an employer fails to make any report or  
26 permit any inspection required by the commissioner to implement  
27 the provisions of this act, an estimate shall be made regarding  
28 the liability of the employer from information available and the  
29 employer shall be assessed for any amount due, including the  
30 amount that was withheld or that should have been withheld from  
31 its employees for deposit into the fund. Also, if, after an  
32 examination of any report filed, a deficiency is discovered with  
33 respect to the taxable wages reported, the employer shall be  
34 assessed the amount of any determined deficiency. Additional  
35 remedies through the court may be established by the  
36 commissioner, including the charging of any expenses incurred by  
37 the department in recovering the assessment.

38 32. (New section) a. If an employee receives wages from more  
39 than one employer during any calendar year, and the sum of the  
40 employee's contributions deposited in the fund exceeds an  
41 amount equal to 0.6% of the wages determined in accordance  
42 with the provisions of paragraph (3) of subsection (b) of  
43 R.S.43:21-7 during <sup>1</sup>[the]<sup>1</sup> calendar year <sup>1</sup>[beginning January 1,]<sup>1</sup>  
44 1993 <sup>1</sup>, calendar year 1994<sup>1</sup> or <sup>1</sup>[any subsequent]<sup>1</sup> calendar year  
45 <sup>1</sup>1995<sup>1</sup>, the employee shall be entitled to a refund of the excess  
46 if a claim establishing the employee's right to the refund is made  
47 within two years after the end of the respective calendar year in  
48 which the wages are received and are the subject of the claim.  
49 The commissioner shall refund any overpayment from the fund  
50 without interest.

51 b. Any employee who is a taxpayer and entitled, pursuant to  
52 the provisions of subsection a. of this section, to a refund of  
53 contributions deducted during a tax year from his wages shall, in  
54 lieu of the refund, be entitled to a credit in the full amount

1 thereof against the tax otherwise due on his New Jersey gross  
2 income for that tax year if he submits his claim for the credit  
3 and accompanies that claim with evidence of his right to the  
4 credit in the manner provided by regulation by the Director of  
5 the Division of Taxation. In any case in which the amount, or any  
6 portion thereof, of any credit allowed hereunder results in or  
7 increases an excess of income tax payment over income tax  
8 liability, the amount of the new or increased excess shall be  
9 considered an overpayment and shall be refunded to the taxpayer  
10 in the manner provided by subsection (a) of N.J.S.54A:9-7.

11 33. (New section) A schedule of fines, with no fine exceeding  
12 \$1,000 for a single offense, shall be established by the  
13 commissioner for any of the following actions or omissions with  
14 respect to the collection of contributions or the use of moneys  
15 disbursed from the fund:

- 16 a. A false statement or misrepresentation made knowingly;
- 17 b. Failure to disclose a material fact;
- 18 c. Attempt to defraud;
- 19 d. Willful failure or refusal to: withhold or transfer any  
20 contribution or other payment; furnish any report or information;  
21 or produce or permit the inspection or copying of records as  
22 required pursuant to this act; and
- 23 e. Willful violation of any provision of this act or any rule or  
24 regulation promulgated pursuant to this act.

25 The fines shall be recoverable in a civil action by the  
26 commissioner in the name of the State of New Jersey. In  
27 addition to penalties established for any person, employing unit,  
28 employer or entity, each shall be liable for each offense upon  
29 conviction before any court of competent jurisdiction at the  
30 discretion of the court. All fines shall be payable to the  
31 commissioner for deposit in the fund.

32 34. (New section) The commissioner shall, pursuant to the  
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
34 seq.) promulgate rules and regulations necessary to implement  
35 the provisions of this act, including any requirements regarding  
36 the keeping and reporting of records and any sanctions against  
37 false statement, misrepresentation, willful violations or fraud.

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

39 43:21-7. Contributions. Employers other than governmental  
40 entities, whose benefit financing provisions are set forth in  
41 section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit  
42 organizations liable for payment in lieu of contributions on the  
43 basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall  
44 pay to the controller for the unemployment compensation fund,  
45 contributions as set forth in subsections (a), (b) and (c) hereof,  
46 and the provisions of subsections (d) and (e) shall be applicable to  
47 all employers, consistent with the provisions of the  
48 "unemployment compensation law" and the "Temporary  
49 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

50 (a) Payment.

51 (1) Contributions shall accrue and become payable by each  
52 employer for each calendar year in which he is subject to this  
53 chapter (R.S.43:21-1 et seq.), with respect to having individuals  
54 in his employ during that calendar year, at the rates and on the

1 basis hereinafter set forth. Such contributions shall become due  
2 and be paid by each employer to the controller for the fund, in  
3 accordance with such regulations as may be prescribed, and shall  
4 not be deducted, in whole or in part, from the remuneration of  
5 individuals in his employ.

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

9 (b) Rate of contributions. Each employer shall pay the  
10 following contributions:

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

15 (2) The "wages" of any individual, with respect to any one  
16 employer, as the term is used in this subsection (b) and in  
17 subsections (c), (d) and (e) of this section 7, shall include the first  
18 \$4,800.00 paid during calendar year 1975, for services performed  
19 either within or without this State; provided that no contribution  
20 shall be required by this State with respect to services performed  
21 in another state if such other state imposes contribution liability  
22 with respect thereto. If an employer (hereinafter referred to as a  
23 successor employer) during any calendar year acquires  
24 substantially all the property used in a trade or business of  
25 another employer (hereinafter referred to as a predecessor), or  
26 used in a separate unit of a trade or business of a predecessor,  
27 and immediately after the acquisition employs in his trade or  
28 business an individual who immediately prior to the acquisition  
29 was employed in the trade or business of such predecessor, then,  
30 for the purpose of determining whether the successor employer  
31 has paid wages with respect to employment equal to the first  
32 \$4,800.00 paid during calendar year 1975, any wages paid to such  
33 individual by such predecessor during such calendar year and prior  
34 to such acquisition shall be considered as having been paid by  
35 such successor employer.

36 (3) For calendar years beginning on and after January 1, 1976,  
37 the "wages" of any individual, as defined in the preceding  
38 paragraph (2) of this subsection (b), shall be established and  
39 promulgated by the Commissioner of Labor on or before  
40 September 1 of the preceding year and shall be 28 times the  
41 Statewide average weekly remuneration paid to workers by  
42 employers, as determined under R.S.43:21-3(c), raised to the next  
43 higher multiple of \$100.00 if not already a multiple thereof,  
44 provided that if the amount of wages so determined for a  
45 calendar year is less than the amount similarly determined for  
46 the preceding year, the greater amount will be used; provided,  
47 further, that if the amount of such wages so determined does not  
48 equal or exceed the amount of wages as defined in subsection (b)  
49 of section 3306 of the Federal Unemployment Tax Act, Chapter  
50 23 of the Internal Revenue Code of 1986 (26 U.S.C., §3306(b)), the  
51 wages as determined in this paragraph in any calendar year shall  
52 be raised to equal the amount established under the Federal  
53 Unemployment Tax Act for that calendar year.

54 (c) Future rates based on benefit experience.

1 (1) A separate account for each employer shall be maintained  
2 and this shall be credited with all the contributions which he has  
3 paid on his own behalf on or before January 31 of any calendar  
4 year with respect to employment occurring in the preceding  
5 calendar year; provided, however, that if January 31 of any  
6 calendar year falls on a Saturday or Sunday, an employer's  
7 account shall be credited as of January 31 of such calendar year  
8 with all the contributions which he has paid on or before the next  
9 succeeding day which is not a Saturday or Sunday. But nothing in  
10 this chapter (R.S.43:21-1 et seq.) shall be construed to grant any  
11 employer or individuals in his service prior claims or rights to the  
12 amounts paid by him into the fund either on his own behalf or on  
13 behalf of such individuals. Benefits paid with respect to benefit  
14 years commencing on and after January 1, 1953, to any individual  
15 on or before December 31 of any calendar year with respect to  
16 unemployment in such calendar year and in preceding calendar  
17 years shall be charged against the account or accounts of the  
18 employer or employers in whose employment such individual  
19 established base weeks constituting the basis of such benefits.  
20 Benefits paid under a given benefit determination shall be  
21 charged against the account of the employer to whom such  
22 determination relates. When each benefit payment is made,  
23 either a copy of the benefit check or other form of notification  
24 shall be promptly sent to the employer against whose account the  
25 benefits are to be charged. Such copy or notification shall  
26 identify the employer against whose account the amount of such  
27 payment is being charged, shall show at least the name and social  
28 security account number of the claimant and shall specify the  
29 period of unemployment to which said check applies. If the total  
30 amount of benefits paid to a claimant and charged to the account  
31 of the appropriate employer exceeds 50% of the total base year,  
32 base week wages paid to the claimant by that employer, then  
33 such employer shall have canceled from his account such excess  
34 benefit charges as specified above.

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

37 (2) Regulations may be prescribed for the establishment,  
38 maintenance, and dissolution of joint accounts by two or more  
39 employers, and shall, in accordance with such regulations and  
40 upon application by two or more employers to establish such an  
41 account, or to merge their several individual accounts in a joint  
42 account, maintain such joint account as if it constituted a single  
43 employer's account.

44 (3) No employer's rate shall be lower than 5.4% unless  
45 assignment of such lower rate is consistent with the conditions  
46 applicable to additional credit allowance for such year under  
47 section 3303(a)(1) of the Internal Revenue Code of 1986  
48 (26 U.S.C. §3303(a)(1)), any other provision of this section to the  
49 contrary notwithstanding.

50 (4) Employer Reserve Ratio. (A) Each employer's rate shall  
51 be 2 8/10%, except as otherwise provided in the following  
52 provisions. No employer's rate for the 12 months commencing  
53 July 1 of any calendar year shall be other than 2 8/10%, unless as  
54 of the preceding January 31 such employer shall have paid

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

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

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

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

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

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

20 (6) 1%, if such excess equals or exceeds 9%, but is less than  
21 10%, of his average annual payroll;

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

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

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

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

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

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

36 (C) Specially assigned rates. If no contributions were paid on  
37 wages for employment in any calendar year used in determining  
38 the average annual payroll of an employer eligible for an assigned  
39 rate under this paragraph (4), the employer's rate shall be  
40 specially assigned as follows: (i) if the reserve balance in its  
41 account is positive, its assigned rate shall be the highest rate in  
42 effect for positive balance accounts for that period, or 5.4%,  
43 whichever is higher, and (ii) if the reserve balance in its account  
44 is negative, its assigned rate shall be the highest rate in effect  
45 for deficit accounts for that period.

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

50 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March  
51 31 of any calendar year the balance in the unemployment trust  
52 fund equals or exceeds 4% but is less than 7% of the total taxable  
53 wages reported to the controller as of that date in respect to  
54 employment during the preceding calendar year, the contribution

1 rate, effective July 1 following, of each employer eligible for a  
2 contribution rate calculation based upon benefit experience, shall  
3 be increased by 3/10 of 1% over the contribution rate otherwise  
4 established under the provisions of paragraph (3) or (4) of this  
5 subsection. If on March 31 of any calendar year the balance of  
6 the unemployment trust fund exceeds 2 1/2% but is less than 4%  
7 of the total taxable wages reported to the controller as of that  
8 date in respect to employment during the preceding calendar  
9 year, the contribution rate, effective July 1 following, of each  
10 employer eligible for a contribution rate calculation based upon  
11 benefit experience, shall be increased by 6/10 of 1% over the  
12 contribution rate otherwise established under the provisions of  
13 paragraph (3) or (4) of this subsection.

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

34 (B) If on March 31 of any calendar year the balance in the  
35 unemployment trust fund equals or exceeds 10% but is less than  
36 12 1/2% of the total taxable wages reported to the controller as  
37 of that date in respect to employment during the preceding  
38 calendar year, the contribution rate, effective July 1 following,  
39 of each employer eligible for a contribution rate calculation  
40 based upon benefit experience, shall be reduced by 3/10 of 1%  
41 under the contribution rate otherwise established under the  
42 provisions of paragraphs (3) and (4) of this subsection; provided  
43 that in no event shall the contribution rate of any employer be  
44 reduced to less than 4/10 of 1%. If on March 31 of any calendar  
45 year the balance in the unemployment trust fund equals or  
46 exceeds 12 1/2% of the total taxable wages reported to the  
47 controller as of that date in respect to employment during the  
48 preceding calendar year, the contribution rate, effective July 1  
49 following, of each employer eligible for a contribution rate  
50 calculation based upon benefit experience, shall be reduced by  
51 6/10 of 1% if his account for all past periods reflects an excess of  
52 contributions paid over total benefits charged of 3% or more of  
53 his average annual payroll, otherwise by 3/10 of 1% under the  
54 contribution rate otherwise established under the provisions of

1 paragraphs (3) and (4) of this subsection; provided that in no event  
 2 shall the contribution rate of any employer be reduced to less  
 3 than 4/10 of 1%.

4 (C) The "balance" in the unemployment trust fund, as the term  
 5 is used in subparagraphs (A) and (B) above, shall not include  
 6 moneys credited to the State's account under section 903 of the  
 7 Social Security Act, as amended (42 U.S.C.§1103), during any  
 8 period in which such moneys are appropriated for the payment of  
 9 expenses incurred in the administration of the "unemployment  
 10 compensation law."

11 (D) Prior to July 1 of each calendar year the controller shall  
 12 determine the Unemployment Trust Reserve Ratio, which shall be  
 13 calculated by dividing the balance of the unemployment trust  
 14 fund as of the prior March 31 by total taxable wages reported to  
 15 the controller by all employers as of March 31 with respect to  
 16 their employment during the last calendar year.

17 (E) With respect to experience rating years beginning on or  
 18 after July 1, 1986, the new employer rate or the unemployment  
 19 experience rate of an employer under this section shall be the  
 20 rate which appears in the column headed by the Unemployment  
 21 Trust Fund Reserve Ratio as of the applicable calculation date  
 22 and on the line with the Employer Reserve Ratio, as defined in  
 23 paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in  
 24 the following table:

25 EXPERIENCE RATING TAX TABLE

26

		Fund Reserve Ratio <sup>1</sup>				
		10.00%	7.00%	4.00%	2.50%	2.49%
Employer	Reserve Ratio <sup>2</sup>	and Over	to 9.99%	to 6.99%	to 3.99%	and Under
		A	B	C	D	E
34 Positive Reserve Ratio:						
35	17% and over	0.3	0.4	0.5	0.6	1.2
36	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
37	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
38	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
39	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
40	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
41	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
42	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
43	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
44	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
45	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
46	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
47	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
48	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
49	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
50	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
51	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
52	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3

1	Deficit Reserve Ratio:					
2	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
3	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
4	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
5	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
6	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
7	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
8	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
9	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
10	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
11	-35.00% and under	5.4	5.4	5.8	6.4	7.0
12	New Employer Rate	2.8	2.8	2.8	3.1	3.4

13

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

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

18

19 (F) With respect to experience rating years beginning on or  
20 after July 1, 1986, if the balance of the unemployment trust fund  
21 as of the prior March 31 is negative, the contribution rate for  
22 each employer liable to pay contributions, as computed under  
23 subparagraph E of this paragraph (5), shall be increased by a  
24 factor of 10% computed to the nearest multiple of 1/10% if not  
25 already a multiple thereof.

26 (G) On or after January 1, 1993, and ending December 31,  
27 1997, notwithstanding any other provisions of this paragraph (5),  
28 the contribution rate for each employer liable to pay  
29 contributions, as computed under subparagraph (E) of this  
30 paragraph (5), shall be decreased by 0.1%, except that, during any  
31 experience rating year in which the fund reserve ratio is equal to  
32 or greater than 7.00%, there shall be no decrease pursuant to this  
33 subparagraph (G) in the contribution of any employer who has a  
34 deficit reserve ratio of negative 35.00% or under.

35 (H) On or after January 1, 1993 until December 31, 1993,  
36 <sup>1</sup>[except as provided pursuant to subparagraph (I) of this  
37 paragraph (5),]<sup>1</sup> notwithstanding any other provisions of this  
38 paragraph (5), the contribution rate for each employer liable to  
39 pay contributions, as computed under subparagraph (E) of this  
40 paragraph (5), shall be decreased by a factor of 52.0% computed  
41 to the nearest multiple of 1/10%, except that, if an employer  
42 <sup>1</sup>[who]<sup>1</sup> has a deficit reserve ratio of negative 35.0% or under,  
43 the employer's rate of contribution shall not be reduced pursuant  
44 to this subparagraph (H) to less than 5.4%. The amount of the  
45 reduction in the employer contributions stipulated by this  
46 subparagraph (H) shall be in addition to the amount of the  
47 reduction in the employer contributions stipulated by  
48 subparagraph (G) of this paragraph (5), except that the rate of  
49 contribution of an employer who has a deficit reserve ratio of  
50 negative 35.0% or under shall not be reduced pursuant to this  
51 subparagraph (H) to less than 5.4% and the rate of contribution of  
52 any other employer shall not be reduced to less than 0.0%.

53 On or after January 1, 1994 <sup>1</sup>until December 31, 1995<sup>1</sup>, except  
54 as provided pursuant to subparagraph (I) of this paragraph (5),



1 notwithstanding any other provisions of this paragraph (5), the  
2 contribution rate for each employer liable to pay contributions,  
3 as computed under subparagraph (E) of this paragraph (5), shall be  
4 decreased by a factor of 36.0% computed to the nearest multiple  
5 of 1/10%, except that, if an employer <sup>1</sup>[who]<sup>1</sup> has a deficit  
6 reserve ratio of negative 35.0% or under, the employer's rate of  
7 contribution shall not be reduced pursuant to this subparagraph  
8 (H) to less than 5.4%. The amount of the reduction in the  
9 employer contributions stipulated by this subparagraph (H) shall  
10 be in addition to the amount of the reduction in the employer  
11 contributions stipulated by subparagraph (G) of this paragraph (5),  
12 except that the rate of contribution of an employer who has a  
13 deficit reserve ratio of negative 35.0% or under shall not be  
14 reduced pursuant to this subparagraph (H) to less than 5.4% and  
15 the rate of contribution of any other employer shall not be  
16 reduced to less than 0.0%.

17 (I) If the fund reserve ratio decreases to a level of less than  
18 4.00% on March 31 of <sup>1</sup>[any]<sup>1</sup> calendar year <sup>1</sup>[commencing on or  
19 after January 1,]<sup>1</sup> 1994 <sup>1</sup>or calendar year 1995<sup>1</sup>, the provisions of  
20 subparagraph (H) of this paragraph (5) shall cease to be in effect  
21 as of July 1 of that calendar year.

22 (6) Additional contributions.

23 Notwithstanding any other provision of law, any employer who  
24 has been assigned a contribution rate pursuant to subsection (c) of  
25 this section for the year commencing July 1, 1948, and for any  
26 year commencing July 1 thereafter, may voluntarily make  
27 payment of additional contributions, and upon such payment shall  
28 receive a recomputation of the experience rate applicable to such  
29 employer, including in the calculation the additional contribution  
30 so made. Any such additional contribution shall be made during  
31 the 30-day period following the date of the mailing to the  
32 employer of the notice of his contribution rate as prescribed in  
33 this section, unless, for good cause, the time for payment has  
34 been extended by the controller for not to exceed an additional  
35 60 days; provided that in no event may such payments which are  
36 made later than 120 days after the beginning of the year for  
37 which such rates are effective be considered in determining the  
38 experience rate for the year in which the payment is made. Any  
39 employer receiving any extended period of time within which to  
40 make such additional payment and failing to make such payment  
41 timely shall be, in addition to the required amount of additional  
42 payment, a penalty of 5% thereof or \$5.00, whichever is greater,  
43 not to exceed \$50.00. Any adjustment under this subsection shall  
44 be made only in the form of credits against accrued or future  
45 contributions.

46 (7) Transfers.

47 (A) Upon the transfer of the organization, trade or business, or  
48 substantially all the assets of an employer to a successor in  
49 interest, whether by merger, consolidation, sale, transfer,  
50 descent or otherwise, the controller shall transfer the  
51 employment experience of the predecessor employer to the  
52 successor in interest, including credit for past years,  
53 contributions paid, annual payroll's, benefit charges, et cetera,  
54 applicable to such predecessor employer, pursuant to regulation,

1 if it is determined that the employment experience of the  
2 predecessor employer with respect to the organization, trade,  
3 assets or business which has been transferred may be considered  
4 indicative of the future employment experience of the successor  
5 in interest. Unless the predecessor employer was owned or  
6 controlled (by legally enforceable means or otherwise), directly  
7 or indirectly, by the successor in interest, or the predecessor  
8 employer and the successor in interest were owned or controlled  
9 (by legally enforceable means or otherwise), directly or  
10 indirectly, by the same interest or interests, the transfer of the  
11 employment experience of the predecessor shall not be effective  
12 if such successor in interest, within four months of the date of  
13 such transfer of the organization, trade, assets or business, or  
14 thereafter upon good cause shown, files a written notice  
15 protesting the transfer of the employment experience of the  
16 predecessor employer.

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

36 (C) A transfer of the employment experience in whole or in  
37 part having become final, the predecessor employer thereafter  
38 shall not be entitled to consideration for an adjusted rate based  
39 upon his or its experience or the part thereof, as the case may be,  
40 which has thus been transferred. A successor in interest to whom  
41 employment experience or a part thereof is transferred pursuant  
42 to this subsection shall, as of the date of the transfer of the  
43 organization, trade, assets or business, or part thereof,  
44 immediately become an employer if not theretofore an employer  
45 subject to this chapter (R.S.43:21-1 et seq.).

46 (d) Contributions of workers, transfers to temporary disability  
47 benefit fund.

48 (1) (A) For periods after January 1, 1975, each worker shall  
49 contribute to the fund 1% of his wages with respect to his  
50 employment with an employer, which occurs on and after January  
51 1, 1975, after such employer has satisfied the condition set forth  
52 in subsection (h) of R.S.43:21-19 with respect to becoming an  
53 employer; provided, however, that such contributions shall be at  
54 the rate of 1/2 of 1% of wages paid with respect to employment

1 while the worker is in the employ of the State of New Jersey, or  
2 any governmental entity or instrumentality which is an employer  
3 as defined under R.S.43:21-19(h)(5), or is covered by an approved  
4 private plan under the "Temporary Disability Benefits Law" or  
5 while the worker is exempt from the provisions of the  
6 "Temporary Disability Benefits Law" under section 7 of that law,  
7 P.L.1948, c.110 (C.43:21-31).

8 (B) Effective January 1, 1978 there shall be no contributions  
9 by workers in the employ of any governmental or  
10 nongovernmental employer electing or required to make  
11 payments in lieu of contributions unless the employer is covered  
12 by the State plan under the "Temporary Disability Benefits Law"  
13 (C.43:21-37 et seq.), and in that case contributions shall be at the  
14 rate of 1/2 of 1%, except that commencing July 1, 1986, workers  
15 in the employ of any nongovernmental employer electing or  
16 required to make payments in lieu of contributions shall be  
17 required to make contributions to the fund at the same rate  
18 prescribed for workers of other nongovernmental employers.

19 (C) Notwithstanding the above provisions of this paragraph (1),  
20 <sup>1</sup>[on or after] during the period starting<sup>1</sup> July 1, 1986 and ending  
21 December 31, 1992 <sup>1</sup>and during the period starting January 1,  
22 1998<sup>1</sup>, each worker shall contribute to the fund 1.125% of wages  
23 paid with respect to his employment with a governmental  
24 employer electing or required to pay contributions or  
25 nongovernmental employer, including a nonprofit organization  
26 which is an employer as defined under R.S.43:21-19(h)(6),  
27 regardless of whether that nonprofit organization elects or is  
28 required to finance its benefit costs with contributions to the  
29 fund or by payments in lieu of contributions, after that employer  
30 has satisfied the conditions set forth in subsection  
31 R.S.43:21-19(h) of this Title with respect to becoming an  
32 employer. Contributions, however, shall be at the rate of 0.625%  
33 while the worker is covered by an approved private plan under the  
34 "Temporary Disability Benefits Law" while the worker is exempt  
35 under section 7 of that law P.L.1948, c.110 (C.43:21-31) or any  
36 other provision of that law; provided that such contributions shall  
37 be at the rate of 0.625% of wages paid with respect to  
38 employment with the State of New Jersey or any other  
39 governmental entity or instrumentality electing or required to  
40 make payments in lieu of contributions and which is covered by  
41 the State plan under the "Temporary Disability Benefits Law",  
42 except that, while the worker is exempt from the provisions of  
43 the "Temporary Disability Benefits Law" under section 7 of that  
44 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that  
45 law, or is covered for disability benefits by an approved private  
46 plan of the employer, the contributions to the fund shall be  
47 0.125%.

48 (D) Notwithstanding any other provisions of this paragraph (1),  
49 <sup>1</sup>[on and after] during the period starting<sup>1</sup> January 1, 1993 and  
50 ending December 31, <sup>1</sup>[1997] 1995 or, if the unemployment  
51 compensation fund reserve ratio, as determined pursuant to  
52 paragraph (5) of subsection (c) of this section, decreases to a  
53 level of less than 4.00% on March 31 of calendar year 1994 or  
54 calendar year 1995, ending July 1 of that calendar year<sup>1</sup>, each

1 worker shall contribute to the unemployment compensation fund  
2 [1.10%] 0.5% of wages paid with respect to the worker's  
3 employment with a governmental employer electing or required  
4 to pay contributions or nongovernmental employer, including a  
5 nonprofit organization which is an employer as defined under  
6 paragraph 6 of subsection (h) of R.S.43:21-19, regardless of  
7 whether that nonprofit organization elects or is required to  
8 finance its benefit costs with contributions to the fund or by  
9 payments in lieu of contributions, after that employer has  
10 satisfied the conditions set forth in subsection (h) of R.S.43:21-19  
11 with respect to becoming an employer. [Contributions,] No  
12 contributions, however, shall be [at the rate of 0.60%] made by  
13 the worker while the worker is covered by an approved private  
14 plan under the "Temporary Disability Benefits Law," P.L.1948,  
15 c.110 (C.43:21-25 et seq.) or while the worker is exempt under  
16 section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision  
17 of that law; provided that the contributions shall be at the rate of  
18 [0.60%] 0.50% of wages paid with respect to employment with the  
19 State of New Jersey or any other governmental entity or  
20 instrumentality electing or required to make payments in lieu of  
21 contributions and which is covered by the State plan under the  
22 "Temporary Disability Benefits Law," except that, while the  
23 worker is exempt from the provisions of the "Temporary  
24 Disability Benefits Law" under section 7 of that law, P.L.1948,  
25 c.110 (C.43:21-31) or any other provision of that law, or is  
26 covered for disability benefits by an approved private plan of the  
27 employer, [the] no contributions shall be made to the fund [shall  
28 be 0.10%].

29 <sup>1</sup>[Notwithstanding any other provisions of this paragraph (1), on  
30 and after January 1, 1998, each worker shall contribute to the  
31 unemployment compensation fund 0.525% of wages paid with  
32 respect to the worker's employment with a governmental  
33 employer electing or required to pay contributions or  
34 nongovernmental employer, including a nonprofit organization  
35 which is an employer as defined under paragraph 6 of subsection  
36 (h) of R.S.43:21-19, regardless of whether that nonprofit  
37 organization elects or is required to finance its benefit costs with  
38 contributions to the fund or by payments in lieu of contributions,  
39 after that employer has satisfied the conditions set forth in  
40 subsection (h) of R.S.43:21-19 with respect to becoming an  
41 employer. Contributions, however, shall be at the rate of 0.025%  
42 while the worker is covered by an approved private plan under the  
43 "Temporary Disability Benefits Law," P.L.1948, c.110  
44 (C.43:21-25 et seq.) or while the worker is exempt under section  
45 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that  
46 law; provided that the contributions shall be at the rate of  
47 0.525% of wages paid with respect to employment with the State  
48 of New Jersey or any other governmental entity or  
49 instrumentality electing or required to make payments in lieu of  
50 contributions and which is covered by the State plan under the  
51 "Temporary Disability Benefits Law," except that, while the  
52 worker is exempt from the provisions of the "Temporary  
53 Disability Benefits Law" under section 7 of that law, P.L.1948,  
54 c.110 (C.43:21-31) or any other provision of that law, or is

1 covered for disability benefits by an approved private plan of the  
2 employer, the contributions to the fund shall be 0.025%.]

3 Each worker shall, starting on January 1, 1996 and ending  
4 December 31, 1997, or, if the unemployment compensation fund  
5 reserve ratio, as determined pursuant to paragraph (5) of  
6 subsection (c) of this section, decreases to a level of less than  
7 4.00% on March 31 of calendar year 1994 or calendar year 1995,  
8 starting on July 1 of that calendar year and ending December 31,  
9 1997, contribute to the unemployment compensation fund 1.10%  
10 of wages paid with respect to the worker's employment with a  
11 governmental employer electing or required to pay contributions  
12 or nongovernmental employer, including a nonprofit organization  
13 which is an employer as defined under paragraph 6 of subsection  
14 (h) of R.S.43:21-19, regardless of whether that nonprofit  
15 organization elects or is required to finance its benefit costs with  
16 contributions to the fund or by payments in lieu of contributions,  
17 after that employer has satisfied the conditions set forth in  
18 subsection (h) of R.S.43:21-19 with respect to becoming an  
19 employer. Contributions, however, shall be at the rate of 0.60%  
20 while the worker is covered by an approved private plan under the  
21 "Temporary Disability Benefits Law," P.L.1948, c.110  
22 (C.43:21-25 et seq.) or while the worker is exempt under section  
23 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that  
24 law; provided that the contributions shall be at the rate of 0.60%  
25 of wages paid with respect to employment with the State of New  
26 Jersey or any other governmental entity or instrumentality  
27 electing or required to make payments in lieu of contributions  
28 and which is covered by the State plan under the "Temporary  
29 Disability Benefits Law," except that, while the worker is exempt  
30 from the provisions of the "Temporary Disability Benefits Law"  
31 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any  
32 other provision of that law, or is covered for disability benefits  
33 by an approved private plan of the employer, the contributions to  
34 the fund shall be 0.10%.<sup>1</sup>

35 (E) Each employer shall, notwithstanding any provision of law  
36 in this State to the contrary, withhold in trust the amount of his  
37 workers' contributions from their wages at the time such wages  
38 are paid, shall show such deduction on his payroll records, shall  
39 furnish such evidence thereof to his workers as the division or  
40 controller may prescribe, and shall transmit all such  
41 contributions, in addition to his own contributions, to the office  
42 of the controller in such manner and at such times as may be  
43 prescribed. If any employer fails to deduct the contributions of  
44 any of his workers at the time their wages are paid, or fails to  
45 make a deduction therefor at the time wages are paid for the  
46 next succeeding payroll period, he alone shall thereafter be liable  
47 for such contributions, and for the purpose of R.S.43:21-14, such  
48 contributions shall be treated as employer's contributions  
49 required from him.

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

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

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

1 (C) With respect to wages paid on and after January 1, 1975,  
2 there shall be deposited in and credited to the State disability  
3 benefits fund, as established by law, one-half of all worker  
4 contributions received by the controller upon which the rate of  
5 contributions is 1%.

6 (D) All worker contributions received by the controller from  
7 all employers electing or required to make payments in lieu of  
8 contributions, upon which the rate of contribution is 1/2 of 1%,  
9 except the State of New Jersey or any other governmental entity  
10 or instrumentality defined as an employer under  
11 R.S.43:21-19(h)(5), unless the State of New Jersey or such other  
12 governmental entity or instrumentality is a "covered employer,"  
13 as defined in [R.S.43:21-27] section 3 of P.L.1948, c.110  
14 (C.43:21-27).

15 (E) (i) Notwithstanding the above<sup>1,1</sup> with respect to wages  
16 1[on or after] during the period starting<sup>1</sup> July 1, 1986 <sup>1</sup>and ending  
17 December 31, 1992 and the period starting January 1, 1998<sup>1</sup>,  
18 there shall be deposited in and credited to the State disability  
19 benefits fund 4/9 of all worker contributions received by the  
20 controller upon which the rate of contribution is 1.125% and 4/5  
21 of the contributions received by the controller upon which the  
22 rate of contribution is 0.625% of wages paid with respect to  
23 employment with the State of New Jersey or any other  
24 governmental entity or instrumentality electing or required to  
25 make payments in lieu of contributions and which is covered by  
26 the State plan under the "Temporary Disability Benefits Law."

27 (ii) Notwithstanding any other provision of this paragraph (2),  
28 with respect to wages paid during the period beginning on January  
29 1, 1993 and ending December 31, 1[1997] 1995 or, if the  
30 unemployment compensation fund reserve ratio, as determined  
31 pursuant to paragraph (5) of subsection (c) of this section,  
32 decreases to a level of less than 4.00% on March 31 of calendar  
33 year 1994 or calendar year 1995, ending July 1 of that calendar  
34 year<sup>1</sup>, there shall be deposited in and credited to the State  
35 disability benefits fund [5/11 of] all worker contributions received  
36 by the controller [upon which the rate of contribution is 1.10%  
37 and 5/6 of all worker contributions received by the controller  
38 upon which the rate of contribution is 0.60% of wages paid with  
39 respect to employment with the State of New Jersey or any other  
40 governmental entity or instrumentality electing or required to  
41 make payments in lieu of contributions and which is covered by  
42 the State plan under the "Temporary Disability Benefits Law,"  
43 P.L.1948, c.110 (C.43:21-25 et seq.)].

44 (iii) Notwithstanding any other provision of this paragraph (2),  
45 with respect to wages paid <sup>1</sup>[on or after January 1, 1998] during  
46 the period beginning on January 1, 1996 and ending December 31,  
47 1997 or, if the unemployment compensation fund reserve ratio, as  
48 determined pursuant to paragraph (5) of subsection (c) of this  
49 section, decreases to a level of less than 4.00% on March 31 of  
50 calendar year 1994 or calendar year 1995, during the period  
51 starting July 1 of that calendar year and ending December 31,  
52 1997<sup>1</sup>, there shall, 1[in the case of any employment which is  
53 covered by the State plan under the "Temporary Disability  
54 Benefits Law,"]<sup>1</sup> be deposited in and credited to the

1 State disability benefits fund <sup>1</sup>[20/21 of all worker contributions  
2 received by the controller] 5/11 of all worker contributions  
3 received by the controller upon which the rate of contribution is  
4 1.10% and 5/6 of all worker contributions received by the  
5 controller upon which the rate of contribution is 0.60% of wages  
6 paid with respect to employment with the State of New Jersey or  
7 any other governmental entity or instrumentality electing or  
8 required to make payments in lieu of contributions and which is  
9 covered by the State plan under the "Temporary Disability  
10 Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.)<sup>1</sup>.

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

52 (4) If an individual does not receive any wages from the  
53 employing unit which for the purposes of this chapter  
54 (R.S.43:21-1 et seq.) is treated as his employer, or receives his

1 wages from some other employing unit, such employer shall  
2 nevertheless be liable for such individual's contributions in the  
3 first instance; and after payment thereof such employer may  
4 deduct the amount of such contributions from any sums payable  
5 by him to such employing unit, or may recover the amount of  
6 such contributions from such employing unit, or, in the absence of  
7 such an employing unit, from such individual, in a civil action;  
8 provided proceedings therefor are instituted within three months  
9 after the date on which such contributions are payable. General  
10 rules shall be prescribed whereby such an employing unit may  
11 recover the amount of such contributions from such individuals in  
12 the same manner as if it were the employer.

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

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

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

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

46 (2) During the continuance of coverage of a worker by an  
47 approved private plan of disability benefits under the "Temporary  
48 Disability Benefits Law," the employer shall be exempt from the  
49 contributions required by subparagraph (1) above with respect to  
50 wages paid to such worker.

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

54 (B) A separate disability benefits account shall be maintained



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

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

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

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

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

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

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

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

51 (3) If the minimum requirements in (1) above have been  
52 fulfilled and the contributions credited exceed the benefits  
53 charged but by not more than \$500.00 plus 1% of his average  
54 annual payroll, or if the benefits charged exceed the

1 contributions credited but by not more than \$500.00, the  
2 preliminary rate shall be 1/4 of 1%.

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

7 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of  
8 1% of his average annual payroll;

9 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds  
10 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

11 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds  
12 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

13 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds  
14 3/4 of 1% but is less than 1% of his average annual payroll;

15 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds  
16 1% of his average annual payroll.

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

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

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

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

50 (ii) If the percentage determined in accordance with paragraph  
51 (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less  
52 than 1 1/4 of 1%, the final employer rates shall be the  
53 preliminary employer rates.

54 (iii) If the percentage determined in accordance

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

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

24 (cf: P.L.1992, c.44, s.10)

25 36. The monies in the "Uncompensated Care Reduction--Pilot  
26 Program" account of the New Jersey Uncompensated Care Trust  
27 Fund established pursuant to P.L.1989, c.1, as that account was  
28 continued in section 18 of P.L.1991, c.187 (C.26:2H-18.40), are  
29 appropriated to the Essential Health Services Commission for the  
30 New Jersey SHIELD program established pursuant to this act.

31 37. Any monies remaining in the New Jersey Health Care  
32 Trust Fund, including the reserve required pursuant to section 4  
33 P.L.1991, c.187 (C.26:2H-18.27), are appropriated to the Health  
34 Care Subsidy Fund in the Essential Health Services Commission.

35 38. The Commissioner of Human Services shall, pursuant to  
36 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
37 et seq.) adopt rules and regulations necessary to implement the  
38 provisions of sections 9, 11 and 12 of this act as they relate to  
39 payments from the Health Care Subsidy Fund to disproportionate  
40 share hospitals.

41 39. This act shall be known and may be cited as the "Health  
42 Care Reform Act of 1992."

43 40. The following are repealed:

44 Section 3 of P.L.1985, c.306 (C.26:2H-18b);

45 Section 11 of P.L.1978, c.83 (C.26:2H-18.1); and

46 Sections 39 and 82 of P.L.1991, c.187 (C.26:2H-18.1a and  
47 26:2H-18.49).

48 41. Sections 5<sup>1</sup>, 11<sup>1</sup> and 14 of P.L.1978, c.83 (C.26:2H-4.1<sup>1</sup>,  
49 26:2H-18.1<sup>1</sup> and 26:2H-18.3) are repealed.

50 42. Sections 1 through 26, 28 through 40, and 42 of this act  
51 shall take effect on January 1, 1993 and if enacted after that  
52 date, shall be retroactive to January 1, 1993, section 27 shall  
53 take effect on November 30, 1992 and if enacted after that date  
54 shall be retroactive to November 30, 1992 and section 41 shall

1 take effect on January 1, 1994.

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6 Designated the "Health Care Reform Act of 1992," reforms  
7 health care system and funds subsidies for disproportionate share  
8 hospitals.

(1992)

1 Sections 39 and 82 of P.L.1991, c.187 (C.26:2H-18.1a and  
2 26:2H-18.49).

3 41. Sections 5, 11 and 14 of P.L.1978, c.83 (C.26:2H-4.1,  
4 26:2H-18.1 and 26:2H-18.3) are repealed.

5 42. Sections 1 through 26, 28 through 40, and 42 of this act  
6 shall take effect on January 1, 1993 and if enacted after that  
7 date, shall be retroactive to January 1, 1993, section 27 shall  
8 take effect on November 30, 1992 and if enacted after that date  
9 shall be retroactive to November 30, 1992 and section 41 shall  
10 take effect on January 1, 1994.

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*Sponsors* STATEMENT

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This bill provides for significant health care reform and moves the State in the direction of a deregulated hospital reimbursement system which will provide hospitals with a truly competitive market environment and strong incentives to offer only those services which meet the demands of health care purchasers and consumers.

The bill eliminates the Diagnosis Related Group methodology for setting hospital rates and creates a deregulated system by 1994.

The bill creates an independent 11-member New Jersey Essential Health Services Commission to administer various provisions of this bill, including the disproportionate share hospital subsidies, a new hospital and other health care initiatives and bond assistance program and the New Jersey SHIELD program.

The bill provides that during 1993, the transition year, the Hospital Rate Setting Commission will establish a revenue cap for each hospital which will be similar to the preliminary cost base established by the commission previously, however, the revenue cap will not include the amount a hospital receives as a disproportionate share hospital subsidy pursuant to this bill. After 1993, hospitals will be free to establish their rates as they deem appropriate.

A Health Care Subsidy Fund is created in the new commission to replace the New Jersey Health Care Trust Fund, which will expire on December 31, 1992 under the provisions of this bill. This fund will continue to provide subsidies for disproportionate share hospitals which shall include up to \$500 million in 1993 in charity care subsidy payments to eligible hospitals. This amount will decrease over the next four years as increasing amounts of funds are allocated to the New Jersey SHIELD program, which, along with reforms of individual and small group insurance, should help reduce the number of uninsured persons in the State and, thus, reduce uncompensated care. In 1993, the charity care subsidy will be made prospectively, based on a hospital's uncompensated care amount for 1991, although a hospital will be required to submit claims for charity care provided during the year. In subsequent years, hospitals will be reimbursed for charity care on a claims basis only.

The fund will also provide a temporary Medicare subsidy to

1 those hospitals which serve a disproportionately large number of  
2 Medicare patients. In 1993, the fund will distribute \$100 million;  
3 in 1994, \$67 million; and in 1995, \$33 million, according to a  
4 formula based on a disproportionate share hospital's relative  
5 need for the subsidy.

6 The fund will also administer a hospital initiatives and other  
7 health care and bond assistance program. The program will  
8 include the establishment of a hospital bond reserve fund in  
9 consultation with the Health Care Facilities Financing Authority,  
10 and establishment of a program which will assist hospitals and  
11 other health care facilities in the underwriting of innovative and  
12 necessary health care services and provide funding for public or  
13 private health care programs, which may include any program  
14 funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.48),  
15 as determined by the commission. The bill provides for a .53%  
16 assessment on a hospital's approved revenue base for 1992 in  
17 order to fund the assistance program, however, the total amount  
18 of the assessment plus interest shall not exceed \$40 million per  
19 year.

20 The bill establishes the New Jersey SHIELD program. The  
21 purpose of the program is to provide subsidies for health benefits  
22 coverage, in order to provide for health care which shall be  
23 delivered in disproportionate share hospitals and by other  
24 community-based health care providers for working people and  
25 those temporarily unemployed, based on a sliding income scale  
26 with modest copayments. The program shall include the provision  
27 of early preventive and primary care to help reduce costs for  
28 families and individuals.

29 With respect to an anticipated reduction in insurance rates due  
30 to the elimination of the 19.1% surcharge on hospital rates that  
31 was imposed to fund the New Jersey Health Care Trust Fund, the  
32 bill provides that in formulating policy or contract rates for  
33 calendar year 1993, a health insurer or health maintenance  
34 organization shall take into account any modifications in  
35 exposure for hospital expenses which may be brought about by the  
36 changes in billing procedures established pursuant to the bill, and  
37 shall change its premiums accordingly as is appropriate to reflect  
38 those modifications.

39 The bill revises the certificate of need law to exempt hospitals  
40 if the total project or purchase cost does not exceed 5% of that  
41 hospital's operating revenues for the year in which the project or  
42 purchase is undertaken. However, this exemption shall not apply  
43 to: the initiation of any health care service as provided in section  
44 2 of P.L.1971, c.136 (C.26:2H-2), which includes a health care  
45 service that is the subject of a health planning regulation adopted  
46 by the Department of Health; the expansion of a hospital's  
47 physical plant; or the construction of a new health care facility.  
48 The bill also exempts various health care services and facilities  
49 under certain circumstances from the certificate of need  
50 requirement. Many of these services and facilities are currently  
51 eligible for an expedited review, and it is believed that full  
52 exemption from the certificate of need requirement will not have  
53 a harmful effect on the distribution of health care services and  
54 facilities in the State.

1 To finance the "Health Care Subsidy Fund," the bill establishes  
2 a broad-based funding mechanism which will raise approximately  
3 \$600 million during 1993 and \$500 million in subsequent years. Of  
4 this amount, approximately \$250 million is raised by imposing an  
5 assessment on employees equaling 0.6% of the unemployment  
6 compensation wage base for each employee. The rest of the  
7 amount is raised by an assessment on employers equaling 52% of  
8 the unemployment compensation contribution rate currently paid  
9 by the employer computed to the nearest multiple of 1/10%,  
10 except that the assessment is reduced for certain employers with  
11 especially bad unemployment experience for the sake of  
12 compliance with applicable federal law.

13 The assessments described above, however, involves no net  
14 increase in costs to employees or employers, because the cost of  
15 those assessments are entirely offset by a simultaneous reduction  
16 in contributions to the unemployment compensation fund.

17 For years following 1993, the assessment imposed on employers  
18 is reduced from 52% of the employer's current unemployment  
19 compensation contribution rate to 36%. The 36% assessment is  
20 offset by a simultaneous reduction in the rate of unemployment  
21 compensation contributions.

22 If, on or after January 1, 1994, the unemployment  
23 compensation fund reserve ratio decreases to a level of less than  
24 4.00% on March 31 of any calendar year, the following would take  
25 place as of July 1 of that calendar year:

26 1. The unemployment compensation contribution table which  
27 was in effect before the bill was enacted would be restored;

28 2. The assessments imposed by the bill to finance the "Health  
29 Care Subsidy Fund" would no longer be in effect; and

30 3. A new assessment equaling 0.6% of total wages would be  
31 imposed, providing approximately \$500 million to the "Health  
32 Care Subsidy Fund."

33 If the amount raised by any of the indicated assessments  
34 exceeds \$600 million during 1993, or \$500 million on any  
35 subsequent year, the excess would be deposited in the  
36 unemployment compensation fund.

37 Finally, the bill repeals section 3 of P.L.1985, c.306  
38 (C.26:2H-18b) and section 11 of P.L.1978, c.83 (C.26:2H-18.1)  
39 concerning the setting of hospital rates by the Hospital Rate  
40 Setting Commission, as hospital rates will be deregulated. The  
41 bill also repeals section 39 of P.L.1991, c.187 (C.26:2H-18.1a)  
42 which requires hospitals to report to the commission any  
43 discounts or reduced rates agreed to between a hospital and a  
44 third party payer. Section 82 of P.L.1991, c.187 (C.26:2H-18.49),  
45 which creates the Health Care Cost Reduction Advisory  
46 Committee is also repealed. Further, effective January 1, 1994,  
47 the bill repeals sections 5, 11, and 14 of P.L.1978, c.83  
48 (C.26:2H-4.1, 26:2H-18.1 and 26:2H-18.3) concerning the  
49 Hospital Rate Setting Commission, as that commission will no  
50 longer be necessary under the deregulated system.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2100**

with committee amendments

**STATE OF NEW JERSEY**

DATED: NOVEMBER 23, 1992

The Assembly Health and Human Services Committee favorably reports Assembly Bill No. 2100 with committee amendments.

As amended by the committee, this bill provides for significant health care reform and moves the State in the direction of a deregulated hospital reimbursement system which will provide hospitals with a truly competitive market environment and strong incentives to offer only those services which meet the demands of health care purchasers and consumers.

The amended bill eliminates the Diagnosis Related Group methodology for setting hospital rates and creates a deregulated system by 1994.

The bill creates an independent 11-member New Jersey Essential Health Services Commission to administer various provisions of this bill, including the disproportionate share hospital subsidies, a new hospital and other health care initiatives and bond assistance program and the New Jersey SHIELD program.

The bill provides that during 1993, the transition year, the Hospital Rate Setting Commission will establish a revenue cap for each hospital which will be similar to the preliminary cost base established by the commission previously; however, the revenue cap will not include the amount a hospital receives as a disproportionate share hospital subsidy pursuant to this bill. After 1993, hospitals will be free to establish their rates as they deem appropriate.

A Health Care Subsidy Fund is created in the new commission to replace the New Jersey Health Care Trust Fund, which will expire on December 31, 1992 under the provisions of this bill. This fund will continue to provide subsidies for disproportionate share hospitals, which shall include up to \$500 million in 1993 in charity care subsidy payments to eligible hospitals. This amount will decrease over the next four years as increasing amounts of funding are allocated to the New Jersey SHIELD program, which, along with reforms of individual and small group insurance, should help reduce the number of uninsured persons in the State and thereby reduce the amount of uncompensated care. In 1993, the charity care subsidy will be made prospectively, based on a hospital's uncompensated care amount for 1991, although a hospital will be required to submit claims for charity care provided during the year. In subsequent years, hospitals will be reimbursed for charity care based on the actual amount of charity care provided by the hospital.

The fund will also provide a temporary subsidy for other uncompensated care to certain hospitals which incur a disproportionately large amount of costs due to the provision of



such other uncompensated care. The bill defines "other uncompensated care" as all costs not reimbursed by hospital payers, excluding charity care, graduate medical education, discounts, bad debt and reduction in Medicaid payments. The fund will distribute \$100 million in 1993; \$67 million in 1994; and \$33 million in 1995, according to a formula based on a disproportionate share hospital's relative need for the subsidy.

The fund will further administer a hospital and other health care initiatives and bond assistance program. This program will include the establishment of a hospital bond reserve fund in consultation with the Health Care Facilities Financing Authority, and establishment of a program which will assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services and provide funding for public or private health care programs, which may include any program funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), as determined by the commission. The bill provides for a .53% assessment on a hospital's approved revenue base for 1992 in order to fund the assistance program; however, the total amount of the assessment plus interest shall not exceed \$40 million per year.

In addition, the bill establishes the New Jersey SHIELD program to provide subsidies for health benefits coverage, in order to provide for health care which shall be delivered in disproportionate share hospitals and by other community-based health care providers for working people and those temporarily unemployed, based on a sliding income scale with modest copayments. The program shall include the provision of early preventive and primary care to help reduce costs for families and individuals.

With respect to an anticipated reduction in insurance rates due to the elimination of the 19.1% surcharge on hospital rates that was imposed to fund the New Jersey Health Care Trust Fund, the bill provides that in formulating policy or contract rates for calendar year 1993, a health insurer or health maintenance organization shall take into account any modifications in exposure for hospital expenses which may be brought about by the changes in billing procedures established pursuant to the bill, and shall change its premiums accordingly to reflect those modifications.

The bill also revises the certificate of need (CN) law to exempt hospitals if the total project or purchase cost does not exceed 5% of that hospital's operating revenues for the year in which the project or purchase is undertaken. This exemption shall not apply to: the initiation or expansion of any health care service as provided in section 2 of P.L.1971, c.136 (C.26:2H-2), which includes a health care service that is the subject of a health planning regulation adopted by the Department of Health; the expansion of a hospital's physical plant; or the construction of a new health care facility. The bill also exempts various health care services and facilities under certain circumstances from the CN requirement. Many of these services and facilities are currently eligible for an expedited review, and it is believed that full exemption from the CN requirement will not adversely affect the distribution of health care services and facilities in the State.

To finance the "Health Care Subsidy Fund," the bill establishes

1. The unemployment compensation contribution table which was in effect before the bill was enacted would be restored;
2. The assessments imposed by the bill to finance the Health Care Subsidy Fund would no longer be in effect; and
3. A new assessment equalling 0.62% of total wages would be imposed, providing approximately \$500 million to the Health Care Subsidy Fund.

The bill authorizes the Department of Health to assess hospitals an additional \$5 charge for each admission beginning January 1, 1994. The Department of Health will use \$5 for administrative costs related to health planning.

Finally, the bill provides for a .53% assessment on a hospital's approved revenue base for 1992 for deposit into the Health Care Subsidy Fund; however, the total amount of the assessment plus interest cannot exceed \$40 million per year. The monies paid by hospitals pursuant to this assessment are to be credited to the hospital and other health care initiatives and bond assistance account to establish a hospital bond reserve fund, assist hospitals and other health care facilities in underwriting innovative and necessary health care services and provide funding for public and private health care programs.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2100

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2100 [1R].

Assembly Bill No. 2100 [1R] provides for health care reform and moves the State toward a deregulated hospital reimbursement system. The Diagnosis Related Group methodology for setting hospital rates will be eliminated and a deregulated system will be in place by 1994. The bill creates an independent 11-member New Jersey Essential Health Services Commission to administer various provisions of this bill, including the disproportionate share hospital subsidies, a new hospital and other health care initiatives and bond assistance program and the New Jersey SHIELD program.

During the transition year of 1993, the Hospital Rate Setting Commission will establish a revenue cap for each hospital. The cap will be similar to the preliminary cost base established by the commission previously; however, the revenue cap will not include the amount a hospital receives as a disproportionate share hospital subsidy pursuant to this bill. After 1993, hospitals will be free to establish their rates as they deem appropriate.

A Health Care Subsidy Fund is created to replace the New Jersey Health Care Trust Fund, set to expire on December 31, 1992. This new fund will continue to provide subsidies for disproportionate share hospitals including up to \$500 million in 1993 in charity care subsidy payments to eligible hospitals. These subsidy payments will decrease over the next four years as increasing amounts of funds are allocated to the New Jersey SHIELD program.

Temporary subsidies for other uncompensated care will also be provided to disproportionate share hospitals from the fund. In 1993, the fund will distribute \$100 million; in 1994, \$67 million; and in 1995, \$33 million, according to a formula based on a disproportionate share hospital's relative need for the subsidy.

The New Jersey Essential Health Services Commission will administer a new program which will include a hospital bond reserve fund, assistance to hospitals and other health care facilities in underwriting innovative and necessary health care services and funding for public or private health care programs. The bill provides for a .53% assessment on a hospital's approved revenue base for 1992 in order to fund the program, however, the total amount of the assessment plus interest cannot exceed \$40 million per year.

The bill establishes the New Jersey SHIELD program to provide subsidies for health benefits coverage based on a sliding income scale with modest copayments. The health care will be delivered by disproportionate share hospitals and by other community-based health care providers for working people and those temporarily unemployed. The program will include early preventive and primary care to help reduce costs.

The bill revises the certificate of need law to exempt from review certain projects, health care services and facilities under certain circumstances.

To finance the Health Care Subsidy Fund, the bill establishes a broad-based funding mechanism which is described below. This funding mechanism will remain in effect for a three-year period, from January 1, 1993 to December 31, 1995.

Finally, the bill repeals section 3 of P.L.1985, c.306 (C.26:2H-18b) and section 11 of P.L.1978, c.83 (C.26:2H-18.1) concerning the setting of hospital rates by the Hospital Rate Setting Commission. The bill also repeals section 39 of P.L.1991, c.187 (C.26:2H-18.1a) which requires hospitals to report to the commission any discounts or reduced rates agreed to between a hospital and a third party payer. Section 82 of P.L.1991, c.187 (C.26:2H-18.49), which creates the Health Care Cost Reduction Advisory Committee, is also repealed. Effective January 1, 1994, the bill repeals sections 5, 11, and 14 of P.L.1978, c.83 (C.26:2H-4.1, 26:2H-18.1 and 26:2H-18.3) concerning the Hospital Rate Setting Commission, because that commission will no longer be necessary under the deregulated system.

This bill is identical to Senate Bill 10 [1R] of 1992.

#### FISCAL IMPACT:

To finance the Health Care Subsidy Fund, the bill establishes a broad-based funding mechanism which will raise approximately \$600 million during 1993 and \$500 million in subsequent years. Of this amount, approximately \$250 million is raised by imposing an assessment on employees equaling 0.6% of the unemployment compensation wage base for each employee. The rest of the amount is raised by an assessment on employers equaling 52% of the unemployment compensation contribution rate currently paid by the employer computed to the nearest multiple of 1/10%, except that the assessment is reduced for certain employers with especially bad unemployment experience for the sake of compliance with applicable federal law. This funding mechanism will remain in effect only for a three-year period, from January 1, 1993 to December 31, 1995.

Initially, these assessments involve no net increase in costs to employees or employers, because the cost of those assessments are entirely offset by a simultaneous reduction in contributions to the unemployment compensation fund.

For years following 1993, the assessment imposed on employers is reduced from 52% of the employer's current unemployment compensation contribution rate to 36%. The 36% assessment is offset by a simultaneous reduction in the rate of unemployment compensation contributions.

If the amount raised by any of the indicated assessments exceeds \$600 million during 1993, or \$500 million on any subsequent year, the excess would be deposited in the unemployment compensation fund.

The bill also provides that if, on or after January 1, 1994, the unemployment compensation fund reserve ratio decreases to a level of less than 4.00% on March 31 of any calendar year, the following would take place as of July 1 of that calendar year:

a temporary, three-year funding mechanism which will raise approximately \$600 million during 1993 and \$500 million each in 1994 and 1995. Of this amount, approximately \$250 million is raised by imposing an assessment on employees equaling 0.6% of the unemployment compensation wage base for each employee. The rest of the amount is raised by an assessment on employers equaling 52% of the unemployment compensation contribution rate currently paid by the employer computed to the nearest multiple of 1/10%, except that the assessment is reduced for certain employers with especially bad unemployment experience for the sake of compliance with applicable federal law.

The assessments described above involve no net increase in costs to employees or employers, because the cost of those assessments are entirely offset by a simultaneous reduction in contributions to the unemployment compensation fund.

For the years following 1993, the assessment imposed on employers is reduced from 52% of the employer's current unemployment compensation contribution rate to 36%. The 36% assessment is offset by a simultaneous reduction in the rate of unemployment compensation contributions.

If, on or after January 1, 1994, the unemployment compensation fund reserve ratio decreases to a level of less than 4.00% on March 31 of any calendar year, the following would take place as of July 1 of that calendar year:

1. The unemployment compensation contribution table which was in effect before the bill was enacted would be restored;
2. The assessments imposed by the bill to finance the "Health Care Subsidy Fund" would no longer be in effect; and
3. A new assessment equaling 0.6% of total wages would be imposed, providing approximately \$500 million to the "Health Care Subsidy Fund."

If the amount raised by any of the indicated assessments exceeds \$600 million during 1993, or \$500 million on any subsequent year, the excess would be deposited in the unemployment compensation fund.

Finally, the bill repeals section 10 of P.L.1985, c.306 (C.26:2H-18b) and section 11 of P.L.1985, c.83 (C.26:2H-18.1) concerning the setting of hospital rates by the Hospital Rate Setting Commission, as hospital rates will be deregulated. The bill also repeals section 39 of P.L.1991, c.187 (C.26:2H-18.1a) which requires hospitals to report to the commission any discounts or reduced rates agreed to between a hospital and a third party payor. Section 82 of P.L.1991, c.187 (C.26:2H-18.1b), which creates the Health Care Cost Reduction Advisory Committee is also repealed. Further, effective January 1, 1994, the bill repeals sections 5 and 14 of P.L.1978, c.83 (C.26:2H-4.1 and C.26:2H-18.3) concerning the Hospital Rate Setting Commission, as the commission will no longer be necessary under the deregulated system.

The committee amended the bill to sunset the funding mechanism of employer and employee contributions to the Health Care Subsidy Fund after a three-year period (January 1, 1993 to December 31, 1995). Amendments also provide that during the "transition year," **1993, any discounts negotiated between hospitals and non-governmental third-party payers shall reflect cost savings**

resulting from the efficient use of resources and not merely cost shifts from one payer to another. Amendments change references to the "Medicare component of the disproportionate share hospital subsidy" to the "other uncompensated care component of the disproportionate share hospital subsidy." Other committee amendments are technical in nature.

As reported by the committee, this bill is identical to Senate Bill No. 10 ACA (Bassano/DiFrancesco), which the Senate Health and Human Services Committee reported on this date.

LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

ASSEMBLY, No. 2100

STATE OF NEW JERSEY

DATED: December 23, 1992

**OVERVIEW**

Assembly Bill No. 2100 (1R) of 1992 provides for health care reform and moves the State toward a more deregulated hospital management system. Major provisions of the bill address the mechanisms for establishing hospital rates, the approval process for hospital expansion proposals and major equipment purchases, the system for reimbursing hospitals for otherwise uncompensated care and the extension of health insurance coverage to a greater segment of the working population and the temporarily unemployed.

**BILL DESCRIPTION**

Under the bill's provisions, the current Diagnosis Related Group methodology for setting hospital rates will be eliminated and a deregulated system will be in place by 1994. During the 1993 transition year the Hospital Rate Setting Commission will establish a revenue cap for each hospital, similar to the existing preliminary cost base used to determine rates, but without the amount a hospital receives as a charity care or other uncompensated care subsidy under the this bill. Beginning in 1994, the Hospital Rate Setting Commission will be abolished and hospitals will be free to establish their own rates.

The bill creates an independent 11-member New Jersey Essential Health Services Commission (EHSC) to administer various health care and financial assistance programs, including the disproportionate share hospital subsidies, a hospital and other health care initiatives and bond assistance program and the New Jersey SHIELD program.

The ESHC includes the Commissioners of Health, Human Services and Insurance and eight public members. The public members shall receive compensation of \$150 per day for their services. The EHSC is authorized to maintain offices, employ an executive director and professional staff, enter into contracts and receive federal funds.

The bill provides for a \$5 fee to be assessed, beginning January 1, 1994, on each acute care hospital admission in the State to provide for the administrative costs of the EHSC. In addition, the DOH would continue to collect a \$5 fee per admission now charged to administer the Hospital Rate Setting Commission.

The bill creates the Health Care Subsidy Fund ("health care fund") to replace the New Jersey Health Care Trust Fund, which will expire on December 31, 1992. The health care fund will continue to provide hospital subsidies for uncompensated charity care, including up to \$500 million in 1993. That amount will decrease to \$450 million in 1994 and \$400 million in 1995 as increasing amounts of funding are allocated to the New Jersey SHIELD program established by the bill, which, along with reforms of individual and small group insurance, is intended to reduce the

number of uninsured persons in the State and, thus, reduce uncompensated care costs.

The bill establishes the New Jersey SHIELD program to provide subsidies for health benefits coverage based on a sliding income scale with modest copayments for uninsured working people, those temporarily unemployed and part-time or seasonal workers. Of the nearly one million State residents lacking health insurance, it is estimated that New Jersey SHIELD would provide coverage for between 400,000 and 500,000. The program will include early preventive and primary care in an effort to help reduce costs. New Jersey SHIELD is to be developed during 1993 and put in place by January, 1994.

The bill allocates \$50 million in 1994 to New Jersey SHIELD, \$100 million in 1995, \$150 million in 1996 and \$200 million each year thereafter.

In addition to charity care, the health care fund will also provide a temporary subsidy for other uncompensated care to certain hospitals which incur a disproportionately large amount of costs due to the provision of such other uncompensated care. In 1993, the health care fund will distribute \$100 million; in 1994, \$67 million; and in 1995, \$33 million, according to a formula based on a hospital's relative need for this subsidization.

Through the health care fund, the EHSC will administer a hospital initiatives and other health care and bond assistance program. The program will include the establishment of a hospital bond reserve fund in consultation with the Health Care Facilities Financing Authority, and establishment of a program which will assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services and provide funding for public or private health care programs. The bill provides for the extension of an existing .53 percent assessment on a hospital's approved revenue base for 1992 in order to fund the assistance program; however, the total amount of the assessment plus interest shall not exceed \$40 million per year. It is estimated that this assessment will generate approximately \$37 million in FY 1993.

The main source of revenue for the health care fund is an assessment on employees and employers calculated to raise approximately \$600 million during 1993 and \$500 million during 1994 and 1995. Of this amount, approximately \$250 million is raised by imposing an assessment on employees equal to 0.6 percent of the unemployment compensation wage base for each employee. The rest of the amount is raised by an assessment on employers equal (in 1993) to 52 percent of the unemployment compensation contribution rate currently paid by the employer computed to the nearest multiple of 1/10 percent. The health care assessment is reduced for certain employers with especially bad unemployment experience for the sake of compliance with applicable federal law. These health care assessments are offset during 1993 by a simultaneous reduction in employer and employee contributions to the unemployment compensation fund.\*

\* One exception to this total offset occurs for government employees whose employer makes direct unemployment benefit payments in lieu of contributions to the unemployment fund. These employees, who contribute under N.J.S.A. 43:21-7.3(h), will have their unemployment tax reduced by only 0.1 percent of the taxable wage base instead of 0.6 percent, resulting in a net increase of 0.5 percent in total employee contributions when the assessment for the health care fund is added to unemployment contributions.



In 1994 and 1995, the health care assessment imposed on employers is reduced from 52 percent of the employer's current unemployment compensation contribution rate to 36 percent. This 36 percent assessment is also offset by a simultaneous reduction in the rate of unemployment compensation contributions. As in 1993, the assessment on employees is also entirely offset, except for the 0.5 percent increase noted above in contributions by employees of governmental employers that make payments in lieu of contributions.

The bill sunsets the funding mechanism of employer and employee contributions to the health care fund after a three-year period (January 1, 1993 through December 31, 1995). During that time, if the amount raised for the health care fund by all of the indicated assessments exceeds \$600 million during 1993, or \$500 million in any subsequent year, the excess would be deposited in the unemployment compensation fund.

If, on or after January 1, 1994, the unemployment compensation fund reserve ratio decreases to a level of less than 4.0 percent when measured on March 31 of any calendar year, (that is, if the fund balance falls below approximately \$1.5 billion) it will "trigger", as of July 1 of that calendar year, the following events:

(1) the unemployment compensation contribution table for employers which was in effect before the bill was enacted would be restored;

(2) the employee and employer assessments imposed by the bill to finance the health care fund would no longer be in effect; and

(3) a new employer assessment equalling 0.62 percent of total wages would be imposed, providing approximately \$500 million to the health care fund.

#### COST AND REVENUE IMPACT

None of the departments and agencies that would be responsible for or most affected by this bill's provisions--including the Departments of Health, Human Services, Labor and Treasury--have responded in writing to a request for fiscal note information. Because the bill involves so many facets of health care financing in New Jersey, there are potential fiscal implications on many levels, some more direct than others. To quantify these implications with any degree of precision is extremely difficult at this time. The Office of Legislative Services (OLS) has attempted to pull together some of the more immediate cost elements, which are discussed below.

• BUDGET IMPACT: HEALTH BENEFITS PROGRAM -- OLS estimates that the elimination of the current 19.1 percent surcharge on hospital bills would reduce the cost of the State Health Benefits Program (SHBP) by approximately \$36 million in FY 1994, assuming no other factors that might offset this savings. Such factors include the differentials, or lower rates, the SHBP already receives from Blue Cross/Blue Shield and prompt payment discounts provided by other vendors, including hospitals.

- **BUDGET IMPACT: STATE MEDICAID COSTS** -- OLS also estimates that the elimination of the 19.1 percent surcharge on hospital bills will result in savings in the State share of the Medicaid program of approximately \$29 million for the remainder of FY 1993 and \$58 million in FY 1994. There will be a similar savings for the federal government, representing its 50 percent share of the Medicaid program.

- **BUDGET IMPACT: ADMINISTRATIVE COSTS** -- No information has been presented to indicate what the administrative costs of the Essential Health Services Commission might be under the provisions of this bill. OLS notes that for FY 1993, the Department of Health (DOH) requested \$4,588,000 in funds for Health Planning and Resource Development. This funded DOH's Direct State Services costs of administering the Health Care Trust Fund, the Hospital Rate Setting Commission, the State Health Plan and Diagnosis Related Group reimbursement systems. In FY 1993, this account had 115 budgeted positions.

The bill raises the current \$5 adjusted hospital admission fee, used by DOH for health planning activities, to \$10 and dedicates the additional \$5 to the commission's administrative expenses. Based upon an estimated 1.4 million hospital admissions, the higher fee would provide \$7.0 million to the health services commission, beginning January 1, 1994, and maintain the \$7.0 million now available to the DOH.

- **BUDGET IMPACT: MEDICAID DISPROPORTIONATE SHARE REVENUE** -- In FY 1992 the State received \$354 million from the federal government for Medicaid disproportionate share reimbursement at acute care hospitals. The FY 1993 budget anticipates \$330 million for this program. Should the federal government agree to pay one-half of both the charity care and the other uncompensated care subsidies drawn from the health care fund, then the maximum federal contribution under the provisions of this bill would be: \$300 million in calendar year 1993 representing one-half of \$600 million (\$500 million charity care and \$100 million other uncompensated care); \$258.5 million in calendar year 1994 representing one-half of \$517 million (\$450 million charity care and \$67 million other uncompensated care), and \$216.5 million in calendar year 1995 representing one-half of \$433 million (\$400 million charity care and \$33 million other uncompensated care). On a fiscal year basis, this works out to approximately \$315 million in FY 1993, \$279 million in FY 1994 and \$237 million in FY 1995. However, the State may be able to develop options (subject to federal approval) which could raise the amount of disproportionate share reimbursement received. At the present time, it does not appear that the amounts spent from the health care fund for the NJ SHIELD insurance program will qualify for federal reimbursement.

- **INDIRECT BUDGET IMPACT: BUSINESS TAXES** -- Employer contributions to the unemployment compensation fund are deductible as business expenses; presumably, the same will hold for the portion of unemployment contributions to be earmarked instead

for the health care fund. Thus, there should be no net impact on business taxes from this shift. However, if the unemployment fund "trigger" goes into effect in either 1994 or 1995, private employers will be paying full unemployment taxes (possibly at higher levels) as well as a 0.62 percent assessment on total payroll to the health care fund. Under such circumstances, net taxable income could be expected to decrease, carrying with it a potential reduction in tax revenues to the State. However, this added cost to the employer might be offset by the elimination of the hospital surcharge, resulting in relatively lower health insurance costs for business.

• **BUDGET IMPACT: HEALTH CARE SUBSIDY FUND ASSESSMENT** -- The financing of the Health Care Subsidy Fund will not have a direct fiscal impact on the State (or on most other governmental entities) as an employer. The State, as well as most local government, school districts and non-profit organization, makes benefit payments in lieu of unemployment contribution and will not be assessed for the health care fund, even if the unemployment fund "trigger" goes into effect.

• **UNEMPLOYMENT COMPENSATION FUND IMPACT** -- The total impact of this bill on the unemployment compensation fund depends on whether the "trigger" mechanism of an unemployment fund reserve ratio of less than 4.0 percent (that is, an approximate fund balance of less than \$1.5 billion) is attained on March 31, 1994 or March 31, 1995. This in turn depends on future economic conditions and other contingencies outlined below. OLS believes that there are no likely circumstances under which the trigger would be avoided altogether.

The provisions of the bill will result in a \$600 million direct reduction in the unemployment compensation fund during calendar year 1993. If the trigger is attained on March 31, 1994, there will be an additional \$250 million reduction during CY 1994, for a total reduction of \$850 million. If the trigger is attained on March 31, 1995, there will be a \$500 million reduction during CY 1994 and a \$250 million reduction during calendar year 1995, causing a total reduction of \$1.35 billion.

Scenario 1 -- OLS finds that the trigger would be attained on March 31, 1994 if unemployment levels in the State remain above 8 percent during 1993 and early 1994 and if legislation is enacted for the State to assume 50 percent of the cost of extended unemployment benefits after 100 percent federally-funded extended benefits are discontinued on March 6, 1993. Under those circumstances and a slow reduction of the unemployment rate through early 1996 (to approximately 7 percent), the fund balance would decline to approximately \$1.2 billion on March 31, 1995 and remain at approximately that level on March 31, 1996. This finding is based on the following estimated changes in the fund balance:

(billions)

Fund balance <sup>1</sup> 10/31/92:	\$2.70	
Changes to fund from 10/31/92 to 3/31/93:	-0.20	Net cost of regular benefits <sup>2</sup>
	<u>-0.04</u>	Job training-related costs <sup>3</sup>
Fund balance <sup>1</sup> 3/31/93:	\$2.46	
Changes to fund from 3/31/93 to 3/31/94:	-0.20	Net cost of regular benefits <sup>2</sup>
	-0.08	Job training-related costs <sup>3</sup>
	-0.60	Tax-cut to offset health assessment
	-0.40	Extended benefits State share <sup>4</sup>
	+0.10	Repayment of 1989 diversion
	<u>+0.15</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/94:	\$1.43	
Changes to fund from 3/31/94 to 3/31/95:	-0.20	Net cost of regular benefits <sup>2</sup>
	-0.07	Job training-related costs <sup>3</sup>
	-0.25	Tax-cut to offset health assessment
	<u>+0.30</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/95:	\$1.21	
Changes to fund from 3/31/95 to 3/31/96:	-0.20	Net cost of regular benefits <sup>2</sup>
	-0.06	Job training-related costs <sup>3</sup>
	<u>+0.30</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/96:	\$1.25	

Scenario 2 -- If, however, unemployment rates decline significantly during 1993, or the State chooses not to assume any costs of extended benefits, or both, the trigger will not be attained and, notwithstanding the reduced cost of unemployment benefits due to declining unemployment rates, the total fund balance as of March 31, 1996 may be lower than the amount indicated above for that date. The following estimated changes in the balance provide an example based on a steady decline in the State's unemployment rate, falling below 8 percent during early 1993 and declining below 6 percent during 1995:

1. "Fund balance" of the unemployment compensation fund includes \$320 million more than the "cash balance," which is the amount actually available for benefit payments. For example, based on the estimate above, the amount that would be available as of 3/31/96 for benefit payments is \$930 million.

2. "Net cost of regular benefits" is based on all factors affecting the fund balance not otherwise listed, including lost interest income due to declining fund balance.

3. "Job training-related costs" are expenditures for the Workforce Development Partnership Program (P.L.1992, c.43 and 44) and extended unemployment benefits for job trainees (P.L.1992, c.47).

4. "State share extended benefits" based on enactment of A-2052 of 1992 or comparable legislation.

5. "Increased employer taxes" based on changes in fund reserve ratio.

(billions)

Fund balance <sup>1</sup> 10/31/92:	\$2.70	
Changes to fund from 10/31/92 to 3/31/93:	-0.20	Net cost of regular benefits <sup>2</sup>
	<u>-0.04</u>	Job training-related costs <sup>3</sup>
Fund balance <sup>1</sup> 3/31/93:	\$2.46	
Changes to fund from 3/31/93 to 3/31/94:	-0.15	Net cost of regular benefits <sup>2</sup>
	-0.08	Job training-related costs <sup>3</sup>
	-0.60	Tax-cut to offset health assessment
	-0.25	Extended benefits State share <sup>4</sup>
	+0.10	Repayment of 1989 diversion
	<u>+0.15</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/94:	\$1.63	
Changes to fund from 3/31/94 to 3/31/95:	-0.15	Net cost of regular benefits <sup>2</sup>
	-0.07	Job training-related costs <sup>3</sup>
	-0.50	Tax-cut to offset health assessment
	<u>+0.15</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/95:	\$1.06	
Changes to fund from 3/31/95 to 3/31/96:	-0.10	Net cost of regular benefits <sup>2</sup>
	-0.06	Job training-related costs <sup>3</sup>
	-0.25	Tax-cut to offset health assessment
	<u>+0.45</u>	Increased employer taxes <sup>5</sup>
Fund balance <sup>1</sup> 3/31/96:	\$1.10	

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

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

1. "Fund balance" of the unemployment compensation fund includes \$320 million more than the "cash balance," which is the amount actually available for benefit payments. For example, based on the estimate above, the amount that would be available as of 3/31/96 for benefit payments is \$780 million.

2. "Net cost of regular benefits" is based on all factors affecting the fund balance not otherwise listed, including lost interest income due to declining fund balance. By calendar year 1995, most of the net cost is due to lost interest earnings.

3. "Job training-related costs" are expenditures for the Workforce Development Partnership Program (P.L.1992, c.43 and 44) and extended unemployment benefits for job trainees (P.L.1992, c.47).

4. "State share extended benefits" based on enactment of A-2052 of 1992 or comparable legislation.

5. "Increased employer taxes" based on changes in fund reserve ratio.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
**Contact:** Jon Shure  
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**TRENTON, N.J. 08625**

**Release:**  
Tuesday  
Dec. 1, 1992

## GOVERNOR FLORIO SIGNS SWEEPING HEALTH INSURANCE REFORMS

New Jersey today ushered in a new era of health care when Governor Jim Florio signed sweeping reforms that will help make insurance coverage and medical treatment available and affordable for virtually everyone.

"Health insurance is not a privilege, it is a fundamental right," Gov. Florio said. "These are the kinds of changes President-elect Bill Clinton is proposing on a national scale, and I am pleased New Jersey has moved ahead."

"This is a national problem, and it requires a national solution. But New Jersey isn't waiting," Gov. Florio said.

"There are nearly 1 million New Jersey residents who do not have health insurance coverage because they cannot afford it or because insurance companies won't enroll them," Gov. Florio said. "That is intolerable. These reforms will help make sure no one in our state has to lie awake at night wondering how to pay the bills if someone in the family gets sick."

"For many of our hardworking people, the health insurance bill costs more than the mortgage, forcing more and more families to drop their coverage and take their chances. And when someone in that family gets sick, they go to a hospital emergency room, the single most expensive setting to get medical treatment," Gov. Florio said.

"The changes we are making here in New Jersey will make sure more people are covered, and will shift the care they receive away from emergency rooms and toward preventive care where it belongs," Gov. Florio said.

"The reforms put an end to a system where people were routinely turned down for coverage and wound up in emergency rooms, waiting five hours to see a doctor for five minutes," Gov. Florio said. "At a time when modern medicine has given us cures for once-fatal

illnesses, too many people have seen the fear of illness replaced by the fear of financial ruin from paying the bills. Too often, you seek treatment to get well, and the bill makes you sick."

The reforms will require health insurers to provide mandatory open enrollment and community rating requiring insurers to cover all individuals seeking coverage, as well as small groups of fewer than 50 people. They also will require companies to streamline and cut wasteful administrative costs by offering five standardized policies.

Finally, companies will be required to spend at least 75 cents of every premium dollar collected on actual medical benefits, and no more than the remaining 25 cents on administrative costs, overhead and profits.

Under the current system, insurers have been free to pick and choose among applicants, and only Blue Cross has had to cover all those who seek coverage. As a result, commercial insurers only carry good risks, few companies write individual policies, Blue Cross' risk pool continues to worsen, and more and more families are forced to drop their coverage.

Community rating will require insurance companies to set one rate for everyone regardless of age, occupation or other factors, spreading the risk across a broad base of policyholders. This replaces the system where companies use age, health status, occupation, sex and geographic location in setting rates. Older people have had to pay five or more times what young people pay, people in certain occupations can pay up to twice what those in other occupations pay, and people in some geographic areas can pay up to twice what people in other areas pay.

"Right now, health insurance companies spend up to 40 cents of every dollar in small group business on administrative costs and deciding who not to insure. It has become a business of risk avoidance, rather than risk spreading," Gov. Florio said. "We're taking insurance back to what it was supposed to be. For too long insurance companies have concentrated on figuring out who not to insure. That's not fair, and it's not going to continue."

The third reform measure creates New Jersey SHIELD, which will provide coverage for those unable to afford health insurance. New Jersey SHIELD will be targeted toward the working uninsured, people who are temporarily unemployed, and part-time or seasonal workers. It will use a sliding income scale with modest co-payments so that people can receive coordinated care from practitioners in their local communities, and will direct health care dollars now spent on emergency room treatment for these families to preventive and primary care instead.

The managed care program under New Jersey SHIELD is similar to Hawaii's successful health insurance system which insures 98 percent of its residents with either employer-based insurance or its state health insurance plan.

New Jersey SHIELD, which would take effect Jan. 1, 1994, is not a replacement for Medicare, Medicaid or existing private insurance companies, but will be there for people who are not eligible, or cannot afford, existing coverage programs. New Jersey SHIELD also is not a state-run insurance system, but instead would contract with the best existing providers.

Under New Jersey SHIELD, families would receive a standard benefits package that includes:

- Preventive Care
- Primary Care
- Emergency Room Visits
- Prescription drugs
- Hospitalization

The health insurance reforms were enacted at the same time that New Jersey replaced its system for funding hospital care for those who can't afford to pay for it. The prior funding system, which relied on a 19 percent tax on all hospital bills, had been ruled illegal for self-insured health plans by a federal judge. The primary users of the uncompensated care trust fund are uninsured working families, those not old enough for Medicare who do not have coverage from their employer and earn too much to qualify for Medicaid.

Under the new funding system, that tax on hospital bills will be replaced by funding from the state unemployment insurance fund. A trigger that would raise the unemployment tax on employers will take effect if the fund, now at \$2.4 billion, drops below \$1.5 billion after July, 1994.