

CHAPTER 152

AN ACT concerning basic skills training, reemployment services and training programs and revising various parts of the statutory law.

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

C.34:15D-21 "Supplemental Workforce Fund for Basic Skills."

1. a. A restricted, nonlapsing, revolving "Supplemental Workforce Fund for Basic Skills," to be managed and invested by the State Treasurer, is hereby established in the Department of Labor to provide basic skills training. All moneys appropriated to the fund, all interest accumulated on balances in the fund and all cash received for the fund from any other source shall be allocated by the Commissioner of Labor as follows:

(1) 24% shall be deposited in an account reserved to support basic skills training delivered by the State's One-Stop Career Centers to qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7);

(2) 28% shall be deposited in an account reserved for Workforce Investment Boards to provide grants for basic skills training for qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) and for other individuals with learning disabilities or otherwise in need of vocational rehabilitation services;

(3) 38% shall be deposited in an account reserved for grants to consortia including one or more of any of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to qualified displaced, disadvantaged or employed workers or to other individuals seeking to enter apprenticeship training; and

(4) 10% shall be deposited in an account to be used, at the discretion of the commissioner, for any of the purposes indicated in this subsection a. and any administrative costs incurred by the Department of Labor in connection with the fund.

b. Any grant provided in connection with paragraph (3) of subsection a. of this section directly to an employer or to an employer through a consortium shall be regarded as a customized training grant and shall be administered by the Office of Customized Training and the employer and consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that any grants provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities or preparation for entry into apprenticeship training shall be exempt from the requirement of this subsection b. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), if it is approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3), and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Any grant provided in connection with paragraph (b) of subsection a. of this section directly to an individual shall be regarded as an individual training grant and shall be subject to the requirements of subsections a., c. and d. of section 6 of P.L.1992, c.43 (C.34:15D-6).

c. Any employment and training services funded by the Supplemental Workforce Fund for Basic Skills shall be provided in a manner which complies with the provisions of subsections b., c., f., g., h. and i. of section 4 of P.L.1992, c.43 (C.34:15D-4), to the extent that those subsections pertain to remedial education. Any service provider receiving moneys from the Supplemental Workforce Fund for Basic Skills shall be subject to the provisions of section 8 of P.L.1992, c.43 (C.34:15D-8) and section 8 of P.L.1992, c.44 (C.34:15D-19).

d. All staff located at any One Stop Career Center supported by funds provided from the Supplemental Workforce Fund for Basic Skills shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes.

e. Beginning July 1, 2002, and for any subsequent fiscal year, if the unexpended cash balance in any of the accounts indicated in subsection a. of this section, less any amount awarded in grants but not yet disbursed from the account, is determined to exceed 20% of the amount of contributions collected for deposit in the account pursuant to this subsection during the fiscal year then ended, the excess shall be regarded as an unemployment compensation contribution and deposited into the unemployment compensation fund within seven business days of the date

that the determination is made.

f. The Commissioner of Labor shall establish standards of performance for providers of basic skills training pursuant to this act. The standards shall include, but not be limited to, standards for the curriculum or training to be furnished, qualifications for persons who will provide the training under the act, and standards for establishing what constitutes successful completion of the training program. The commissioner shall establish means of determining the ability of enrollees to gain or maintain employment following the successful completion of a training program established pursuant to this section. In the event that the commissioner determines that a provider has not conducted its training program in accordance with the standards of performance, he may take that action necessary to correct the deficiencies of the provider, or terminate the contract with the provider of basic skills services if the provider fails to respond to remedial action.

g. The State Employment and Training Commission shall review and evaluate the operations of programs supported by the Supplemental Workforce Fund for Basic Skills established pursuant to this section, with special consideration to how those programs assist in the implementation of the goals of the Strategic Five-Year State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor regarding its findings.

h. For the purpose of this section:

"Basic skills training" means basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills and shall be regarded as a form of "remedial education" for the purposes of section 3 of P.L.1992, c.43 (C.34:15D-3);

"One Stop Career Center" means one of the centers established in local areas to coordinate a variety of State and local programs providing employment and training services, including job placement services, or any other similar State or local government-sponsored center providing employment and training services as may be developed at any later time; and

"Qualified disadvantaged worker," "qualified displaced worker," "qualified employed worker," and "employment and training services" have the meanings given to them by section 3 of P.L.1992, c.43 (C.34:15D-3).

C.34:15D-22 Contributions to fund.

2. Beginning on January 1, 2002, each worker shall contribute to the Supplemental Workforce Fund for Basic Skills an amount equal to 0.0175% of the worker's wages as determined in accordance with paragraph (3) of subsection (b) of R.S.43:21-7 regarding the worker's employment with an employer.

Beginning on July 1, 2001, each employer shall contribute to the Supplemental Workforce Fund for Basic Skills an amount equal to the amount that the employer's contribution is decreased pursuant to subparagraph (J) of paragraph (5) of subsection (c) of R.S.43:21-7.

C.34:15D-23 Refund of excess employee contributions.

3. If an employee receives wages from more than one employer during any calendar year, and the sum of the employee's contributions deposited in the Supplemental Workforce Fund for Basic Skills exceeds an amount equal to 0.0175% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during the calendar year beginning January 1, 2002 or any subsequent calendar year, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

Any employee who is a taxpayer and entitled, pursuant to the provisions of this section, to a refund of contributions deducted during a tax year from his wages shall, in lieu of the refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in the manner provided by regulation by the Director of the Division of Taxation. In any case in which the amount, or any portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax

liability, the amount of the new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.

4. Section 1 of P.L.1992, c.48 (C.34:15B-35) is amended to read as follows:

C.34:15B-35 Definitions relative to job training.

1. As used in this act:

"Approved service provider" means a service provider approved pursuant to section 6 of this act.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor, and a representative of the New Jersey State AFL-CIO.

"Commissioner" means the Commissioner of Labor.

"Department" means the Department of Labor.

"Employment and training services" means:

- a. Counseling provided pursuant to section 4 of this act;
- b. Vocational training; or
- c. Remedial education.

"Federal job training funds" means any moneys expended to obtain employment and training services, pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.). except that, to the extent that the application of any specific provision of this act would cause the amount of federal job training funds provided to the State to be reduced, that provision shall not apply.

"Labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 7 of this act.

"Office of Customized Training" means the Office of Customized Training established pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5).

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Remedial education" means any literacy or other basic skills training or education which may not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

5. Section 2 of P.L.1992, c.48 (C.34:15B-36) is amended to read as follows:

C.34:15B-36 Funding of vocational training.

2. a. All vocational training funded with federal job training funds shall be training which is likely to substantially enhance the trainee's marketable skills and earning power and is for a labor demand occupation.

b. Federal job training funds shall not be used for job training or any related activities which induce, encourage or assist: any displacement or partial displacement of currently employed workers by trainees by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace, except in cases of multi-establishment employers consolidating establishments. No federal job training funds shall be used for job training in any case in which an employer relocates within the State and does not offer each affected employee the equivalent benefits, pay and working conditions if the employee moves to the new location and into a job or position involving comparable skills, responsibilities, experience and seniority to the prior job or position.

c. Federal job training funds shall not be used for job training or any related activities which impair existing contracts for services or collective bargaining agreements, except that job training or any related activities which are inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

d. Any federal job training funds which are provided directly to an employer or indirectly to an employer through a consortium shall be regarded as customized training grants and be administered by the Office of Customized Training and the employer and any consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that federal job training funds provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities shall be exempt from the requirement of this subsection d. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5) if it is approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3) and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Employment and training services funded by federal job training funds shall not replace, supplant, compete with or duplicate any approved apprenticeship program.

6. Section 3 of P.L.1992, c.48 (C.34:15B-37) is amended to read as follows:

C.34:15B-37 Funding of on the job training.

3. a. On the job training shall not be paid for with federal job training funds for any employment found by the commissioner to be of a level of skill and complexity too low to merit training.

b. The duration of on the job training for any individual shall not exceed the duration indicated by the Specific Vocational Preparation code developed by the United States Department of Labor for the occupation for which the training is provided and shall in no case exceed 26 weeks. The department shall set the duration of on the job training for an individual for less than the indicated maximum, when training for the maximum duration is not warranted because of the level of the individual's previous training, education or work experience.

c. On the job training shall not be paid for with federal job training funds unless it is accompanied, concurrently or otherwise, by whatever amount of classroom-based vocational training, remedial education or both, is deemed appropriate for the worker by the commissioner.

d. Each employer receiving federal job training funds for on the job training shall retain in permanent employment each trainee who successfully completes the training. The commissioner may, for a time period he deems appropriate, provide for the withholding of whatever portion he deems appropriate of the funding as a final payment for training, contingent upon the retention of a program completer as required pursuant to this section.

e. On the job training shall not be paid for with federal job training funds unless the trainee is provided benefits, pay and working conditions at a level and extent not less than the benefits and working conditions of other trainees or employees of the trainee's employer with comparable skills, responsibilities, experience and seniority.

7. Section 5 of P.L.1992, c.48 (C.34:15B-39) is amended to read as follows:

C.34:15B-39 Eligibility for employment, training services.

5. An otherwise qualified individual shall not be denied employment and training services included in the Employability Development Plan developed for the individual pursuant to section 4 of this act for any of the following reasons: the employment and training services include remedial education needed by the individual to advance in the individual's current employment or occupation or to succeed in the vocational component of the training; the qualified displaced worker or other individual has identifiable vocational skills but the training services are needed to enable the individual to develop skills necessary to attain at least the level of self-sufficiency; the training is part of a program under which the individual may obtain a college degree enhancing the individual's marketable skills and earning power; the individual has previously received a training grant; the length of the training period under the program; or the lack of a prior guarantee of employment upon completion of the training, except for on the job training. This section shall not be construed as requiring that federal job training funds be used to pay for employment and training services for which other assistance, such as State or federal student financial aid, is provided.

8. Section 3 of P.L.1992, c.43 (C.34:15D-3) is amended to read as follows:

C.34:15D-3 Definitions relative to workforce development.

3. As used in this act:

"Administrative costs" means any costs incurred by the department to administer the program, including any cost required to collect information and conduct evaluations of service providers pursuant to section 8 of this act and conduct surveys of occupations pursuant to section 12 of this act, to the extent that funding is not available from federal or other sources.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor and a representative of the New Jersey State AFL-CIO.

"Approved service provider" means a service provider approved pursuant to section 8 of this act.

"Commission" means the State Employment and Training Commission.

"Commissioner" means the Commissioner of Labor or the commissioner's designees.

"Customized training services" means employment and training services which are provided by the Office of Customized Training pursuant to section 5 of this act.

"Department" means the State Department of Labor.

"Employer" or "business" means any employer subject to the provisions of R.S.43:21-1 et seq.

"Employment and training services" means:

- a. Counseling provided pursuant to section 7 of this act;
- b. Vocational training;
- c. Remedial education; or
- d. Occupational safety and health training.

"Fund" means the Workforce Development Partnership Fund established pursuant to section 9 of this act.

"Labor Demand Occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 12 of this act.

"Occupational safety and health training" means training or education which is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation.

"Office" means the Office of Customized Training established pursuant to section 5 of this

act.

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Program" means the Workforce Development Partnership Program created pursuant to this act.

"Qualified disadvantaged worker" means a worker who is not a qualified displaced worker or a qualified employed worker but who otherwise meets the following criteria:

- a. Is unemployed;
- b. Is working part-time and actively seeking full-time work or is working full-time but is earning wages substantially below the median salary for others in the labor force with similar qualifications and experience; or
- c. Is certified by the Department of Human Services as:
 - (1) Currently receiving public assistance;
 - (2) Having been recently removed from the public assistance rolls because of gross income exceeding the grant standard for assistance; or
 - (3) Being eligible for public assistance but not receiving the assistance because of a failure to apply for it.

"Qualified displaced worker" means a worker who:

- a. Is unemployed, and:
 - (1) Is currently receiving unemployment benefits pursuant to R.S.43:21-1 et seq. or any federal or State unemployment benefit extension; or
 - (2) Has exhausted eligibility for the benefits or extended benefits during the preceding 52 weeks; or
- b. Meets the criteria set by the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.), to be regarded as a "dislocated worker" pursuant to that act.

"Qualified employed worker" means a worker who is employed by an employer participating in a customized training program, or other employed worker who is in need of remedial education.

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Remedial education" means any literacy or other basic skills training or education which may not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in mathematics, reading comprehension, computer literacy, English proficiency and work-readiness skills.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Supplemental Workforce Fund for Basic Skills" means the fund established pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Total revenues dedicated to the program during any one fiscal year" means all moneys received for the fund during any fiscal year, including moneys withdrawn from the State disability benefits fund pursuant to section 3 of P.L.1992, c.44 (C.34:15D-14), minus any repayment made during that fiscal year from the fund to the State disability benefits fund pursuant to that section.

"Training grant" means a grant provided to fund vocational training and any needed remedial education for a qualified displaced or disadvantaged worker pursuant to section 6 of this act, or to fund needed remedial education for a qualified employed worker pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

9. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to read as follows:

C.34:15D-4 Workforce Development Partnership Program established.

4. a. The Workforce Development Partnership Program is hereby established in the Department of Labor and shall be administered by the Commissioner of Labor. The purpose of the program is to provide qualified displaced, disadvantaged and employed workers with the employment and training services most likely to provide the greatest opportunity for long-range career advancement with high levels of productivity and earning power. To implement that purpose, the program shall provide those services by means of training grants or customized training services, to the extent that funding for the services is not available from federal or other sources. The commissioner is authorized to expend moneys from the Workforce Development Partnership Fund to provide the training grants or customized training services and provide for each of the following:

(1) The cost of counseling required pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding for counseling is not available from federal or other sources;

(2) Reasonable administrative costs, which shall not exceed 10% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, except for additional start-up administrative costs approved by the Director of the Office of Management and Budget during the first year of the program's operation;

(3) Reasonable costs, which shall not exceed 0.5% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, as required by the State Employment and Training Commission to design criteria and conduct an annual evaluation of the program; and

(4) The cost of reimbursement to individuals for excess contributions pursuant to section 6 of P.L.1992, c.44 (C.34:15D-17).

b. Not more than 10% of the moneys received by any service provider pursuant to this act shall be expended on anything other than direct costs to the provider of providing the employment and training services, which direct costs shall not include any administrative or overhead expense of the provider.

c. Training and employment services shall be provided to a worker who receives counseling pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) only if the counselor who evaluates the worker pursuant to that section determines that the worker can reasonably be expected to successfully complete the training and education identified in the Employability Development Plan developed pursuant to that section for the worker.

d. All vocational training provided under this act:

(1) Shall be training which is likely to substantially enhance the individual's marketable skills and earning power; and

(2) Shall be training for a labor demand occupation, except for:

(a) Customized training provided to the present employees of a business which the commissioner deems to be in need of the training to prevent job loss caused by obsolete skills, technological change or national or global competition; or

(b) Customized training provided to employees at a facility which is being relocated from another state into New Jersey; or

(c) Entrepreneurial training and technical assistance supported by training grants provided pursuant to subsection b. of section 6 of P.L.1992, c.43 (C.34:15D-6).

e. During any fiscal year ending before July 1, 2001, not less than 25% of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified displaced workers; not less than six percent of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified disadvantaged workers; not less than 45% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Office of Customized Training; not less than 3% of the total revenues dedicated to the program during any one fiscal year shall be reserved for occupational safety and health training; and 5% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Youth Transitions to Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.).

f. Funds available under the program shall not be used for activities which induce, encourage or assist: any displacement of currently employed workers by trainees, including partial displacement by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace located in the State.

g. On-the-job training shall not be funded by the program for any employment found by the commissioner to be of a level of skill and complexity too low to merit training. The duration of on-the-job training funded by the program for any worker shall not exceed the duration indicated by the Specific Vocational Preparation Code developed by the United States Department of Labor for the occupation for which the training is provided and shall in no case exceed 26 weeks. The department shall set the duration of on-the-job training for a worker for less than the indicated maximum, when training for the maximum duration is not warranted because of the level of the individual's previous training, education or work experience. On-the-job training shall not be funded by the program unless it is accompanied, concurrently or otherwise, by whatever amount of classroom-based vocational training, remedial education or both, is deemed appropriate for the worker by the commissioner. On-the-job training shall not be funded by the program unless the trainee is provided benefits, pay and working conditions at a level and extent not less than the benefits and working conditions of other trainees or employees of the trainee's employer with comparable skills, responsibilities, experience and seniority.

h. Employment and training services funded by the program shall not replace, supplant, compete with or duplicate in any way approved apprenticeship programs.

i. No activities funded by the program shall impair existing contracts for services or collective bargaining agreements, except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

10. Section 6 of P.L.1992, c.43 (C.34:15D-6) is amended to read as follows:

C.34:15D-6 Training grants.

6. a. The Workforce Development Partnership Program shall, to the extent that resources available in the fund permit, provide, for each qualified displaced or disadvantaged worker who undergoes counseling pursuant to section 7 of this act, a training grant to pay for employment and training services which are identified in the Employability Development Plan developed pursuant to that section for that worker. No training grant made pursuant to this subsection during the first 12 months following July 1, 1992 shall exceed the amount deemed reasonable by the commissioner for the particular training, which amount shall not exceed \$4,000, except that the commissioner may permit an additional amount, if he deems it necessary to provide remedial education identified in the Employability Development Plan.

b. The Workforce Development Partnership Program may provide, for any individual who is selected to receive a self-employment assistance allowance pursuant to section 4 of P.L.1995, c.394 (C.43:21-70), a training grant to pay for entrepreneurial training and technical assistance deemed necessary and appropriate by the commissioner to help the individual to become self-employed. A training grant made pursuant to this subsection shall be in an amount deemed reasonable by the commissioner for the particular training, but, during the first 12 months following January 1, 1996, shall not be in an amount which exceeds \$400, or, if the grant is for training provided by any public institution of higher education indicated in N.J.S.18A:62-1, shall not be in an amount which exceeds \$1,500.

c. The maximum amounts permitted for training grants made pursuant to subsection a. or b. of this section may be adjusted annually thereafter by the commissioner, taking into consideration changes in the prevailing costs of services and the availability of alternative sources of funding for the services. Any cost for employment and training services which exceeds the amount of a training grant shall be the responsibility of the worker receiving the grant. The cost of counseling provided pursuant to section 7 of this act shall not be charged against the training grant. No portion of a training grant may be expended on wage subsidies.

d. If the requirements of this section and sections 4 and 7 of this act are met, a qualified

displaced, disadvantaged or employed worker shall not be denied a training grant for any of the following reasons: the training includes remedial education needed by the worker to advance in his current employment or occupation or to succeed in the vocational component of the training; the qualified displaced worker or other individual has identifiable vocational skills but the training services are needed to enable the individual to develop skills necessary to attain at least the level of self-sufficiency; the training is part of a program under which the worker may obtain any college degree enhancing the worker's marketable skills and earning power; the worker has previously received a training grant; the length of the training period under the program; or the lack of a prior guarantee of employment upon completion of the training.

11. Section 7 of P.L.1992, c.43 (C.34:15D-7) is amended to read as follows:

C.34:15D-7 Counseling.

7. Counseling shall be made available by the department to each qualified displaced or disadvantaged worker applying to participate in the program. Counseling may also be made available to a qualified employed worker who seeks remedial education or is selected to participate in a customized training program, if the worker's employer requests the counseling. The department may itself provide the counseling or obtain the counseling from a service provider, if the service provider is different from and not affiliated with any service provider offering any employment and training services to the worker other than the counseling, except that the department may obtain testing and assessment services provided pursuant to subsection a. of this section from a provider which also offers employment and training services to the worker other than the counseling. The purpose of any counseling made available pursuant to this section is to assist each worker in obtaining the employment and training services most likely to provide the worker with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. Whether provided by the department or a service provider, the counseling shall include:

a. Testing and assessment of the worker's job skills and aptitudes, including the worker's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the worker unless information is provided regarding the worker's educational background and occupational or professional experience which clearly demonstrates that the worker's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the worker is already participating in a remedial education program which meets those standards;

b. An evaluation by a qualified job counselor of what remedial education, if any, is determined to be necessary for the worker to advance in his current employment or occupation or to succeed in any particular vocational training which the worker would undertake under the program, provided that the remedial education shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision of information to the worker regarding any of the labor demand occupations for which training meets the requirements of section 4 of this act in the worker's case, including information about the wage levels in those occupations, the effectiveness of approved service providers of vocational training in occupations which the worker is considering and the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings;

d. The provision of information to the worker regarding the services and benefits available to the worker under the provisions of this act and P.L.1992, c.47 (C.43:21-57 et al.); and

e. Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan identifying the training and employment services, including any needed remedial education, to be provided to the worker pursuant to this act.

Counseling made available at the request of an employer participating in a customized training program may include only those components requested by the employer.

All information regarding a worker applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the

worker shall be confidential and shall be released to an entity other than the worker, the counselor or the department only if the worker provides written permission to the department for the release of the information or the information is used solely for program evaluation.

12. Section 9 of P.L.1992, c.43 (C.34:15D-9) is amended to read as follows:

C.34:15D-9 Workforce Development Partnership Fund.

9. a. A restricted, nonlapsing, revolving Workforce Development Partnership Fund, to be managed and invested by the State Treasurer, is hereby established to: provide employment and training services to qualified displaced, disadvantaged and employed workers by means of training grants or customized training services; provide for the other costs indicated in subsection a. of section 4 of this act; and facilitate the provision of education and training to youth by means of grants provided by the Youth Transitions to Work Partnership pursuant to the provisions of P.L.1993, c.268 (C.34:15E-1 et al.). All appropriations to the fund, all interest accumulated on balances in the fund and all cash received for the fund from any other source shall be used solely for the purposes specifically delineated by this act.

b. During any fiscal year beginning after June 30, 2001, of the total revenues dedicated to the program during any one fiscal year: 25% shall be deposited in an account of the Workforce Development Partnership Fund reserved to provide employment and training services for qualified displaced workers; 6% shall be deposited in an account of the Workforce Development Partnership Fund reserved to provide employment and training services for qualified disadvantaged workers; 45% shall be deposited in an account of the Workforce Development Partnership Fund reserved for and appropriated to the Office of Customized Training; 3% shall be deposited in an account of the Workforce Development Partnership Fund reserved for occupational safety and health training; 5% shall be deposited in an account of the Workforce Development Partnership Fund reserved for the Youth Transitions to Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.); 10% shall be deposited in an account of the Workforce Development Partnership Fund reserved for administrative costs as defined in section 3 of P.L.1992, c.43 (C.34:15D-3); 0.5% shall be deposited in an account of the Workforce Development Partnership Fund reserved for the State Employment and Training Commission to design criteria and conduct an annual evaluation of the program; and 5.5% shall be deposited in an account of the Workforce Development Partnership Fund to be used, at the discretion of the commissioner, for any of the purposes indicated in subsection a. of section 4 of P.L.1992, c.43 (C.34:15D-4).

c. Beginning January 1, 1995, through June 30, 2002, the balance in the fund as of the previous December 31, as determined in accordance with generally accepted accounting principles, shall not exceed 1.5 times the amount of contributions deposited for the calendar year then ended. If the balance exceeds this amount, the excess shall be deposited into the unemployment compensation fund within seven business days of the date that the determination is made.

d. Beginning July 1, 2002, and for any subsequent fiscal year, if the unexpended cash balance in any of the accounts indicated in subsection b. of this section, less any amount awarded in grants but not yet disbursed from the account, is determined to exceed 20% of the amount of contributions collected for deposit in the account pursuant to this subsection during the fiscal year then ended, the excess shall be regarded as an unemployment compensation contribution and deposited into the unemployment compensation fund within seven business days of the date that the determination is made.

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

Contributions.

43:21-7. Contributions.

Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346

(C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

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

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

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

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

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

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

(c) Future rates based on benefit experience.

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

calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

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

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

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

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

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

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

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

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

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

- (1) 4%, if such excess is less than 10% of his average annual payroll;
- (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;
- (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his average annual payroll.

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

(i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

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

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

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

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

be reduced to less than 4/10 of 1%.

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

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

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

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

(iii) With respect to experience rating years beginning on or after July 1, 1998, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE
Fund Reserve Ratio¹

Employer Reserve Ratio ²	4.50% and Over A	3.50% to 4.49% B	3.00% to 3.49% C	2.50% to 2.99% D	2.49% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0

New Employer Rate	2.8	2.8	2.8	3.1	3.4
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¹Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

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

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

(ii) With respect to experience rating years beginning on or after July 1, 1997, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.00%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

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

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1997 until December 31, 1997, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 10.0% computed to the nearest multiple of 1/10%, except that, if an

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

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

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

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

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

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

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

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

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

(6) Additional contributions.

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

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

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

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

employer subject to this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under

the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

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

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

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

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

Each worker shall, starting on January 1, 2002 until December 31, 2002, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in

subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after January 1, 2003, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

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

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

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

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

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

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

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

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

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

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

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with

respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

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

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

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

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

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

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

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

1951.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Section 3 of P.L.1992, c.47 (C.43:21-59) is amended to read as follows:

C.43:21-59 Counseling, Employability Development Plan.

3. Counseling shall be made available by the Department of Labor to each individual who meets the requirements indicated in subsections a. and b. of section 4 of this act. The department may provide the counseling or obtain the counseling from a service provider, if the service provider is different from and not affiliated with any service provider offering any employment and training services to the worker other than the counseling. The purpose of the counseling is to assist the individual in obtaining the employment and training services most likely to provide the worker with the greatest opportunity for long-range career advancement

with high levels of productivity and earning power. The counseling shall include:

a. Testing and assessment of the individual's job skills and aptitudes, including the individual's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the individual unless information is provided regarding the individual's educational background and occupational or professional experience which clearly demonstrates that the individual's basic skill level meets the standards indicated in section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the individual is already participating in a remedial education program which meets those standards;

b. An evaluation by a qualified job counselor of:

(1) Whether the individual is eligible for the additional benefits indicated in section 5 of this act; and

(2) What remedial education, if any, is determined to be necessary for the individual to advance in his current occupation or succeed in any particular vocational training which the individual would undertake in connection with additional benefits indicated in section 4 of this act, provided that the remedial education shall be at a level not lower than that needed to meet the standards indicated in section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision of information to the individual regarding any of the labor demand occupations for which training meets the requirements of subsection e. of section 4 of this act in the claimant's case, including information about the wage levels in those occupations, the effectiveness of any particular provider of training for any of those occupations which the claimant is considering using, and the long-term success of former trainees of the provider in obtaining permanent employment and increasing earnings;

d. The provision of information to the individual regarding the services and benefits available to the individual under the provisions of this act and employment and training programs provided or funded pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) and the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.) and regarding the tuition waivers available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and P.L.1983, c.470 (C.18A:64A-23.1 et seq.); and

e. Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan, consistent with the requirements of subsections e., f. and g. of section 4 of this act, for the individual describing any remedial education and the vocational training that the individual will undertake in connection with benefits provided pursuant to the provisions of this act.

All information regarding an individual applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the individual shall be confidential and shall be released to an entity other than the individual, the counselor or the department only if: the individual provides written permission to the department for the release of the information; or the information is used solely for program evaluation.

15. Section 4 of P.L.1992, c.47 (C.43:21-60) is amended to read as follows:

C.43:21-60 Requirements for provision of additional benefits.

4. Except as provided in section 8 of this act, the additional benefits indicated in section 5 of this act shall be provided to any individual who:

a. Has received a notice of a permanent termination of employment by the individual's employer or has been laid off and is unlikely to return to his previous employment because work opportunities in the individual's job classification are impaired by a substantial reduction of employment at the worksite;

b. Is, at the time of the layoff or termination, eligible, pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., for unemployment benefits;

c. Enters into the counseling made available pursuant to section 3 of this act as soon as possible following notification by the Department of Labor of its availability;

d. (1) Notifies the department of the individual's intention to enter into the education and training identified in the Employability Development Plan developed pursuant to section 3 of this act, not later than 60 days after the date of the individual's termination or layoff, not later than

30 days after the department provides notice to the individual pursuant to section 6 of this act or not later than 30 days after the Employability Development Plan is developed, whichever occurs last;

(2) Enters into the education and training identified in the Employability Development Plan as soon as possible after giving the notice required by paragraph (1) of this subsection d.;

and (3) Maintains satisfactory progress in the education and training;

e. Enrolls in vocational training which:

(1) Is training for a labor demand occupation;

(2) Is likely to facilitate a substantial enhancement of the individual's marketable skills and earning power;

(3) Is provided by a service provider approved by the Commissioner of Labor, which approval shall be made, if the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.) is enacted, pursuant to the provisions of section 8 of that act; and

(4) Does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives additional benefits pursuant to the provisions of section 5 of this act;

f. Enrolls in vocational training, remedial education or a combination of both on a full-time basis; and

g. Reasonably can be expected to successfully complete the vocational training and any needed remedial education, either during or after the period of additional benefits.

If the requirements of this section are met, the division shall not deny an individual unemployment benefits pursuant to the "unemployment compensation law," R.S.43:21-1 et seq., P.L.1970, c.324 (C.43:21-24.11 et seq.) or the additional benefits indicated in section 5 of this act for any of the following reasons: the training includes remedial education needed by the individual to succeed in the vocational component of the training; the individual has identifiable vocational skills but the training services are needed to enable the individual to develop skills necessary to attain at least the level of self-sufficiency; the training is part of a program under which the individual may obtain any college degree enhancing the individual's marketable skills and earning power; the individual has previously received a training grant; the length of the training period under the program; or the lack of a prior guarantee of employment upon completion of the training. If the requirements of this section are met, the division shall regard a training program as approved for the purposes of paragraph (4) of subsection (c) of R.S.43:21-4.

16. This act shall take effect immediately.

Approved July 13, 2001.