

PUBLIC HEARING

before

SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE
RELATIONS AND VETERANS AFFAIRS COMMITTEE

on

SENATE BILL 2019

(CIVIL SERVICE REFORM ACT)

Held:

January 28, 1983

Room 114, State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Wynona M. Lipman, Chairwoman
Senator Herman T. Costello, Vice Chairman
Senator Gerald Cardinale

ALSO PRESENT:

Joseph P. Capalbo, Research Associate
Office of Legislative Services
Aide, Senate State Government, Federal
and Interstate Relations and Veterans
Affairs Committee

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New Jersey State Library



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SENATE, No. 2019
STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Senators CARDINALE and PAOLELLA

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT to regulate the employment, tenure and discharge of certain State employees and certain employees of political subdivisions; to establish a Department of Personnel as a principal department in the Executive Branch of State Government; to add a Title 11A to the New Jersey Statutes; to repeal Title 11 of the Revised Statutes and other acts; and making an appropriation.

- 1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:
1 Section 1.

Title 11A

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CHAPTER 1.

SHORT TITLE, LEGISLATIVE FINDINGS, MERIT PRINCIPLES
AND DEFINITIONS

1 11A:1-1. Short title. This act shall be known and may be cited
2 as the "Civil Service Act."

1 11A:1-2. Declaration of Policy. The Legislature finds and de-
2 clares that:

3 a. The New Jersey Constitution provides that appointments and
4 promotions in the civil service of the State, and of such political
5 subdivisions as may be provided by law, shall be made according
6 to merit and fitness to be ascertained, as far as practicable, by
7 examination, which as far as practicable, shall be competitive;

8 b. It is the public policy of this State to provide public officials
9 with appropriate appointment, supervisory and other personnel
10 authority to execute properly their constitutional and statutory
11 responsibilities;

12 c. It is the public policy of this State to encourage and reward
13 meritorious performance by employees in the public service and to
14 provide a modern personnel management system based on merit
15 principles for the State and the political subdivisions covered by
16 this Title; and

17 d. It is the public policy of this State to ensure equal employ-
18 ment opportunity at all levels of the public service.

1 11A:1-3. Merit principles. The purpose of this Title is to ensure
2 the following merit principles:

3 a. Selection and advancement of employees on the basis of their
4 relative knowledge, skills and abilities;

5 b. Equitable compensation plans;

6 c. Improvement in employee performance through training and
7 education;

8 d. Retention and separation of employees on the basis of the
9 adequacy of their performance;

- 10 e. Nondiscriminatory treatment of applicants and employees in
 11 all aspects of personnel administration with proper regard for
 12 their privacy and constitutional rights; and
- 13 f. Protection of employees from arbitrary action, personal fa-
 14 voritism and political coercion.
- 1 11A:1-4. Definitions. For the purposes of this Title:
- 2 a. "Affirmative action" means efforts to prevent or redress lack
 3 of equal employment opportunity.
- 4 b. "Appointing authority" means a person or a group of persons
 5 having power of appointment to and removal from positions.
- 6 c. "Board" means the Merit System Board.
- 7 d. "Commissioner" means the Commissioner of Personnel.
- 8 e. "Department" means the Department of Personnel.
- 9 f. "Equal employment opportunity" means access for all persons
 10 to appointment, promotion or any other employment consideration
 11 without discrimination because of race, creed, color, national origin,
 12 ancestry, marital status, sex, age, handicap or political or religious
 13 affiliations.
- 14 g. "Layoff" means the separation of an employee based on
 15 seniority from the employee's permanent title for economy, effici-
 16 ency or other related reason.
- 17 h. "Political subdivision" means a municipality, county or school
 18 district.
- 19 i. "Title" means Title 11A of the New Jersey Statutes.

CHAPTER 2

DEPARTMENT OF PERSONNEL

ARTICLE 1

Organization

- 1 11A:2-1. Department of Personnel created. There is established
 2 in the Executive Branch of State Government a principal depart-
 3 ment which shall be known as the Department of Personnel which
 4 shall consist of a Merit System Board, a Commissioner of Personnel
 5 and such subdivisions and officers and employees as specifically
 6 referred to in this Title and as may be constituted or employed
 7 by virtue of the authority conferred by this or any other law.
- 1 11A:2-2. Implementation. The department shall implement and
 2 enforce the merit principles set forth in N. J. S. 11A:1-3.

ARTICLE 2

Merit System Board

- 1 11A:2-3. Members. The Merit System Board shall consist of five
 2 members, one of whom shall be the Commissioner of Personnel who
 3 shall serve as the chairperson. The other members shall be ap-

4 pointed by the Governor with the advice and consent of the Senate
 5 for staggered terms of four years and until the appointment and
 6 qualification of their successors. Three members of the board
 7 shall constitute a quorum.

8 No more than three of the five members shall be of the same
 9 political party. The holding over of an incumbent beyond the expi-
 10 ration of the term of office shall reduce, in commensurate length,
 11 the term of office of a successor. Vacancies shall be filled for the
 12 unexpired term in the same manner as original appointments. No
 13 member shall hold any other public office or position.

1 11A:2-4. Removal of a board member other than commissioner.
 2 A board member other than the commissioner may be removed
 3 from office by the Governor for inefficiency, neglect of duty or
 4 misconduct in office after a copy of the charges and an opportunity
 5 to be publicly heard, in person or by counsel, upon not less than
 6 10 days written notice has been given. A statement of the findings
 7 of the Governor and the reasons for such action shall be filed with
 8 the Secretary of State. A board member removed from office shall
 9 be entitled to receive compensation only up to the date of the
 10 removal.

1 11A:2-5. Compensation. A board member other than the com-
 2 missioner shall receive a salary as fixed by law and shall also be
 3 entitled to sums incurred for necessary expenses.

1 11A:2-6. Powers and duties. In addition to other powers and
 2 duties vested in it by this Title or by any other law, the board
 3 shall:

4 a. After a hearing held by the board, a board member or a hear-
 5 ing officer selected by the board, render the final administrative
 6 decision on appeals concerning permanent career service employees
 7 or those in their working test period in the following categories:

- 8 (1) Removal;
- 9 (2) Suspension or fine as prescribed in N. J. S. 11A:2-14; and
- 10 (3) Disciplinary demotion.

11 b. On a review of the written record, render the final administra-
 12 tive decision on other appeals except for those matters listed or
 13 delegated to the commissioner pursuant to subsection i of 11A:2-11;

14 c. Appoint and compensate hearing officers;

15 d. Provide for interim remedies or relief in a pending appeal
 16 where warranted;

17 e. Adopt and enforce rules to carry out this Title and to effec-
 18 tively implement a comprehensive personnel management system;

19 f. Adopt and enforce rules governing the conduct of hearings
 20 and appeals notwithstanding the provisions of any other statute;

21 g. Adopt rules for the reasonable assessment of costs for special
22 or other services;

23 h. Interpret the application of this Title to any public body or
24 entity; and

25 i. Authorize and conduct such studies, inquiries, investigations
26 or hearings in the operation of this Title as it deems necessary.

1 11A:2-7. Subpenas, oaths. The commissioner, board or a hear-
2 ing officer appointed by the board may subpoena and require the
3 attendance of witnesses in this State and the production of evi-
4 dence or documents relevant to any proceeding under this Title.
5 Such persons may also administer oaths and take testimony. Sub-
6 penas issued under this section shall be enforceable in the Superior
7 Court.

ARTICLE 3

Commissioner of Personnel

1 11A:2-8. Commissioner of Personnel. The Governor shall, with
2 the advice and consent of the Senate, appoint a Commissioner of
3 Personnel who shall be the chief executive of the department. The
4 commissioner shall give full-time to the duties of this office and
5 shall hold no other public office or position.

1 11A:2-9. Term. The commissioner shall serve at the pleasure of
2 the Governor.

1 11A:2-10. Compensation. The commissioner shall receive a salary
2 as fixed by law and shall also be entitled to sums incurred for
3 necessary expenses.

1 11A:2-11. Powers and duties of the commissioner. In addition
2 to other powers and duties vested in the commissioner by this
3 Title or any other statute, the commissioner:

4 a. Shall be the principal executive and request officer of the
5 department allocating the functions, activities and appropriations
6 of the department among such departmental subdivisions as the
7 commissioner may establish;

8 b. May appoint one deputy commissioner who shall be in the
9 unclassified service and may appoint other necessary employees;

10 c. Shall maintain a management information system necessary
11 to carry out the provisions of this Title;

12 d. Shall have the authority to audit payrolls, reports or trans-
13 actions for conformity with the provisions of this Title;

14 e. Shall plan, evaluate, administer and implement personnel
15 programs and policies in State government and political subdivi-
16 sions operating under this Title;

17 f. Shall establish and supervise the selection process and em-
18 ployee performance evaluation procedures;

19 g. Shall develop programs to improve efficiency and effectiveness
20 of the public service, including, but not limited to, employee train-
21 ing, development, assistance and incentives;

22 h. Shall participate in collective negotiations affecting the Execu-
23 tive Branch of State government and assure that the purposes and
24 mandates of this Title are preserved during collective negotiations
25 and contract administration;

26 i. Shall render the final administrative decision on a written
27 record on all appeals from classification, salary, layoff rights and
28 noncontractual grievances. The board may also delegate to the
29 commissioner final review of other types of administrative appeals;

30 j. May establish pilot programs and other projects for a maxi-
31 mum of one year outside of the provisions of this Title;

32 k. Shall provide for a public employee interchange program pur-
33 suant to P. L. 1967, c. 77 (C. 52:14-6.10 et seq.) and may provide
34 for an employee interchange program between public and private
35 sector employees;

36 l. May establish an internship program;

37 m. Shall assist the Governor in general workforce planning and
38 personnel matters;

39 n. Shall establish and consult with advisory boards representing
40 political subdivisions, personnel officers, labor organizations and
41 other appropriate groups;

42 o. Shall make an annual report to the Governor and Legislature
43 and such other special or periodic reports as may be required; and

44 p. Shall recommend rules to the board for the implementation
45 of this Title.

1 11A:2-12. Delegation. The commissioner may delegate to an ap-
2 pointing authority the responsibility for classifying positions,
3 administering examinations and other personnel functions accord-
4 ing to prescribed standards. However, the commissioner may not
5 delegate any function of the board.

6 Such delegation shall be written and shall conform to the pro-
7 visions of this Title. The commissioner may assign staff of the
8 department to an appointing authority to assist the appointing
9 authority in its delegated personnel duties. Such employees shall
10 continue as employees of the department but report during this
11 period to the appointing authority to whom they have been as-
12 signed. All delegation shall be subject to supervision by the com-
13 missioner and post-audit and may be cancelled, modified or limited
14 at any time by the commissioner.

ARTICLE 4

Appeals

1 11A:2-13. Opportunity for hearing. Before any disciplinary
2 action in subsection a. of N. J. S. 11A:2-6 is taken against a
3 permanent employee in the career service or a person serving a
4 working test period, the employee shall be notified in writing and
5 a hearing shall be held before the appointing authority or its
6 designated representative. Such hearing shall be held within 30
7 days of the notice of disciplinary action unless both parties consent
8 to an adjournment to a later date.

9 This section shall not prohibit the immediate suspension of an
10 employee without a hearing if the appointing authority determines
11 that the employee is unfit for duty or a hazard to any person if
12 allowed to remain on the job. Where a suspension is based on a
13 formal charge of a crime of the first, second or third degree, or a
14 crime of the fourth degree if committed on the job or directly
15 related to the job, the suspension may continue until a disposition
16 of the charge.

1 11A:2-14. Notice to employee of right to appeal. Within 20 days
2 of the hearing provided in N. J. S. 11A:2-13, the appointing au-
3 thority shall make a final disposition of the charges against the
4 employee and shall furnish the employee with written notice. If
5 the appointing authority determines that the employee is to be
6 removed, denoted or receive a suspension or a fine greater than
7 3 days, the employee shall have a right to appeal to the board.
8 The suspension or fine of an employee for 3 days or less shall be
9 appealable if an employee's aggregate number of days suspended
10 or fined in any one calendar year is 10 days or more. Where an
11 employee receives more than 3 suspensions or fines of three or less
12 days in a calendar year, the last suspension or fine is appealable.

1 11A:2-15. Appeal procedure. Any appeal from adverse actions
2 specified in N. J. S. 11A:2-13 shall be made in writing to the board
3 no later than 20 days from receipt of the final written determina-
4 tion of the appointing authority. If the appointing authority fails
5 to provide a written determination, an appeal may be made directly
6 to the board within a reasonable time.

7 The review in these cases is de novo unless otherwise specified
8 by the board. However, when reviewing disciplinary actions against
9 persons holding law enforcement or correction officer positions,
10 the board shall not modify the penalty imposed by the appointing
11 authority if the board sustains the charges unless such penalty
12 is found to constitute a clear abuse of discretion.

1 11A:2-16. Use immunity. No person shall be excused from testi-

2 fying or producing evidence on the ground that the testimony or
 3 the evidence might tend to incriminate the person, but no such
 4 answer shall be used or admitted in any proceeding against the
 5 person, except in a prosecution for perjury. The foregoing use
 6 immunity shall not be granted without prior written approval by
 7 the Attorney General.

1 11A:2-17. Representation. An employee may be represented at
 2 any hearing before an appointing authority or the board by an
 3 attorney or authorized union representative. A union representa-
 4 tive may not charge a fee for such representation and the board
 5 shall establish qualifications for union representatives at such
 6 hearings.

1 11A:2-18. Authority of the board. The board may increase or
 2 decrease the penalty imposed by the appointing authority or sub-
 3 stitute another in its place except as provided in N. J. S. 11A:2-15.
 4 However, removal shall not be substituted for a lesser penalty. The
 5 board shall award back pay and benefits to an employee where
 6 the facts warrant as provided by rule.

1 11A:2-19. Attorney fees. The board may award reasonable
 2 attorney fees in disciplinary actions if the circumstances warrant
 3 when a hearing under this article results in the total or partial
 4 exoneration of the employee.

1 11A:2-20. Forms of disciplinary action. The board shall estab-
 2 lish by rule the causes which constitute grounds for disciplinary
 3 action and the kinds of disciplinary action which may be taken by
 4 appointing authorities against permanent career service employees
 5 or those serving in their working test period. However, an appoint-
 6 ing authority or the board may not impose a suspension or fine
 7 greater than six months except as provided for in N. J. S. 11A:2-13.

1 11A:2-21. Burden of proof. Where a career service employee
 2 is removed at the end of a working test period for unsatisfactory
 3 performance or is laid off or demoted in lieu of layoff, the employee
 4 shall have the burden of proof that such removal, layoff or demo-
 5 tion was not in good faith. In categories listed in subsection a. of
 6 N. J. S. 11A:2-6, the employer shall have the burden of proof.

ARTICLE 5

Employee Protection Against Reprisals

1 11A:2-22. An appointing authority shall not take or threaten
 2 to take any action against an employee in the career, senior execu-
 3 tive or unclassified service in retaliation for an employee's lawful
 4 disclosure of information on the violation of any law or rule,
 5 governmental mismanagement or abuse of authority.

1 11A:2-23. Assistance from Public Advocate. An employee who
 2 is the subject of a reprisal action by an appointing authority for
 3 the lawful disclosure of information may present a complaint
 4 directly to the board or to the Public Advocate, who shall investi-
 5 gate the allegations to the extent necessary to determine whether
 6 there are reasonable grounds to believe that the complaint is valid.
 7 The Public Advocate is empowered to utilize normal procedures to
 8 settle a valid complaint.

1 11A:2-24. If a settlement cannot be effected, the Public Advocate
 2 may represent an appellant before the board and on judicial review
 3 of a board decision.

ARTICLE 6

Political Activity

1 11A:2-25. Political activity limited. No person holding a posi-
 2 tion in the career service shall directly or indirectly use or seek
 3 to use the position to control or affect the political action of another
 4 person or engage in political activity during work hours.

CHAPTER 3

CLASSIFICATION, SERVICES AND COMPENSATION

1 11A:3-1. Classification. The board shall assign and reassign
 2 titles among the career service, senior executive service and
 3 unclassified service. The commissioner shall:

4 a. Establish, administer, amend and continuously review a State
 5 classification plan governing all positions in State service and
 6 similar plans for political subdivisions in consultation with the
 7 appointing authorities;

8 b. Establish and abolish titles;

9 c. Review State positions to determine their need as vacancies
 10 occur;

11 d. Ensure the grouping in a single title of positions with similar
 12 qualifications, authority and responsibility;

13 e. Assign and reassign positions to appropriate titles and provide
 14 for appeals from such assignment or reassignment; and

15 f. Provide a specification for each title.

1 11A:3-2. Career service. The career service shall have two
 2 divisions, the competitive division and the noncompetitive division.
 3 The competitive division shall include those positions for which
 4 it is practicable to determine the merit and fitness of applicants by
 5 competitive procedures. The noncompetitive division shall include
 6 those positions for which it is not practicable to secure a sufficient
 7 number of eligibles by competitive procedures. The commissioner

8 shall assign and reassign titles to each division and may provide
9 for movement, including promotion, of employees from one division
10 to the other.

1 11A:3-3. Senior executive service. The senior executive service
2 shall be established in State government and include those positions
3 having substantial managerial, policy influencing or policy execut-
4 ing responsibilities as determined by the board. The board shall
5 adopt rules providing for the selection, placement, transfer, devel-
6 opment, compensation, separation and performance appraisal of
7 senior executive service employees and for the reinstatement of
8 career service employees to the career service. The senior execu-
9 tive service shall not be subject to the provisions of this Title
10 unless otherwise specified. The senior executive service shall
11 include non-career and career service employees. The number of
12 non-career employees shall not exceed 15% of the entire senior
13 executive service workforce.

14 Employees holding permanent career service status in a title at
15 the time it is assigned to the senior executive service shall have the
16 option of continuing in that title in the career service. Permanent
17 career service employees who are removed from the senior execu-
18 tive service for other than disciplinary reasons after hearing shall
19 have a right to a position in the career service in a title related
20 to the duties of their former permanent title and at a salary not
21 less than that received in their permanent title immediately prior
22 to their entry into the senior executive service.

1 11A:3-4. State unclassified service. The State unclassified
2 service shall not be subject to the provisions of this Title unless
3 otherwise specified and shall include the following:
4 a. Appointments of the Governor;
5 b. Department heads and members of boards and commissions
6 authorized by law;
7 c. Employees in the Legislative branch of State government;
8 d. Heads of institutions;
9 e. Employees serving a term of office fixed by statute or serving
10 at the pleasure of an appointing authority pursuant to statute;
11 f. Physicians, surgeons, dentists and teachers whose positions
12 require they be licensed or certified;
13 g. Assistant and Deputy Attorneys General and legal assistants
14 appointed by the Attorney General;
15 h. One secretary and one confidential assistant to each depart-
16 ment head, board, principal executive officer and commission pro-
17 vided that such is essential to the work of the department, board,
18 principal executive officer or commission;

- 19 i. Employees in the military or naval service of the State;
- 20 j. Students employed less than half time in educational insti-
- 21 tutions;
- 22 k. Domestic employees in the Governor's household; and
- 23 l. Such other titles as provided by statute or as the board may
- 24 determine in accordance with criteria established by rule.
- 1 11A:3-5. Political subdivision unclassified service. The political
- 2 subdivision unclassified service shall not be subject to the provi-
- 3 sions of this Title unless otherwise specified and shall include the
- 4 following:
- 5 a. Elected officials;
- 6 b. One secretary and one confidential assistant to each mayor;
- 7 c. Members of boards and commissions authorized by law;
- 8 d. Heads of institutions other than correctional institutions;
- 9 e. Employees serving a term of office fixed by statute or serving
- 10 at the pleasure of an appointing authority pursuant to statute;
- 11 f. Attorneys, physicians, surgeons, dentists and teachers whose
- 12 positions require they be licensed or certified;
- 13 g. Principal executive officers;
- 14 h. One secretary, clerk or executive director to each department,
- 15 board and commission authorized by law to appoint such;
- 16 i. One secretary or clerk to each principal executive officer and
- 17 judge provided that such is essential to the work of the principal
- 18 executive officer or judge;
- 19 j. One deputy or first assistant to a principal executive officer
- 20 who is authorized by statute to act for and in place of the principal
- 21 executive officer;
- 22 k. No more than 12 department heads in counties organized
- 23 pursuant to P. L. 1972, c. 154 (C. 40:41A-1 et seq.) and the heads
- 24 of divisions within such departments provided that the total
- 25 number of unclassified positions created by the county administra-
- 26 tive code pursuant to this subsection shall not exceed 20;
- 27 l. No more than 12 department heads in counties not organized
- 28 pursuant to P. L. 1972, c. 154 (C. 40:41A-1 et seq.);
- 29 m. One secretary or confidential assistant to each unclassified
- 30 department head;
- 31 n. One secretary or confidential assistant to each unclassified
- 32 division head if so provided in the administrative code of any
- 33 county organized pursuant to P. L. 1972, c. 154 (C. 40:41A-1
- 34 et seq.);
- 35 o. Employees of county park commissions appointed pursuant
- 36 to R. S. 40:37-96 through R. S. 40:37-174 in counties of the second
- 37 class;

38 p. Directors of free public libraries in cities of the first class
39 having a population of more than 300,000;

40 q. One secretary to the municipal council in cities of the first
41 class having a population of less than 300,000;

42 r. One secretary or confidential assistant to each county
43 freeholder;

44 s. In school districts organized pursuant to which N. J. S.
45 18A:17-1 et seq. applies, the executive controller, public informa-
46 tion officer and the executive directors of board affairs, personnel,
47 budget, purchasing, physical facilities, data processing, financial
48 affairs, and internal audits;

49 t. The executive director, assistant executive director, director
50 of staff operations, director of administration, director of redevelop-
51 ment and the urban initiatives coordinator of a local housing
52 authority; and

53 u. Such other titles as provided by statute or as the board may
54 determine in accordance with criteria established by rule.

1 11A:3-6. Public hearing required. Whenever the board con-
2 siders moving a title from the career service to the unclassified
3 service, the board shall first hold a public hearing before reaching
4 a determination.

1 11A:3-7. Employee compensation. The commissioner shall
2 establish, administer and amend an equitable State employee
3 compensation plan which shall include pay schedules and assign-
4 ment and reassignment of salaries to titles. The board shall adopt
5 rules for salary adjustments other than as provided for in the
6 State compensation plan for the career, senior executive and
7 unclassified services. The commissioner shall require that em-
8 ployees of political subdivisions are paid in reasonable relationship
9 to titles.

1 11A:3-8. Payroll audits. The commissioner may audit State
2 payrolls and payrolls of political subdivisions to determine com-
3 pliance with this Title. The commissioner may order and enforce
4 immediate compliance as necessary. No employee shall be paid a
5 base salary below the minimum or above the maximum established
6 salary for the employee's title.

CHAPTER 4

SELECTION AND APPOINTMENT

1 11A:4-1. Examinations. The board shall provide for:

2 a. The announcement and administration of examinations which
3 shall test fairly the knowledge, skills and abilities required to
4 satisfactorily perform the duties of a title or group of titles. Such

5 examinations may include, but are not limited to, written, oral,
6 performance and evaluation of education and experience;

7 b. The rating of examinations;

8 c. The security of the examination process and appropriate
9 sanctions for a breach of security;

10 d. The selection of special examiners to act as subject matter
11 specialists or to provide other assistance. Employees of the State
12 or political subdivisions may be so engaged as part of their official
13 duties during normal working hours with the approval of their
14 appointing authority. Extra compensation may be provided for
15 such service outside normal working hours; and

16 e. The right to appeal adverse actions relating to the examination
17 and appointment process which shall include rejection of an appli-
18 cation, failure of an examination and removal from an eligible list.

1 11A:4-2. Holding of examinations. If there is no appropriate
2 eligible list, an examination shall be held within one year following
3 the identification of the need to fill a position.

1 11A:4-3. Admission to examinations. If it appears that an
2 eligible list is not likely to provide full certification for existing
3 or anticipated vacancies from among qualified residents of this
4 State, or of political subdivisions where required by law, the
5 commissioner may admit other qualified applicants. Where resi-
6 dency preference is granted pursuant to any other statute, the
7 commissioner at the request of a political subdivision may limit
8 applicants to such classes as are necessary to establish a sufficient
9 pool of eligibles.

1 11A:4-4. Eligible lists and certifications. The board shall provide
2 for:

3 a. The establishment and cancellation of eligible lists;

4 b. The certification of an eligible list to positions in other
5 appropriate titles; and

6 c. The consolidation of eligible lists which may include, but is
7 not limited to, the combining of names of eligibles by scores.

1 11A:4-5. Use of eligible list. Once the examination process
2 has been initiated due to the appointment of a provisional or an
3 appointing authority's request for a list to fill a vacancy, the
4 affected appointing authority shall be required to make appoint-
5 ments from said list if there is a complete certification unless
6 otherwise permitted by the commissioner for valid reason such
7 as fiscal constraints. If the commissioner permits an appointing
8 authority to leave a position vacant in the face of a complete list,
9 the commissioner may order the appointing authority to reimburse
10 the department for the costs of the selection process.

1 11A:4-6. Duration of lists. The commissioner shall set the
2 duration of an eligible list which shall be no more than three years
3 from the date of its establishment, except that it may be extended
4 for good cause providing no list shall have a duration of more than
5 five years. Notwithstanding the duration of a list, the commissioner
6 may revive a list to implement a court order or decision of the
7 board or commissioner in the event of a successful appeal instituted
8 during the life of the list or to correct an administrative error.
9 The commissioner may revive a list at the request of an appointing
10 authority to effect the appointment of an eligible whose working
11 test period was terminated by a layoff.

1 11A:4-7. Exceptions to duration of a list. Notwithstanding the
2 provisions of N. J. S. 11A:4-6, a special reemployment list, a
3 police reemployment list and a fire reemployment list shall have
4 unlimited duration.

1 11A:4-8. Certification and appointment. The commissioner shall
2 certify the three eligibles who have received the highest whole
3 number scores on an open competitive or promotional list against
4 the first provisional or vacancy. For each additional provisional
5 or vacancy against whom a certification is issued at that time,
6 the commissioner shall certify the next ranked eligible. In the
7 event that more than one eligible has the same whole number score,
8 the tie shall not be broken and they shall have the same rank.
9 However, if three or more eligibles can be certified as the result
10 of such ranking without resorting to all three highest scores, only
11 those eligibles shall be so certified.

12 A certification that contains the names of at least three interested
13 eligibles shall be complete and a regular appointment shall be made
14 from among those eligibles. If the certification is incomplete, a
15 regular appointment is not mandated except as provided in N. J. S.
16 11A:5-7. However, an eligible on an incomplete list shall be
17 entitled to a provisional appointment if no permanent appointment
18 is made and the position is to be encumbered.

19 Eligibles on any reemployment list shall be certified and ap-
20 pointed in the order of their ranking and no such certification
21 shall be considered incomplete.

1 11A:4-9. Types of eligible lists. The commissioner may establish
2 the following types of eligible lists:

- 3 a. Open competitive which shall include all qualified eligibles
4 without regard to whether they are currently employed by the
5 State or a political subdivision;
- 6 b. Promotional which shall include qualified permanent eligibles;
- 7 c. Regular reemployment which shall include former permanent

8 employees who resigned in good standing and whose reemployment
9 is certified by the appointing authority as in the best interest of
10 the service. The name of any such employee shall not remain on
11 a reemployment list for more than three years from the date of
12 resignation, unless otherwise extended pursuant to N. J. S. 11A :4-6;

13 d. Police or fire reemployment which shall include former per-
14 manent uniformed members of a police or fire department who
15 have resigned in good standing and whose reemployment is certified
16 by the appointing authority as in the best interest of the service;
17 and

18 e. Special reemployment which shall include permanent em-
19 ployees laid off or demoted in lieu of layoff from permanent titles.

1 11A:4-10. Arrests and criminal records. Eligibles may be ques-
2 tioned as to criminal convictions and pending criminal charges.
3 Eligibles for a law enforcement or correction officer title may also
4 be questioned as to any arrest.

1 11A:4-11. Removal on criminal record. Upon the request of
2 an appointing authority, the commissioner may remove an eligible
3 with a criminal record from a list when the criminal record includes
4 a conviction for a crime which adversely relates to the employment
5 sought. The following factors shall be considered in such deter-
6 mination:

- 7 a. Nature and seriousness of the crime;
- 8 b. Circumstances under which the crime occurred;
- 9 c. Date of the crime and age of the eligible when the crime was
10 committed;
- 11 d. Whether the crime was an isolated event;
- 12 e. Social conditions which may have contributed to the crime; and
- 13 f. Evidence of rehabilitation.

14 The presentation to an appointing authority of a pardon or
15 expungement shall prohibit an appointing authority from rejecting
16 an eligible based on such criminal conviction.

17 Notwithstanding other provisions of this section, an eligible on
18 a list for a law enforcement or correction officer title may be
19 removed for criminal conviction at the request of an appointing
20 authority unless the request is a clear abuse of discretion.

1 11A:4-12. Priority of lists. When more than one list exists,
2 the priority of lists shall be as follows:

- 3 a. Special reemployment when the available position is in the
4 department from which the eligible was laid off or demoted in
5 lieu of layoff;
- 6 b. Promotional;
- 7 c. Special reemployment when the available position is located

8 in a department other than that from which the eligible was laid
9 off or demoted;

10 d. Regular reemployment, police reemployment or fire reem-
11 ployment; and

12 e. Open competitive.

1 11A:4-13. Types of appointment. The board shall provide for
2 the following types of appointment:

3 a. Regular appointments shall be to a title in the competitive
4 division of the career service upon examination and certification
5 or to a title in the noncompetitive division of the career service
6 upon appointment. Such appointments shall be permanent after
7 satisfactory completion of a working test period;

8 b. Provisional appointments shall be made only in the competitive
9 division of the career service and only in the absence of a complete
10 certification if the appointing authority certifies that in each in-
11 dividual case the appointee meets the minimum qualifications for
12 the title at the time of appointment and that failure to make a
13 provisional appointment will seriously impair the work of the
14 appointing authority;

15 c. Temporary appointments may be made, without regard to the
16 provisions of this chapter, to temporary positions established for
17 a maximum of eight months. Such positions include, but are not
18 limited to, seasonal positions and positions established as a result
19 of a short term grant. Appointees to temporary positions shall
20 meet the minimum qualifications of a title;

21 d. Emergency appointments shall not exceed 30 days and shall
22 only be permitted where nonappointment will result in substantial
23 harm to persons or property;

24 e. Senior executive service appointments shall be made pursuant
25 to N. J. S. 11A:3-3; and

26 f. Unclassified appointments shall be made pursuant to N. J. S.
27 11A:3-4 and N. J. S. 11A:3-5.

1 11A:4-14. Promotion. The rules of the board shall establish
2 the minimum qualifications for promotion and shall provide for the
3 granting of credit for performance and seniority where appro-
4 priate.

1 11A:4-15. Working test period. The purpose of the working
2 test period is to permit an appointing authority to determine
3 whether an employee satisfactorily performs the duties of a title.
4 The board shall provide for:

5 a. A working test period as part of the examination process
6 which shall be served in the title to which the certification was
7 issued and appointment made;

8 b. A working test period following regular appointment for no
9 less than three months and no more than 12 months except that
10 the working test period for entry level law enforcement officer,
11 correction officer and firefighter titles shall be for 12 months;

12 c. The extension of the working test period for good cause pro-
13 vided that the total duration shall not exceed 12 months;

14 d. Progress reports to be made by the appointing authority and
15 provided to the employee at the end of $\frac{1}{3}$ and $\frac{2}{3}$ of the working
16 test period. A final progress report at the end of the entire
17 working test period shall be provided to the employee and the
18 commissioner;

19 e. Termination of an employee at the end of the working test
20 period and termination of an employee for cause during the work-
21 ing test period; and

22 f. The retention of permanent status in the lower title by a pro-
23 moted employee during the working test period in the higher title
24 and the right to return to such permanent title if the employee
25 does not satisfactorily complete the working test period. Employees
26 removed for cause during a working test period shall not be so
27 returned.

1 11A:4-16. Transfer, reassignment and lateral title change. The
2 rules of the board shall define and establish the procedures for
3 transfer, reassignment and lateral title change.

CHAPTER 5

VETERANS PREFERENCE

1 11A:5-1. Definitions. As used in this chapter:

2 a. "Disabled veteran" means any veteran who is eligible to be
3 compensated for a service-connected disability from war service
4 by the United States Veterans Administration or who receives or
5 is entitled to receive equivalent compensation for a service-
6 connected disability which arises out of such military or naval
7 service as set forth in this chapter and who has submitted sufficient
8 evidence of such record of disability incurred in the line of duty
9 to the commissioner on or before the closing date for filing an
10 application for an examination.

11 b. "Veteran" means any honorably discharged soldier, sailor,
12 marine or nurse who served in any army or navy of the allies of
13 the United States in World War I, between July 14, 1914 and
14 November 11, 1918, or who served in any army or navy of the
15 allies of the United States in World War II, between September 1,
16 1939 and September 2, 1945 and who was inducted into such service
17 through voluntary enlistment, and was a citizen of the United

18 States at the time of such enlistment, and who did not renounce or
19 lose his or her United States citizenship; or any soldier, sailor,
20 marine, airman, nurse or army field clerk, who has served in the
21 active military or naval service of the United States and has been
22 discharged or released under other than dishonorable conditions
23 from such service in any of the following wars or conflicts and
24 who has presented to the commissioner sufficient evidence of such
25 record of service on or before the closing date for filing an appli-
26 cation for an examination:

27 (1) World War I, between April 6, 1917 and November 11, 1918;

28 (2) World War II, after September 16, 1940, who shall have
29 served at least 90 days beginning on or before September 2, 1945
30 in such active service, exclusive of any period assigned (a) for a
31 course of education or training under the Army Specialized Train-
32 ing Program or the Navy College Training Program, which course
33 was a continuation of a civilian course and was pursued to com-
34 pletion, or (b) as a cadet or midshipman at one of the service
35 academies; provided, that any person receiving an actual service-
36 incurred injury or disability shall be classed as a veteran whether
37 or not said person has completed the 90-day service;

38 (3) Korean conflict, after June 23, 1950, who shall have served
39 at least 90 days beginning on or before July 27, 1953, in such active
40 service, exclusive of any period assigned (a) for a course of
41 education or training under the Army Specialized Training Pro-
42 gram or the Navy College Training Program, which course was a
43 continuation of a civilian course and was pursued to completion,
44 or (b) as a cadet or midshipman at one of the service academies;
45 provided, that any person receiving an actual service-incurred
46 injury or disability shall be classed as a veteran whether or not
47 said person has completed the 90-day service;

48 (4) Vietnam conflict, after December 31, 1960, who shall have
49 served at least 90 days beginning on or before August 1, 1974, in
50 such active service, exclusive of any period assigned (a) for a
51 course of education or training under the Army Specialized Train-
52 ing Program or the Navy College Training Program, which course
53 was a continuation of a civilian course and was pursued to com-
54 pletion, or (b) as a cadet or midshipman at one of the service
55 academies; and exclusive of any service performed pursuant to the
56 provisions of section 511(d) of Title 10, United States Code or
57 exclusive of any service performed pursuant to enlistment in the
58 National Guard or the Army Reserve, Naval Reserve, Air Force
59 Reserve, Marine Corps Reserve, or Coast Guard Reserve; pro-
60 vided, that any person receiving an actual service-incurred injury

61 or disability shall be classed as a veteran whether or not said
62 person has completed the 90-day service as provided;

63 c. "War service" means service by a veteran in any war or
64 conflict described in this chapter during the periods specified.

1 11A:5-2. Spouse of veteran or deceased veteran. The spouse
2 of any disabled veteran is eligible to receive disabled veterans
3 preference under this chapter, provided that the veteran is not in
4 the service of the State or any political subdivision which operates
5 under this Title and the veteran officially waives any right to
6 preference for the duration of the spouse's employment.

7 The surviving spouse of any disabled veteran or veteran shall
8 be entitled to receive the same preference under this chapter to
9 which the disabled veteran or veteran would have been entitled in
10 if still living. Such preference shall terminate upon the remarriage
11 of the surviving spouse.

1 11A:5-3. Mother and spouse of veteran who has died in service.
2 The mother and spouse of any veteran who died while in service
3 and who would have qualified under this chapter as a veteran, shall
4 be entitled to disabled veterans preference. Where both the mother
5 and spouse survive, the exercise of such preference by either shall
6 suspend the right of the other so long as the first individual who
7 exercises it remains in the employ of the State or any political
8 subdivision operating under the provisions of this Title.

1 11A:5-4. Disabled veterans preference. The names of disabled
2 veterans who receive passing scores on open competitive examina-
3 tions shall be placed at the top of the employment list in the
4 order of their respective final scores.

1 11A:5-5. Veterans preference. The names of veterans who
2 receive passing scores on open competitive examinations shall be
3 placed on the employment list in the order of their respective
4 scores immediately after disabled veterans.

1 11A:5-6. Appointment of veterans. Whenever a disabled vet-
2 eran or veterans shall be certified to an appointing authority from
3 an open competitive employment list, the appointing authority
4 shall appoint the disabled veteran or veteran in the order of
5 ranking unless the appointing authority shall show cause before
6 the board why the disabled veteran or veteran should not be
7 appointed.

1 11A:5-7. Incomplete open competitive list. If a disabled veteran
2 or veteran is on an incomplete open competitive list and an appoint-
3 ment is to be made, such veteran must be regularly appointed in
4 order of rank regardless of whether or not the list is complete.

1 11A:5-8. Inapplication of statutes to promotions. Nothing con-

2 tained in sections 11A:5-4 through 11A:5-7 of this chapter shall
3 apply to promotions but, whenever a veteran ranks highest on a
4 promotional certification, a non-veteran shall not be appointed
5 unless the appointing authority shall show cause before the board
6 why a veteran should not receive such promotion.

1 11A:5-9. Preference in appointment in noncompetitive division.
2 From among those eligible for appointment in the noncompetitive
3 division, preference shall be given to a qualified veteran. Before
4 an appointing authority shall select a nonveteran and not appoint
5 a qualified veteran, the appointing authority shall show cause
6 before the board why a veteran should not be appointed.

1 11A:5-10. Preference to veterans in layoffs. When a layoff
2 occurs, preference shall be given first to a disabled veteran and
3 then to a veteran; but, such preference shall apply only where the
4 disabled veteran or veteran has seniority in title equal to that of a
5 non-veteran also affected by such layoff.

1 11A:5-11. Veterans not to be discriminated against because of
2 physical defects. No veterans suffering from any physical defect
3 caused by wounds or injuries received in the line of duty in the
4 military or naval forces of the United States during war service set
5 forth in N. J. S. 11A:5-1 shall be discriminated against in an
6 examination, classification or appointment because of such defect,
7 unless this defect, in the opinion of the board, would incapacitate
8 the veteran from properly performing the duties of the office,
9 position or employment for which applied.

1 11A:5-12. Employment or promotion of persons awarded Con-
2 gressional Medal of Honor, Distinguished Service Cross, Air Force
3 Cross or Navy Cross. Any individual who has served in the Army,
4 Air Force, Navy, or Marine Corps of the United States and who
5 has been awarded the Congressional Medal of Honor, the Dis-
6 tinguished Service Cross, Air Force Cross or Navy Cross, while
7 a resident of this State, shall be appointed or promoted without
8 complying with the rules of the board. The appointing authority to
9 whom such individual applies for appointment or promotion shall,
10 at its discretion, appoint or promote such person. Upon promotion
11 or appointment, that person shall become subject to the rules of the
12 board. A person who qualifies under this section shall not be limited
13 to only one appointment or promotion.

1 11A:5-13. Enforcement: The board may prepare rules for the
2 proper administration and enforcement of this chapter.

3 Nothing herein contained shall be construed to amend, modify or
4 supersede N. J. S. 40A:14-25, N. J. S. 40A:14-115 or N. J. S.
5 40A:14-143.

CHAPTER 6

HOURS OF WORK, LEAVES AND EMPLOYEE DEVELOPMENT

ARTICLE 1

Hours of Work and Leaves of Absence

1 11A:6-1. Holidays, hours of work, attendance, leaves. The
2 board shall adopt rules for State employees regarding holidays,
3 hours of work, attendance, sick leave, vacation leave and such
4 other leave with or without pay as it may designate and the length
5 of service for eligibility. Any political subdivision subject to the
6 provisions of this Title shall prepare procedures and policies
7 regarding such items.

1 11A:6-2. Vacation leave. Vacation leave for full-time State
2 employees shall be at least: Up to one year of service, one working
3 day for each month of service; after one year and up to five years
4 of continuous service, 12 working days; after five years and up to
5 12 years of continuous service, 15 working days; after 12 years and
6 up to 20 years of continuous service, 20 working days; over 20
7 years of continuous service, 25 working days. Vacation not taken
8 in a given year because of business demands shall accumulate and
9 be granted during the next succeeding year only.

10 Vacation leave for full-time political subdivision employees shall
11 be at least: Up to one year of service, one working day for each
12 month of service; after one year and up to 10 years of continuous
13 service, 12 working days; after 10 years and up to 20 years of
14 continuous service, 15 working days; and after 20 years of con-
15 tinuous service, 20 working days. Vacation not taken in a given
16 year because of business demands shall accumulate and be granted
17 during the next succeeding year only.

1 11A:6-3. Death of employee having vacation credit. The estate
2 of a deceased employee covered by this Title who had accumulated
3 annual vacation leave, shall be paid a sum equal to the compensation
4 for such vacation leave.

1 11A:6-4. Sick leave. Full-time State and political subdivision
2 employees shall receive a sick leave credit of no less than one
3 working day for each completed month of service during the
4 remainder of the first calendar year of service and 15 working days
5 in every year thereafter. Unused sick leave shall accumulate with-
6 out limit.

1 11A:6-5. State administrative leave. Administrative leave for
2 personal reasons including religious observances for full-time State
3 employees and those employees of Rutgers, The State University,

4 New Jersey Institute of Technology and the University of Medi-
5 cine and Dentistry of New Jersey shall be at least 3 working days
6 per calendar year. Administrative leave shall not be cumulative and
7 any administrative leave unused by an employee at the end of any
8 year shall be cancelled.

1 11A:6-6. Part-time employees. Part-time employees shall re-
2 ceive proportionate vacation, sick and administrative leave.

1 11A:6-7. Sick leave injury in State service. Leave of absence
2 caused by injury or illness directly caused by and arising from
3 State employment shall be governed by rules of the board. Any
4 such sick leave with pay shall be reduced by the amount of worker's
5 compensation, if any, received for the same injury or illness.

1 11A:6-8. Leaves for police; firefighters. Leaves of absence
2 for police officer and firefighter titles shall be governed by the
3 applicable provisions of Title 40A of the New Jersey Statutes
4 and N. J. S. 11A:6-9.

1 11A:6-9. Convention leave for police; firefighters. A leave
2 of absence with pay shall be given to every employee who is a
3 duly authorized representative of the New Jersey Patrolman's
4 Benevolent Association, Inc., Fraternal Order of Police, Firemen's
5 Mutual Benevolent Association, Inc., the Fire Fighters Association
6 of New Jersey or the New Jersey State Association of Chiefs of
7 Police, to attend any State or national convention of such organi-
8 zation. The leave of absence shall be for a period inclusive of
9 the duration of the convention with a reasonable time allowed
10 for travel to and from the convention. A certificate of attendance
11 to the convention shall, upon request, be submitted by the repre-
12 sentative so attending.

1 11A:6-10. Leave for athletic competition. Any State employee
2 in the career, senior executive or unclassified service who qualifies
3 as a member of the United States team for athletic competition
4 at the world, Pan American or Olympic level, in a sport contested
5 in either Pan American or Olympic competitions, shall be granted
6 a leave of absence with pay and without loss of rights, privileges
7 and benefits and without interruption of membership in any retire-
8 ment system of the State for the purpose of preparing for and
9 engaging in the competition. The paid leave granted pursuant
10 to this act shall be no more than 90 calendar days in one year or
11 the combined days of the official training camp and competition,
12 whichever is less.

1 11A:6-11. Appointment by Governor; leave of absence without
2 pay. Any employee in the career of senior executive service
3 who is appointed to any position pursuant to P. L. 1947, c. 14

4 (C. 52:14-16.2) shall be entitled to a leave of absence without pay
5 from the permanent career or senior executive service title for
6 the length of the appointment. Upon the expiration of the leave,
7 the employee shall have the right to return to the former title and
8 receive all of the rights, privileges and benefits of that title as if
9 the employee had remained in that title.

1 11A:6-12. Elective office; leave of absence without pay. Any
2 person holding a position in the career service of any political
3 subdivision shall upon written request be granted a leave of
4 absence, without pay, to fill any elective public office for the
5 term of such office. Upon the expiration of the term of office,
6 such person shall be entitled to resume the position held at the
7 time of the granting of the leave of absence; if, the employee
8 shall apply for reinstatement before the expiration of the leave
9 of absence and return, to duty within six years after the commence-
10 ment of the leave. The time spent in serving the term of an
11 elective office, up to a maximum of six years from the commence-
12 ment of the leave, shall be included in the computation of such
13 person's seniority rights.

14 All appointments to the position of such person during the
15 period of six years from the date the leave of absence commences
16 shall be made from eligible lists and the appointments shall, during
17 such six year period, be held to be conditional and shall be
18 terminated on the return to duty within the six year period of the
19 person to whom the leave of absence was granted.

20 In the event that the term of the elective public office of the
21 person to whom such leave was granted expires after six years
22 from the commencement of such leave, the name of such person,
23 upon the expiration of the six year period, shall be placed on a
24 special reemployment list.

1 11A:6-13. Eligibility for promotions during leave of absence.
2 Any leave of absence granted pursuant to N. J. S. 11A:6-11 and
3 N. J. S. 11A:6-12 shall not disqualify an applicant for a promotional
4 appointment if the applicant has taken a promotional examination
5 prior to the granting of the leave and subsequently appears on an
6 eligible list resulting from the promotional examination and is
7 appointed prior to the expiration of the list. Such person may
8 accept the promotion and return to employment after such leave
9 in the promoted capacity subject to the satisfactory completion
10 of a working test period.

1 11A:6-14. Supplemental compensation upon retirement in State
2 employment. State employees in the career service, and those in
3 the senior executive and unclassified services who have been

4 granted sick leave under terms and conditions similar to career
5 service employees, shall be entitled upon retirement from a State
6 administered retirement system to receive a lump sum payment
7 as supplemental compensation for each full day of accumulated
8 sick leave which is credited on the effective date of retirement.

1 11A:6-15. Payment to employees of Rutgers, The State Uni-
2 versity, New Jersey Institute of Technology, and the University
3 of Medicine and Dentistry of New Jersey. The supplemental
4 compensation provided under this chapter shall also be paid to each
5 employee of Rutgers, The State University, New Jersey Institute
6 of Technology, and the University of Medicine and Dentistry of
7 New Jersey who performs services similar to those performed by
8 employees of the New Jersey State colleges who are in the career
9 service or who have been granted sick leave under terms and
10 conditions similar to career service employees, including those
11 employees of the University of Medicine and Dentistry of New
12 Jersey who are members of the Newark Employees Retirement
13 System.

1 11A:6-16. Deferred retirement. A State employee who elects
2 deferred retirement shall not be eligible for the supplemental
3 compensation provided under this chapter.

1 11A:6-17. Computation; limitation. Supplemental compensation
2 shall be computed at the rate of one-half of the eligible employee's
3 daily rate of pay for each day of accumulated sick leave based
4 upon the compensation received during the last year of employ-
5 ment prior to the effective date of retirement, but no such supple-
6 mental compensation shall exceed \$15,000.00. In the event of an
7 employee's death after the effective date of retirement but before
8 payment is made, payment shall be made to the employee's estate.

1 11A:6-18. Certification of accumulated sick leave. Upon appli-
2 cation for supplemental compensation made by an employee, the
3 appointing authority shall certify within 45 days the number of
4 accumulated sick days for which supplemental compensation is to
5 be paid. Payment shall be made from a special State account
6 established for this purpose.

1 11A:6-19. Break in service. An employee who has incurred
2 or shall incur a break in service as a result of separation due to
3 layoff shall be credited with sick leave accrued both before separa-
4 tion and after return to employment. An employee incurring a
5 break in service for any other type of separation shall have sick
6 leave computed only from the date of return to employment.

1 11A:6-20. In applicability to other pension retirement benefits.
2 The supplemental compensation provided for accumulated sick

3 leave shall in no way affect, increase or decrease any pension or
4 retirement benefits under any other statute.

1 11A:6-21. Rules. The board shall adopt rules for the imple-
2 mentation of supplemental compensation, which shall include but
3 need not be limited to application and eligibility procedures.

ARTICLE 2

Employee Programs

1 11A:6-22. State training programs. The commissioner may
2 establish and shall review and approve training and education
3 programs for State employees covered by this Title and shall
4 supervise a State training center with appropriate courses and fee
5 schedules. Particular training may be required by the commissioner
6 for certain employees for which an assessment to State depart-
7 ments may be imposed.

1 11A:6-23. Employee career development. The commissioner
2 shall develop and stimulate employee career development and
3 improve management and efficiency in State government through
4 programs, for which an assessment to State departments may be
5 imposed, that include but are not limited to:

- 6 a. Career mobility and transferability;
- 7 b. Employee advisory services for counseling and rehabilitation;
- 8 c. Retirement planning; and
- 9 d. Interchange and internship programs.

1 11A:6-24. Political subdivisions. The commissioner may, at
2 the request of any political subdivision, initiate programs similar
3 to those authorized in this chapter and provide technical assistance
4 to political subdivisions to improve the efficiency and effectiveness
5 of their personnel management programs. The commissioner may
6 require reasonable reimbursement from a participating political
7 subdivision.

1 11A:6-25. Employee performance evaluations. The commis-
2 sioner shall, in cooperation with the appointing authorities, estab-
3 lish an employee performance evaluation system for State em-
4 ployees in the career service. The system shall utilize standards
5 and criteria related to job content and program goals.

6 Political subdivisions shall adopt employee performance evalua-
7 tion systems for their career service employees subject to approval
8 by the commissioner.

9 The board shall adopt and enforce rules with respect to the
10 utilization of performance ratings in promotion, layoff or other
11 matters.

ARTICLE 3

Awards

1 11A:6-26. Awards Committee. The New Jersey Employee
2 Awards Committee shall be established in the department under
3 the supervision of the commissioner. The committee shall be com-
4 posed of seven persons, each of whom shall be employed in a
5 different department within the Executive Branch. Appointments
6 to the committee shall be made by the Governor, from nominations
7 by the commissioner, for staggered terms of three years or until
8 a successor is appointed. No member shall serve more than two
9 consecutive full terms. Members shall serve without compensation
10 but shall be entitled to sums incurred for necessary expenses. The
11 commissioner shall designate an employee of the department as
12 executive secretary to the committee.

1 11A:6-27. Awards. The committee, subject to appropriations,
2 may provide awards to State employees for, but not limited to:

- 3 a. Meritorious suggestions and accomplishments which promote
- 4 efficiency, productivity or economy;
- 5 b. Heroism or exceptional service;
- 6 c. Professional achievements; and
- 7 d. Service.

1 11A:6-28. Powers and duties. The committee shall:

- 2 a. Adopt rules for the implementation of the awards programs
- 3 subject to the approval of the commissioner;
- 4 b. Request and receive assistance from any department in State
- 5 government;
- 6 c. Prepare an annual report to the Governor from the commis-
- 7 sioner concerning the operation of the awards program; and
- 8 d. Establish and supervise the awards committees in the depart-
- 9 ments in State government.

10 Suggestion awards shall be paid from a separate State fund
11 appropriated to the department for this purpose.

CHAPTER 7

EQUAL EMPLOYMENT OPPORTUNITY

1 11A:7-1. Equal employment opportunity. The head of each
2 State agency shall ensure equality of opportunity for all of its
3 employees and applicants seeking employment. Equal employment
4 opportunity includes, but is not limited to, the following areas:
5 recruitment, selection, hiring, training, promotion, transfer, lay-
6 off, return from layoff, compensation and fringe benefits. Equal
7 employment opportunity further includes policies, procedures, and
8 programs for recruitment, employment, training, promotion, and
9 retention of minorities, women and handicapped persons.

10 The head of each State agency shall explore innovative person-
11 nel policies in order to enhance these efforts and where appropriate
12 shall implement them to the fullest extent authorized. Where the
13 implementation of such policies is not authorized, an agency head
14 shall recommend implementation to the appropriate State agency.

1 11A:7-2. Division of Equal Employment Opportunity and Af-
2 firmative Action. A division of Equal Employment Opportunity
3 and Affirmative Action is established in the department. The di-
4 vision shall have all of the powers and shall exercise all of the
5 functions and duties set forth in this chapter, subject to the super-
6 vision and control of the commissioner.

1 11A:7-3. Program. The division shall develop, implement and
2 administer an equal employment opportunity and affirmative action
3 program for all State agencies. The program shall consider the
4 particular personnel requirements that are reasonably related to
5 job performance of each State agency. The director of the division
6 shall ensure that the affirmative action and equal employment goals
7 of each State agency for protected classes shall be reasonably re-
8 lated to their population in the relevant surrounding labor market
9 area. The director, in accordance with applicable federal and State
10 guidelines, shall:

11 a. Ensure each State agency's compliance with all laws and
12 rules relating to equal employment opportunity and seek correc-
13 tion of discriminatory practices, policies and procedures;

14 b. Recommend appropriate sanctions for noncompliance to the
15 commissioner who, with the concurrence of the Governor, is au-
16 thorized to implement sanctions;

17 c. Review State personnel practices, policies and procedures,
18 inclusive of recruitment, selection, and promotion in order to
19 identify and eliminate artificial barriers to equal employment op-
20 portunity;

21 d. Act as liaison with federal, State, and local enforcement
22 agencies; and

23 e. Recommend appropriate legislation to the commissioner and
24 perform other actions deemed necessary by the commissioner to
25 implement this chapter.

1 11A:7-4. Agency goals. The department shall establish reason-
2 able equal employment and affirmative action goals for State
3 agencies in the form of regulations.

1 11A:7-5. Department responsibilities. The department, through
2 the Division of Equal Employment Opportunity and Affirmative
3 Action, shall:

4 a. Ensure that the pool of applicants for all vacant positions in

5 State agencies includes minorities, women and handicapped per-
6 sons so that affirmative action goals are attainable through agency
7 selection decisions;

8 b. Undertake a comprehensive review of its rules, regulations
9 and testing procedures in order to amend or eliminate those which
10 serve to discriminate against minorities, women and handicapped
11 persons;

12 c. Ensure that selection devices do not discriminate against
13 minorities, women and handicapped persons;

14 d. Analyze job specifications to isolate and eliminate prerequi-
15 sites that are artificial barriers to employment;

16 e. Review all discrimination complaints under Title VII of the
17 Civil Rights Act of 1964, Pub. L. 88-352 (42 U. S. C. § 2000e et seq.)
18 evaluate trends, and recommend appropriate policy changes; and

19 f. Receive, analyze and transmit to the Governor, at least semi-
20 annually, progress reports on affirmative action in all State agen-
21 cies.

1 11A:7-6. Affirmative action officer. The head of each State
2 agency shall appoint at least one person with the responsibility
3 for equal employment opportunity as the affirmative action officer.
4 Unless otherwise permitted by the director with the approval of
5 the commissioner, such person shall serve on a full-time basis and
6 shall be responsible to the Division of Equal Employment Oppor-
7 tunity and Affirmative Action.

1 11A:7-7. Agency accountability. The head of each State agency
2 shall be accountable to the Governor for achieving and maintaining
3 agency compliance with the affirmative action program.

1 11A:7-8. Affirmative action plan. Each State agency shall sub-
2 mit an affirmative action plan, with goals and timetables, plus
3 quarterly and annual affirmative action reports to the director.
4 Each affirmative action plan shall identify existing inequities in
5 hiring, promotion, and all other conditions of employment and
6 provide specific remedies for these inequities and establish the
7 time periods for the accomplishment of remedial action. Each
8 State agency shall make good faith efforts to meet its goals and
9 timetables.

10 If there is a failure by a State agency to achieve its goals, or to
11 demonstrate good faith efforts, appropriate sanctions and penal-
12 ties may be imposed by the department in accordance with federal
13 and State regulations, subject to the concurrence of the Governor
14 and the commissioner. These sanctions may include, but are not
15 limited to, placing a moratorium on departmental personnel actions
16 in the career, senior executive and unclassified services, and such
17 other sanctions as may be allowed by law.

18 State agencies which achieve outstanding affirmative action re-
19 sults shall be cited by the Governor for their efforts.

1 11A:7-9. Equal Employment Opportunity Advisory Commission.

2 There is established in the department an Equal Employment
3 Opportunity Advisory Commission which shall advise the Division
4 of Equal Employment Opportunity and Affirmative Action and
5 recommend improvements in the State's affirmative action efforts.

6 The commission shall consist of 11 members appointed by the
6A Governor, at least six of whom shall be minorities, women and
7 handicapped persons. Consideration shall be given to appropriate
8 representation of each group. The remaining members of the
9 commission may be comprised of State agency heads or their
10 designated representatives. All members of the commission shall
11 be residents of the State. Members shall be appointed for staggered
12 terms of four years but members appointed under section 10 of
13 P. L. 1981, c. 124 (C. 11:2D-10) shall continue on the commission
14 for the duration of their respective terms. Each member shall hold
15 office for the term of the appointment and until a successor shall
16 have been appointed. Members may not serve more than two con-
17 secutive terms. A vacancy in the membership of the commission
18 shall be filled by appointment by the Governor for the remainder
19 of the term. The commission shall meet at least quarterly to review
20 implementation of this chapter. The Director of the Division of
21 Equal Employment Opportunity and Affirmative Action shall serve
22 as executive secretary.

1 11A:7-10. Handicap accommodation and examination waiver.

2 The commissioner may establish procedures for the reasonable
3 accommodation of handicapped persons in the employee selection
4 process for the State and the political subdivisions covered by this
5 Title. Pursuant to rules adopted by the board, the commissioner
6 may waive an examination for an applicant who suffers from a
7 physical, mental or emotional affliction, injury, dysfunction, impair-
8 ment or disability which:

9 a. Makes it physically or psychologically not practicable for
10 such person to undergo the testing procedure for the title for
11 which applied, but

12 b. Does not prevent such person from satisfactorily performing
13 the responsibilities of the title under conditions of actual service.

14 In making such determinations, the commissioner may require
15 the submission of sufficient and appropriate medical documentation.

CHAPTER 8

LAYOFFS

1 11A:8-1. Layoff. A permanent employee may be laid off for
2 economy, efficiency or other related reason. Such employee shall
3 be demoted in lieu of layoff whenever possible. A permanent
4 employee shall receive written 45 days' notice, unless in State
5 government a greater time period is ordered by the commissioner,
6 which shall be served personally or by certified mail, of impending
7 layoff or demotion and the reasons therefore. At the same time
8 such notice is served, the appointing authority shall provide the
9 commissioner with a list of the names and permanent titles of all
10 employees receiving such notice. The board shall adopt rules re-
11 garding the order of layoff and employee rights.

1 11A:8-2. Prerequisite to layoffs. No permanent employee shall
2 be laid off or demoted in lieu of layoff until all nonpermanent
3 employees in that title against whom permanent employees have
4 rights in the same department are separated.

1 11A:8-3. Alternatives to layoff. The board may establish rules
2 on voluntary reduced worktime as an alternative to layoffs.
3 Employee participation in any such program shall not affect
4 retention rights or any other right or benefit based on length of
5 service. Such employees shall be restored to their former work
6 schedule before any new employee is hired in that title.

1 11A:8-4. Appeals. A permanent employee who is laid off or
2 demoted in lieu of layoff shall have a right to appeal the good
3 faith of such layoff or demotion to the board under N. J. S. 11A:2-6
4 and to appeal the determination of any other rights to the com-
5 missioner. Appeals must be filed within 20 days of final notice of
6 such layoff or demotion.

CHAPTER 9

POLITICAL SUBDIVISIONS

1 11A:9-1. Application. This Title shall apply to any political
2 subdivision to which the provisions of Title 11 of the Revised
3 Statutes applied immediately prior to their repeal pursuant to
4 N. J. S. 11A:11-10 and to any political subdivision which hereafter
5 adopts the provisions of this Title.

1 11A:9-2. Petition. The clerk of any county or municipality not
2 operating under the provisions of this Title shall submit the
3 question of adopting the provisions of Title 11A of the New Jersey
4 Statutes to the voters of the county or municipality upon the filing
5 with the clerk of a petition requesting adoption. Such petition shall
6 be signed by the registered voters of the county or municipality

7 equal to 15% of the valid votes cast in the county or municipality
8 during the last general election. Each name shall be signed in ink
9 or indelible pencil and the place of residence indicated by street
10 and number or other description sufficient to identify the place.
11 Within 10 days of the filing of a petition, the clerk shall determine
12 and certify whether or not the petition meets the requirements of
13 this chapter.

1 11A:9-3. Question placed on ballot; public notice. If the petition
2 is sufficient, the clerk shall, 15 days thereafter, give public notice
3 that the question will be submitted to the voters at the next general
4 or municipal election. Public notice includes, but is not limited to,
5 publication in the political subdivision's official newspaper once a
6 week for at least 4 weeks and posting such notice in 5 of the most
7 public places in the political subdivision for at least 4 weeks before
8 the election. The clerk shall also cause the question to be printed
9 upon the ballots to be used at the election.

1 11A:9-4. Refusal to comply. If the clerk refuses or neglects to
2 comply with the provisions of N. J. S. 11A:9-2 and N. J. S. 11A:9-3,
3 a registered voter of the political subdivision or the commissioner
4 may apply to a judge of the Superior Court in the county in which
5 the political subdivision is located for an order directing and
6 compelling the submission of the question involved in the petition.
7 The judge shall hear the matter summarily. If the judge finds and
8 determines that the petition is in accordance with law, an appro-
9 priate order shall be issued. Any clerk failing to comply with the
10 order of the court, or any public official, officer, agent or employee
11 interfering with, or preventing, such clerk from satisfying such
12 order, shall be guilty of a crime of the fourth degree.

1 11A:9-5. School districts. All the provisions of this chapter
2 shall apply to school districts in which the board of education is
3 elected by the voters. School districts shall, in the submission of
4 the question to the voters, conform to the provisions of this chapter
5 as nearly as possible.

1 11A:9-6. Elections. The method of submitting the question of
2 the adoption of this Title to the voters of a county or municipality
3 shall conform as nearly as possible to the provisions of Title 19 of
4 the Revised Statutes relating to the submission of public questions,
5 and when submitted at a school district election shall conform as
6 nearly as possible to the provisions of Title 18A of the New Jersey
7 Statutes relating to the submission of public questions in school
8 districts.

1 11A:9-7. Results certified. The result of the election shall be
2 certified by the clerk of the political subdivision to the commis-
3 sioner.

1 11A:9-8. Consolidation of functions. When the functions of
2 two or more political subdivisions are consolidated, and any one
3 of such political subdivisions shall be operating under this Title
4 at the time of such consolidation, the other political subdivision
5 or subdivisions shall be deemed to have adopted this Title with
6 regard to the combined functions.

1 11A:9-9. Status of employees. Any employee of a political
2 subdivision who, at the time of adoption, was actively employed
3 by such political subdivision continuously for a period of at least
4 one year prior to the adoption of this Title, or any employee who
5 was on an approved leave of absence and had at least one year of
6 continuous service with the political subdivision prior to the adop-
7 tion of the Title, and who comes within the career service, shall
8 continue to hold such position, and shall not be removed except in
9 accordance with the provisions contained in this Title.

1 11A:9-10. Seniority rights. At the time of adoption, of this
2 Title, the seniority rights of employees shall be based upon the
3 length of their continuous service with that political subdivision.

CHAPTER 10

1 11A:10-1. Disapproval of salary. The commissioner may dis-
2 approve the salary of any person employed in violation of this
3 Title or an order of the board or commissioner. Any person or
4 persons who authorize such payment shall be subject to penalties,
5 including, but not limited to, the disapproval of their salaries and
6 payment from their personal funds of improper expenditures of
7 such moneys as may be provided by the rules of the board.

1 11A:10-2. Violation of Title or order. Any person who pur-
2 posefully or recklessly violates or conspires to violate any provi-
3 sion of this Title shall be guilty of a crime of the fourth degree.
4 The commissioner or the board may bring civil or criminal action
5 to enforce this Title or any order of the board or commissioner.

1 11A:10-3. Noncompliance. The board or the commissioner may
2 assess administrative costs, other charges and fines of not more
3 than \$1,000.00 for any noncompliance or violation of this Title or
4 any order of the board or commissioner and such shall be enforce-
5 able in the Superior Court.

1 11A:10-4. Resident actions. Any resident shall have standing
2 to enjoin payments in the Superior Court and require recovery of
3 remuneration paid in violation of this Title in the jurisdiction of
4 residence, from the individuals signing, countersigning or autho-
5 rizing such payments. Moneys recovered in such action shall be
6 paid from the personal funds of such individuals and shall be paid

7 to the State Treasurer or the treasurer of the political subdivision
 8 as appropriate. Such resident shall be entitled to receive not more
 9 than 25% of the amount recovered and reasonable attorney fees
 10 at the discretion of the court.

CHAPTER 11

AGENCY TRANSFER AND REPEALERS

ARTICLE 1

Agency Transfer

1 11A:11-1. Appointment of Merit System Board. The President
 2 of the Civil Service Commission on the effective date of this act
 3 shall become the Commissioner of Personnel and the remaining
 4 members of the Civil Service Commission on the effective date of
 5 this act shall continue as members of the Merit System Board for
 6 the duration of their current terms and until their successors are
 7 appointed unless removed for cause.

1 11A:11-2. Department of Personnel. The Department of Per-
 2 sonnel shall replace the Department of Civil Service. Except as
 3 otherwise stated in this Title, all employees of the Department of
 4 Civil Service shall become employees of the Department of
 5 Personnel.

1 11A:11-3. Preservation of rights. Permanent employees in the
 2 career service of the Department of Civil Service which is abol-
 3 ished by this Title shall not suffer loss of seniority, pension and
 4 demotion rights in their permanent title by reason of the adoption
 5 of this Title.

1 11A:11-4. Names. Any law, rule, regulation, judicial or admin-
 2 strative proceeding, appropriation or otherwise which refers to
 3 the Department of Civil Service shall mean the Department of
 4 Personnel; Civil Service Commission shall mean Merit System
 5 Board; and President of the Civil Service Commission or Chief
 6 Examiner and Secretary, or both, shall mean Commissioner of
 7 Personnel.

1 11A:11-5. Rules. All rules of the Civil Service Commission shall
 2 remain in effect except as changed or modified by this Title or
 3 board action.

1 11A:11-6. Pending actions. Any action pending on the effective
 2 date of this act shall continue under the prior law and rules.

1 11A:11-7. Transfer. The transfers directed by this Title, except
 2 as otherwise provided, shall be made in accordance with the "State
 3 Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

1 11A:11-8. Appropriations. There is appropriated \$250,000.00
 2 to implement the transition provided for in section 2 of this act.

1 11A:11-9. Savings clause. If any clause, sentence, paragraph,
 2 article, chapter, section or part of this Title shall be adjudged
 3 invalid by any court of competent jurisdiction, such invalidation
 4 shall not affect or impair the remainder.

ARTICLE 2

Repealer

1 11A:11-10. Repealer. Title 11 of the Revised Statutes, as
 2 amended and supplemented, together with the following enumerated
 3 acts are repealed, but such repeal shall not affect any right now
 4 vested in any person pursuant to the provisions of said Title or
 5 any of the following enumerated acts, nor any remedy where an
 6 action or proceeding thereunder has been instituted and is pending
 7 on the effective date of the repeal:

- 8 P. L. 1938, c. 76 (C. 11:2A-1)
- 9 P. L. 1938, c. 381, s. 10 (C. 11:27-13)
- 10 P. L. 1939, c. 219 (C. 11:4-3.3)
- 11 P. L. 1939, c. 232 (C. 11:24A-1 to 11:24A-6)
- 12 P. L. 1939, c. 322 (C. 11:10-6.1)
- 13 P. L. 1940, c. 15 (C. 11:4-3.4)
- 14 P. L. 1940, c. 178 (C.11:22-11.1)
- 15 P. L. 1941, c. 91 (C. 11:4-3.5 and 11:4-3.6)
- 16 P. L. 1941, c. 286 (C. 11:4-3.7)
- 17 P. L. 1942, c. 65 (C. 11:20A-1)
- 18 P. L. 1942, c. 137, s. 2 (C. 11:27-1.2)
- 19 P. L. 1942, c. 253 (C. 11:24A-7)
- 20 P. L. 1944, c. 65, s. 11 (C. 11:7-10)
- 21 P. L. 1946, c. 148 (C. 11:24A-6.1 to 11:24A-6.3)
- 22 P. L. 1946, c. 198 (C. 11:4-3.8 and 11:4-3.9)
- 23 P. L. 1947, c. 201, ss. 2-4 (C. 11:14-3 to 11:14-5)
- 24 P. L. 1947, c. 272 (C. 11:20A-2)
- 25 P. L. 1948, c. 121, ss. 2-4,9 (C. 11:7-11 to 11:7-14)
- 26 P. L. 1948, c. 121, ss. 6-8 (C. 11:22-50 to 11:22-52)
- 27 P. L. 1948, c. 165 (C. 11:22-44.1 to 11:22-44.3)
- 28 P. L. 1948, c. 257 (C. 11:21-5.1)
- 29 P. L. 1948, c. 435 (C. 11:4-3.10)
- 30 P. L. 1948, c. 466 (C. 11:22-44.4 and 11:22-44.5)
- 31 P. L. 1950, c. 235 (C. 11:26B-1 to 11:26B-3)
- 32 P. L. 1951, c. 278 (C. 11:21-5.2)
- 33 P. L. 1951, c. 279 (C. 11:21-4.1)
- 34 P. L. 1952, c. 27 (C. 11:11-4)
- 35 P. L. 1952, c. 302 (C. 11:26C-1 to 11:26C-3)
- 36 P. L. 1952, c. 309 (C. 11:27-1.3)

- 37 P. L. 1952, c. 322, ss. 1 and 2 (C. 11:15-9 and 11:15-10)
38 P. L. 1952, c. 323, ss. 1 and 2 (C. 11:22-10.1 and 11:22-10.2)
39 P. L. 1953, c. 125 (C. 11:2C-1 to 11:2C-9)
40 P. L. 1953, c. 193 (C. 11:14-1.1)
41 P. L. 1953, c. 238 (C. 11:4-3.11)
42 P. L. 1953, c. 239 (C. 11:4-3.12)
43 P. L. 1953, c. 430 (C. 11:4-3.13 and 11:4-3.14)
44 P. L. 1954, c. 182 (C. 11:4-3.15)
45 P. L. 1954, c. 232 (C. 11:21-3.1)
46 P. L. 1955, c. 188 (C. 11:26C-4)
47 P. L. 1959, c. 88, s. 2 (C. 11:24A-1.1)
48 P. L. 1961, c. 18 (C. 11:26D-1)
49 P. L. 1962, c. 195 (C. 11:14-1.2)
50 P. L. 1962, c. 196 (C. 11:24A-1.2)
51 P. L. 1963, c. 185, s. 2 (C. 11:2-5.1)
52 P. L. 1964, c. 169 (C. 11:27-1.4 and 11:27-1.5)
53 P. L. 1965, c. 46 (C. 11:21-5.3)
54 P. L. 1967, c. 199, s. 2 (C. 11:22-10.3)
55 P. L. 1968, c. 437 (C. 11:26C-5)
56 P. L. 1971, c. 1 (C. 11:21-4.2 and 11:21-4.3)
57 P. L. 1971, c. 153 (C. 11:1-20 to 11:1-24)
58 P. L. 1971, c. 274 (C. 11:1-25 to 11:1-28)
59 P. L. 1972, c. 74 (C. 11:14-6 to 11:14-8)
60 P. L. 1973, c. 130 (C. 11:14-9 to 11:14-17)
61 P. L. 1977, c. 160 (C. 11:24A-8 and 11:24A-9)
62 P. L. 1977, c. 261 (C. 11:9-10.1)
63 P. L. 1978, c. 81, s. 2 (C. 11:22-2.1)
64 P. L. 1978, c. 99 (C. 11:14-18)
65 P. L. 1978, c. 147 (C. 11:22-44.6)
66 P. L. 1980, c. 134 (C. 11:22-34.1)
67 P. L. 1981, c. 92 (C. 11:21-5.4)
68 P. L. 1981, c. 124 (C. 11:2D-1 to 11:2D-10)
69 P. L. 1981, c. 204 (C. 11:9-15 to 11:9-18)
70 P. L. 1981, c. 205 (C. 11:23-10 to 11:23-13)
71 P. L. 1981, c. 439 (C. 11:22-10.4)
72 P. L. 1981, c. 545, s. 3 (C. 11:21-9.1)
73 In addition, all titles and parts of titles inconsistent with any of
74 the provisions of this Title are, to the extent of such inconsistency,
75 hereby superseded.
1 Section 2. This act shall take effect upon the 180th day following
2 the date of its enactment, except that any actions necessary to
3 effect the implementation, of the provisions of this Title may be
4 taken at any time after enactment.

STATEMENT

This bill would repeal the current Civil Service statutes under Title 11 and enact a Title 11A establishing a new Department of Personnel which would be composed of a bipartisan Merit System Board and a Commissioner of Personnel.

SENATOR WYNONA M. LIPMAN (CHAIRWOMAN): Good morning. We are going to begin this hearing on Senate Bill 2019, introduced by my colleague to the left here, Senator Cardinale. This is a major piece of Civil Service reform legislation. It repeals Title 11 of the Revised Statutes, and replaces it with a new Title 11A. It abolishes the Department of Civil Service and creates a new Department of Personnel. The Department would be headed by a Commissioner of Personnel, who would act as Chairman and Chief Executive Officer of the newly created Merit System Board. Proponents of this bill argue that it will reform 35 overlapping, confusing and disorganized sections of the law into ten substantive chapters, will eliminate unnecessary statutes, and will provide for greater administrative efficiency.

Currently, New Jersey has a Department of Civil Service which is governed by a five-member Civil Service Commission. Members are appointed for a term of five years by the Governor, with the advice and consent of the Senate. The Governor appoints one member of the Commission as its President, who also serves as the Presiding Officer. The President may appoint a Deputy Commissioner who shall perform such duties as the President prescribes.

This bill establishes a five-member Merit System Board. The Commissioner of Personnel shall serve as Board Chairman and Chief Executive Officer. The other four members shall be appointed by the Governor, with the advice and consent of the Senate. No more than three of the five members shall be of the same political party. Board members shall serve for a term of four years. The Commissioner shall serve at the pleasure of the Governor. The Commissioner may appoint a Deputy Commissioner who shall be in the unclassified service. The Commissioner may delegate to an appointing authority, the responsibility for administering examinations and other personnel functions.

S-2019 makes a number of changes in personnel policy, such as disciplinary action, hearing rights, penalty review, certification of eligibles, employment list duration, reemployment lists, working test period and unused sick leave. It also contains new provisions, such as creating a Senior Executive Service. The bill provides that the President of the Civil Service Commission shall become the Commissioner of Personnel and that the remaining members of the Civil Service Commission shall continue as members of the Merit System Board for the duration of their current term. The bill also provides that all employees of the Department of Civil Service shall become employees of the Department of Personnel, and that permanent employees shall not suffer any loss of seniority or pension benefits. All Civil Service Commission rules and regulations shall remain in effect except as modified by this law or upon revision by the Merit System Board.

S-2019 appropriates \$250,000 to carry out the purposes of the Act and shall take effect 180 days after enactment. It should also be noted that this bill is identical to A-1720, which was introduced in the Assembly by Assemblyman Villane.

I want to emphasize that we are here today to take testimony, to listen and to learn. We know that many individuals and groups want to testify and wish to make suggestions. We desire such input and hope to fashion a bill that all interested parties can support.

I have already introduced Senator Cardinale, who is the prime sponsor of this bill. His cosponsor is Senator John Paoletta. To my right is Senator Costello, the Vice Chairman of the State Government Committee, and Joe Capalbo, who is the Committee Aide.

Mr. McCaffrey, welcome. Are you a Commissioner or President right now?

MR. McCAFFREY: Both Presidents are here this morning.

SENATOR LIPMAN: Anyway, Mr. McCaffrey, will you introduce your staff?

MR. McCAFFREY: Thank you, Senator, Senator Cardinale, Senator Costello, Mr. Capalbo. Director of Administration, Robert DeNicholas; next to him, Director of Examinations, Robert Hartman; Morris Ianni -- we've changed the title of that, because of some conflict with Community Affairs -- it is now Director of County and Municipal Government Services; Bill Scheuer, Training and Personnel Development; Joe DiLascio, Classification and Compensation; Fred Burgos, Equal Opportunity and Affirmative Action; Peter Calderone, Director of Appellate Practices and Labor Relations; Kerry Perretta, Deputy to the Assistant Commissioner; Sue Matalucci, Governor's Counsel who has helped us with this bill; and, of course, my predecessor and friend, Reverend Woodson, who is here to help us describe what we are attempting to do.

SENATOR LIPMAN: Thank you very much. Now, I think I will introduce Senator Cardinale, who is going to speak on his bill.

SENATOR GERALD CARDINALE: I am going to attempt to be extremely brief, because I believe this hearing is really what its name implies, and that is for us to listen to your concerns and to weigh those, and to perhaps incorporate as much as we can of those concerns into the bill, while still doing the job we feel needs to be done.

When I first came into the Legislature, this bill had already a long history and that was in a term in the Assembly. At that time, I was impressed with the fact that everyone agreed that something needed to be done. That agreement was quite bipartisan, and yet nothing happened -- nothing had happened prior to then, nothing happened then and, hopefully, we will change that course of events in this legislative session. Perhaps, if we can all get together, something will happen this time.

One of the important features of this bill, as I see it, is the establishment of bipartisanship in the administration of our Civil Service rules and regulations. There are many, many -- and if I attempt to go into each individual item, I think I could probably -- as many of us in politics do -- take the whole time, after having said I was going to take very little time. So, let me just go to the final page of my remarks and say that this bill is drafted as a framework for what, hopefully, for all of us, will be an effort to arrive at some kind of consensus which will bring our State employment practices into a more modern framework and will allow the people of our State, and their employees, to enjoy what both rightly desire. Without any other remarks, I think I would like to pass the meeting back to the Chairman and have the witnesses be heard.

SENATOR LIPMAN: Thank you very much, Senator Cardinale. I think we will call on Mr. McCaffrey next, President of the Civil Service Commission. Mr. McCaffrey?

EUGENE J. McCAFFREY, SR: Thank you Senator. With the Chair's permission, before I begin reading my written statement, I would like to put on the record that we have been in contact with Governor Brendan Byrne, who was willing, and who will come to testify for the bill if there are other meetings. He has agreed to forward correspondence to this Committee supporting the bill, which I am sure will be forthcoming. If there are other hearings and he is in the area, he will be glad to testify. I have the same representation from Assemblyman Burstein -- former

Assemblyman Burstein, who has reviewed the bill in detail, and can support it, and asked me to represent that to you. There will be correspondence coming from Assemblyman Burstein, also, to the same effect.

This year, the New Jersey Civil Service system will mark its 75th anniversary. While there have been numerous changes and innovations in personnel management and employee development throughout the country during these 75 years, in Civil Service substantially, the laws and procedures in this State continue, for the most part, the same provisions as contained in the 1908 enabling legislation. I think that is really significant. Except for a few minor changes that have been made, one of them not really dealing with personnel management, but simply attaching a new division to the Civil Service Department, there hasn't really been any significant change since 1908. In fact, except for some beneficial amendments, such as the 1938 provision providing for employee disciplinary appeals, and the 1981 measure that established the Division of Equal Employment Opportunity and Affirmative Action, which I have just referred to, the current Civil Service Title 11 remains basically unchanged. It is obsolete and confusing.

The question of Civil Service reform and revision is, and should be, a bipartisan issue and has been addressed at the Federal and State levels in recent years. Both Democratic and Republican Governors in this State have sought basic changes in the Civil Service law, and legislation in this area did pass one House of the Legislature during the last session. I believe that was Assembly Bill 1859. Recently, in his Annual Message before the Legislature, and many times in conversation since I have been in the Cabinet, the Governor has emphasized the need to reduce and clarify the Civil Service law in a manner which would provide adequate employee protections in a merit system and ensure effective and responsive government. The bill before you, we submit, Senate Bill 2019, accomplishes these objectives.

This bill was developed, not by gubernatorial appointees or academics unfamiliar with actual government operation, but rather by personnel professionals in this State who are themselves in the classified Civil Service. For the most part, the gentlemen and ladies that we have introduced you to today are the folks who have worked this bill through with its sponsors, and have developed a bill that career professionals, not people in the political field, say will work and will improve the system. In particular, a review was made of the past legislative proposals in this area and the comments and criticisms of those measures. Additionally, Dr. Annmarie Walsh, who is with us today and who will testify, assisted in this project. She is President of the Institute of Public Administration.

What emerged from all this was a revision of the current law from, as Senator Lipman said, its 35 disorganized and overlapping sections into ten properly developed chapters. Technical jargon, legal terms and imprecise wording were deleted, and were replaced by nondiscriminatory language and plain English. The elimination of the complex, archaic and abstract language contained in the present statute will facilitate the understanding of the Civil Service system by public employees, their employers and all citizens who are concerned.

The bill sets forth, in its first chapter, specific merit principles not listed in the current law which include: the selection and advancement of employees on the basis of their relative knowledge, skills and abilities; improvement in employee performance through training and education; and, nondiscriminatory treatment of applicants and employees in all aspects of personnel administration with proper regard for employee privacy and constitutional rights.

Moreover, a specific section of this bill provides for the protection of employees against reprisals for the lawful disclosure of information on law violations, governmental mismanagement or abuse of authority, which is generally known as the "whistle blower provision." The Public Advocate is specifically empowered to represent an employee in any of these matters. Such merit principles and employee protections as set forth in the initial chapters of the bill develop a sound basis and interpretation for the entire legislation and bring meaning to our constitutionally mandated system of merit selection in the public service.

A new Department of Personnel, as indicated by the Chairman, would be created under the bill with a bipartisan Merit System Board which would have rule-making and quasi-judicial duties and a cabinet level Commissioner of Personnel with executive responsibilities and functions. Unlike the present law which does not require that the Civil Service Commission be bipartisan, Senate Bill 2019 specifically provides, as the Chairman indicated, that no more than three members of the five-member Merit System Board may be of the same political party. We submit that that is a radical and important departure from the present law.

In order to bring economy and efficiency in governmental operations, the bill allows for the delegation of certain personnel functions to appointing authorities under prescribed standards. We anticipate that such functions as the collecting and sorting of applications and the issuing of certifications once an employment list has been developed, could reasonably be delegated to those jurisdictions with the staff to handle such matters. An important note, though. This would only be done under the very close scrutiny and supervision of the Department of Personnel, after careful training of agency or locality staff, or by the detailing of technicians from our Department to work closely with State and local jurisdictions.

The current veterans preference which is retained in Senate Bill 2019 is restricted to those who served in the armed forces during specific wartime periods. This group is thus limited, and the number of persons who claim such preference is steadily declining. By the way, I have some statistics our Department has worked up, and I think perhaps now would be a good time to pass them around to the Committee. They indicate how dramatically the veterans preference is not affecting as it did before in a discriminatory fashion. Realistically, to include a change in the preference in this bill would focus considerable debate on that question and impede passage of this much needed legislation.

Moreover, I believe that a dialogue must be established between various groups, including women's and veterans' organizations, to develop a meaningful review of this preference. In this regard, I have become involved in such a process which could result in a future revision in this area after full consideration of this issue and veterans' benefits and concerns in general.

I have learned going through the bill, Senators, and working through this, that as best we can determine with the interested parties, there has not yet been an attempt to meet with responsible veterans' groups to attempt to develop a meeting of the minds, so that there could be some legislation meaningful to all involved. I really believe that there is some lack of communication as to what really happens with the veterans preference, and how few people it affects. I think that if we begin with those groups in the near future, we may be coming closer to a solution of the problem that has been bothering us all for a long time.

In disciplinary and other hearings, Senate Bill 2019 provides additional employee protections and precludes, in most cases, the suspension or removal

of an employee prior to a hearing. This requirement should alleviate the hardship employees encounter when they are forced from their jobs even before they are heard on charges. It also alleviates the problem of an employer paying large back pay awards for days a worker is found to have been improperly suspended. That is complicated further by the fact that sometimes the hearings take a long time to reach, and if it is a long-term suspension that is finally revoked, the appointing authority runs into very, very much difficulty, especially when you are considering local government, as Mayor and Senator Costello knows well, -- with the "Caps" on local government, it is an additional hardship to reach in and pick up some money and put it into the budget, when you didn't think you had to, or didn't know you had to. Additionally, there are new sections allowing for reasonable counsel fees to a vindicated employee and for union representation at Civil Service proceedings.

The bill also provides needed measures to allow promotions from generally lower level noncompetitive titles into the classified service. This would enhance employment opportunities and incentives for such employees. In addition, the bill creates a Senior Executive Service in State government for high level managerial and policy-making positions, allowing for inter-agency assignments and transfers while mandating that at least 85% of such employees be selected from the career Civil Service. Such a service will provide State government with needed flexibility at its highest levels, including career advancement and necessary protections for employees who serve in such titles. Strong equal employment and affirmative action mandates are retained, employee interchange programs between various levels of government and private industry are provided and position vacancy review is established.

Unlike the current law, this bill emphasizes employee training and development.

We believe that a good personnel program furthers employee advancement through educational and skill improvement programs. Further, this bill provides, for the first time, alternatives to layoffs, whereby employees may voluntarily select such items as reduced work hours, voluntary leaves and similar type matters to avoid agency staff reductions. Such programs would provide necessary flexibility to administer personnel during times of fiscal emergencies, as we have seen of late, and includes measures open to employees that will reduce spending and possibly avoid layoffs. Additionally, the bill provides for employment list extensions for periods of fiscal crisis such that employees who pass examinations and cannot be hired through no fault of their own will have a greater period of eligibility for selection.

New advisory boards for local governments, labor organizations and personnel officers are established under this bill. Furthermore, needed strengthening of the statute's enforcement is contained in the bill and includes, among other things, fines against and the payment of administrative costs by persons or entities that violate the statute.

This permits for the fair and uniform application of the law and quick and meaningful remedies against those who seek to hinder or violate the statutory requirements.

While we have discussed some of the more critical features of this bill, I emphasize that S-2019 contains numerous other improvements in every area of personnel procedures. We have discussed this legislation with all affected organizations and groups whom we could reasonably determine had some concerns and interest in the bill.

I find this morning, in talking with Mr. Murphy, that the PBA has some concerns, and we are going to be meeting with them as soon as we can after this hearing is concluded. As for collective bargaining concerns, the controversy with respect to negotiability in the public sector would not properly be considered in a Civil Service revision. More appropriately, negotiability requires complete review in other forums or legislation. This is a complex area with a wide spectrum of opinion.

Any changes in public employee collective bargaining should appropriately address groups other than classified Civil Service employees, such as school employees, those in non-Civil Service jurisdictions and personnel without tenure.

The Governor has established a Public Employment Advisory Committee, of which I am a member. We will work in that group and in other areas to deal with the negotiations issue.

As I stated at the outset, the present Civil Service law is 75 years old. I believe it is time for a change. I believe the time is now to enact a revision of the law. While I recognize that this bill does not satisfy everyone, it establishes a fair balance between managerial obligations and flexibility, and employee protections and rights. In this manner, all citizens of our State will be better served through a responsive and effective government. Thank you, Senator.

SENATOR LIPMAN: Thank you, Mr. McCaffrey. I'll ask my colleague, Senator Costello, if he has questions.

SENATOR COSTELLO: No. I thought it was an excellent summary, though. I do have one question, Mr. McCaffrey. In your discussions with other organizations in New Jersey, was it your conclusion that there is a great deal of opposition out there as to the bill in its present form?

MR. McCAFFREY: No, I don't think there is a great deal of opposition. There are a lot of questions; there are a lot of things that have to be resolved yet. But, I do believe it would be a correct statement to make at this time, that even those who think they may have to be opposed are at least, perhaps, ready to take a "wait and see" attitude as to what comes out of these hearings. I think this bill is a very viable bill at this time, because we have talked to almost every organization that we felt had an interest. We personally visited them; they visited us; and, we have gone over their concerns and attempted to hit them as much as we could in the first draft of the bill. Certainly, there will be things that will have to be discussed and ironed out, but I think we are on the track. I don't think we have people who are ready to say immediately, "This is a bad bill and should not be acted upon."

SENATOR LIPMAN: No questions from Senator Cardinale?

SENATOR CARDINALE: No questions.

SENATOR LIPMAN: No statement, okay. My turn -- Mr. McCaffrey, I certainly wish you had put it in the body of your statement in writing that you are going to meet with veterans' and women's groups to bring about some pleasant negotiations about veterans preference. That will be discussed more fully, do you think, when we get to our Committee hearing?

MR. McCAFFREY: Well, I could have put that in very easily, and for the record I can put it in now, that I am going to meet with them. We had a meeting yesterday of various groups, and agreed to attempt to identify some responsible folks in veterans' organizations, and to begin a dialogue with women's organizations,

veterans, and other interested parties on this particular problem. We're starting, probably early next week, to identify the participants, the principals, and then we'll start the meetings going. In my statement there is something that says I am going to become involved --

SENATOR LIPMAN: Yes, there is something that says that.

MR. McCAFFREY: -- but I didn't say that I was going to be in the meetings.

SENATOR LIPMAN: Yes, you elaborate it.

MR. McCAFFREY: I have offered to act as sort of a connector, if you will, knowing full well the vulnerability, but I think something has to be done. Usually what happens is, they will find a way to get together and get something done, and I'll be the guy who gets caught in the middle of the thing. But, that's okay.

SENATOR LIPMAN: I don't want to go too deeply into some of the details that you mentioned, but I would like to know a little bit more about the Senior Executive Service. Do you want to talk about that a little more?

MR. McCAFFREY: I would be glad to talk about it, but since I have just finished doing a lot of talking, I wonder if you would mind if I asked Director Calderone to address himself to that?

SENATOR LIPMAN: Not at all.

P E T E R C A L D E R O N E: The concept of the Senior Executive Service is to develop in State government -- and that is important -- the last time around, local government was initially included. This bill provides that it will just be applicable to State government. Certain positions and titles that are in the higher level managerial group, that would be selected in more flexible means, and would be available to transfer between agencies, across assignments, be of much more flexible --

SENATOR LIPMAN: Excuse me, does everyone hear him? Would you lend him your microphone, Mr. McCaffrey? I'm sorry to interrupt. Okay?

MR. CALDERONE: I'll start again with some of these comments. The concept was in previous legislation. At one point, it covered both State and local. In this bill, it covers just State government -- would be applicable only to State government. I would identify high level managerial positions in State government in which different procedures we envision testing, such as assessment centers, would be utilized, whereby the service can be used throughout State government, not in just one department. It would provide for transfers between agencies, cross-assignments; individuals, 85% of which would have to be in the career service -- at least 85% -- could be utilized throughout State government, based on their own expertise and backgrounds, in a variety of functions.

SENATOR LIPMAN: Transfers between agencies?

MR. CALDERONE: Yes.

SENATOR LIPMAN: At the same level?

MR. CALDERONE: Yes.

SENATOR LIPMAN: And all of these would have come up through Civil Service?

MR. CALDERONE: The bill provides that at least 85% of the individuals selected would have to be from the career Civil Service. It would allow up to 15% to be non-Civil Service -- persons from the outside, because of their special expertise, but by far, the bulk of them would have to be from the career service.

SENATOR LIPMAN: The ones with the expertise from the outside would be unclassified?

MR. CALDERONE: Although it isn't exactly unclassified service, it would be akin to that. They would have no status, no tenure, anywhere in the system.

SENATOR LIPMAN: All right. There is one more. On Page 8 of Mr. McCaffrey's speech -- I have a question. I have a great deal of trouble with this one: "S-2019 provides for employment list extensions for periods of fiscal crisis such that employees who pass examinations and cannot be hired through no fault of their own will have a greater period of eligibility for selection." That means you will extend the time they have, and not cut off the period. Is that so?

MR. CALDERONE: Senator, that would be a maximum of two years. Right now, there is legislation that allows for the extension of fire promotional lists for one year. That, from our view, has worked well. It was intended for those cities that have fiscal emergencies and the list can't be used. This bill would allow the Board to extend the list up to two years, where there is good cause to extend it. Our intent was because of the situation we have in many areas of the State where lists cannot be used because of fiscal concerns -- that this would allow in those situations up to a two-year extension.

SENATOR LIPMAN: All right, that's very good. We will proceed to the next witness, if there are no more questions for Mr. McCaffrey.

MR. McCAFFREY: Thank you, Senators.

SENATOR LIPMAN: You gentlemen are not going to leave, are you?

MR. McCAFFREY: No.

SENATOR LIPMAN: You want to stay with us -- that's what I thought.

MR. McCAFFREY: We'll stay as long as you need us.

SENATOR LIPMAN: All right, thank you very much. We're going to hear from you, Reverend Woodson, a little later. All right? Okay. I call Dr. Annmarie Walsh, President of the Institute of Public Administration.

D R. A N N M A R I E W A L S H: Thank you. I think I would limit my remarks, because the bill has been very well and accurately described, to trying to set it somewhat in the context of what is being done in other parts of the country in similar reform or change activities.

Around the country, as is obvious here in New Jersey, Civil Service reform is one of those rare issues that truly has been treated as a bipartisan issue. I noted when I started looking into this situation, that you have had seven major reports in ten years in New Jersey calling for public personnel changes in your system. They are fairly evenly divided between reports sponsored by the Executive, and reports sponsored by legislative committees -- by Republicans, by Democrats. The benefits of this bill will accrue to taxpayers and to public employees, and to the service users in the State over a very long period of time. The bill, in effect, provides a framework for change, and you can't expect very quick results. You can't expect overnight results from any Civil Service reform.

The experience elsewhere has shown that the real development of such things as the Senior Executive Service, the new classification examination systems, and performance evaluation systems goes on over a period of from two to six years, as the systems are designed and take shape, generally over a long period of discussions and reworkings within departments, within personnel and, in this case, undoubtedly with a lot of consultation with the advisory boards that are to be set up. But, it is important that the process be started now, precisely because it is a long-term process, if your local governments are going to be able to adapt to new responsibilities

within budget constraint and, particularly, if State and local government agencies are going to be able to adapt to the dramatic changes in the context and technology of work that is taking place today. Technology of work in the offices, in health care and in transportation requires -- is going to require manpower planning, is going to require training, and is going to require new classification schemes, many of the things that your new Department of Personnel will be set up to do.

The specific provisions of this bill were designed to suit New Jersey's special situation, but let me review some of the elements in it which parallel the elements in Civil Service reform in other states and, indeed, in personnel reform in business, because these are the common elements that lay the groundwork for an up-to-date personnel system. One of those is the Executive Personnel Department, for which the function is -- its responsibilities are really focused on developing the capability to have accurate management information systems, to do long-term manpower planning and to develop appropriate training and career programs, executive functions that are quite different from the more judicial functions of a Civil Service Board. This bill creates such a department, and there is widespread consensus across the country embodied, for example, in the model laws that have been promulgated -- the model Civil Service laws that have been promulgated by several organizations that a personnel department should be headed by a full-time executive of similar status and authority to other executive department heads. That is an element in all of the major model Civil Service laws.

The parallel common element of reform is strong protection for merit and equity in public employment. This bill gives you that protection by spelling out the merit principles, by establishing a bipartisan Merit Board, by streamlining hearing procedures, by providing specific protections against reprisals for what we have been calling "whistle blowing," by calling for examination procedures relevant to the nature of work, and by a long line of other protections. The Merit Board, as designed in this legislation, is indeed stronger than the Civil Service Boards in a number of other jurisdictions that have undergone change.

You might be interested to know that in a survey of local governments, 87% of all Civil Service reform efforts in the nation so far, have separated the Civil Service Board with its functions of rule-making, investigation and adjudication from the positive personnel management functions in a department, and over one-third of all the states has made this change to date.

Another common element is the Civil Service system which recognizes the importance of employee representation, but remains, in some sense, distinct from it -- from the employment relations system. Of course, public employee unions and collective bargaining were virtually not in existence when the original Civil Service laws were drafted, and now they are. In fact, the employee organizations are the first line of defense, in effect, against misuse or abuse of management authority.

In general, labor relations provisions are usually not part of basic Civil Service laws and, where there are exceptions, such as the Taylor law in New York, there have been some persistent difficult problems in working out the relationships. Part of the reason for the separateness is the tradition, which has been bolstered since 1940 by Federal requirements, that basic merit system principles be assured in State and local governments eligible for Federal grants. So, the basic merit principles cannot, in effect, be bargained. What that includes, and what that doesn't include -- the larger issues of employee relations, really belong under

special consideration and in an employee relations set of provisions.

Another common element is that you need a public personnel system that will, in fact, produce the capability to enrich jobs, in the long-run, to save jobs, and probably more important, to increase the incentives and opportunities for career mobility within your public service. There is nothing in this bill that would cause loss of jobs. On the contrary, jobs are lost when there are budget constraints and there is not the ability to increase productivity within those budget constraints. Jobs are lost when work changes, and there are not adequate programs for training and retraining, and mobility of employee groups caught in work changes. Jobs are lost when agencies fail to adapt to the changing demands and circumstances and, therefore, become candidates for cutbacks.

So, the three objectives of this bill are aimed at saving both jobs and taxes, if we can say that its purpose is the same as the purpose of similar bills around the country. One, is to improve the capabilities for up-to-date manpower planning and human resource administration. The second objective, is to provide vigorous training and career development programs, and more varied promotion opportunities. These changes are beginning to show in other systems. There is a very vital and important opening up of career mobility and promotion opportunities from the more flexible systems. And, third, to enable agency managers to apply modern management techniques within their departments, in order to improve the performance and efficiency of the work unit.

In sum, what you are looking to get from this bill, is a Civil Service system that is conducive to good management, as well as to employee development. What has been taking place around the country, is that Civil Service reform has become very important to management improvement, in nearly every place where management improvement has been moving forward. At the same time, we have election campaigns across the country developing rhetoric against bureaucracies, and clearly there is some erosion of public confidence in public service. Public cynicism, perhaps, is the most common cause of political intrusions in the public service. But, the public's perception of pride, professionalism and performance in the public service has to be restored, clearly, if governments can cope with problems that are confronting them. Civil Service reform that opens the windows of State and local government to some management improvement, to modern management techniques, to better incentives for performance, and attractions to keep people in the public service and to restore reputations and morale and career abilities, is really a crucial part of restoring that confidence. In some areas, where Civil Service reform has succeeded, particularly local areas, those results have begun to be seen.

One aspect of management improvement that has been nearly universal, in private business as well as in the public corporations, is to decentralize administrative procedures as your operation grows larger. A recent survey by the National Governors' Association shows that three-quarters of the states have initiated reforms to decentralize personnel administration, and to develop intra-departmental performance appraisal systems -- three-quarters of the states so far. New Jersey government has grown dramatically in decades, and has not taken action to do any significant decentralization. This bill does not directly decentralize anything in personnel administration. It merely permits the development of some delegation, under very controlled circumstances, including prescribed standards, the loan of personnel staff to the departments if needed, ongoing supervision and audit by the department,

and, of course, appeal to the Merit System Board. The independent powers of the Merit System Board are defined very clearly and cannot be delegated. So, in effect, it is a modest beginning. It will allow for delegation to operating departments, presumably to develop in step with mounting confidence in the effectiveness and fairness of delegation.

The concept of the Senior Executive Services, or a special pool of managers -- that is another common element in most of the major reform efforts. Clearly, as the priorities and circumstances change in government, you need, as you have in business, some flexible responses for management teams at the top. In one year, the priorities of government may be focused on one problem area, and they may have to concentrate certain expertise in that area, in that problem, in that department, or in an inter-departmental task force, etc. In another year, the crisis or priorities may be somewhere else, and there may have to be some flexibility at the top. In addition, the Senior Executive Services are designed to make broader opportunities, more varied opportunities for promotion of public employees at the top. The provision that holds 85% of the Senior Executive Services' positions in this bill for career people is a very important one, because what we are seeing in the states that have not organized their top management titles -- we're seeing dramatic increases in the numbers of non-career officials, of unclassified or political appointments to the executive level. And, in the states which have reorganized their top executive titles, there is much less of this going on.

The other mandates of the bill are keystones of modern personnel practice, the continuous review of classification plans. That will be a long-term, very difficult, and ongoing job of the department. Vacancy review, management information systems, work force planning, advisory boards, employee training and development -- all these processes will give you better information on which to base appropriations, as well as better management capability in the executive in general.

In closing, there is no question that all of the reform movements have been a little bit difficult, and have had their uneasy moments. Public employee groups have been uneasy before and after, but none of them have caused any dire crises. None of them have been undone. The ultimate cost savings are far greater than the budget burdens of the change, in most places. New York State has now allocated one million dollars just to do a study of its classification and compensation system, because they have calculated the savings from the potential improvement and it will be much more than that. You don't have to go that far, but you certainly do need a modern personnel department that can start doing that kind of work. Thank you.

SENATOR LIPMAN: Thank you. Senator Cardinale?

SENATOR CARDINALE: I want to thank you for a very careful analysis and some very useful comparisons. One thing I would ask you to comment on is, within the bill as we have drafted it, there are some voluntary alternatives to layoffs. There are development provisions for the development of such alternatives. Is that commonly being done in other states, and will you expand on how that might work here in New Jersey under this bill?

DR. WALSH: Well, it is unusual to see in a Civil Service bill, only because most of the Civil Service bills we have analyzed came before the more recent crises of layoffs and reductions in force. So, there are several places where alternatives to layoffs have been tried, mainly within single agencies or institutions. I do not know of a state government -- that does not mean that somebody may not be

doing it -- I am just not aware at the moment of a whole state government. Usually, it is a process, where it has worked in smaller institutions, in some universities for example, that has been -- if it works, it works by virtue of the system being designed by internal negotiations; in fact, the group of employees coming up with the suggestions themselves and hammering out some consensus, such as four-day reduced time arrangements, lengthened vacations without pay, a voluntary month without pay, that has been tried.

SENATOR CARDINALE: Is it possible, under our present law, to negotiate for any of the alternatives?

DR. WALSH: I can't answer that. Under your State law, I don't know the answer to that, Senator.

SENATOR CARDINALE: I'll ask that of another witness.

MR. NEIMEISER: There may be a couple of us who could answer that.

SENATOR LIPMAN: Do you want to take a stab at it?

MR. NEIMEISER: At answering that question?

SENATOR LIPMAN: Yes.

MR. NEIMEISER: Well, we plan on covering it when we get a chance to testify. However, I would point out to the Senator that it is our belief, and I believe it is the belief of other public employee organizations, that the law permits that kind of negotiation as to whether that option takes place. Generally, we take the lead from the people we represent. Managers, oftentimes, don't want to use that particular mechanism. Managers sometimes have their own rationale for wanting to avoid certain kinds of things. This bill would not provide that; it would just give managers the options they already have and it would allow employee representatives, somewhere down the line I suspect, the ability to do what they currently can do.

SENATOR LIPMAN: Why don't you identify yourself for everybody?

MR. NEIMEISER: I am Mark Neimeiser; I am the Associate Director of AFSCME, the American Federation of State, County and Municipal Employees, AFL-CIO.

SENATOR LIPMAN: An employee representative, right. Very good. Senator Costello?

SENATOR COSTELLO: No questions.

SENATOR LIPMAN: There is one question that I have. You mentioned model legislation. That brings to mind other states. How many other states are organized in this way that you know about? The second part of the question is, if you know of any, how are they working?

DR. WALSH: Eighteen states have initiated changes to separate the Personnel Department executive functions from the adjudicatory functions, as you would in this bill. Of the local governments which have had Civil Service reform movements, the vast majority of them have done it. It has been working in cities for many years, and working very smoothly. In effect, you simply have to look -- where the problems have arisen, it has been where the powers of the, what you are calling here the Merit System Board, have not been clearly defined. Then there have been revisions to clearly define them. The powers of the Merit System Board in this bill are clearly defined. The rule-making power is solidly in the bipartisan Board and the control over hearings. So, the problems in the Federal government are, that the Merit System Board in the Federal government as designed in the 1978 Civil Service Reform Act, is much, much weaker than the Board you have designed in this legislation. The Merit System Board of the Federal government does not have the

rule-making power. It has a watchdog review power, and the complaints are that that is much too weak, that the rule-making power should be with the Board, as it is here in your bill.

SENATOR LIPMAN: Thank you very much. Reverend Woodson?

S. HOWARD WOODSON, JR: Senator Lipman and members of the Committee. My role this morning is a rather easy one. I'm not really on the hot seat today, in light of the fact that I have given that role to President McCaffrey. I have come today, however, to simply reinforce what has already been so very well said, and to trace back for you, very, very briefly, one of the reasons we are at this point in terms of a press for Civil Service reform.

Prior to the Administration of Governor Brendan Byrne, during the time of Governor Cahill, there was a proposal afoot to really annihilate, or completely eliminate, the Department of Civil Service, based upon the number of complaints that had come in, not only from municipalities and counties, but from State government itself, and the result was that there was a proposal afoot to eliminate the Department altogether. With the coming of the Brendan Byrne Administration, a large body of facts had been collected from all departments of State government, with the result that, as a new Administration came in, there was a great press for changes in the Civil Service system that resulted in a massive study, and that study evolved itself finally into several bills, some of which were considered by the Legislature, and one of which passed in the lower House and was not considered by the upper House.

Today marks the beginning, I hope, of what will eventually be reform in Civil Service, and this bill itself is based upon, not conjecture or "pie in the sky," but rather upon the actual fact of problems encountered by both management and worker in the Civil Service system. It does not answer, of course, all of the demands that are going to be made upon it, particularly when it comes to the scope of negotiation -- the scope of negotiability. I do not believe that this is the bill that should be used for increasing the scope of negotiability. I believe that there is a vehicle, however, and that the Legislature should consider the scope of negotiability, but under a separate bill, rather than trying to incorporate such a broad field in the current bill before you, Senate Bill 2019.

Let me move to several items in the bill which I feel are absolutely an improvement over what we currently have. Promotion from non-competitive to competitive career positions -- during my Administration, we worked very closely with AFSCME at one point, in order to try to circumvent the regulations which were already afoot which did not permit a smooth flow of non-competitive personnel into competitive career positions. We had to go to the trouble of working with Rutgers, The State University. We worked diligently to manage to, first of all, get all of the personnel who were interested in improving themselves in upward mobility, get them into the school in order that they might be trained, and then we had to go to a competitive examination, but had to close it off to those who had taken the training, and finally moving them from that training into the examination, and finally from the examination into competitive career positions. This bill would permit a much smoother flow of persons from the non-competitive into the competitive career positions. In addition to that, we have next the role of collective negotiations. Prior to this bill being introduced, the Commissioner of Personnel had a representative who sat as a kind of adviser in collective negotiations, but nine times out of ten, in most instances, I think that organized labor would admit to the fact that finally, after

all of the negotiations were completed, many times they came to the Department of Civil Service only to discover that something that was negotiated in good faith, and which everyone around the table had agreed to, did fly in the face of Civil Service rule and regulation, the result of which was there was a necessity for going back to renegotiate, or going back to reargue a situation. We hold that if the Department of Personnel, with the Commissioner sitting at the collective bargaining table, is there, then those issues can be resolved immediately, rather than after the fact.

The other matter, the matter of hearings -- the right of disciplined employees to a hearing -- we now have reduced in this bill from five days to three days, where a person who is working can appeal for a hearing. And it also, in addition to that, means that there will not be suspensions at the point when an employee is accused, but rather that employee will have the opportunity to continue in employment rather than have to be suspended, have a hearing, and then be found not guilty -- then the State or the Department is faced with the proposition of back pay.

There is an additional factor, and that is that unions will be allowed to represent employees at a Civil Service Commission hearing. This will eliminate the necessity for an employee to have to secure an attorney. We see no need for this kind of restriction. As a matter of fact, during my time in the Department as the Commissioner, I felt that there was no need for that, and I feel that this is certainly an excellent move in the right direction.

Then, we in this present period of fiscal restraint are talking about the fact that State government, and all government for that matter, that is county, State and municipal, needs to be talking about a cutback in the amount of money which we spend. The vacancy review provision, which we already do -- I recognize that we do it in a sense -- but it is not a mandated provision, and it comes as the result of an Executive Order. The result of that is that, if you happen to have an executive who is not particularly interested in it, there is not that continuing vacancy review and, while the Department through one of its Divisions, does currently do that, certainly it does not receive the kind of emphasis which I feel is necessary. I am convinced from the years I have spent in State government, both as a legislator and then as a member of the cabinet, that there are a number of titles which do not necessarily have to remain. These are titles which were created by the ingenuity of a particular Administration, until you add a title, and you add a title with a variant, and you add a variant to the variant, so that you have a number of different kinds of titles that are not really necessary to the ongoing efficient operation of government. I feel that a continuing review of vacancies will help tremendously to cut back on the amount of money which State government spends unnecessarily, I feel in some instances, for titles that are currently on our list. I think that this is certainly a very excellent provision.

Employee development is another area which I feel State government must emphasize and do so, not as a matter of a Personnel Department organizational structure, but one which is mandated by the State, and this is, to develop employees through training and education, in a very concise way, for State government. We have, of course, provisions in our State university and in our State colleges for some forms of training, but more specifically training that should go on under the jurisdiction and overseeing by the Department of Personnel itself -- training people specifically for jobs, helping to make them more efficient, improving their ability

for upward mobility and, at the same time, management and departmental functions improving because we have far more trained personnel.

Now, let me go back and just for a moment share with you some of the questions which were raised during the time that I was President of the Civil Service Commission. Almost every state into which I went could not believe that New Jersey umbrellaed counties and municipalities and had as many people under our umbrella as New Jersey does. New Jersey is one of the unique states in the nation, in that it umbrellaed county, municipal, as well as State government. This makes it far more cumbersome in terms of its operation. We have to streamline our personnel system if we are going to bring this personnel system into the 20th century. Almost every place I went, people were saying, "How can you operate with the kind of Title 11 you have, which is a very cumbersome title, which is a title that overlaps in many instances? You have to begin in some way to streamline. We don't understand how New Jersey does it to start with." Our response to that was, "We have been doing it all of these years and we have managed to make it." But, we had to recognize ourselves, that while we were doing it all of these years and managing to make it, we were not doing it as well as it could be done, and certainly, a system that started in 1908, at a point in time when we did not have new management techniques, at a point in time when there were not the kinds of political, as well as economic pressures that now exist, in terms of operation of government, that it was all right for those days. A horse and buggy system was all right for a horse and buggy age, but we moved into a more technical age. We moved into an age when people are beginning to demand more service for their tax dollar, and we're saying, that by streamlining the system, bringing it into the 20th century, we feel that we will be doing for the citizens of the State what needs to be done, and that is providing for them the highest form of competent service for the dollar that they have given us in taxes, and which they expect us to use in a very prudent way.

I have just gone over very briefly the things that I find in this bill which are, to my mind, progressive, and things which need to be undertaken as a Civil Service reform measure. Hopefully, this time, lady and gentlemen of the Committee, the Senate and the Assembly will find it possible, despite some of the objections that may be raised, to finally bring New Jersey's personnel system into the 20th century. I realize that no bill -- I don't care what bill it is -- is a perfect bill. There is no perfect bill. There are always going to be some weaknesses; that is why we have the provision for amendments to legislation. Certainly, I think that this is a meaningful step in the right direction and, as we experience the operation of this bill, then perhaps we would move to a point of offering amendments where necessary. Thank you very much for the opportunity to testify briefly.

SENATOR CARDINALE: Let me just put a question to Reverend Woodson. I understand your testimony as being you feel we should not include, and don't include the scope of negotiability within this bill. Do I understand you correctly?

REV. WOODSON: That is correct. We had the experience of going to several other states that had gone in that direction, and we discovered that because they had attached it to their personnel bill, they were almost negotiated out of business. We felt that the best route for increasing the scope of negotiability is based upon the Supreme Court decision. I think it was Justice Pashman who -- and Mark is smiling, but the fact of the matter is that he knows that I recognize what

they are doing, is to attempt to sneak it into this bill, when it really belongs in another bill. I have no objection -- I don't think that anyone in State government has any objection to coming to grips with it in another bill, but you would be arguing from now until -- if you were to try to put into this bill an expansion of scope of negotiability.

SENATOR CARDINALE: Thank you.

SENATOR LIPMAN: Senator Costello?

SENATOR COSTELLO: Well, that was one of the questions I had, and I kind of suspect we are going to hear more on that from Mark. Reverend, you have indicated that what we have now, obviously, is cumbersome. Do you think that this bill, in any way, provides any relief in that regard to undo some of these cumbersome situations we have?

REV. WOODSON: I most certainly do feel that way, sir. I feel that, number one, just the matter of putting rule-making into the -- directly into the Merit Review Board's hands is certainly a step in the right direction. The separation of those powers alone is certainly a very great step in the right direction. The establishment of training, for instance -- that has been up and down, and in and out, hot and cold according to the bent of an Administration. That is certainly another streamlining step in the right direction. Putting the responsibility for the entire Department in the hands of the Commissioner of Personnel is certainly to streamline. The current operation -- what we did have until we just reorganized briefly a few months ago, was to divide the responsibility. Here you have a Commissioner of Personnel who receives as much remuneration as any other cabinet officer, but whose responsibilities were divided. Certainly, that is not the way to operate a shop. As a Commissioner of Personnel before -- or as the President of the Commission, I always felt that I was really getting more money than I should have gotten. Maybe I -- The fact of the matter is, that you don't have the responsibility that you should have as a cabinet officer. It is being put where it belongs now, in the cabinet position. Either he rises or falls based upon his own ability, rather than having that shared with someone else. That is another step in the right direction that streamlines the system.

So altogether, Senator, it does streamline our system. It takes away the overlapping -- the 35 overlapping functions that you currently have in this old Title 11, and you streamline the system dramatically.

SENATOR LIPMAN: You're saying that Mr. McCaffrey's salary is too high.

REV. WOODSON: No, I'm saying that he is finally getting a salary commensurate with the powers that he enjoys. Heretofore, those powers were divided.

SENATOR LIPMAN: Excuse me, Senator. That was it?

SENATOR COSTELLO: Yes. I have heard Reverend Woodson testify on the need before, and some of the comments are still fresh in my memory.

REV. WOODSON: Thank you very much.

SENATOR LIPMAN: Reverend Woodson, thank you very much. I had several questions, but you answered them during the course of your testimony. There was one thing I thought about, though. Part of Mr. McCaffrey's testimony was that this would mean no loss in personnel, it would just be, you know, a change, and everyone so far has mentioned upward mobility, and you mentioned moving the Department into the 20th century. You haven't gotten as far as computers and robots, I hope.

REV. WOODSON: No. Thank you so much.

SENATOR LIPMAN: Mr. Mark Neimeiser.

MARK NEIMEISER: I might point out that there are going to be some people joining me at the table.

SENATOR LIPMAN: Who is joining you, Mr. Neimeiser?

MR. NEIMEISER: There are representatives from the fire fighters, Pete Smith from the FMBA; from the PBA, Tom Murphy; from the CWA, from the IFPTE -- they are joining me. They each are, I think, scheduled at some point to appear before you. They may want to include their comments directly following mine.

SENATOR LIPMAN: They are listed with you.

MR. NEIMEISER: Pete Smith is the Chairman of the Public Employee Council of the State AFL-CIO. He also serves on the Governor's Public Employment Advisory Committee -- the Executive Order No. 26, which you have in front of you right now.

I might point out that two and a half weeks ago I came before you, and I asked that you not hold this public hearing. I asked that you not hold the public hearing, not because we are opposed to Civil Service reform, not because we had any particular major opposition to legislation sponsored by Senator Cardinale, but because we felt that so often in sensitive areas, and we have been through four years of Civil Service reform legislation, but in sensitive areas such as this the parties tend to line up, the management people -- amazingly enough today on my left, the union people on the other side, and we tend to do battle. And you, as legislators, are frequently faced with one group or the other saying, "You're giving them the baseball bat to bang us over the head with," or as Reverend Woodson said, "To put us out of business," or "Put them out of business," or whatever. So, I asked you not to hold this hearing, and I told you that the Governor had just signed that Executive Order you have in front of you.

You went ahead, with your wisdom, to have this hearing. Fortunately, there have been some discussions between some of us, and you will not hear me today opposing this particular bill, S-2019. I won't have very many nice things to say about it, but you won't hear me opposing the legislation. What I am going to ask you to do is something that Senator Costello and I were talking about earlier, before the hearing began, and that is, to consider doing something that the Governor did, and that is to serve the process to develop legislation by bringing together the parties, managers, mayors, legislators, along with employee representatives, to try to get to the heart of producing an effective, efficient government, which at the same time will get the job done and protect its workers.

Mr. McCaffrey said, "There won't be very much opposition voiced today," and there will not be, except that I oppose him in his contention that negotiations -- or the scope of negotiations are not to be included in this bill. The specific reference to negotiations, perhaps, should not be included in this bill, but surely this bill must allow, must provide, must see what already exists, and that is that contracts are negotiated everyday in this State, at every level of government and, unfortunately, this bill has some sections which would preclude those negotiations. Reverend Woodson spoke to the issue of Civil Service sitting at the negotiating table and yet not really being a part of the negotiating process. When Reverend Woodson's representative would sit at the negotiating table, my particular union, and I am advised that other unions, had no illusions that that person was a representative of the management team, and was there and was a part of the Governor's management

team, and had input into whatever the management team came up with. And, yes, we were later annoyed to find out that there was a rule or regulation which the management team was going to claim prohibited them from negotiating or agreeing to what they had agreed to across the table.

But, that was a management judgment all along. The union did not invite Civil Service; management brought Civil Service. I would suggest to you that it is necessary to develop a Department of Personnel, but that Department of Personnel should be a management department which accomplishes management's objectives. They can no longer claim to represent the public, the employee, as well as the employer. This bill does not do exactly that. As an example, let me point out to you that the Department of Civil Service, when I was a public employee -- a State employee back in 1969, would put in requests in the area of new titles. Reverend Woodson made reference to that. I suspect we have had this kind of discussion in the past, Reverend Woodson and I, and he knows that at some point I make that speech. I talk about the fact, and I did before you just last year, on the issue of 505 new title -- separate title requests, put in in State government alone to the Department of Civil Service. Over 531 were actually processed by the Department during the past year. The variant titles, and I think I came before this Committee and called them deviant titles, also, have grown like Topsy. But, who provided us with that? Surely, it was not the union. It was not the PBA; it was not the FMBA requesting more and more new titles, which in turn create backlogs in tests. It was not the unions; it was not even the employees. It was -- gentlemen, I said you were faceless earlier today; you are not faceless bureaucrats. It was the gentleman to my left, and some of the people behind me. These are the same people that Commissioner McCaffrey points out were responsible for drawing up this particular piece of legislation.

I think it is important that we begin to get down to the business of making sure Civil Service has a budget which can operate -- or the Department of Personnel has a budget which allows them to operate, and that any bill that you consider be reflective of the various considerations by the practitioners of government, union representatives, employees, public servants and elected officials. We all ought to be talking about this, not just the bureaucrats, not just the classified employees. There are a number of areas which I think we need to open up to discussion. The problem, or one of them is, that managers have historically abused the system, so that we now have a system in State government which has over 6,500 different titles, over 5,000 employees as provisionals, all awaiting tests, some of them for years. That situation is repeated, in smaller numbers, in our local government situation -- in our counties and municipalities. The question begged is, who is responsible? The answer -- a system where bureaucratic game-playing, under the guise of law, was rewarded.

We stand ready to assist and participate in a process which would truly develop reform of Civil Service, and which takes into consideration other existing statutes, such as the Employer-Employee Relations Act. We are not saying, "combine them." We are saying merely, "Don't exclude them, don't try to put employees out of business." We stand ready for additional questions. There are people who are going to testify -- Tom Murphy from the PBA; Pete Smith will give you a report on the meeting that was held by the Governor's Committee on Public Employment. The CWA has three speakers, and at this point, I rest.

SENATOR LIPMAN: Do you want to ask anything?

SENATOR COSTELLO: Do you want to wait until they all testify?

MR. NEIMEISER: Whatever your pleasure is.

SENATOR LIPMAN: I would rather ask you right now, and I am entitled. Go ahead, Senator Costello.

SENATOR COSTELLO: Mark, I think you will agree that anything that was conceived in 1908, and while we have had several small changes -- maybe some significant changes over these many years, I think you will agree that right now, now more than ever, there is a drastic need for some change, some improvement, what have you. You will agree with that?

MR. NEIMEISER: Yes.

SENATOR COSTELLO: Okay. You say you are not here today to oppose this bill.

MR. NEIMEISER: That is correct.

SENATOR COSTELLO: You're here to criticize it?

MR. NEIMEISER: I am not here to criticize it. I am here to talk about the need for those of us who participate in the process, who understand the process, to begin to shape a meaningful bill, which can become law, which will develop efficient government, and at the same time recognize the situation that exists out there -- that is, collective bargaining, the right of managers, the whole ball of wax, as it were.

SENATOR COSTELLO: Did you or your group have any input at all, you know, in the process here in composing this bill or what have you, over these past two or three years?

MR. NEIMEISER: I might point out that some months ago, before this bill, and before the similar bill, A-1720, was introduced over in the Assembly, we were told by the Governor, by the Governor's Council, that we would be part of formulating a bill. Somewhere along the line the signals got crossed, the bills came into being, and then the Department of Civil Service contacted some of us and asked what we thought, and asked for input. The problem is that, when you have a document and it is presented to you, there tends to be a pride in authorship, there tends to be a desire to protect what one perceives as "turf." I am suggesting that perhaps the better way to go about it, is to have the discussion, to get the people together, and to develop the bill and, thus, you have one that hopefully will move, much as you did a couple of weeks ago in the area of auto insurance reform. At the start, there was commonality among the parties. You had gotten together, and hopefully that will begin to lead the way.

I am merely suggesting, much as you and I have discussed earlier this morning, that perhaps mayors ought to sit down with union representatives, and Civil Service bureaucrats, and State government elected officials, and Assemblypeople, and talk about what they need, and what's needed, and what protects the public interest, and what protects their interest. We don't want to put Civil Service out of business; we don't want employees to feel they are non-productive. At the same time, we don't want to be put out of business.

SENATOR COSTELLO: One final comment. You mentioned about how many provisional jobs are out there still waiting to be tested. Doesn't this bill deal with that?

MR. NEIMEISER: Not at all -- not in anyway, shape or form.

SENATOR COSTELLO: It does.

MR. NEIMEISER: What it does, Senator, is say to the bureaucrat, say to the manager, who created this system, that he can go and do it. We delegate that

responsibility to you. And, I would just suggest to you that that really isn't going to solve the problem. You are giving to the same persons who have abused the system to start with, the right to continue to abuse it. Hopefully, as Dr. Walsh pointed out, within certain confines. But, nonetheless, the right to continue to abuse it. I would submit to you that somewhere down the line what we have to do, is create a system which has proper checks and balances, and I know of no better one, by the way, than the negotiating process. It is nothing that forces anyone to agree; you reach mutual agreement. It is an excellent process, much like democracy, you know, it has all sorts of flaws, but I know of no system that is better. And, I think you can put in enough protection to ensure the public interest and to ensure merit and fitness. But, to just say to a manager, "Go ahead and make your rules," I think is wrong. I think it is wrong.

SENATOR COSTELLO: Well, I have one final comment, no question. I think that the bill does, in many ways, address itself to the concerns of the mayors. I have heard a lot of things discussed over these many years as a mayor, and I think that a lot of these problems that we have lived with over the years, hopefully, will be resolved with this type of legislation. So, I would say that, even though you are advocating that there should be another sit-down get together involving the mayors, I think some of their concerns are reflected here in this bill.

MR. NEIMEISER: Some possibly -- not all. I might point out, Senator Cardinale and I had a discussion last week, and I said, "In some ways I go further than Commissioner McCaffrey. I go further than Commissioner Woodson. I go further than Senator Cardinale's bill. I would suggest to you that if you really want to get a handle on government, you want to streamline it, make it effective, you ought to develop a Department of Personnel," and I made this particular portion in a speech four years ago, when the bill was before the Assembly State Government Committee. I said, "Take all the personnel officers throughout the State government, and put them, make them responsible to the Department of Personnel." The biggest abuse that goes on right now in personnel, if the Governor says, "We have to cut back," and he says that to the Department of Human Services, Commissioner Albanese, being the good manager that he is, turns around to his Personnel Director and says, "Figure out how to get around that. Figure out how to avoid that particular layoff procedure, that particular Civil Service list." And his Personnel Director, who has been there for thirty some years, who understands the system, who started out working for the Department of Civil Service, helps Commissioner Albanese avoid what the ultimate manager in this State, the Governor, wants done.

I would say to you, that it would be appropriate to look at legislation, or an amendment to this bill, which would centralize all personnel under the Department of Personnel, so that when management, Commissioner McCaffrey or whoever is the Commissioner of Personnel, says, "This is the personnel policy of the State of New Jersey," that it will be complied with by the State of New Jersey. Too often we have the State of New Jersey in violation of its own rules, regulations and procedures.

SENATOR LIPMAN: Senator Cardinale, okay, go ahead.

SENATOR CARDINALE: Mark, one I wrote down immediately when you said it and promised myself that I would comment on it -- I'm glad to hear that you are not opposed to the bill.

SENATOR LIPMAN: How can you know that? I heard something different.

SENATOR CARDINALE: Oh, we have it recorded, so that's in there for posterity. With respect to titles, how would you actually control the proliferation of titles, if you could draft something and have real input into it?

MR. NEIMEISER: How would I control the proliferation of titles?

SENATOR CARDINALE: Yes.

MR. NEIMEISER: I think Commissioner McCaffrey is on the right track when he sets up with the Governor, through Executive Order, a management training program. One, is to get managers to understand what it is to manage. But, unfortunately, in State government, and probably in counties and cities, our managers really do not understand what it is like to manage. The other thing I would do is provide protections. I would begin to look to a system which speaks to titles and similar functions, rather than currently what we have, which is titles which just allow people to avoid taking Civil Service tests, to be politically appointed or not politically appointed. The system is used to do everything but what it was intended to do. I think in those two areas, one, training managers, and two, look to a classification system which speaks to general titles which deal with similar kinds of functions, rather than more and more dividing out the titles. There are over, as I said, 6,500 titles in the State, probably several hundred variant titles connected along the way. There are just far too many titles, and that is why you have that provisional problem, and that is why you, as a legislator, are approached in Bergen County, probably every other day, by some man or woman who says, "I have been waiting for this Civil Service test to come up. I'm going to get bumped. I have no protection. I thought I was coming into public service to do something, and now I'm not permitted to do anything. I may lose my job. I have no rights."

SENATOR CARDINALE: So, you do agree we should try to stop the proliferation of titles?

MR. NEIMEISER: Yes.

SENATOR CARDINALE: And you do agree that this bill goes somewhat into that direction?

MR. NEIMEISER: No.

SENATOR CARDINALE: You don't agree with that?

MR. NEIMEISER: I don't think this bill does that at all. I think this bill, given the right manager, may do something to that extent, because it gives that leeway, but it surely doesn't mandate that anything be done in that area. It does not address the problem. It says that the Commissioner of Personnel can, in some way, do certain things in regard to running that Department, and dealing with State government, but it does not mandate that he do it. It falls short in that area.

SENATOR CARDINALE: So, you would like to just see that tightened up to do some of the things that we discussed the other day? I don't like to ask questions when I know what the other person is thinking, but we have to get it on the record I think, and that is, to make some general types of ability tests, perhaps, which would then qualify one for many of the titles that might otherwise be proliferated, and thereby cut down the number of different qualifications or the number of different tests that people would take, because the abilities necessary are really very similar for many jobs.

MR. NEIMEISER: I think very clearly there can be a revamping of the classification examination system as we know it in Civil Service today, and I suggest to you that they could do it now, if you gave them the money. Where is Bob Hartman?

There is the guy who is Director of Examinations; DiLascio is Director of Classification. If you give them the money, they will be able to streamline the system. But, they can't develop a test for 6,500 different titles.

SENATOR CARDINALE: I have another question or two. I heard a suggestion with respect to funding, and I didn't know really exactly what you were getting at. Are you concerned that our total overall State budget is too low, or are you concerned that some specific areas of funding are too low?

MR. NEIMEISER: I am saying to you that, in order to run a classification system, in order to run an examination system, in order to run a personnel system, you must have the dollars there to ensure that the work can get done, much as you must have the dollars if you want to make sure that retarded kids get taken care of, or anything else. And, I suspect that if you have a joint management/labor sit-down, we can identify the areas where bucks are needed, and identify those areas where, possibly, bucks are wasted.

SENATOR CARDINALE: I understand that. Let me just close with a comment to you, that both the Chairman and myself, in our opening statements -- mine was very brief and hers perhaps a little more explicit -- indicated that this bill is a framework of what we consider to be something that is going to eventually pass, and that the process we are engaging in with respect to this hearing, is the first step in developing, in getting everyone's input and, while it is perhaps a little more formal, we are getting input, and this is not the only process for input into what will be an eventual piece of legislation, but it is my understanding that you will have every opportunity, on both formal and informal occasions, as we have already been doing, to address all of the issues of concern to you, because what is very important to me, and I think to the other members of the Committee, is that what we eventually draft, while we haven't done it since 1908, ought to be something that we can all be proud we have done, all of us in the room, not just the people on one side of the table.

SENATOR LIPMAN: Mark, you intend to make some amendments, or try. You are going to write amendments for this legislation?

MR. NEIMEISER: Once again, Madam Chairman, we are prepared to go in whatever direction you as a Committee think is important. I would suggest to you, though, that if I develop amendments to this particular piece of legislation, I will tend to be a very strong advocate of those amendments, as will others, probably, in this room, and probably of their own amendments. What we will have, is that splitting of the sides again, and I think you ought to use your good offices to bring us together and let's shape a bill that will do the work.

SENATOR LIPMAN: The Senator was just explaining that the employee representatives intend to sit again with Mr. McCaffrey and talk some more to see what kind of amendments you both could accept. This is what the Senator intends.

SENATOR CARDINALE: Is that not a good representation of what really is being done?

MR. MCCAFFREY: We've been -- if I may, Senator -- we've been talking on and on, and the door is open and we are ready to discuss any ideas people might have which would allow us to continue and present a bill which is worthwhile. As I indicated in my testimony, Mr. Murphy indicated to me privately today that he has concerns, and we are going to be getting together. Mark, and all other labor representatives, are welcome to come in, or I will come to them, whatever seems to be the best forum, so that you will have the information you need, as a Committee, to make your decision.

MR. NEIMEISER: I might point out, and I don't do this to disagree with Commissioner McCaffrey -- his door is always open. He has held meetings with various groups, but as the CWA, I suspect, will point out today, and I don't speak for them, I suspect they will point out that they raised a number of areas and yet you did not hear, in the Commissioner's statement, nor did the Committee receive, one amendment as a product of those previous discussions that Mr. McCaffrey has held. Now, of course, I suspect that is part of the strategy they have -- that is, the Civil Service Department, to hold back on the amendments and then maybe we'll trade some off. I have only the strategy of trying to get the best possible bill that will take care of all his concerns, and, my, what a good boy am I.

SENATOR COSTELLO: If I may, from that last comment, or your comments prior to that last statement, I conclude that several suggestions that you, and others, have made, are not reflected in this bill, obviously.

MR. NEIMEISER: That is correct.

SENATOR COSTELLO: You have indicated that they are being held in abeyance as an art of compromise somewhere along the line.

MR. NEIMEISER: You don't see them.

SENATOR COSTELLO: Personally, I don't particularly care how it comes about. I have heard this bill, or its forerunner, discussed now for the past five or six years, and I am leaving at the end of this year. Hopefully, something will be resolved that I can take back and continue to function as mayor, knowing that I have contributed and played a part in changing something that I feel is so desperately needed. So, Commissioner, I kind of suspect that this open door policy which has been indicated --

MR. McCAFFREY: Senator, maybe some of Mr. Neimeiser's concerns are part of our beginning in this legislative process, if you will. It is my understanding that as we went into the hearings -- as Mark pointed out, he wasn't in the beginning of the preparation of the bill. He came in later. My particular approach to these kinds of things is, if you just sit down and say, "What are we going to do," you really don't get anywhere. So, my particular individual approach is to begin with something. In other words, you have to begin with something. So, there is the bill. Now, my understanding is that the amendatory procedures flow through the hearings. There is a time for that, and part of the hearing process is to develop what needs to be amended. So, I really don't think we have shown any bad faith in presenting a bill and saying, "We are open to suggestions and amendments, and let's talk about it." Really, that is what we have been doing quite away along. We met with CWA, and they had a list of objections. We reduced some. They started with a number that we were able to reduce to some extent, by a lack of communication on our part perhaps, but we did get through it. There are some that still have to be addressed. I don't mean that this should be an ongoing procedure, still going into next December, but I think that with a concentrated effort we can at least find where we agree and where we disagree, and find out whether it is important or not.

SENATOR COSTELLO: If I may, Madam Chairman -- I indicated here that I wanted to ask a question about the six thousand and some titles --

SENATOR LIPMAN: Sixty-five hundred.

SENATOR COSTELLO: Sixty-five hundred titles. Obviously, anyone who heard that would have to agree with you, that is just an unbelievable, inconceivable situation. I would like to hear --

SENATOR LIPMAN: Excuse me, Senator. The 6,500 titles that you are referring to, that the Senator referred to -- I understood you were referring to provisional employees then, weren't you?

MR. NEIMEISER: No, there are in excess of 6,500 titles in State government alone, different titles.

SENATOR LIPMAN: All right. You have about that many provisionals too, don't you?

MR. NEIMEISER: There are 5,000 persons who are provisional, and I said, in effect, that one is probably the product of the other. You develop 6,500 titles, you will probably end up with an excess of 5,000 provisionals who are waiting for tests, who are waiting to, at some point, become permanent. The Department can't keep up with that, not with the budget the Legislature allots.

SENATOR LIPMAN: Senator, just let me ask a question. I remember at appropriations time, Mr. McCaffrey, that I asked you a question about when would we be able to reduce the number of provisionals in State government and, you know, accept just blanketing them in -- as an experiment, and you said that there was a lack of funds for testing and developing new tests. Was that not your answer?

MR. McCAFFREY: I think that is what Mark is saying, too. However, I would like to say this, that since I did speak to you on that at the appropriations, by doing certain things, we've -- when I faced you on that day we had approximately 6,400 provisionals; we're now under 5,000 by reason of some things we've done, sort of removing open competitive exams for clerk typists, where it really didn't make a great deal of sense, if the working test period was satisfactory, in taking them through, and administratively we have done the best we can, and we have reduced them by more than 1,400 in that nine and a half months.

But, now that was the one shot kind of thing you can do administratively. Now, to reduce it further, we really do need the bill, and we need the money, as Mark points out. I think Senator Cardinale was asking about overall budget situations. I would only point out that, while I am a great believer in fiscal management in the other 19 departments of the State, our Department is somewhat unique in a sense that we have this statutory mandate to perform, and not only that, when things are tough in personnel with layoffs and that type of thing, the burden shifts to us while we are still absorbing the cuts that other departments are taking. I also indicate that, because our Department is rather small in budget, a few hundred thousand dollars to us means so much more than perhaps to a larger department, and you are getting a bigger bang for the bucks, which seems to be the saying that they are using these days. I think we'll address that at appropriations, of course, and, hopefully, the Legislature will restore the \$200,000 they took from us last year for monitoring exams, which really did hurt. I had to get that little one in while I was at it.

SENATOR LIPMAN: Let me get one in, Mr. McCaffrey. You already -- the Department of Civil Service -- you are changing your name to the Department of Personnel. That is not a new State operation; you are just reorganizing within. So, why do you need \$250,000?

MR. McCAFFREY: Well, the classification studies, that the bill mandates, by the way, and I do disagree with Mark in a sense that he says that, "Provisionals will not be approached," or "We can't do anything about it." The continual classification review will do that, and that is where the money will come in, in Joe DiLascio's department. We will need increased classification specialists to do it.

SENATOR LIPMAN: The \$250,000 is just sort of a regular fund we give for setting up an entirely new department, so yours is a new operation. I was just wondering if you --

MR. McCAFFREY: I think you should look at it probably as an intensified operation in classification to meet the goals of the bill, that is, the bill requires ongoing classification; therefore, to get rid of the provisionals, you need the people to do that classification, to reduce the titles, and bring provisionals down.

SENATOR COSTELLO: Senator Lipman, may I?

SENATOR LIPMAN: Yes.

SENATOR COSTELLO: I want to get back to that 6,000; I want to make sure that I understand that correctly. There are 6,000 presently on the books -- in the State of New Jersey rather, distinct and separate job titles and what have you. As a result -- I just went through this, and maybe contributed to the problem. I know I have. This is the way this happens. Marty or somebody correct me. We have on the books presently a job title called Registrar of Vital Statistics. If a community feels it would like to upgrade that and simply add the word "typing," does that create another job title per se? That is unrealistic. I know what has happened; I know you have to do it, but, nevertheless, one general test of something, as Senator Cardinale referred to, for consideration, couldn't that accomplish the same thing -- one general test. Do you have to create different testing because now we have added one word to something? I just can't believe that you have 6,000 -- you've got to categorize, generalize. I used to do that, and I just can't believe we have six thousand and some different titles in the State of New Jersey.

SENATOR CARDINALE: If I could just briefly comment. You know, it was the intent of the bill to approach that problem, and on Page 9, Section -- Line 11 to 12, we have a statement that I thought was approaching that, perhaps not as tightly as it should, but "to ensure the grouping in a single title of positions with similar qualifications, authority and responsibility." Now, it would seem to me that we all have been talking about following the intent of those two lines. Is it your concern that that does not tightly enough mandate that operation? Do you feel it will be undercut?

MR. NEIMEISER: My concern -- yes, I fear that it will be undercut. As I pointed out, I think it is perhaps leaving the fox to guard the chicken coop, because later on in the bill, or earlier in the bill I guess -- 11A:2-12, you'll see the area of delegation of powers and, in effect, the Commissioner may delegate "other personnel functions to an appointing authority." In effect, the Commissioner of Personnel could delegate that function to the very same people who have been putting in the requests. He could say to Commissioner Albanese, who puts in all sorts of requests for dance therapists/whatever, at a time when we are trying to focus in on providing real services, and he could say to Commissioner Albanese as an appointing authority, "I delegate to you these other personnel functions, including determining what titles you have." Commissioner Albanese suddenly can do his own thing; he doesn't even have to go through the rubber-stamping process that probably now exists. He doesn't have to make the request. He can just say, "Okay, we'll have 47 new titles today," as a product of that delegation of responsibility section. That is why I see the problem. Maybe I'm a centrist, but I need to know who I deal with, and this would allow each appointing authority, in effect, to develop its own rules and regulations, and not have to be responsible to a negotiating process or to Civil Service.

SENATOR LIPMAN: Mr. McCaffrey, would you like to respond to that?

MR. McCAFFREY: Yes. Mark and I see delegation in different ways. I absolutely fend for Civil Service to control the delegate, and that could be in the form of a Civil Service appointee, belonging to Civil Service, but sitting in a personnel department. The ultimate aim of this kind of thing is to be on the scene so that you know exactly what is happening in detail there, and it can be handled there instead of filtering through a long process to the central division of personnel or Civil Service. I see delegation as working strictly, and my statement said "monitored strictly by Civil Service to preserve the integrity of the system the classification, sorting of applications, whatever is done." Ultimately, hopefully, we will have what Mr. Neimeiser referred to earlier -- personnel directors reporting to the Commissioner of Personnel as employees of the Personnel/Civil Service Department, if you will. And, also, going a step further, because I liken it to the parish priest concept -- you keep your people moving, and you don't allow them to become residents and attached to that department, that from time to time they will be moved to another department or brought back to Civil Service, but they will be Civil Service people or people directly monitored by Civil Service, under the classification plan that has been developed by the Civil Service program.

MR. NEIMEISER: If I may just for a moment, Senator -- Madam Chairman. What Commissioner McCaffrey has just said, I guess maybe we hang around too much together, because when he says delegation or delegate meaning a person, a body, someone who is actually going to be placed there, maybe -- the union talks about delegates. Tom Murphy is a delegate, a Vice President. He is a delegate; that's why he is here, and so on. That would be the first interpretation I've ever heard of this kind of language in a proposed statute to mean personage, rather than -- I mean, that is union terminology, delegate.

SENATOR CARDINALE: Mark, we are going to adopt what is good, even from you.

MR. NEIMEISER: I'm wondering if perhaps some of my colleagues, my brothers and sisters who might want to give testimony, might not be allowed to do that at this point.

SENATOR LIPMAN: Mark, how many representatives do you have to speak? We are trying to determine lunchtime.

MR. NEIMEISER: I think we can probably get a short statement from the FMBA, the PBA, the CWA, and then they will have other speakers -- the IFPTE, the Public Employee Council, the State AFL-CIO, and the fire fighters. I think they can be short and to the point -- five or six of maybe two or three minutes each.

FROM THE AUDIENCE: Senator?

SENATOR LIPMAN: Yes.

FROM THE AUDIENCE: I think our testimony will probably take a little bit more than five or six minutes.

SENATOR CARDINALE: Well, we're talking about just what is here.

FROM THE AUDIENCE: If you are talking about the delegation that is at the table right now, that might be true, but our speakers are going to take a little more time than two or three minutes each.

SENATOR LIPMAN: Senator Costello has a request before we continue, okay?

SENATOR COSTELLO: Before we get off the 6,000 titles, I know that Civil Service would like to comment on it -- have one individual speak on that. I made the statement that I kind of suspect that if they got down to it and went through

it, and were charged with the responsibility that they, and they alone, were going to make the determination on job titles, they could reduce that 6,000, I daresay, down to 500 or less. They told me no, and I want to hear the comments.

R O B E R T H A R T M A N: Thank you, Senator. My name is Robert Hartman, and I am the Director of Examinations. With respect to that specific issue, and it is very much engrained in the example that was given. It was an excellent example, where you have a registrar and we would, obviously, test for a registrar. And then you created, or had the need to create a registrar with the variant of typing. Essentially, we would use the same examination and may, in fact, use the same employment list, and just assess the additional typing skills. So, what we really have there, is two titles perhaps, maybe even five. You may have a registrar with steno, you may have a registrar with welding, who knows, any number of things, which would, essentially, use some of the same testing mechanisms that we assessed previously. So, what we are employing then, which is something we employ over the entire proliferation of titles, if you want to refer to that, is something called "umbrella testing." We may devise one examination, which will, in effect, go out on a continuous basis and test for as many as 20, maybe even 50 titles. We have had that many with one single test that we developed.

The problem doesn't continually center, or isolate itself in this proliferation of titles. Certainly, the number of titles is a problem, but as you pointed out just now, even though that is counted as two titles, it is not a contributing factor necessarily. It is that, plus the number of employees which we have to contend with, plus the number of municipalities, counties and State appointing authorities.

I would just like to get one thing on the record, if I may, relative to the aptitude testing. That is something that, to put it in this format, -- you would be in danger of conflicting with Federal law relative to the use of that kind of testing, and I would recommend to get that on the record, that we not get involved with that kind of verbiage. Thank you.

SENATOR LIPMAN: Senator Costello, are you satisfied?

SENATOR COSTELLO: Yes.

SENATOR CARDINALE: May I ask one question?

SENATOR LIPMAN: Okay.

SENATOR CARDINALE: When you have all of those various titles, is the person who is qualified under, let's say, the registrar-steno, also qualified and his/her name appears on a list for another entity that is looking simply for a registrar, that doesn't need the extra qualification?

MR. HARTMAN: That could happen, yes sir. The only thing that would restrict that at this point would be the residency. If it were two completely different municipalities, the person would not have the option to go both places. However, one test would assess the knowledges of the individuals in both places.

SENATOR LIPMAN: Okay, all Senators are satisfied. I think that, unless there is someone who absolutely cannot come back at 1:30, we will break now.

MR. FILLIPPI: I can't, I have a --

SENATOR LIPMAN: You can't? Then you may go ahead.

D O N A L D F I L L I P P I: Thank you, Madam Chairman and members of the State Government Committee. My name is Don Fillippi, and I am Business Manager for Local 195 of the International Federation of Professional Technical Engineers, AFL-CIO.

My comments today regarding S-2019 must center around the number one point in the bill. We cannot support any legislation involving Civil Service reform unless the issues are spelled out clearly regarding collective bargaining. Now, we have heard previous speakers, the Commissioner of Civil Service, Commissioner now, former President Woodson, say it is not necessary and it can't be done in another bill. We cannot successfully enter into negotiations with the State of New Jersey, knowing that we are preempted by many of the statutes in Civil Service. I think the court has come down and said that there are many areas where we cannot negotiate because Civil Service law is statute.

That is why it is essential, before we can support any bill, there must be language in that bill spelling out the mandatory subject of collective bargaining.

The second point I would like to point out is with regard to the section on hearings. Right now, we have a system of an administrative law judge hearing cases of employees being either suspended or removed. We find this completely unsatisfactory. We feel that many of the employees are intimidated by the administrative law judge, and we have suggested and made recommendations to the Commissioner, that this bill should contain a section that the Civil Service Commissioner should appoint the hearing officers or arbitrators to hear Civil Service appeals, not to have the administrative law judges do this. There are prolonged hearings, some people up to a year. I have heard administrative law judges handle these hearings, and on restoration to employees, what we find out is that there is also a ruling in the courts that says you can receive back pay, but you cannot receive benefits. That means that if an employee was illegally discharged and won his appeal, all he would get is back pay, and not benefits. Well, if someone is cut off Blue Cross-Blue Shield, or their other benefits, such as Major Medical, and during that period of time it cannot be restored, there is sure no fairness at the hearing. We think that has to be asserted clearly in the bill, under the section that talks about back pay and reinstatement of the employee. We also feel they should be able to recover legal fees, if they won their appeal.

Now recently, the Department of Civil Service has become involved with what we call "appeals for SLI," which is sick leave injury, employees injured on the job. We find out that many departments try to rush people back to work who are injured on the job, and, there is a dispute between the doctor that is employed by the State, or some departments who have their own doctors, -- if they say an employee is ready to return to work, and his doctor says he is not ready to return to work. So, this way the employee cannot return to work. In some cases, it is necessary that he do so, and in other cases, where he is still injured and not ready to return to work, we have a dispute. This now goes before the Civil Service Commission for adjudication. We find that some of these appeals are just unreasonable, lengthy appeals, where people are out of work, not knowing their status. Many of them are receiving no pay and benefits while they are out of work because they were turned down by the Department regarding their sick leave injury.

We see in the bill that the Department and other agencies would like to extend the working test period. We feel that the working test period for the employees we represent should be no more than three months. We even asked for an amendment when this bill was up before the Assembly State Government Committee, and that amendment was approved by the full Committee. A three-month working test period -- you talk about getting times down for provisional employees. If you have

a working test period of 12 months, you are going to double the time it takes to get provisionals slotted into State service in affirmative positions.

SENATOR LIPMAN: Mr. Fillippi, would you explain to me -- many people know what you are referring to. A working test period that may last 12 months, what does that mean?

MR. FILLIPPI: That means it is the time from the appointment --

SENATOR LIPMAN: From the appointment --

MR. FILLIPPI: -- from the appointment off the list, all right, that the employee is serving. Right now, in most agencies it is four months. It can be extended to six months. We feel for the people we represent, which are mainly maintenance employees, crafts, inspection and security people, that management should be able to tell in three months if an employee is satisfactory or not. They give them a rating at the end of the second month, the third month, and they should get a final rating. But, I'm saying that, as this bill proposes, if you raise that to 12 months, you are going to have more and more people waiting in a provisional status than you ever had.

SENATOR LIPMAN: This bill proposes a rating every three months -- every three months up to a year. Is that what that means?

MR. FILLIPPI: Oh, yes, up to 12 months.

SENATOR CARDINALE: On that point, I believe that the bill as it is drafted here provides a flexible kind of arrangement, where for a particular position it could be three months, but for another position it might be as much as 12 months as a maximum, with a provision, also, that if it is longer than three months, every three months there is an updated evaluation of how the employee is doing. I think that is what is drawn in the legislation. That is my understanding of it.

MR. FILLIPPI: No, it is my understanding that the intention is to expand the working test period to make it a longer period of time to evaluate.

SENATOR CARDINALE: It doesn't say that; it doesn't really say that.

MR. FILLIPPI: Well, this is the way the language reads. We oppose any move to have the working test period more than three months. We support the provision in the bill to raise the "Cap" on unused sick leave. We feel -- we have asked this before in a bill, and we think this is a great improvement, to raise the "Cap" from \$12,000 to \$15,000 for payment of unused sick leave.

Now, one of the other crucial areas in the bill is with regard to the layoff procedures in State government. We could never support the provisions in the bill that exist right now regarding layoffs, because the system the State uses right now for layoffs is that a higher title can bump a lower title, no matter how many years of service the man has in State government. We feel that is not an equitable system for laying off employees. That is number one -- you have a higher title bumping a lower title no matter how long he has been in State government. This is surely not fair to any of the senior people, just because they are in a different title.

The second point that we oppose in layoffs, is that you allow, usually the Commissioner of that department, to pick titles. Let me just give you an example of a situation we have right now in our unit in the Department of Transportation. We have approximately 66 permanent employees in the Department of Transportation on layoff, while there are many employees in provisional titles that are still working in State government in the Department of Transportation. This means we have people

there for three months, four months, five months, and because their title wasn't picked, all right, they are still working. This system is completely unfair and we oppose it; it has to be changed.

We are prepared, and have offered many of these suggestions, and have proposed amendments to the bill. We will continue to sit down with the Commissioner. We do propose the amendments I have mentioned to the bill. The two most serious ones we see are -- there must be something clearly in the bill spelling out what is negotiable. The second point is, the section now regarding layoffs must be changed, so employees with a lesser amount of State seniority are the first ones laid off, and to not allow a Commissioner or Personnel Manager to pick out certain titles, where you have employees who have a permanent status leaving and going on layoff, and you have other employees who are provisional, who, because their title was not picked, remain on the payroll. We feel that this is completely unfair, and that is why we are going to ask for amendments in those areas. Thank you very much.

Pete Smith has a short statement.

MR. SMITH: I just have a short statement; it will only take a minute.

SENATOR LIPMAN: Wait just a second. Senator Costello has a question.

SENATOR COSTELLO: This, while it was not one of your major concerns -- I don't agree entirely with your comments on this working test period. It's on Page 17 of the bill, Lines 16 and 17. I would suggest, you know -- I don't want to discuss it now, but I happen to believe you might be wrong in this area. But, I do agree with you on the layoffs as they concern the provisional employees. I happen to agree with that. I just went through it. I thought maybe the bill did address itself to that; if not, then maybe this is something that is worthy of consideration before the bill is finalized.

The 12 months you speak of, is primarily related to police and fire fighters. Then, there is a Section C --

MR. FILLIPPI: It really allows them to put anybody under that category.

SENATOR COSTELLO: No, I don't interpret that. Section C is the one that might be a little ambiguous there, "The extension of the working test period for good cause provided that the total duration shall not exceed 12 months." I don't know what that means, but up until then, my interpretation is it shall not be less than three, and certainly no more than 12.

SENATOR LIPMAN: Excuse me. I have to study this to get a full understanding of it, but my understanding presently is that there are other types of employees who receive the same treatment -- correction officers, for example. We just had some cases of that, the working test period extended to the day just before it would have been one year they were working, and they were terminated just the day before one year would have been reached -- and they got terminated. That is why I am particularly interested in this section. That is more than police and firemen. All right? Do you have any more questions?

SENATOR CARDINALE: No, I have no further questions.

SENATOR COSTELLO: Excuse me, Pete. So that I am not going to be misunderstood here, I do agree that a more realistic figure might be between three and six, but I understand that the 12 months only really and truly addresses itself to police and firemen, and I can't dispute that. I think we are all in accord that the time frame should be between maybe three and six months. I do not want to be misunderstood on that.

MR. FILLIPPI: It is my understanding that the intention of the bill was to increase the working test period for employees of the State government. That was the intention of the bill.

SENATOR COSTELLO: I hope they are wrong.

SENATOR LIPMAN: Who can answer that? Was the working test period deliberately extended, or was it extended to take care of fiscal crises and layoffs?

MR. CALDERONE: Senator?

SENATOR LIPMAN: Yes.

MR. CALDERONE: The bill provides for the flexible work test period depending on title. There are many titles where a three-month work test period is clearly appropriate. There are other titles when you get into the accounting fields, or areas where there is extensive training, where it may be more appropriate to have a six-month or eight-month work test period. The bill provides for that flexibility to determine work test periods by title. Right now, in local service -- in local governments, we have a three-month work test period for all titles. In State service, it is four to six months. This bill allows for three to 12 months, with police, fire and corrections being a mandatory 12 months.

SENATOR LIPMAN: All right, it's clear.

MR. MURPHY: May I ask a question on that, Senator?

SENATOR LIPMAN: Yes.

MR. MURPHY: My name is Tom Murphy; I'm with the New Jersey State PBA. The question is to Pete Calderone. Who sets those time limits up? Who is the source of expertise who says it is going to be 12 months, three months, six months, and so forth? Do we have that available at this time?

MR. CALDERONE: One of the things I should mention is that the work test period is actually a part of the examination process. The first phase is the minimum qualifications, the test itself, and the work test period. That would be developed as part of the examination and classification, depending upon the title, the need for training, and the amount of time for evaluation -- as determined by the Department of Personnel.

MR. MURPHY: For police and fire, is that determination made in your Department or is it made in the New Jersey Training Department?

MR. CALDERONE: Police and fire has to be set by statute. The 12-month work test period for police and fire has been by statute for several years.

SENATOR CARDINALE: Senator Gregorio.

SENATOR LIPMAN: Mr. Smith, you may go ahead.

P E T E R S M I T H: Madam Chairman, Senator Cardinale, Senator Costello, my name is Peter Smith; I am the State President of the Fire Fighters Association, Chairman of the AFL-CIO Public Employee Council, and a member of the Governor's Public Employee Labor Advisory Committee.

I will be very brief; Mark summed up my thoughts on the matter here today from the fire fighters' standpoint. The other evening, the Governor's Public Employee Advisory Committee met. We discussed some preliminaries, and it was the consensus that we ask you not to release this piece of legislation until we had a time frame to look at it ourselves. I would like to make a suggestion to you that possibly the Committee be allowed to share the testimony that was taken here today when it is completed. Would that be satisfactory to you?

SENATOR LIPMAN: Oh, yes.

MR. SMITH: It would probably save a lot of time, and give us a much better insight as to what people are looking for and where their problems are, so we may better advise the Governor.

SENATOR LIPMAN: I would like very much to -- well, we have the record, even if we don't have it in writing.

MR. SMITH: Right, thank you.

SENATOR LIPMAN: Okay.

MR. SMITH: I'm finished. Thank you.

SENATOR LIPMAN: Wait just a minute; Mr. Murphy has a question.

MR. MURPHY: We came down here today with the full intent to oppose this Senate bill. After hearing President McCaffrey and former President Woodson speak -- you correct me if I am wrong -- they offered an invitation to the various union representatives to have dialogue with them about new amendments to Senate Bill 2019.

SENATOR LIPMAN: That was my understanding. Was that your understanding, Mr. Smith?

MR. SMITH: Yes, Senator.

MR. MURPHY: And, amendments will be forthcoming?

SENATOR LIPMAN: Yes. Joe Capalbo, the Committee Aide, is just reminding me that you can propose your own amendments, but Senator Cardinale was requesting that you sit with the Commissioner and iron out a negotiated set of amendments. Is that what you asked?

MR. MURPHY: Essentially, yes.

SENATOR LIPMAN: You can make your own for us, though; we accept amendments, too.

MR. MURPHY: There will be no attempts to move it out of Committee until this dialogue is completed?

SENATOR LIPMAN: Absolutely not.

MR. MURPHY: That takes care of me.

MR. McCAFFREY: Senator, some of the misunderstandings are because we haven't met with the PBA. We didn't think the PBA's interests were involved in this particular bill. Tom thinks to the contrary, so maybe if we get together and talk it out, we will get that understanding. There may be amendments required, and maybe not. But, I think the important thing is to get started in the communication now.

SENATOR LIPMAN: Mr. Murphy?

MR. MURPHY: He said, "Maybe we'll get together."

MR. McCAFFREY: Oh, no, I didn't mean that. I said, "Maybe we'll solve the problems without amendments."

MR. MURPHY: But, we are going to get together?

MR. McCAFFREY: But, we certainly will get together, and very quickly.

MR. JONES: On that vein, Madam Chairman, I can maybe shed a little bit of light here. I would like to give some input on it. I represent the State FMBA -- the fire fighters. We did have a meeting with Mr. McCaffrey back in October last, concerning our reservations about the bill. We were met warmly by Mr. McCaffrey in his office. In fact, Mr. McCaffrey agreed with us on some of our reservations. There was an illusion given that there would be movement made on our suggestions. It is now January, and the bill, as it is submitted to you now, in its present form -- there has not been one change based on our recommendations, nor has there been any further contact by Mr. McCaffrey's office.

Our problem with the bill, or with this hearing right now, is that we would rather see the bill dead, so to speak, or not being able to be moved, until meaningful dialogue is taken down. From the experience we had with Mr. McCaffrey's office, we were led to believe there would be changes prior to the submission of the bill to you; these were not made. So, pardon me if I am a little bit -- if I have problems with the fact of the promise that there would be amendments, based on conversations which Civil Service had with us.

SENATOR LIPMAN: Well, you see, this Committee has already started the movement by having this hearing. Aren't you glad we had this hearing, Mr. Neimeiser?

MR. NEIMEISER: I am not necessarily glad you had the hearing. I am satisfied that you, Madam Chairman, and the other Senators understand the need to bring people together. I want you to know, that I didn't just make the request of this Committee. Over in the Assembly, on Assembly Bill 585, which is the scope of negotiations bill that Reverend Woodson made reference to, and Commissioner McCaffrey made reference to, they had a public hearing despite our request not to have a public hearing. Once again, I felt you would get a split between parties what would be irreconcilable. We have asked that Committee to try to use their good offices to bring people together.

I would suggest, perhaps at this point, that you could convene a meeting whereby employees and Mr. McCaffrey could come together and talk about their concerns generally, off the record, so that you could get a sense of where the disagreement is. I don't really want to make it any bigger than what Mr. McCaffrey wants to make it. He maintains the differences, when we all understand one another, to be very small. I hope he is right, and I think the only way to get to that is to do it off the record. We all can sit around and talk about our concerns. I know we in labor are sensitive to one another's problems. We think we can be sensitive to how government is run. We do the work of government. Tom Murphy has been a police officer for over 20 years; Pete Smith has been a fire fighter for over 20 years. There are a number of others who have numbers of years of service in government, doing the kinds of work that get people elected, or unelected, as the case may be -- doing the government's work. To that extent, I suspect you would want their input, not only as labor leaders, but as workers in government.

MR. McCAFFREY: Senator Lipman, I would just like to respond to FMBA's -- he is absolutely right. We did discuss certain changes and so forth, but it was our understanding that there were to be no amendments submitted today, that we should begin the hearing fresh. We certainly do have amendments. There are other people who we have talked to, group by group, who have concerns, and we have amendments prepared and we have them noted for submission at the proper time.

Based on our discussions with these groups, I would think that Mark's suggestion, while it certainly is very democratic, that most of that work has been done by now with the groups through our staff and myself.

MR. JONES: Madam Chairman, I would just like to state that it was not my understanding that you did have amendments prepared. I would have thought that in your original statement on the bill, that you would have made mention of that. If you had, I would not have brought up the subject.

MR. McCAFFREY: Well, it is certainly a misunderstanding. This Committee determines when we submit amendments, and we will be ready with amendments as agreed upon with various groups when -- and Peter and his staff will be back to you to go over the precise language to make sure we are talking about the same thing, if we

have agreed to an amendment, and at your particular frame.

SENATOR LIPMAN: All right. I want to emphasize, too, that we are here to listen and to learn today, too. We want to be sure that all differences are ironed out and all amendments set as they should be set, and so forth, when the bill is ready again to come before the State Government Committee. This is a public hearing, whereby we hear everyone's side, and we have to make some decision ourselves when we bring it to the Committee hearing, and decisions to send it out. So, that is what we are about today, to hear what people have to say. I think it is a good thing that some of these points of view have been aired today. I feel a lot better about it myself. I do.

MR. McCAFFREY: With your permission, Senator, I would like to coordinate the amendment procedure with Mr. Capalbo and Mr. Calderone, if that is okay --

SENATOR LIPMAN: That's fine.

MR. McCAFFREY: -- so that we don't get caught on that one, you know.

SENATOR LIPMAN: That is Mr. Capalbo's job.

SENATOR CARDINALE: Starting tomorrow -- starting Monday?

MR. McCAFFREY: Starting this afternoon.

SENATOR CARDINALE: This afternoon.

SENATOR LIPMAN: All right. Then I expect we are going to see some more of you after lunch. It is now five minutes to one, so we'll come back at five minutes to two.

MR. McCAFFREY: We have a cabinet meeting at 2:00 p.m.

SENATOR LIPMAN: So, you want to go through?

MR. McCAFFREY: If you feel that I should be here, I will be here.

SENATOR LIPMAN: Just a minute -- How many representatives are there from CWA?

FROM AUDIENCE: Three.

SENATOR CARDINALE: Mr. McCaffrey, while Senator Lipman is going through the list of those who indicated they wish to testify, I have one question. You are going to start this afternoon. From that, I assume you are going to also encourage dialogue from those who feel they still would like to submit something for consideration to you?

MR. McCAFFREY: Yes, sir. I understand your point, and it is a good one. If anyone has any concerns which they do not feel we have recognized, or which they feel we have forgotten, please restate them to Peter, and get them back on the board. We are going to start this afternoon by asking Peter and Mr. Capalbo to set up a meeting with them, so they can get their agendas in shape and the meetings will follow that concerning amendments that you have requested, or want to request. But, we are going to have to put the ball in your court to contact Peter to move your meeting in. Okay?

SENATOR LIPMAN: Mr. McCaffrey, we have now made a decision. We will break for lunch, and will come back at two o'clock. If you will leave your battery -- you know, your powerhouse here, then you can go to your cabinet meeting.

MR. McCAFFREY: Okay, I'll leave my battery, with the request that if they see a need they will come and grab me from the cabinet meeting. Okay?

SENATOR LIPMAN: All right, very good.

(LUNCH RECESS)

AFTER RECESS:

SENATOR LIPMAN: We are going to resume this hearing, of what is known in some circles as the "Calderone Bill" -- I got your attention, didn't I? Will the representatives from the CWA -- are they back yet, those who want to come forward to testify? (affirmative response) Before you begin, gentlemen, the first thing I want you to do is introduce yourselves.

R O B E R T P U R S E L L: Senator Lipman, Senator Costello, Senator Cardinale, Mr. Capalbo, Gentlemen: My name is Bob Pursell; I am an International Representative of the Communications Workers of America. Our union represents 65,000 workers and their families in this State. Fifty thousand of those workers are covered by the Civil Service statutes; 20,000 are located in local service, and 30,000 are located in State service.

When this bill was introduced, we formed a Civil Service Committee to study the legislation, compile amendments, and meet with Civil Service to discuss the provisions of the Act. The two gentlemen with me are local union representatives who will address some of the issues after I address our major position on the bill. I want you to know that we have probably put in several hundred hours since the bill was introduced in July, studying the bill, and a lot of deliberation went into refining our positions, which I am sure Peter Calderone could attest to.

I think in the Governor's Annual Message, he mentioned he is interested in a personnel system that is fair and impartial, a system that protects employees from personal favoritism, political coercion and arbitrary actions, and he wants a system that guarantees that promotions are based on knowledge, skills and abilities. Who can argue with that? Everyone wants that kind of system. Our analysis of A-1720 and S-2019 is that these bills will not provide those protections and, unless major amendments are made to S-2019, our position from the Committee is to oppose this bill. It is tough to come to that conclusion after several months of working on the bill, but, as I said, we met with Civil Service on this bill, and I believe we are at a stalemate now where we have to come to the Committee for the necessary amendments it will take to make the bill supportable.

I think -- before I get into that, there is a package of material I have for the Committee. Maybe Jim can bring it around. There is enough for Senator Bornheimer and Senator Saxton. Basically, it is a cover letter explaining our testimony today, a list of the major amendments we feel are necessary, and correspondence from the past several months, back and forth, with Civil Service, indicating the other minor amendments. I say minor, because unless the major amendments are incorporated they are minor, but they are of significance to us and we would like them addressed.

Before I get into dealing with the actual substance of the bill, I think we have to reflect on the philosophy behind Civil Service. I think Senator Costello mentioned that in 1908 it made perfect sense to have Civil Service to protect employees from political patronage. Well, today we have Mr. Fasola from the Governor's Office of Management Services, stating that it is time that government be free from the restraints of Civil Service and, to a certain extent, we agree with him. However, the reasons for us agreeing with him are 180 degrees different from his reasoning. He believes that government should be free from the restraints of Civil Service so that it is easier for the employees to be laid off. Our reasoning is that the employees should be free from the restraints of Civil Service so that the unions can negotiate better security for the employees -- 180 degrees difference in philosophy.

Now, back in 1968, we obtained the right to bargain as a result of legislation entitled, "The New Jersey Employer-Employee Relations Act." It was a good bill at that time. I think at that time there should have been some type of phase-out mechanism for Civil Service, whereby once a bargaining unit was organized and the employees were represented by a union, the restraints of Civil Service should have been eliminated so that the employer and the majority representative could negotiate the terms and conditions of employment. Instead, our court system chose to systematically emasculate the law, taking away from the bargaining table the right to negotiate on layoff procedures, the right to negotiate transfers, certain promotional procedures and, most recently, discipline.

It is our position that the bargaining laws need to be addressed, and I want to get into that in a minute. In a true system of collective bargaining, I think the purpose of Civil Service would be to mainly keep track of employees through testing, certifications, classification procedures and training, and leave the terms and conditions of employment open for negotiations to ensure labor peace, and we don't have that today. The argument is that Civil Service is there to protect the workers. Well, that is our primary function; we are well capable of protecting the workers. With all due respect to Civil Service, we can protect ourselves and the workers.

Our analysis of A-1720 and S-2019 is that they perpetuate the shackle position of the workers and their majority representatives, and are not true Civil Service reform. Now, dealing with the legislation, our union was not brought in until after the legislation was drafted, submitted and sponsored by Assemblyman Villane. In a lot of ways, having Civil Service draft their own reform is analogous to putting the rabbit in charge of the cabbage patch. I do not want to give the misconception that we haven't worked with Civil Service, and I want to personally commend Peter Calderone for his open-door receptiveness to our union. We have met on numerous occasions to hash out our proposals, and just Monday we met with him to go over where we stand on our final positions, and, obviously, that is why we are here today.

As I said, major amendments are necessary, and I wish other government officials were as receptive as the staff of the Division of Appellate Practices and Labor Relations, but, unfortunately, the Governor chooses to form a Public Employment Labor Advisory Committee, and the largest public-sector union in the State, not alone the largest union, is neglected from being represented on that Committee. It is unfortunate, but we do have to protect the interests of the workers we represent and, with all respect to the participants of that Committee, and I have faith in their judgment, we represent a completely unique group of workers, as does AFSCME, as does the Fire Fighters, as does the IFPTE. Our workers have their own interests to protect, and we are there to protect them. There is no way we can delegate, so to speak, to other unions. Our responsibility is to represent those workers. It is unfortunate that the Governor chose to leave us off that Committee, but in the absence of being on that Committee, our only option is to deal with this legislation, and I do not believe we are in a position to accept a pig in a poke, so to speak. We cannot sit by and allow this bill to be passed on the hope that a public employment bargaining law will be passed later that will take care of the concerns we have with this legislation.

I would like to deal with several specific amendments that we are suggesting, and that we have presented to Civil Service. These are included with your package. Maybe we can discuss them a little and help you obtain an understanding of

our position. The first major amendment we have deals with the structure of the Merit System Board --

SENATOR LIPMAN: Mr. Pursell, would you kindly indicate to us what page?

MR. PURSELL: Okay, fine. In the package that I gave you, it would be the third page, entitled "Major Amendments Necessary to the Proposed Civil Service Act." It starts with 11A:2-3, which is the general area of the structure of the Department. Our Committee analyzed the structure of the Department and the Merit System Board, and felt that a system which is designed to prevent political patronage should not be composed of members who themselves are appointees through the political process. While we are open to negotiation on this, and in a way we are negotiating on the personnel arm that we are going to deal with, I agree with Mark Neimeiser that it would be better if the Civil Service Department became a Personnel Department that we actually dealt with as our employer, rather than an agency that pretends to be someone who is protecting our interests, but who, in reality, is someone who is representing management. I don't want to couple it with the Governor's Office of Employer Relations, but Mr. Fasola is looking for duplicity of efforts, and that is a perfect area to look at. One or the other is unnecessary and, since I am with Civil Service here today, I'll say that his office is unnecessary.

The structure of the Department, assuming that the Merit System Board is going to have control over the rules and regulations, we feel should be elected similarly to the members of the Public Employment Retirement System, whereby the employees themselves will cast ballots for the people who are going to make decisions about the terms and conditions of their employment, rather than have the system open to political patronage. Rather than get into detail with that, I will just briefly touch on the major amendments and move through these.

The next proposed amendment, 11A:2-6, deals with the subject of discipline. As I said earlier, the courts have stripped us of the ability to negotiate disciplinary review procedures and, even though we have come to some agreement with Civil Service about what disciplinary review procedures would look like under this new Act, we still have to take the initial position that discipline is at the heart and soul of a union contract, that if we can't negotiate disciplinary review procedures and have a third party impartially decide those discipline actions, we are not really negotiating and we don't really have collective bargaining. The proposal we have here is that the negotiation of binding arbitration as an alternative to the disciplinary review procedures under the Career Service -- or the Department of Personnel, would be permissible and that the employee would have the option of choosing either binding arbitration or going through the procedures established by the Personnel Department.

The next proposed amendment, 11A:2-11H, deals with the role of the Career Service Department in collective bargaining. Again, a lot of talk this morning concerned itself with waiting until the Governor's Public Employment Advisory Committee makes decisions concerning revisions to the PERC Act -- Employer-Employee Relations Act. We feel it is appropriate to deal with it in this bill and, if indeed the Governor is going to deal with collective bargaining the way we intend him to, then there should be no problem with writing into this bill the fact that the Commissioner, or the Merit System Board shall negotiate the rules and regulations that govern our working conditions, with the majority representatives. Obviously, I don't know how many management workers are covered by Civil Service, but the Commissioner should have

the right to prescribe and enforce rules and regulations concerning management, but for the workers covered by collective bargaining agreements, those items should be subject to collective bargaining.

Our fourth major amendment deals with the subject of promotions. Once you have the basic system in place, the next major problem that we have with the current Civil Service system is the arbitrariness of how promotions are meted out. Tied in with the Governor's Message to the Legislature, I don't see how you can have a fair and impartial personnel administration, one that bases its promotions on knowledge, skills and abilities, and still avoids personal favoritism, unless you tie that into seniority somehow. Once a worker is deemed capable of performing a job, the basis for appointing that person to that job should be on seniority as the next determining factor. That way, the Personnel Department would test someone and deem that this candidate is capable. The capable candidates would then be appointed on the basis of seniority, rather than on the basis of some "merit system."

Now, it is up to the Chairman of the Committee if she would like to hear the other two representatives deal with the other minor items we have, or if you choose to ask questions now.

SENATOR LIPMAN: Senator, what is your pleasure?

SENATOR CARDINALE: I don't care.

MR. PURSELL: There are about eight more items that we would like to bring to your attention.

SENATOR CARDINALE: Are they the ones submitted by Stefan Franklin?

MR. PURSELL: Some of them are the ones submitted by Stefan Franklin.

SENATOR CARDINALE: You have already touched on some of them.

MR. PURSELL: Yes. Perhaps Jim Cann, our representative from Local No. 1032, can address some of the ones he wanted to.

J A M E S C A N N: My name is Jim Cann, as Bob has already mentioned. I am an employee with the Department of Transportation, and I am a Shop Steward with CWA Local No. 1032.

I would just like to discuss a few of the items that we have gone over that we thought might be of interest to bring out today. On Page 4, the issue of fines. It's 11A:2-6, and it would be Number 9 under that. We feel that it is a rather archaic carry-over from the early part of the century, and that a real progressive reform would eliminate the use of that type of punitive action. Certainly, there is enough reprimanding-type action available to management, or to the Board, through the use of removal, suspension or disciplinary demotion, without needing something like that which is, in our opinion, tantamount to support for involuntary slavery, because you are making someone work without pay. That is one of the rather fine ones, but it is also one of the ones that we think is very pertinent.

I would also like to discuss on Page 6, 11A:2-12, which has already been discussed quite a bit. That is, delegation of authority to the appointing authority allowing them to participate, or to actually conduct -- I gather from the way this is worded -- of classifying positions and administering examinations. We object strenuously to giving them this type of authority. We do not like the idea that they would be allowed to develop examinations or classify positions. We do not object to them monitoring examinations, holding examinations at appointing authority facilities or assembling lists of eligibles according to prescribed Civil Service job specifications. I guess what we are really trying to say is that, we feel the

integrity of examinations and classifications is best kept in the hands of Civil Service, except for certain yeoman-type duties, which we would have no problem with the appointing authorities handling.

We really feel that in attempting to get examinations out in a reasonable time period, it would be best if we had some true reform in ensuring that there was test funding and efficient testing and classification procedures.

I would also like to talk about two other small items. On Page 13, 11A:4-2, which is holding of examinations, we agree with the intent of the provision, but we think there is a need for strong enforcement measures. While this proposed Act does have some enforcement measures, we do not think they are strong enough, considering that there are so many provisional appointments, and considering the length of time of those provisional appointments.

On Page 32, 11A:10-2 is the enforcement -- I guess it would come under the enforcement provisions -- and 11A:10-3. Basically, what has to occur, is that you have to prove that someone willfully or recklessly did not hold an examination within the prescribed time period, which is one year. That is rather -- I would think it is almost impossible. Of course, you can always say there is no funding, or that there is a lack of manpower to provide the examination, which is what is used today. It is what we hear all the time when we call over there. Further, as far as the second part of that, they use a word that I have a little trouble with, and that is the word "may." It seems that we are always stuck with the word "may," -- they may do this, or they may do that, and it seems that "may" comes in when it is something that management wants, and it is "may not" when it comes to what we want. I find that they just have the opportunity to do what they want. I mean, our intent is not to make this provision so restrictive that, you know, you have to -- We're not necessarily asking that they change 10-2 or 10-3. I think what I am talking about is the provision on holding the examination. I think there should be separate enforcement provisions for that, to make sure it is carried out. I'm not so sure that 10-2 and 10-3 need to be changed, but I'm talking about, in particular, the holding of examinations within the one-year time period. I think it needs some enforcement provision of its own.

I would like to see the development of some things to make sure, some things that we would be glad to discuss, to sit down and talk about, -- regarding getting these examinations out in an efficient time period.

I would also like to talk about provisionals. If I am going too fast, tell me, because I do have a habit of talking fast. It's on Page 16, 11A:4-13b. First off, Commissioner McCaffrey, who is not here, so I feel a little bit --

SENATOR LIPMAN: He is here.

MR. CANN: Oh, he is. Good, fine. Well, he said he wasn't going to be here. He said something about there were 6,400 provisional employees, and that has been reduced now to 5,000 provisional employees. While I am sure that is correct, I would suggest that the reason for that reduction is primarily due to the recent layoffs, not necessarily because of some turnaround in Civil Service. For our part, or as far as being an employee and worker -- actually, I prefer to be called a worker -- in the State I think there is an overuse, and there is an overly long list of provisional appointments at the present time. There are people sitting in a provisional status for years. I think that in my own Division -- I did a rough calculation, so obviously it is not statistically accurate, but it is somewhere between 20% and 25%

of the employees who are provisional, and that is a very small Division. There are only 239 people, so you are talking about something like 50-59 people.

So, we would really like to see some reform limiting provisional appointments, and we would like to see some methods for making sure that provisional appointments are examined and given permanent status. Of course, one of the ideas I think was talked about was a survey and a consolidating of some of the classifications. While I would agree with that, I would like to see that be a mandatory periodic survey, to ensure that we don't just eliminate it for one year, and then two or three years down the pike, have the same thing occurring again.

There are provisional appointments that are made from what we call "off the street," each person coming in and applying. It is where a department, a particular unit scope, doesn't have someone qualified for that position. We would like to see them start widening a little bit of the scope, which management has managed to narrow quite severely in some areas, so that where you had a certifiably similar list existing, that person would be allowed to move into that position on a permanent basis. I think that would ensure some form of mobility and efficiency in the use of personnel.

I believe that is about all I have. Jon?

J O N W I N E L A N D: My name is Jon Wineland, and I am a Staff Representative from Local No. 1033. I have four other particulars I would like to address too, but I do not want to get the focus away from the major points that Bob started out with, and that is, if this Civil Service bill is one that could be passed, you are not going to see Civil Service reform again until quite a distance down the road, and we are quite concerned with getting our major revisions in here, as well as the fairly important minor ones, before we can commit ourselves to something which is going to be in place for quite some time.

With that said, there are four other areas to be discussed which bother quite a few of the people we represent. On Page 10 of the bill, 11A:3-4, having to do with the unclassified status. Now, there are a lot of misconceptions about unclassified status in the public's mind, and also within State government even. Last Summer, during the appropriations process, there were bills introduced that were aimed at eliminating unclassifieds before classified layoffs would occur. I believe there was a resolution at one point that unclassified employees making more than \$15,000 go before anybody else. That shows a basic misconception of what an unclassified employee is. We have approximately 2,000 within our bargaining units. These people are not political appointees; that is what the unclassified position should be used for. We do not have much difference with, for instance, a. through c. -- going down that list there you're talking about the Governor, department heads, and so forth. But, when I am talking about unclassifieds, I'm talking about teachers, I'm talking about instructors, field representatives for the Public Advocate, field representatives for the Public Defender, Civil Rights investigators -- many, many titles like this, and these are our people. They are hard-working career employees, and it is a shame when you see a hard-working employee like this who is a career employee with 17 years' service, who can be dismissed for no reason, with a ten-day notice, and no appeal rights whatsoever, and that has occurred. We would like to see that tightened up somewhat; we'd like to see something in here, in particular the power, which is on Page 11, Line 23 l. -- we would like to have that delineated a little more statutorily, because the ability to simply move titles from classified service to unclassified service is

something that we must have a tight rein upon. We have divisions that play games with this all the time, and I can't begin to tell you, when you become an unclassified employee, your rights in terms of layoff, your rights in terms of almost anything are almost nonexistent. These people have no seniority either, at the present time. We would like to see something go into this section here which would solve this problem; it has to be solved for at least these 2,000 people, and there are probably others. Our titles cover up to the managerial level; the supervising people who are below the level of manager, all the way down to account clerks and the entry level people at the bottom. I do not feel that there is any real reason for the people who are unclassified -- or the people in those titles to be unclassified. There is no justification.

So, we would like to see that dealt with. We just think that that is a little bit too much, in terms of authority, to move those titles around from classified to unclassified service -- that particular line.

On Page 16, Mr. Fillippi has already addressed this issue, but I would like to clarify a little bit. It has to do with the length of the working test, specifically, I guess, it is the top of the following page where it says, b. and c. The ability to extend that working test is something we are very much opposed to. We would like to see it restricted to four months, with a possible two-month extension. Basically, our position comes from the view that almost every title which we are involved with, which we are familiar with, can be adequately evaluated within four months, if the evaluation procedures that the State has on the books are properly enforced and properly carried out by management. As Mr. Shier can probably tell you, that is one of the things that is lacking right now. Evaluation procedures are not uniform throughout the State; in some places they are nonexistent entirely for sizeable numbers of people. You do not solve that by putting someone out and keeping him under the gun for 12 months. So, we are opposed to the extension to 12 months.

If there are titles, and I notice they have police and firemen here -- statutorily in here, we would like to know exactly what those titles are, and why they would require a 12-month working test period. Our technical titles, like engineers, auditors, and so forth, we feel they can be adequately looked at in the working test. They have already looked at their qualifications and established that they are qualified in terms of those qualifications. They have looked at a test, most of them, they have taken a test. They have come in now; in many cases they have been interviewed, and they have been selected. In private industry, you are looking at, generally, a 30-day probationary period. A working test is usually called a probationary period. We see no reason why it should go longer than four months, with a possible two-month extension.

Also dealing with the working test, 11A, I guess it's 4-15a. and e. -- a. would be first, and then e. on Line 19, termination of an employee at the end of the working test period, we would like to see that particular provision amended to establish burden of proof on the appointing authority. As it currently stands, the burden of proof is on the employee. I think Mr. Calderone pointed out that they view the working test as the end part of the testing procedure. However, as I pointed out earlier, some of the things that are used in selecting this person, if indeed there is a merit system that functions, and if the person has been tested, if his qualifications have been checked, if he has been interviewed and he has been put in there, the probationary period should be fairly short, but if you are going to drop someone

from employment, I feel that he should have the same basic right of the burden of proof being on the appointing authority, so that when the appeal is heard, he has some possibility of getting a fair shake. Right now, it is a very subjective thing in State government. An employee going through a working test is subject to arbitrary decisions, very capricious decisions by his immediate supervisor. Clerical people, in particular, who have decisions made on their probation -- these decisions are being done by people who are not thoroughly trained in evaluation procedures. Some of them have never received that training. For these reasons, we would like to see that that burden of proof be shifted to the appointing authorities, and that that be statutorily required here.

On Page 30, 11A:8-1, concerns layoff and the 45-day notice. In the past year, the people that we represent have received two blanket 45-day notices. They received one last summer; they received one at the end of this year, just about Christmas time. We consider that that has to be refined. The 45-day notice that must be in this piece of legislation here has to be capped. It has to have a termination date. When does it expire? We would propose 65 days after its issuance. So, if there is a 20-day period, they can make their selection of who they are going to be laying off.

We also advocate that it be required in the statute, that a 45-day individual notice then be served to the employees selected for layoff. Now, the reason for this is fundamental to the whole concept, as far as we are concerned, of the 45-day layoff notice. That notice is to allow the employees to be effected, whether they are going to be demoted, take a cut in pay, be laterally moved somewhere to another geographical area, or actually out of employment, to give them some time to get their houses in order. We have layoffs going on now, just this past week. People covered by the blanket notice that was given out in some departments toward the end of December received a one-week notice in the Office of Administrative Law -- a classified employee. In Education, we received notification several days ago that these people have a two-week notice, that within two weeks they will be out of work. We feel that that should not be the case. This needs to be expanded, the 45-day blanket notice be capped, and the 45-day notice also then be required to be issued individually to the individuals selected.

One final area, and it does not deal directly with a provision in the bill, but it is something we would like to see addressed. We feel this bill is one proper way of addressing it. Under another statute, 2C:51-2, there is a requirement for conviction of certain crimes, for forfeiture of State employment if you are a State employee. I'm sure the intent here was to ensure that certain types of behavior -- dishonesty -- and certain types of criminal activity, would not be on the record of anyone in State government. But, with the application of 2C:51-2, the way it is being applied now, as it is interpreted by the Attorney General's Office, it more or less duplicates, and in a very wasteful way, provisions we already have under Civil Service. If an employee is convicted of a crime, any type of crime, he is subject to suspension, and he is also subject when a determination -- if he is accused of a crime and if he is convicted, he at that time can be removed from State service as a charge within the code as it now exists. At that time, he is subject to a hearing, and he is subject to appeal to Civil Service so that a determination can be made of the nature of the crime, the effect on his employment, and whether removing him from State service would be the proper action.

What this statute does, is take away that hearing, and take away any due process. I would like to illustrate that with just a few cases as to how this affects our employees. In one particular division, one of our clericals was convicted of an offense involving some filing procedures. She had technically violated the law in the office where she worked. The judge, in handling the case, found her guilty, sentenced her to probation, but said he found no criminal intent in what she did. It was a technicality. Under this procedure here, she automatically forfeits her employment, unless there is a state of forfeiture at the time. Her attorney neglected that and, therefore, she is in a bit of a bind. We are trying to work on that. She gets no right of appeal to Civil Service to go anywhere and say, "Here is what happened; here is what the judge said. I would like to retain my employment."

We have had other examples where people convicted of minor types of crimes before their State employment have been removed under this provision. Welfare fraud is a crime of dishonesty. We have two people in another division who, prior to their State employment, had been guilty of fraud, were paying the money back, and were paying it back on the basis of working for the State. When it was discovered that they had been convicted of this crime, it was automatic forfeiture. There was no way to sit down and look at the mitigating circumstances involved. So, we would like to see something incorporated into this bill to supersede, as our Legal Department has advised us is possible, some of the provisions of 2C, so that this type of situation will not exist. As I said, we have appeal procedures currently that if a crime is committed, the State can determine whether that should require forfeiture of employment.

Those are the major items I have. They are not that large, but they are important items to our people. These are the things that they talk to us about. I guess we will take questions then. Right, Bob?

SENATOR COSTELLO: For awhile I thought you had problems with the bill.

MR. WINELAND: Pardon?

SENATOR COSTELLO: For awhile I thought you had some serious problems with the bill. No, I was being facetious.

MR. WINELAND: Bob outlined the major ones, but these are just technical points we are discussing here. We went through it point by point, and discussed it quite extensively with a wide variety of State employees, professional, clerical and supervisory, in various situations they have. They want to see this addressed. If we are to sell a bill to the people we represent, it has to address these types of problems, if there is going to be reform.

SENATOR COSTELLO: I was being facetious. I mean, you have had three of you participating in the statement, and some of your comments haven't made any notice -- I've long since forgotten. But, I have read the statement that was sent by -- is it Stefan Franklin? This time around, you did address yourselves to all of these things. You do have at least 12, maybe 16 or 20, areas of concern. Before I feel comfortable in commenting on this thing, I would like to read the testimony. The question I would have from the time one of you mentioned dealing with the unclassified positions, do I understand you correctly that in the unclassified positions, you feel that that prerogative should not rest with the employer -- that you would like to participate in that determination -- is that it?

MR. PURSELL: Well, Senator, the unclassified workers that we represent are in the type of sensitive positions that would require them to be serving at the

pleasure of the appointing authority, as it is put. Some of these positions are statutorily required as unclassified, but the ones that the Department of Civil Service determines to be unclassified -- we do not feel the workers should be denied any kind of appeal mechanism, especially workers that the Public Employment Relations Commission determines are in our bargaining unit. They have a community of interest with the other workers, and it is unfair for them not to have an appeal procedure for discipline, and for them not to have seniority rights in layoffs, and, as Jon said, we have had a number of horrendous cases. At Public Television, all the workers there are unclassified -- most of the workers there, and the appointing authority follows no rational mechanism for laying off workers. At the Education Department, prior to the reorganization that was announced when the Commissioner came in, you may have noticed it in the press, he terminated a number of his Assistant Commissioners and some of his other people. One of those people happened to be a worker in a title in our bargaining unit. He happened to handle his press work -- out-of-title work I might add, but, as a result of the work he did, he was terminated and had no recourse to any type of appeal mechanism -- 17 years with the State.

We feel that workers in our bargaining unit should not be subject to the whims of the appointing authority when there is a change in Administration. Sometimes they make it through an Administration, and other times they don't, but they are career people and they are not what you would normally think of as those who come in under political patronage.

SENATOR COSTELLO: You do represent several unclassified? Do I understand you correctly?

MR. PURSELL: Two thousand. Teachers in State service are unclassified as a result of the abolition of the Garden State School District. We would like that addressed eventually, also.

SENATOR COSTELLO: I have no more questions.

SENATOR LIPMAN: Senator Cardinale?

SENATOR CARDINALE: On one of your major items on promotion, you indicated that you only see seniority as a basis for promotion.

MR. CANN: Well, I don't think that is what we said. I think what we said was, that those persons deemed capable under a test, you know, setting up a final method to determine capability -- I don't think we have really narrowed it down into fine points, but I think something like a test on a pass/fail basis, where those who pass would be taken on somewhat of a seniority basis --

SENATOR COSTELLO: Are you saying, all other things being equal, seniority shall prevail?

MR. PURSELL: That's right.

SENATOR CARDINALE: No, I don't think that is what he said. That is what I would like to get to, because that I could understand. If all other things are equal, then seniority prevailing -- I would support that kind of a premise. But, what I think you have written here, is that the rules of the Board shall establish the minimum qualifications for promotion, and shall provide that candidates deemed capable through testing shall be appointed according to State seniority. Now, that would mean to me that if you have 15 people who range on a scale of one to 15 in abilities, and perhaps on scores on an examination, the one who rates 15th, which I would call the bottom, having one year more seniority than all the others, would then be appointed to the position. Is that what you are advancing here?

MR. CANN: Basically, but I think you might be slightly misrepresenting it. Let me give you a few points on that, if I may. We had a test -- I can't identify the individual right offhand, but I know the case happened, and I don't think he has yet been promoted. He came out number one on the examination, a vet. There were, I believe, three vacancies; the first four gentlemen were vets. He was number one; he was passed over three times. So, you know, if you are going to say that testing is an absolute truth, that you are going to know the ability of someone strictly by testing, and that numbers one, two, three and four should -- five, six, seven, eight, nine, ten and eleven should prevail, then eliminate the fact that they get three, and we go right down in order.

SENATOR COSTELLO: You didn't say anything about seniority, though. You just said test scores.

MR. CANN: Yes, well, we're talking about the fact that there is some allowance for that. I think basically what we are getting at is that, if you have a highly skilled title, you may want to increase -- you can't assume that 70 is passing or below 70 is not passing. I think if you have a highly skilled title -- and, of course, we haven't really defined it, so maybe I am a little premature, but if you have a highly skilled title, you may necessarily have to increase the passing level. You might want to make it 80; you might want to make it 85.

MR. WINELAND: The basic thrust here is to take these arbitrary, capricious decisions and promotions away, so that when we get to a certain level of capability, seniority is the determinant. Now, your argument, I suppose, would be that the basis should be on merit. If you have someone who is really much more capable than someone else -- it is a measurable thing, then that should be the determinant and, of course, that is a managerial prerogative, to make that determination.

I think we have to go back to the real ball park. Mark addressed that earlier this morning. Okay? When you get these appointing authorities making decisions like this, this discussion of merit system and so forth, then the finely detailed use of it is simply an excuse on their part to play personal favoritism and to also discriminate against various types of people. That is what really goes on in State government, and we feel that getting a handle on that, to ensure fairness, we have to introduce the concept of seniority based upon a measurement of capability to perform a job, and giving the most senior person a chance at that job. Of course, that person must go through a probationary period after that appointment, and his capabilities will be judged.

SENATOR CARDINALE: I understand everything that you're saying. I think the comment was made earlier by another witness, that there is no perfect system. You are describing imperfections that exist under the present system, and I would suggest to you that there are imperfections as well under the system that you propose and, probably, in all reality, under any system that would be proposed by anyone, because we are all human and there are going to be times when decisions must be made, and they are not always going to be made correctly.

MR. WINELAND: Sure.

MR. PURSELL: Senator, I think our proposal purports to you similarly to what we do with negotiating proposals. This is our proposal; it eliminates personal favoritism. Maybe it is not to the liking of a segment of State government, but, until someone comes back with a proposal that indicates it is more fair than ours, and still eliminates personal favoritism, this is our position. Now, if you

want to couple seniority with some objective means of assessing past performance, we would be willing to talk about that, but no one has really come up with a system that is completely fair in promotions, and I think it has to be addressed in any type of real Civil Service reform.

SENATOR CARDINALE: I would like to combine a comment, or a question, with respect to your Items 1 and 3. In your first item, you suggested that the Commissioner, in effect, would be elected by the employees, and then the third item is that that same Commissioner shall be the negotiator, I presume for the management side. How can you accommodate those two things?

MR. PURSELL: Again, this is our negotiating posture. We are saying that all of the members should be elected. Ideally -- not ideally maybe, but perhaps the Commissioner, if he is not elected by the workers, should not sit on the Merit System Board then, because he could negotiate with us as management's representative, similar to what AFSCME's proposal is.

SENATOR CARDINALE: If I were in your position, I would worry about having the workers feel that if they are electing the Commissioner anyway who is going to do the negotiating, why should they bother having a union negotiator, or a union structure at all. It would seem to me that what you have suggested here is that the union, or an analogous body to the union, would thereby become management, and I don't know if there is something more to what you have to say than what you have put down here that I'm missing, but it would seem to me that there would be no difference in your proposal if we gave the entire management of Civil Service to the union.

MR. NEIMEISER: We don't want it.

SENATOR CARDINALE: I don't blame you.

MR. PURSELL: First of all, you are making the assumption that all of these items we have listed would be incorporated into the Act, and I don't think that was our intent.

SENATOR CARDINALE: Oh, I'm not making that assumption.

MR. PURSELL: Well, you're saying he would be elected, or this would be elected --

MR. WINELAND: Basically, we want to introduce an idea here that if you are going to be having a Board selection process, which you claim is bipartisan because it is going to be delegated to the various parties, the various seats they would hold, that that does not necessarily get away from political patronage, and that State employees themselves should have some input into this Board. Okay? State employees are looked at by the public as representing the ones who do not want to work, the ones who don't want to get the job done, that want to sit and read magazines. That is not your basic State employee. Your basic State employee is as much concerned that everyone in that office pulls his weight as the manager is. What we are trying to do is introduce the concept that some part of this should be delegated to the State employees themselves, similar to the way PERC is handled.

MR. PURSELL: And, in our discussions with Civil Service, although they are opposed to the concept of electing Merit System Board members, a number of the items that were bandied about were having elected positions, one for management, one for State service, and two for local service, so you would have a representative body.

SENATOR CARDINALE: Well, that is a little different than you have written here. Now I can understand what you are driving at.

MR. PURSELL: I don't want to help you negotiate with us. This is our original proposal, and we would be happy with that.

SENATOR LIPMAN: Mr. Pursell, we want to thank you, and the gentlemen with you, for this presentation. I think that maybe I should say here that in our deliberations, that is, the subcommittee arrangement, we wish that anyone who is interested in coming to these meetings would leave their names with Joe Capalbo here. I'm sure that your objections will be gone into at some length.

MR. PURSELL: Fine. Thank you very much, Senator Lipman.

SENATOR LIPMAN: Thank you. The next witness will be Alma Saravia.

A L M A L. S A R A V I A: Madam Chairwoman, I am Alma Saravia, Executive Director of the Commission on Sex Discrimination in the Statutes, which I know you are familiar with.

The Commission, four years ago when it was first created, took a position in opposition to absolute veterans preference. This past week, the Commission voted to reaffirm that position, and wishes to make that known to the members of the Committee today, during their deliberations on the Civil Service reform bill.

A primary reason that the Commission is opposing absolute veterans preference, is that during its own studies of the Civil Service system it found that women were discriminated against in a number of ways, and the Commission feels that perhaps one significant way they are kept from higher level positions is that a disproportionate number of those positions are held by veterans. Some of our findings say that approximately 25% of the higher level Civil Service positions are veteran-dominated positions. When you look at the number of women in those positions, the exact figure is about 16%. We feel that one significant reason is veterans preference.

The Commission would like to suggest to the Legislature, and the members of this Committee, and to the President of the Civil Service Commission, that in any deliberations that they have, they consider a wide range of options to guarantee that there are equitable compensation systems, as delineated in the beginning of this legislation in the first chapter, and that they do work to ensure that there are equal opportunities for women that are consistent with the Division on Equal Employment Opportunity and Affirmative Action that has been permanently constituted in this legislation.

Thank you, Madam Chairwoman.

SENATOR LIPMAN: Alma, I wanted to say that Mr. McCaffrey spoke this morning about having some meetings with women's groups and veterans' groups, in order to come to some kind of understanding of what could be done to alleviate these percentages that we have. Mr. McCaffrey has given us some sheets to point out that there is not the demand that there once was. He is here. I may not be interpreting exactly what he said, so I will let him answer for himself.

MR. McCAFFREY: Believe it or not, Senator, this morning when I finished speaking, a gentleman approached me and identified himself as William Stratton, who is the Legislative Liaison for the New Jersey Veterans of Foreign Wars. He is an extremely able guy; I only talked to him for ten or fifteen minutes. But, we found this morning at least someone to begin our search for the responsible veterans' groups that we talked about by reason of these hearings. He is a retired engineer, I believe, a graduate of Fordham, and he is ready and willing to come down with some other people whom he knows in the veterans' organization, to begin this dialogue, which Alma and I spoke about in my office yesterday. So, it seems as though we are getting something started just by reason of these hearings, and people coming and learning what we are trying to do.

SENATOR LIPMAN: Right. I'm glad we're having these hearings.

MS. SARAVIA: Thank you, Commissioner. I just want to reiterate, Senator, that I believe the Commission feels that absolute veterans preference should be modified, but that is only one mechanism that has been in effect in the Civil Service system. We hope that this, and perhaps any Civil Service reform legislation, or other legislation, will be seriously considered, which will put into place a system that definitely establishes equitable compensation relationships. We feel that that should be a key component of any Civil Service reform effort, because we found that there are a number of female-dominated positions where women are not receiving the type of compensation that perhaps they ought to receive.

SENATOR LIPMAN: You're saying that they don't have the positions, and, if they do have the positions, they don't have the compensation?

MS. SARAVIA: Correct, Senator.

MR. McCAFFREY: I would think, Senator, that the Senior Executive Service would be a great help in bringing women into topflight positions.

MS. SARAVIA: Yes, I think that's true, Commissioner.

SENATOR LIPMAN: All right. Mr. McCaffrey, I don't think I need to ask for a subcommittee here, because I'm sure Alma Saravia will be on the telephone to you to set up a meeting.

MR. McCAFFREY: I know, I'm sure of that, and there are some other people here today who are very interested, too.

SENATOR LIPMAN: Thank you very much. The next witness will be Mrs. Ruth Ballou of the American Association of University Women, New Jersey Division.

R U T H B A L L O U: Thank you very much, Senator Lipman. I am speaking on behalf of the American Association of University Women, New Jersey Division, representing the president of the Association, who is very sorry she could not be here. I serve as parliamentarian to the board.

Among the AAU legislative emphases, and I'm citing from the "AAUW Legislative Policy," 1981 to 1983 Edition, which are relative to this legislation that is being considered, are equal employment and educational opportunity, equal pay for equal work, strict enforcement of affirmative action programs, reevaluation of traditional sex role stereotypes, and revisions to veterans preference in Civil Service, which has denied women access to higher level government jobs.

Senate Bill 2019, or Assembly Bill 1720, a complete rewriting of the statute on Civil Service, brings many structural improvements in organization. It creates, and I'm quoting from one of the papers, "A Senior Executive Service of high level managerial and policy positions, which will permit the development of a cadre of carefully selected persons who will not have tenure in this service, to be used in various governmental operations." I end quote, and add this comment. This is bound to upgrade the quality and efficiency of top-level management.

There are chapters in the proposed statute which include delineation on classifications, selections and appointments, compensation, promotion, employee protection, and planned and initiated programs of education and training, unequaled previously in my years of experience in State government.

Equal employment opportunities have broad definitions in 11A:7-1, on Page 26 of the statute. And then, there is Chapter 5 on veterans preference. I made a few notes after President McCaffrey spoke that I would like to include here. President McCaffrey stated in his remarks that the numbers of veterans in service -- and I have since been given the statistical sheet, which I am glad to have -- are

lessening, and thus discrimination due to veterans preference is diminishing. If this is so I ask, why do legislators hesitate to bring about necessary corrections to fairness? Veterans from earlier wars may be retiring, but what about the Vietnam veterans, and veterans from future periods of time to be defined as "war periods" -- or are we entering a period of permanent and everlasting peace?

In a non-war era, to return to my paper, with no media hype on veterans, many eager readers of the proposed statute may skip Chapter 5 as irrelevant. There are no cross references in other sections to indicate that, except in the new Senior Executive Service which is outside the bureaucratic restriction of veterans preference. All other employee selections and appointments are limited by the absolute veterans preference now in effect, with no plans for change. To quote from Hearing Officer Arnold Samuels' report and recommendation on the appeal of Ruth Ballou rendered on August 11, 1976, "William Drews, former Chief Examiner and Secretary of the Civil Service Commission, described the absolute and inexhaustible preference given to veterans under the present statute. It is absolute, because once a veteran passes an open competitive examination, he must be placed higher on an eligible list than a non-veteran, and he must be appointed in preference to a non-veteran, regardless of their relative scores in the examination. It is inexhaustible, because it may be used by a veteran any number of times, without limit as to time or frequency of use.

"Mr. Drews was a member of the State Personnel Council, which conducted a detailed survey and study of the veterans preference law in 1959. This report recommended abolition of the absolute preference, in favor of a system that would add a specific number of points to a veteran's examination score. Mr. Drews felt that the inexhaustible feature of the preference becomes excessive as the years lengthen following a veteran's separation from service. In the early years, the veteran needs a great deal of vocational readjustment, but as time passes, this need diminishes. Repeated use of the preference by the older veteran works against the younger veteran, who needs it more. Mr. Drews spoke of non-veterans who told him they would not file for Civil Service positions because they were certain they would not be appointed because of veterans preference, and he felt that it did have an adverse effect on people being willing to compete for public jobs.

"According to Mr. Drews, the Department of Civil Service has been on record for revision of the law to a point-reference system, which he feels would fit in more consistently with the merit and fitness concept."

I would add that such a point system should be used one time only, and within a period of five years. Such a change would bring New Jersey in line with the other states in the Union. The Constitution of 1947 was written in New Jersey at the time of World War II. This was the war supported enthusiastically by all the people, who were eager to reward the many who volunteered, and those who were drafted to serve their country, and to help them regain their places in civilian life when the war was over. Chapter 7, Section 1, Paragraph 2 of the Constitution stated preference "may" be given to veterans, but the legislators interpreted that to mean "must," and forever.

In Ballou vs. New Jersey, the court stated from the bench that the veterans preference was unfair, but decided it was a matter to be corrected by the legislators, since they were the ones who enacted it in the first place. The case of Ruth Ballou vs. the State of New Jersey Department of Civil Service was taken to the Supreme Court of New Jersey, and it was lost. I commend the case to you for study

and action. It is gratifying to have it used in law courses, but it would be far better to have it as the basis for improvement at middle and lower management levels, commensurate with the improvements anticipated from the new Senior Executive Service at the level of top management.

Legislators are elected to serve all the people. Is this not the time for the members of the Assembly and the Senate to have the courage to limit the preference for veterans, and to make the present proposed legislation a complete modernization of Civil Service, an upgrading in which every employee will benefit? Thank you very much.

SENATOR LIPMAN: Thank you very much, Mrs. Ballou, for that spirited presentation. Senator Costello?

SENATOR COSTELLO: I thought it was an excellent presentation.

SENATOR LIPMAN: Senator Cardinale?

SENATOR CARDINALE: Mrs. Ballou, you alluded to having been given certain statistics. I think that perhaps we should read some of those into the record, because your point has been made many times in the past, and it has been addressed each time Civil Service reform has been approached. The Commissioner stated earlier that confusing the two issues would certainly work to the detriment of the passage of any kind of reform legislation, and I share that view, not on a speculative basis, but on the basis of having observed in the past what occurred around 1976 --

MRS. BALLOU: I remember; I was around then, as I obviously still am.

SENATOR CARDINALE: -- and I observed that from outside the Legislature, and having observed what happened in the Assembly when this bill, essentially this bill, passed the Assembly, and when the veterans preference was altered by the Committee at one or two meetings, it became quite apparent that the bill itself would not pass unless the veterans preference was restored, and it was restored at the judgment of that Committee, the same Committee that had altered it. I would like to call your attention to the fact that, in 1950-51, which is the first year of the statistics that Mr. McCaffrey has given us, veterans were receiving 88% of the jobs, by virtue of the veterans preference, I'm sure, having a great part in awarding the jobs to those individuals. The latest year for which we have statistics shows that it is no longer 88%, it's 10% of that -- it's about 8%. Given all of the benefits of your argument, it would seem to me that for 8% of the jobs, it is not worth losing the reform totally that we would otherwise be able to get for the other 92% of the jobs.

MRS. BALLOU: If I thought -- oh, excuse me. I beg your pardon, sir.

SENATOR CARDINALE: Given the fact as well that the Senior Executive Service is a portion of this and is not going to be part of this, it would seem to me not really appropriate that we engage in the kind of battle that would ensue, and the almost certain failure of passage of the bill, if the veterans preference was changed at all during the time when we are trying to pass an entire bill. That is from my legislative experience.

Now, let me say something else. I feel very strongly that -- I would like to preface this by telling you I am not a veteran, I have never --

MRS. BALLOU: My family is full of them. I am not anti-veteran.

SENATOR CARDINALE: I am not a veteran; I have never been in an armed service, and yet I feel that those who have been, and it's a feeling, it's nothing

that I can justify, deserve a very special consideration. When one takes and changes that consideration, and diminishes it in any fashion, whether it be for veterans, or it be for women, or it be for any other group, it has to arouse in that group a feeling that we have appreciated them less than we previously appreciated them. That is exactly what I observed happening in the veterans' organizations, and with individual veterans, at the time when Assemblyman Burstein attempted to change the veterans preference the first time. He was very adamant about the point initially, but he too came to understand that it was extremely important that that not be changed. And, when he reintroduced his legislation, he reintroduced it keeping the veterans preference intact, so that from the point of experience, from the point of view of just allowing this group not to feel as if they are being attacked, and from the very practical consideration that it amounts to a very insignificant portion of the total employment picture, I would hope that we wouldn't have to burden the bill with that additional --

MRS. BALLOU: May I comment?

SENATOR CARDINALE: Certainly.

MRS. BALLOU: I heard Mr. McCaffrey speak at a dinner of the American Society of Public Administration, and I knew at that time -- I had not seen the bill, and I only studied it this week carefully after I was asked to testify today, and I, at the time -- Mr. McCaffrey made some of the points that you have, and I am tremendously enthusiastic about the improvements in organizational structure, which you recall from the opening of my statement, and very enthusiastic about the new Senior Executive Service. I think it is a tremendous step forward. I was inclined to say nothing, because President McCaffrey indicated some of the same concerns that you have, and I knew that would kill the other bill because I had been involved in those testimonies, too. At the same time, after I read it, I realized it wasn't even a cross reference and for the reasons I gave, people wouldn't even look at it. Right now, who knows with the condition, I hope some -- whether it is Reagan's group or whether it is actuality -- I hope it is actuality, and not just the President's aides. It looks as if maybe we are on the way back. How much do we know? If we're not, we don't know about this percentage and, if it is this small a percentage now, isn't that a good time if there are few to be affected?

May I go on to say, my husband was a veteran. In fact, he lied about his age to get in young. My brother was so patriotic, he lied about his age to get in young. My nephew was a veteran. They were crazy about it. They thought it was such a marvelous experience, and my husband was injured, and he didn't even claim anything. I am not anti-veteran. Please, do know that, but it seems to me that the purpose, and I would never be against it -- if our society and our governments are going to seek for volunteers, or draft persons and remove them, have them removed and ready their lives on the line, and they come back, I think they deserve every service from government to get them reestablished into the scene. I didn't want to give a personal example, but the reason I brought this case, it was my contribution, the Ballou contribution, as a thank you to State government. It was the most exciting period in my life, because I had 99.999 on a test for a job that I had established. And yet, it was taken over by someone who had eighteen points less than I, who had used veterans preference twenty years before to get in, who had such a general knowledge -- you see, the tests have to be general, they cannot be too specific -- that, as a matter of fact, I was told after my retirement, my work was divided among five people. We're talking, and the preceding speaker talked about,

discrimination at higher levels of government. The director would keep me on because she needed me for my work, if I would stay at \$3,000 less a year, and I wasn't getting as much as the men anyway. I was excited about it. I like money, but it isn't that important. But, I think your comments -- I wasn't going to go into all this kind of stuff -- make it relevant to my view. I was trying to make it very brief and issue oriented. These last things are really from me to you, and not as parliamentarian to the board of the American Association of University Women. But, I do feel that there may be the time, and I think Mr. McCaffrey's effort now -- and I am delighted to find the person who has come up from the Veterans of Foreign Wars. Perhaps with all these other considerations, there will be a chance -- I talked with the leadership of NOW-NJ last Saturday. I mentioned Mr. McCaffrey's recommendation of women's groups coming together. We can talk about ERA, but the greatest source of strength can be right in women in government right here, working together and being unified, as the veterans have, and meeting with them. A lot of them argued with me, Senator, in my case that I was wrong. It wasn't absolute veterans preference. They got in on points, and that is all anyone else could. I don't think the veterans are fully aware that it is absolute and inexhaustible, and that is my concern, not that there should not be help for veterans.

I'm sorry. You stimulated me. I got to one of my longer stories.

I'm sorry.

SENATOR LIPMAN: Mrs. Ballou, I just want to commend you for your perseverance and your fortitude and your fight for changes in the veterans preference. I remember your case and your fight, and I just want to correct one notion that you put forward today that it was the veterans preference that killed the other bill. There are not enough women in the Legislature to have that effect, I'm afraid.

MRS. BALLOU: No, I think sometimes women are their own worst enemies, so I think they had some effect on it, too. I'm glad to be a woman; after awhile I decided that.

SENATOR LIPMAN: Right. In order to speak to Senator Cardinale on your behalf, we agree that veterans deserve attention and that they have to be treated somewhat differently for the honor they have paid to their country, and so forth, but you say, "For how many years, Senator, have women suffered the same kind of discrimination?"

MRS. BALLOU: And we're getting a little bit tired of it.

SENATOR LIPMAN: Right.

MRS. BALLOU: Right. Thank you very much.

SENATOR LIPMAN: Thank you very much, Mrs. Ballou. Mr. Philip Beachem from the Association of Counties. Mr. Philip Beachem -- is he still here? (no response)

MR. McCAFFREY: Senator, did Mr. Beachem submit a statement by any chance?

SENATOR LIPMAN: I don't think so.

MR. CAPALBO: I will double check.

SENATOR LIPMAN: Where is the representative from the Department of Corrections? Would you give yourself a proper introduction?

STANLEY SAPERSTEIN: I am Stanley Saperstein; I am the Section Supervisor of Personnel for the field operations for the jails in the State. I am also Classification Officer for the Department.

Commissioner Fauver wished me to lend our support, believe it or not. I stood here since this morning and heard everybody complain about things in the bill. We're here to praise something in the bill, which we have been trying to get for a number of years, and that is, Lines 17, 18 and 19 on Page 15 -- 11A:4-11, which pertains to convicted felons being removed from a Civil Service list. We have had difficulty over the last five or six years since the Department has been in existence in dealing with convicted felons. The Department feels that we should be able to easily remove these people from a Civil Service eligibility list. The present system that exists now is extremely cumbersome, and it is very expensive to clear this type of person off a Civil Service list. We're even hoping Civil Service could go one step further, if it is interpreted as such, and screen applications, and not even admit convicted felons to a law enforcement position. This is strictly for correction officer.

We also have the support of Frank Chianese, the head of the State PBA, and Ed Murphy, who is our local corrections officer president. They also wish that this definitely be retained in the bill.

Just as an example, last year the Department of Corrections tested almost 10,000 people for the position of correction officer. We developed a unique walk-in system with Civil Service's cooperation. Just this past recent test, we had 3,400 people sign up for an examination. We're running approximately 10% to 20% convicted felons who are taking this examination. If you go at the lower figure of 10%, we have had almost 1,000 people we have had to deal with in removal from Civil Service lists. Under the current procedure, you must prove that a person is unfit for the position due to the nature of the job. The nature of a correction officer, as well as a police officer or any law enforcement type of position, is, if anything, should be a role model. Both the PBA and the Department of Corrections feel that we should have an easy method of dealing with this situation, and the bill does provide for this. The Department certainly wishes for it to be retained, and wants to praise the people who developed the bill and included this.

SENATOR LIPMAN: Senator Costello, do you have questions?

SENATOR COSTELLO: A comment. I was somewhat surprised to learn that they would even qualify for this type of employment. I have a question first, though. If he were a veteran, the convicted felon, would that individual be entitled to veterans preference?

MR. SAPERSTEIN: Yes, he gets veterans preference. A convicted felon who is a veteran is the most difficult situation to remove. It is very difficult to remove a veteran from a testing list for whatever reason, whether he falsified or he is not qualified for the position. Fortunately, we have not, in all the people we have tested, come across a veteran who was a convicted felon. It seems as if the services are rather careful about the people they accept to begin with. Whether they can commit a crime after that and retain their veteran status -- we have not come across that. That would become a major confrontation with the Department of Civil Service under existing laws. The ones we have run into, -- Fortunately, we have the choice of three for any one given position. It is the Department of Correction's policy that we do not hire convicted felons; we simply by-pass them on the list, which is our option. Should we run into three of them in a row, we would then have to make our choice and hire one of those individuals. We have not come into that situation as of yet, but that certainly is a possibility.

What we do -- we feel they should be removed from the list, and we do go through the very cumbersome process of removing them. It costs the Department of Corrections alone, probably half a million dollars a year to do this in administrative costs. It is costing Civil Service an awful lot of money to test people, admit them to tests alone, because they have to wade through an extensive three-page document to evaluate our reasons for removing them from the list. They have to waste an awful lot of staff time in doing this. While they are doing this -- It takes us approximately six hours dealing with an individual, in interviewing him and then preparing the removal papers on our part, and I am sure there are many hours in Civil Service's technicians' time in evaluating to make the choice. It takes about six weeks to do this.

While this is going on, we must keep a job vacant in case they determine that we must take the individual. That means we have to hire an overtime correction officer from another shift and pay time and a half during that six-week period. It runs into an awful lot of money.

SENATOR COSTELLO: Well, a comment then. I know there will be extenuating circumstances in situations like this considering the nature of the crime. I know that there are going to be those who object to having this included in the bill, but this would be consistent with something that just took place with some legislation last week dealing with firemen. It was passed overwhelmingly that those convicted arsonists should never be permitted or considered for either a paid or a voluntary fireman position. So, this would be consistent with that.

MR. SAPERSTEIN: Yes, it would fall right into line with the recent incident with the correction officer who was hired in Pennsylvania, who had a whole series of violent assault type of activities, and who had served what we refer to as "hard time" in a major institution. He killed eleven people. You know, this is one extreme example, but you are subject to tremendous criticism, I guess, should one of your officers do this. We give very extensive psychological examinations and very extensive medical examinations once the written examination is completed, but you never can be sure about anybody that might do something like that. If you know in advance a history of crime or of violence, you should definitely not put somebody in an atmosphere such as exists in a correctional institution, where violence can exist at any time.

SENATOR LIPMAN: Senator Cardinale?

SENATOR CARDINALE: I asked, while the last question was being answered, Mr. Calderone to comment on the current procedure with respect to removal and why it is so burdensome. I thought that ought be on the record, the answer to that question.

MR. CALDERONE: Currently, any type of position where someone is being removed from the list for a criminal record is the same procedure. The burden of proof is on the appointing authority to deal with each of the factors under the law, such as the nature of the crime, and the type of job that is at issue. In the bill, for certain types of positions, for law enforcement and corrections positions, that burden would be different. The corrections department or the police department, whatever the case may be, would be able to remove an individual for criminal background, and the Department of Civil Service would not review that, unless there was a clear abuse of discretion. It is really a change in standard, and a much greater discretion to law enforcement and police and correction departments in dealing with those types of positions.

MR. SAPERSTEIN: Thank you. We hope it will be supported to the end.

SENATOR LIPMAN: Thank you very much. Very good. Miss Gail Saxer, from the Division on Women.

G A I L S A X E R: Thank you very much, Senator. Members of the Committee and gentlemen: The Division on Women is located within the Department of Community Affairs. We are anxious to testify today regarding a serious omission in S-2019 and A-1720. Now, I realize that we have all gone over this, but I do want this entered into the record and I do want it understood, the great concern the Division on Women does have about this issue.

Under Public Law 1974, Chapter 87, the Division on Women is mandated to expand the rights and opportunities of New Jersey's women. At the present time, New Jersey and Massachusetts are the only two states in the country still operating under an absolute and inexhaustible veterans preference system in Civil Service. I am not going to review what that means, because Ruth Ballou has already done that. For the Division on Women, the major consideration here is one of equal access to employment, a particularly serious problem for women. Recent reports indicate that the most compelling social issues of the 1980's is the feminization of poverty. In New Jersey, seven out of ten welfare recipients are children, and 90% of the adult recipients are women. Lack of employment opportunities has been cited by the Assembly Legislative Oversight Committee in June, 1981, as one of the most significant factors in keeping women on poverty.

During the 1970's, the most dramatic change in the labor force was, and it continues to be the increasing number of women workers. Women who work because their husbands earn less than \$10,000 a year, and they must assist in meeting the financial needs of their families. Women who work because they are single heads of households, and must support themselves and their children. Women who work to support themselves. Despite this economic need, women continue to earn \$.59 for every \$1.00 a man makes, and they continue to be concentrated in low-paying, dead-end jobs.

Women are not asking for preferential treatment. They are merely requesting the right and opportunity to compete equally for Civil Service employment, for which they have proved themselves qualified by virtue of open competitive testing. The Division would like to point out that the outstanding characteristic of the veterans preference system is that it is a primarily male activity. At present, women comprise 10% of the armed forces. In addition, it should be noted that until 1966, the armed forces maintained a quota system limiting women's enlistments to 2%. While this percentage has increased slightly, the policy to limit women in military service continues. As a result, women are caught in a "Catch-22." They are not permitted to join the armed services because of a quota system and, at the same time, they are not permitted to get the same kind of preferential treatment which is a result of being in the armed services.

New Jersey's present veterans preference policy also poses a formidable obstacle to the State's efforts to comply with Federal law, as well as to the implementation of the State's Affirmative Action Program and the Governor's Executive Order 14, and Public Law 1981, Chapter 224, which mandates the Division of Equal Opportunity and Affirmative Action, to ensure equal employment opportunities in State government.

As early as 1959, in a report on the New Jersey veterans preference law prepared by the New Jersey State Personnel Council, it was emphasized that one of the

handicaps to good administration in State government, and in the subdivisions within the State, was the unfair and impractical plan of preference in hiring and promotion granted to veterans under the present law. That report, and many subsequent reports, had recommended an adoption of the point system.

It is the Division's contention that the veterans preference law in its present form has had serious implications for the merit system, upon which the Civil Service system is based. Open competitive testing is at the heart of the merit system, and the policy of absolute preference negates the intent of this system. As of June, 1982, there were approximately 33,000 females in State service, or 50.5% of the total. Approximately 37% of these women are in clerical positions. Over 63% of the females are in salary groups ranging from \$9,900 to almost \$16,000, or the four lowest groupings in the State. This information has been provided by the Division on Equal Employment Opportunity Affirmative Action's Personnel Status Report ending June, 1982. Over 68% of the males are in the four highest salary categories, or in the ranges from \$16,000 to above \$33,000 a year. The 1981 average salaries, as provided in the 74th Annual Report, for white males is almost \$20,000; for minority males, almost \$15,000; for white females, \$13,000; and, for minority females, \$12,500.

While absolute veterans preference is not a single factor in this, it is one of many contributing factors, insofar as males in the top salary groups and females in the lowest ranges. This comes about because entry level access to the higher paying positions or via promotions is severely restricted by the policy of absolute veterans preference. The Division on Women believes that any real reform of the Civil Service system must include modification of the absolute nature of veterans preference, to ensure employment equity to all New Jersey citizens.

The Division on Women will be pleased to work with, and indeed looks forward to working with Mr. McCaffrey on this subject of economic equity, and we certainly hope we can come up with various options in order to remedy this very unequitable system. Thank you very much.

SENATOR LIPMAN: Thank you very much, Gail. You have given us complete statistics. I think you have with you the statistics that Mrs. Ballou is looking for. You see, Mr. McCaffrey, our statistics do not agree with yours entirely.

MR. McCAFFREY: Oh, I think they do, they are just coming from different sources.

SENATOR LIPMAN: Coming from different sources, right. I'm sure the Division on Women will be one of the groups you consider making a little subcommittee.

MR. McCAFFREY: We had a previous meeting already, and we look forward to many more now.

SENATOR LIPMAN: You heard the invitation, Gail?

MS. SAXER: Yes. Thank you.

SENATOR LIPMAN: Thank you very much. Miss Ann Baker, National Organization for Women of New Jersey. She is the New Jersey Coordinator of Legislative Affairs.

A N N B A K E R: Good afternoon. My name is Ann Baker, and I represent the National Organization for Women of New Jersey with almost 9,000 members in every county of the State. I am pleased to have this opportunity to present our position on Senate Bill 2019, which seeks to reform the Civil Service Act.

NOW - NJ's interest in this legislation, and it won't come as any surprise to the members of the Committee, is focused on the removal of absolute veterans preference as an integral part of any real reform of the Civil Service Act. Consequently, we are extremely disappointed that the present Administration has proposed

this legislation without any consideration of this question of basic equity. Since the Administration has been working for nearly a year on this legislation, and has proposed to several women's organizations -- and I was in a meeting with Mr. McCaffrey yesterday -- in the State that we begin negotiating with veterans' organizations in order to draft further legislation which would address the question of absolute veterans preference, we can only say that it is unfortunate not to have had this process in place before S-2019 was introduced, because the assumption is that after negotiation, after we really talk this through with responsible veterans' leaders, everybody will understand what a basic inequity this is, and everybody will say, "Yes, let's do it." If that is the assumption, then I would like that process to start immediately and to include, or to amend by substitution the present veterans preference section of the bill -- or chapter of the bill. If the question of veterans preference is such a hot political issue, it is better to include it in a total reform package where legislators can vote for the entire bill, and say, "I supported that bill because I agree with the merit system -- or I agree with this or that aspect of it, or I really think we need complete reform of Civil Service." Then you can obscure your vote about veterans preference. It would make much more sense to do it that way, it seems to me, than to make modification of this situation a separate legislation where it will be clear that legislators have voted for veterans, or modification of veterans preference.

New Jersey is only one of two states that has retained the system of absolute veterans preference, so we're not talking about really removing veterans preference, but removing the situation that now exists in only two states. That alone should be enough to motivate our State government to change the system. If I were a veteran from Ohio -- I happen to be a native of Ohio -- working in a Civil Service job in Ohio, and I were unable to gain a promotion through competitive examination, it would make sense to me to transfer to a similar job in New Jersey and then exercise my right to absolute preference. That is quite a nice shelter that this State is providing.

Figures compiled by the Department of Civil Service, which now everybody has seen, indicate the greatly reduced numbers of veterans appointed at the entry level in the last four years. This data is used to justify continuation of absolute veterans preference, because, it is said, there will soon be no one using the system.

This begs the question. If the system reinforces inequities which the government recognizes, then I think we are only ducking by hoping that the users of the system will eventually be reduced to zero. I am not, unfortunately, as sanguine as others have expressed themselves about the possibility of future armed conflicts involving United States military personnel. I know that we have troops presently in both El Salvador and Lebanon. I do not believe we have made a commitment to peace in this country, and so I believe there is a distinct possibility that there will be a further group of veterans qualifying for veterans preference. We have all lived long enough to know that we have gone from one war to the next. We all hope that we won't have to ever again, but the fact that it keeps happening makes me less sanguine.

It is important to remember that the original provision of veterans preference was enacted after World War II in lieu of a \$500 bonus. We have since then added veterans of two more highly controversial armed conflicts to the list of those included for Civil Service preference. Are we to continue that?

It should be obvious that absolute veterans preference discriminates against women, by the statistics provided by Gail Saxer of the Division on Women, and

also by the fact that every time this question of reform of Civil Service comes up, women's groups are here to testify against absolute veterans preference. While there are certainly others who are passed over by the inequity of moving all veterans with a passing score to the top of the eligibility lists, there must not be any discernible pattern of discrimination against any other specific class of persons, or they too would be here.

Five years ago when a different Administration drafted legislation to reform our Civil Service system, a remedy for the inequities of absolute veterans preference was included, and we heard that history this afternoon, too. There was also a time limit imposed on who may use the system of veterans preference when it was modified. NOW - NJ recommends, and we have included in our testimony today, that Chapter 6 of that proposed legislation be substituted for Chapter 5 of Senate Bill 2019, the present proposal, with the exception of Subsection d, which established a five-year limit, and which now has practically run its course. It was intended to include support for Vietnam veterans, but that particular conflict has now been over for ten years.

I only say that, it seems to me that we keep saying this, that people keep defending the system, that people do not want to take it out, and yet there is a basic acknowledgment of the inequity it does present. I think that anyone who respects the process of government and the meaning of our country and our State, has to say that we do not want to live with that inequity any longer.

SENATOR LIPMAN: Senator Cardinale wants to ask you a question.

MS. BAKER: Surely, Senator.

SENATOR CARDINALE: I cannot deny any of the statements that you have made, but I would like to just pose a question to you. I would like you to speak for your organization if you can, and certainly for yourself. If you were faced with the hypothetical situation as a legislator of having to choose between only two options, having a reform bill which included an unchanged version of veterans preference, or having no reform bill with respect to Civil Service, would you still hold the opinion that you have expressed?

MS. BAKER: Yes I would, Senator, because I think it is an incomplete reform, and it omits a very critical problem that the whole Civil Service system faces not to reform it. I would say that the third alternative is to draft, or to amend the present bill to include modification of veterans preference and, as I said in my testimony, it then becomes more probable, it seems to me, for legislators to vote for the whole package and say to their constituents, "Look, I voted for that for the following reasons," and they can duck the question of veterans preference if they wish. But, if we bring out a bill which is just the modification of veterans preference, and if there is not a great deal of support for that from veterans' groups, then you're not going to want to vote for that, and you are going to be standing out there on a limb, fully exposed, with your intention of modifying veterans preference.

Now, you've given me a hypothetical question; I'm passing one back in your lap. Wouldn't you rather have a complete bill that included the modification of veterans preference; wouldn't you rather have us negotiate now with veterans' groups so that at least some veterans in the State understood what modification of veterans preference was going to be about, so that they weren't down here screaming? We are still going to be protecting fully disabled veterans, and wouldn't you rather have a situation in which you can vote on it in that way?

SENATOR CARDINALE: I can answer your question by just referring you to history, recent history in New Jersey. I believe that history has shown that any modification of veterans preference, combined with all of the other problems of Civil Service reform, adds a dimension, and I'm not talking about the removal of veterans preference, but almost any modification of it, adds a dimension that makes it impossible to have the reform legislation pass. At best, we can hope that we might get some degree of consensus on all of the other points. If we add that dimension to it, I'm afraid, and I can point to history as justification for that fear, that we would have -- no matter how any of the rest of us feel about that specific issue -- that there would be no reform. That is why, essentially, it has not been included by the Administration, and that is essentially why Al Burstein and the Bryne Administration which preceded this one introduced it maintaining the veterans preference, after they had had the initial experiences of trying to do what they thought was right initially -- what Al thought was right initially -- which was to change it.

MS. BAKER: Okay. The real problem that was faced at that time, I believe, was that none of us were really prepared, first of all to talk with the veterans, not at them, and, secondly, to do a whole lot of education, a whole lot of it. If, in fact, we are only one of two states, then what are our veterans really losing in this State? I'm not saying that they don't think they're losing something; I'm only saying that it seems to me that we have a big education program to undertake, that veterans are easy to find, that it is much easier for you gentlemen to go find them in veterans' clubs, than it is for me, because I am not a veteran -- and I do very little drinking -- and I'm not a football fan, and that is the education process. I'm willing to work on that, Senators, and I think there are a number of other organizations that are more than willing to work on that. We would very much like to see it included in this bill. We don't want to put you way out there on a limb.

SENATOR LIPMAN: Senator Costello keeps making noises over here, and I think we better let him say something.

SENATOR COSTELLO: You know, earlier Senator Cardinale expressed my sentiments much better than I could, as to why veterans preference should not become an issue and hold up any passage of any Civil Service reform. You said, "we're ducking the issue." If we should try to deal with this and just address our comments to the merits of 99% of the bill, you can't duck far enough. There is no way of escaping; I've tried. I am a veteran. I have difficulty with veterans preference. I have my own unique difficulties. I don't think anybody is going to -- I'm going through it right now with Mr. Goldstein in my municipality. It presents problems; I can appreciate those problems as a mayor. But, again, as Senator Cardinale said, we should learn from history. If we don't, we are certainly going to become a victim of it, and we're not going to have any reform. So, as one legislator very appropriately said, "We have to take it as it is," and I'm quoting, "It's like halitosis, it's better than no breathe at all."

I want reform, and I am willing to take my chances with any other reform somewhere down the road, but let us get started and do it now.

MS. BAKER: Senators, I really understand, and I think we all understand that we need a major overhaul of the Civil Service system, and I am not analyzing any other part of it obviously. I don't even feel qualified to do that. There is an element, though, in this that I must confess just completely boggles me, because, well, let's put it like this. What is really being said is that, if you

vote for change in veterans preference, for modification, not for the elimination of it, but for a more equitable system, you legitimately fear that the veterans' groups in your various districts will organize against you at the time of election. At least I think that's what you're saying. If that is what you are saying, if you do not like to face that hostility, and you feel that they have a legitimate beef because there is a legitimate claim to veterans preference, then one of the things that has to be done is through discussion, it seems to me, working out why we need this, and why it isn't going to hurt. I keep hearing reluctance to work that out, except outside the context of this bill. I'm truly, truly worried that we will talk ourselves in circles outside the context of this bill and get some people to agree with us, some responsible veterans' leaders, but in the last analysis, we're going to spend sixteen or twenty years talking about a modification of veterans preference. I do not mean to exaggerate in the terms of years, but I just don't want to spend the rest of my life working on this.

SENATOR LIPMAN: I don't think we'll have to wait that long, but I do think a lot of education, as you have mentioned, is necessary. It's not that the women and the women's groups want to hold up this bill. We just want to be a part of it, because as a woman legislator, I too share in the sort of inequity -- being the only one in the Senate. I think we can say we do not wish to be any more of a problem, we want to be a part of its solution, also. That is all the women are asking this afternoon. Thank you very much for coming.

MS. BAKER: Thank you, Senators.

SENATOR LIPMAN: Right now, it is about four o'clock, and if we have no more testimony -- Do we have any more testimony? Then I can ask you about equal employment for minorities and the handicapped. That is the other part of 224.

Mr. McCaffrey, I'll do it like this. Why -- and to Senator Cardinale, one last question -- why does this bill, with all these gentlemen here, and they are all gentlemen, Mr. McCaffrey -- why does this bill contain no division? It has only one division mentioned pointedly, Equal Employment Opportunity, and we have special legislation to set up that particular division. As you see, we have had testimony on the women's side, but that is about another part of the bill, veterans preference. We have also heard statistics about women minorities and, unfortunately, the handicapped statistics were not there. But, we do have P.L. 1981, which I do not see listed here, 224 -- even in the equal employment section, which says that New Jersey is the only state that has this kind of statute. I mean, it doesn't say that, but we are the only state that has that kind of statute. Is it for that reason that you have only included the name of one division? You said Department of Personnel. You talk about the Commissioner, his duties, his powers, and so forth; the Merit System Board, but other than that, I see no divisions here, no bureaus, no offices, except Equal Employment Opportunity. That puts a big job on you, doesn't it, Mr. Burgos?

MR. BURGOS: It sure does.

MR. MCCAFFREY: I suspect you're suggesting that perhaps there should have been some language in the bill which would directly go to the heart of the Division on Women or in Civil Service, or something like that. We fully really believe that the charge of affirmative action/equal opportunity, which is reiterated in the Statement of Principles in this bill, is designed to go directly to that issue, and to do anything else would be redundant. Additionally, in preparing the bill, we have made this a very important part of the bill. As you know, the department that Fred Burgos heads up is not only by Executive Order which still stands by Governor

Bryne, but also legislation and, therefore, it should properly be reiterated in this bill to continue the emphasis on equal opportunity/affirmative action, which to me is synonymous with women, as well as all other minorities.

SENATOR LIPMAN: It is a statute about women, minorities and the handicapped, to be exact.

MR. McCAFFREY: The other divisions that you see represented here are set up by the organizational table of our Department, as opposed to statute. That is the best answer I can give you toward, you know, sort of a general question -- it's a general answer. If you have some specific ideas you would like us to consider, I would be happy to do that.

SENATOR LIPMAN: No, we have just heard from various ones of your staff this afternoon, and one speaks of classification, another speaks of evaluation, and another speaks of examination, but I do not hear any heads -- I mean any, you know, real divisions. We have talked about what they do, but do you mean to tell me that the divisions in Civil Service now don't have titles of those divisions?

MR. McCAFFREY: Yes, they do.

SENATOR LIPMAN: That is what I am getting at. I don't see any in this bill.

MR. McCAFFREY: The titles in our organizational structure, and you probably will not see these in the bill either -- for example, Bob DeNicholas, to my left, is Department of Administration. He takes care of our budgetary needs and our buildings and our hiring and firing, and that kind of thing. Then we go on to Bob Hartman, who is Division of Examinations, and it is obvious what he does. Morris Ianni deals with county and municipal governments, which is a different phase, and, as somebody said here today, we also regulate about 122,000 county and municipal employees, and that is a separate phase in itself. We have offices in Newark, Trenton and Camden for those. Bill Scheuer is our training expert. He's the guy right now -- our major project there is in our certification project in public management, which will again allow -- and perhaps you're right -- maybe there should be some language about it. But, one of the duties he has, and it is contained in the Executive Order that established the CPM program, will be to bring women in minorities into the management program more easily by training them. It is a joint venture with the University of Rutgers and the State of New Jersey Civil Service Department.

We move on to Joe DiLascio, who is Division of Classification and Compensation, who is the fellow who decides -- the department that decides exactly how a job should be classified, what the contents should be, and so forth, and, of course, Fred Burgos, who is really, as I tried to say this morning in my opening statement -- that is one of the changes since 1908. But, that department, Senator Lipman, could have been put almost anyplace. It happened to come under Civil Service because it seemed sort of a personnel-oriented job. But, that could have been under the Governor's wing, or it could have been under --

SENATOR LIPMAN: Under Treasury.

MR. McCAFFREY: -- almost any department. It is a division that stands on its own and, while they put the director in Civil Service, they have special legislation that they have to do, and they are charged with doing without my consent or without the Governor's consent, in many cases. So, they are in, but not of, to a certain extent.

That is basically what happens now. Of course, we have executive assistants, like Kerry Perretta, and we have others that are working with our programs all the time. We say this to you. My orientation, my background, and all the

directors here, while we do not have a lady sitting here with us, it won't be long, I'm sure, before there is. Things are changing, and it is just a matter of the system, as people pointed out, being a little bit difficult for women. A lot of reasons have caused that, as previous speakers have indicated, other than the veterans preference. There are a lot of reasons for that, which all have to be, sort of attacked at the same time.

We are sensitive to it, and we understand it. That is why I made the offer to go into this program to develop some kind of meaningful dialogue between veterans and women. I think that is very important. I daresay that if you went out anyplace among informed people and said, "What does it mean -- what does veterans preference mean?", they would tell you it means absolute preference in every way, and, in effect, it really only means in entry, and not in promotion unless the veteran happens to be competing with other veterans, and is number one. So, you're talking in that area.

If we show the veterans -- this is my feeling. Ann said that perhaps it will take too long. I don't think it will take as long as you think. I am optimistic about it, because I really don't believe the veterans know how little it means to them at this time. I really don't think they believe that. You know, it's one of those issues that starts in the clubhouse, and they pass the petition around and they say, "We're all coming to Trenton next week and we're going to go after this thing." It is a very emotional issue. I'm a veteran; I don't really feel any special privilege having been a veteran. I got some G.I. bill and a 4½ mortgage many years ago out of it, but if you come back with everything in place, you should consider yourself lucky. I think, and I mentioned this to the people we were talking to -- I mentioned it to Stratton this morning to see if we had somewhere to start -- I said, "If we start and say to the veterans, disabled veterans, I mean really disabled veterans, not the guys with athletes' foot -- I mean, that's a separate program -- really disabled veterans, you know, who have lost a limb, or gotten shot, or so forth, they should be completely sacrosanct. They should not be touched; it should just be ignored. They retain the whole thing. Then you get into that middle level, and most of us who were Korean and World War II, and I think you are going to find that when they find out what is going on and who is applying for what, and where you are in your particular point in life as a large group right now, they are going to say, "Gee, it doesn't mean that much to us."

At the other end of it, when you get down to Vietnam, I think you have to make some considerations here. I think the women will have to -- if you want to get something done, you have to say, "Okay, that was a dirty war; people were ignored." I think there was more maiming -- maybe in the Civil War -- there was more maiming in the Civil War perhaps, but Vietnam was probably next. I'm talking about loss of limbs, quadra losses, and so forth. When you get into those areas and you deal with those two things, I think perhaps you have a real good opportunity to eliminate that middle veterans' situation, which really, as we talked about in my office the other day, may not mean as much in substance as it means in a message or a statement.

SENATOR LIPMAN: Well, we appreciate your attention to this matter, Mr. McCaffrey, and we will look forward to some change. Thank you all very much for attending this hearing.

MR. McCAFFREY: Just one thing, Senator.

SENATOR LIPMAN: Yes.

MR. McCAFFREY: I would like to put on the record, if Joe has it, the fact that there is a State New Jersey Association of Counties.

MR. CAPALBO: Yes.

SENATOR LIPMAN: Oh, yes. Mr. Beachem left his statement.

MR. McCAFFREY: They have supported our bill.

MR. CAPALBO: I submitted that for the record.

MR. McCAFFREY: Okay, and they are the freeholders, constitutional role officers, sheriffs, surrogates, registrars of deeds, and county clerks in our State.

SENATOR LIPMAN: All right. Well, we'll be sure to see that the Senators who are not here get copies of all of these. As a matter of fact, we'll have a complete record.

Thank you very much for coming. It has been a very profitable day.

(HEARING CONCLUDED)



Communications Workers Of America

CAPITOL PLAZA HOTEL • SUITE 807 • 240 W. STATE ST. • TRENTON, N.J. 08608

(609) 392-2771



January 27, 1983

Senators Wynona M. Lipman, Chairperson
Herman T. Costello, Vice-Chairperson
James W. Bornheimer
Gerald Cardinale
H. James Saxton
Senate State Government, Federal
and Interstate Relations and
Veterans' Affairs Committee
State House, CN-042
Trenton, New Jersey 08625

Dear Senators:

The Communications Workers of America representing 50,000 Civil Service workers and their families is in agreement that the current Civil Service System needs reforming. However, the proposed legislation (A-1720 and S-2019) will not result in true Civil Service reform in its present state.

Attached to this cover letter are copies of correspondence outlining areas our Union believes needs to be amended, as well as copies of correspondence between our Union and the Department of Civil Service over the last few months. Hopefully, this information will be of value in amending the proposed legislation so that real Civil Service reform will be achieved.

Our Union, upon learning of the proposed legislation, formed a Civil Service Committee composed of representatives from the 35 local unions representing public sector workers. This Committee met monthly or more often analyzing the bill and refining our position on real Civil Service reform. Today's testimony and the attached correspondence is the result of hundreds of hours of work.

It should be pointed out the proposed legislation was written by the Civil Service Department. Our Union was not consulted until after the legislation was introduced. In many ways having Civil Service draft their own legislation is analogous to "putting the fox in charge of the hen house." However, Eugene McCaffrey, Sr., President of the Civil Service Commission and Peter Calderone, Director of Appellate Practices and Labor

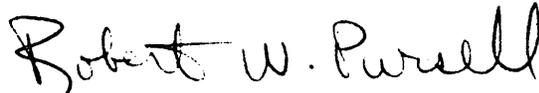
Senators Lipman, Costello, Bornheimer, Cardinale and Saxton
Page 2
January 27, 1983

Relations were concerned about our problems with the legislation and met with us on numerous occasions to attempt to understand our position and in several instances accommodated our position in several areas.

Unfortunately, unless our major amendments and a number of minor amendments are incorporated into this proposed legislation, the CWA will have no option but to oppose the bill in its entirety.

We are optimistic the Legislature will recognize the flaws in the proposed Civil Service Act and will amend the bill accordingly so New Jersey can take credit for accomplishing real Civil Service reform.

Respectfully yours,



Robert W. Pursell
CWA Representative

RWP/vo

Enclosures

Communications Workers Of America

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COMMUNICATIONS WORKERS OF AMERICA

Major Amendments Necessary to the Proposed Civil Service Act -
S-2019 and A-1720

- 11A:2-3 - The Commissioner of Personnel and the four Merit System Board members should be elected by employees covered by the various divisions of Title 11A. Nomination of candidate and elections would be conducted similar to the nomination and election process used by the Public Employee Retirement System. This system of nomination and election would remove the possibility of political patronage and better serve the mandate of Title 11A. Obviously, under our proposal, the Commissioner would not serve at the pleasure of the Governor. The reasoning behind this proposal is to insure that the system which by law is designed to prevent political patronage is not composed of members who have themselves obtained their position through political patronage.
- 11A:2-6 - Discipline should be subject to final and binding arbitration in accordance with provisions negotiated by the majority representative. Our Union takes the position that binding arbitration is the heart and sole of a union contract and discipline must be subject to final and binding arbitration. Since disciplinary actions take up so much of the time of the staff of the Civil Service Department, by using final and binding arbitration the staff will have more time to devote to their other duties. Absent a collective bargaining agreement with procedures for appealing discipline, the Personnel Department would be responsible for developing appeal procedures.
- 11A:2-11H - Role in Collective Negotiations - Amend to "In the absence of a majority representative, the Merit System Board shall prescribe, amend and enforce rules and regulations. The Commissioner shall negotiate in good faith with the majority representative of recognized collective bargaining units. On matters subject to the collective bargaining process relating to wages, laws, working conditions and the terms and conditions of employment, the Commissioner will meet and negotiate in good faith with the majority representative of recognized collective bargaining units.



Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established."

This amendment makes it clear that administrative rules or regulations are not excluded from collective bargaining.

- 11A:4-14 - Promotion - Change this section to read as follows:
"The rules of the Board shall establish the minimum qualifications for a promotion and shall provide that candidates deemed capable through testing shall be appointed according to State seniority."

This amendment provides for the fair and impartial administration in personnel practices "and protects public employees from arbitrary action, personal favoritism and political coercion" which the Governor spoke of in his January 11, 1983 annual message before the Legislature. This concept provides that seniority will govern in promotions when candidates are determined capable through a test administered by the Department of Personnel.



State of New Jersey
DEPARTMENT OF CIVIL SERVICE
DIVISION OF ADMINISTRATIVE
PRACTICES AND LABOR RELATIONS
CN 312
TRENTON, N.J. 08625

EUGENE J. McCAFFREY SR.
PRESIDENT

PETER J. CALDERONE
DIRECTOR

TELEPHONE (609) 292-6568

January 10, 1983

Mr. Robert Pursell
CWA Representative
Capitol Plaza Hotel
Suite 807
240 West State Street
Trenton, N.J. 08608

Re: Assembly, No. 1720

Dear Mr. Pursell:

Thank you for your recent letter on the above matter, I believe it would be beneficial that we have another meeting to again review this legislation and clarify any remaining matters. I do, however, want to express my appreciation to you and other representatives of CWA who have worked with us in reviewing the bill and providing insight on its impact to your members.

With respect to the specific items in your letter, I will address them in similar order:

1. We believe the proposed organization of the Merit System Board is the most useful approach and would oppose an election procedure. In this regard, the Board is similar to most such entities and its members would be appointed by the Governor with the advice and consent of the State Senate. The bipartisan nature of the Board is an added feature in the legislation not contained in the current law.

2. The bill does allow for a variety of disciplinary action review mechanisms. We could accept a change to five (5)

5x

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New Jersey State Library

Mr. Robert Pursell
CWA Representative
January 10, 1983
Page 2

days suspension in State service to be classified as major disciplinary action and should again discuss language concerning alternate contract procedures for minor disciplinary cases. Any increase to thirty days would require a subsequent legislative amendment which would be considered after the system has been in place and reviewed.

3. The question of fines is a difficult area and we recognize your concerns in this regard. I would hope that we can resolve this question at our next meeting.

4. You will provide more specifics in this regard.

5. This item should be discussed further.

6. The Committee has been formed by Executive Order.

7. As we discussed, the second sentence was for your protection and we will not oppose your request in Committee to delete that sentence.

8. We have not finalized any position on the teachers since we are waiting for your poll results. At that time we will be in a better position to judge the feelings of the affected employees on this issue.

9. As you correctly state, we have changed our position on whole number scoring.

10. This item should be discussed further.

11. We agree.

12. We oppose such an amendment.

13. Law enforcement and fire titles currently have a twelve (12) month period by statute. As to other titles, I believe there is room to consider some alternatives in this area.

14. I believe we can clarify this language and we recognize your concerns.

Mr. Robert Pursell
CWA Representative
January 10, 1983
Page 3

15. I am not sure of your current position on this issue and I reiterate that the legislation provides sufficient coverage with support in the case law.

16. We still prefer a Title II C amendment so that all public employees will be similarly treated.

17. We oppose such a restriction on the Board's de novo review of penalty.

18. I am not certain of your position on this item and I am unclear why you mention the Federal Garnishee statute.

19. We believe a continuation of the current burden in this area is appropriate.

20. I am not clear on your position on this item which we should discuss in detail.

21. and 22. We appear to have resolved this issue.

23. See 6. above. Such matters would likely be reviewed by the Committee.

24. We agree.

25. I believe we have made significant progress in this area.

Please call me after your review of this letter and we can meet to discuss any outstanding issues. Again, I want to thank you for your diligent review and assistance with respect to the legislation. Your concerns are vitally important to us.

Sincerely,



PETER J. CALDERONE
ASSISTANT COMMISSIONER

PJC:dc

Communications Workers Of America

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(609) 392-2771



December 21, 1982

Peter Calderone, Director
Division of Administrative Practices
and Labor Relations
Department of Civil Service
215 East State Street
Trenton, New Jersey 08625

RE: A-1720

Dear Mr. Calderone:

In this letter I will attempt to summarize my understanding of the Department of Civil Service's willingness to accommodate the CWA proposals to amend the Civil Service Act. Based on our December 10, 1982 meeting, I shall list the particular amendment we proposed followed by my understanding of the position of Civil Service.

1) Structure of Personnel Department and Merit System Board 11A:2-1 through 11A:2-12 - Civil Service understands our desire to see the Commissioner of Personnel completely separate from Merit System Board, however, Civil Service will not support such an amendment. Further, Civil Service is opposed to the election of the Commissioner of Personnel, but considers the election of the Merit System Board members a possibility, but not a proposal the Civil Service Department could endorse.

2) Disciplinary Review Procedures 11A:2-6 - Civil Service does not endorse binding arbitration as a disciplinary review procedure, however, Civil Service will provide language in the Act which permits the use of arbitration proceedings to resolve contested cases. On disciplinary matters above five days, an arbitrator's decision will need to be approved by the Merit System Board. Disciplinary actions five days and less will be subject to appeal through contractual procedures negotiated by the Union and the employer. The appeal mechanism for disciplinary actions five days or less will be subject to binding arbitration if the collective bargaining agreement so provides. The Union expressed concern that the language of the Act be explicit enough to dispel any doubt the courts may have should the need arise for the interpretation of this provision.

Mr. Calderone
Page 2
December 21, 1982

Civil Service also indicated, in the future, disciplinary actions of up to 30 days suspension could be appealed through contractual procedures, rather than Civil Service. However, this possibility is contingent on the proper functioning of the new system.

Judy Winkler was to work on language to insert into A-1720 which would allow the binding arbitration of disciplinary actions five days and less as well as language which could eventually allow appeal of suspensions of 30 days and less through contractual procedures.

3) Fines 11A:2-6a(2) - While Civil Service is opposed to the elimination of fines as a disciplinary action, it is our understanding Civil Service will consider language which limits the use of fines to cases involving only restitution. We also discussed the possibility of inserting language which differentiates between police and fire and other public employees so that police and fire titles could still be fined in lieu of suspension.

4) Delegation of Responsibility 11A:2-12 - The Union will provide a separate letter listing areas which we would object to the delegation of authority. This letter will be forthcoming.

5) Promotions 11A:4-14 - Civil Service is opposed to CWA's proposal on basing promotions on seniority when the candidate's qualifications are equal.

6) Commissioner's Role in Negotiations 11A:2-11h - Civil Service is not willing at this point to incorporate negotiability language into the Act. This position is based on the advice of the Governor's Counsel who indicated the Governor is issuing an order creating a commission to study and recommend legislation to revise the New Jersey Employer-Employee Relations Act.

7) Qualifications of Union Representatives - Civil Service will delete the second sentence of 11A-2-17.

8) Unclassified Appointments 11A:304 - Civil Service is willing to remove teachers from the unclassified service and place them in the classified service. Civil Service has not indicated willingness to address other areas of unclassified appointments.

Mr. Calderone
Page 3
December 21, 1982

- 9) Certification of Eligibles 11A:4-8 Civil Service will delete the proposal which would allow whole number scoring.
- 10) Temporary Appointments 11A:4-13 - Civil Service will restrict most temporary appointments to seven months, although Civil Service wants to extend temporary appointments to a maximum of one year when a short term grants warrants such an extension.
- 11) Holding of Exams 11A:4-2 - Based on our December 10, 1982 discussion Civil Service believes the language of the Act coupled with new procedures instituted by the Division of Examinations will eliminate need for language CWA has proposed.
- 12) Provisional Promotions 11A:4-13b - Civil Service is opposed to CWA's proposed amendment on provisional promotions.
- 13) Working Test Period - Civil Service insists the working test period for certain titles must be allowed to be extended to 12 months for police and fire titles. For most titles, the working test period could be reduced from six months to three months. However, some titles may require a longer working test period. The Union suggested the working test period be "capped" at six months with a provision allowing the extension of the working test period for police and fire titles.
- 14) Removal for cause during Working Test Period 11A:4-15f - Upon conferring with our attorney we still see a need for clarification of language by addition of our proposal. It is not beyond possibility that someone could be removed from their position after a promotion and end up not being able to return to a formerly held title. CWA views this language as a clarification rather than an unnecessary addition or weakening of the current proposed language.
- 15) Our proposals on obtaining hearings for various types of appeals covered under 11A:2-11 - According to Civil Service we are already covered for hearings based on the interpretation of a court case (Cunningham 69 NJ 13).
- 16) Convictions under 2C:51-2 - According to Civil Service title 2C:51-2 could not be preempted by language in A-1720. Although it could be argued that 2C:51-2 preempted Title 11's jurisdiction over disciplinary matters, you may be technically correct. We feel Civil Service could challenge the forfeiture of employment aspect of 2C:51-2. It may be necessary to amend 2C:51-2, but we will still raise the argument in committee hearings.

Mr. Calderone
Page 4
December 21, 1982

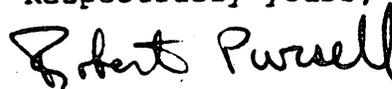
- 17) Increase of Penalty 11A:2-18 - Civil Service is opposed to our proposal which would prevent imposition of a more harsh penalty than recommended by an arbitrator, hearing officer, or administrative law judge.
- 18) Salary Overpayments - Civil Service claims that it is not within the authority of Civil Service to waive salary overpayments. The repayment must be in accordance with Federal Garnishee Statute.
- 19) Burden of Proof during Working Test Period 11A:4-15a - Civil Service will not delete this section because it is felt that the burden of proof should be on the employee when removal is sought at end of Working Test Period.
- 20) 45 Day Layoff Notice 11A:8-1 - Civil Service may be able to accept language which sets an expiration date on blanket layoff notices. However, language is wanted to allow extension of notice if circumstances warrant.
- 21) Leaves of Absence - Civil Service will provide language which gives Union leaves of absence a statutory basis. However, a rule change will have to be pursued to deal with accumulation of seniority while on leave. Civil Service dismissed our proposal for paid leave as unconstitutional. Separate legislation would have to be pursued for health benefit, pension, and other insurance coverages while on leave.
- 22) Eligibility for Promotion During Leave 11A:6-13 - Civil Service is willing to extend eligibility for promotions during leave to all forms of leave not just union leave.
- 23) Layoffs 11A:8-1 - This proposal according to Civil Service would best be accomplished by pursuing the legislation which would amend the PERC Act.
- 24) Union proposals on transfer and reassignment and subcontracting would best be obtained by Civil Service rule changes.
- 25) Special Services - Rather than provide statutory basis for special service, Civil Service suggests we pursue the topic informally with Civil Service.

I believe I've covered most of the items we addressed on December 10, 1982. I would appreciate your acknowledgement of my understanding if correct, and if not correct, your notification of the areas which I do not grasp the position of Civil Service.

Mr. Calderone
Page 5
December 21, 1982

Thank you for your efforts in accommodating this request.
We really appreciate the efforts your staff and you personally
have exerted in addressing our needs.

Respectfully yours,



Robert W. Pursell
CWA Representative

RWP/vo

Communications Workers Of America

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(609) 392-2771

13

November 30, 1982

Peter Calderone, Director
Division of Administrative Practices and
Labor Relations
Department of Civil Service
215 East State Street
Trenton, New Jersey 08625

Dear Mr. Calderone:

On November 24, 1982, our Civil Service Subcommittee met to further refine our position on A-1720. During the course of the meeting, questions were raised about the propriety of the President of the Civil Service Commission sitting on the Governor's cabinet level bargaining committee (see attached article). If the President of the Commission were our true employer, our Union would have no problem with him sitting in on that committee. However, based on our analysis of the current Title 11, the powers and duties of the President do not include monitoring collective bargaining in order to insure managerial prerogatives are not intruded upon. According to 4:1-1.2, the Civil Service system is meant to assure fair and impartial treatment for all employees. The Union feels that the President, by acting as a management representative during collective bargaining, more often than not will be taking positions which contravene fair and impartial treatment of employees.

The reason we raise this issue is to make you aware of concerns we have over the structure of the proposed Department of Personnel and the Merit System Board. Our Committee made the following suggestion to deal with the structure problem: The Commissioner of Personnel and the four Merit System Board members should be elected by employees covered by the various divisions of Title 11A. Nomination of candidate and elections would be conducted similar to the nomination and election process used by the Public Employee Retirement System. This system of nomination and election would remove the possibility of political patronage and better serve the mandate of Title 11A. Obviously, under our proposal, the Commissioner would not serve at the pleasure of the Governor.

Mr. Calderone
Page 2
November 30, 1982

Another area of concern deals with disciplinary review procedures. Our Committee makes the following recommendation: Discipline shall be subject to final and binding arbitration in accordance with provisions negotiated by the majority representative. Our Union takes the position that binding arbitration is the heart and sole of a union contract and discipline must be subject to final and binding arbitration. Since disciplinary actions take up so much of the time of the staff of your Department, by using final and binding arbitration the staff will have more time to devote to their other duties.

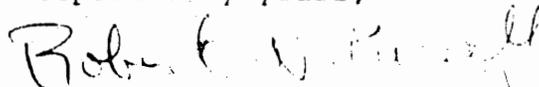
Related to the issue of fines (11A-2-14) our Committee has instructed me to advise you that we consider fines an unacceptable form of disciplinary action. The Committee asks that fines be deleted as a form of disciplinary action as well as for a means of restitution. The proper avenue for an appointing authority to pursue in trying to obtain restitution would be to institute a civil suit. As citizens of the State, everyone has the right to file civil suits to obtain restitution. The Civil Service Act should not provide an alternative to this civil action process.

Our Committee further analyzed 11A-2-12 relating to delegation of responsibility to appointing authorities. Our Union opposes this section and asks that the section be deleted. The Committee expressed fear that the section allows too much leeway in assigning responsibility to appointing authorities and could lead to the corruption of the Merit System.

One additional concern revolves around promotion (11A-4-14). We are concerned that the qualifications for promotion too often are influenced adversely by the input of appointing authorities. We are therefore asking that appeals from adverse decisions regarding promotion qualification be subject to a hearing process similar to the process in Article IV. The CWA also asks that language be inserted to 11A-4-14 indicating the policy of the State is to promote from within, and when all candidates are equally qualified, that the promotion be based upon seniority.

Obviously, we will have to sit down and discuss the contents of this letter. Please call as soon as possible to arrange a meeting to discuss the issues and our position on the issues.

Respectfully yours,



Robert W. Pursell
CWA Representative

Communications Workers Of America

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(609) 392-2771

 13

November 18, 1982

Peter Calderone, Director
Division of Administrative Practices and
Labor Relations
Department of Civil Service
215 East State Street
Trenton, New Jersey 08625

Dear Mr. Calderone:

The following language constitutes further or additional clarification of the Union's position on A-1720.

11A:2-6a

After a hearing held by the Board, a Board member, a Hearing Officer selected by the Board, or an Arbitrator selected in accordance with rules promulgated by the Board as set forth in subsection f below renders a final administrative decision on appeals concerning permanent career service employees or those in their Working Test Period in the following categories:

1. Removal;
2. Suspension or a fine as prescribed in N.J.S. 11A:2-14;
3. Disciplinary demotion;
4. Other forms of discipline as prescribed in N.J.S. 11A:2-14.

11A:2-6f

Adopt and enforce rules governing the conduct of hearings and appeals notwithstanding the provisions of any other statute, which power shall include authority to adopt and enforce rules providing for the use of arbitration as a mechanism for the resolution of disputes between classified employees, represented by an employee organization, and public employers, subject to the provisions to this Act, as an alternative to a hearing conducted by the Board, a Board member or a Hearing Officer selected by the Board.

11A:2-11h

Shall participate in collective negotiations affecting the executive branch of State government and assure that the purposes and mandates of this title are preserved during collective negotiations and contract administration and the Commissioner shall propose rules for adoption by the Board for purposes of implementing terms and conditions of employment affecting employees in classified service negotiated between an employee organization, certified or otherwise recognized as the majority representative by the Public Employment Relations Commission and the State.

11A:2-11i

Shall render the final administrative decision on a written record on all appeals from classification, salary, layoff rights and non-contractual grievances. The Board may also delegate to the Commissioner final review of other types of administrative appeals. However, when substantial and material factual issues exist a decision shall not be rendered on the written record by the Commissioner. The dispute shall instead be referred to the Board for a hearing in accordance with the provisions set forth in Article 4 of this Act.

11A:2-13 (The following sentence should be added to this provision)

The provisions of N.J.S.A. 2C:51-2 notwithstanding, when an employee in State Service has been convicted of an offense, the appointing authority shall determine whether removal or other disciplinary action is warranted, and said determination shall be subject to review by the Board in accordance with the provisions of N.J.S.A. 11A:2-14.

11A:2-14 (Add the following provisions)

A fine may not be imposed except as a form of restitution. Pursuant to the rules promulgated by the Board in accordance with N.J.S.A. 11A:2-6f, an employee may appeal to the Board if the appointing authority determines that the employee is to be removed, demoted, suspended, fined, reprimanded or counseled.

11A:2-18

The Board may decrease the penalty imposed by the appointing authority or substitute another in its place except as provided in N.J.S.A. 11A:2-15. Removal shall not be substituted for a lesser penalty and a penalty recommended by a Board member, a hearing officer appointed by the Board, or an Arbitrator, shall not be increased. The Board shall award backpay and benefits to an employee where the facts warrant.

11A:2-21. Burden of Proof

Where a career service employee is removed at the end of a Working Test Period for unsatisfactory performance or is laid-off or demoted in lieu of layoff the appointing authority shall have the burden of proving that such removal, layoff, or demotion was for just cause. The appointing authority, shall be required to show cause before the Board, giving the reasons why the employee should be removed, laid off or demoted.

11A:3-1g

An employee in career service whose position has been reclassified or reassigned pursuant to subsections a-f of this title, shall have the right to appeal such reclassification or re-assignment pursuant to Article 4 of this Act.

11A:3-a (Add the following sentence to this section)

Where an employee has received a salary overpayment, the Board shall have authority to waive recoupment upon a showing by the employee that he or she was without fault with respect to said overpayment and recoupment would create financial hardship. An employee shall have the right to appeal an initial determination that waiver is not warranted, pursuant to Article 4 of this Act.

11A:4-14 - Promotion (Consideration should be given to substituting the following language for that which appears in A.1720)

The rules of the Board shall establish the minimum qualifications for a promotion and shall provide that where qualifications are substantially equal between candidates for promotion, seniority shall govern.

Mr. Calderone
Page 4
November 18, 1982

11A:4-15a (This entire subsection should be deleted. Its inclusion suggests that it is the employee rather than the appointing authority who bears the burden for proving unsatisfactory performance during a Working Test Period)

11A:4-15f

(The following language should be added to this subsection)

Employees removed for cause during a Working Test Period shall not be so returned, unless such removal was for inefficiency or incompetence related to performance of their job responsibilities, or unless the Board giving due consideration to other mitigating factors, orders otherwise.

11A:8-1 (Add the following sentence after the second sentence of this provision).

A 45 day notice must be served upon each permanent employee as he or she becomes identified for purposes of layoff. Blanket layoff notices do not constitute adequate notice. A layoff notice served pursuant to this section of the Act expires after 50 days of its effective date.

Our Union has scheduled another meeting on A-1720 next week and we will be reviewing the amendments and refining our position. I'll let you know after Thanksgiving our "crystallized" position. Hopefully, you will be able to work through our proposals and let us know item by item which areas we can mutually agree upon.

Thank you for your efforts in working with us on this matter of vital concern.

Respectfully yours,



Robert W. Pursell
CWA Representative

RWP/vo

Communications Workers Of America

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(609) 392-2771

13

October 28, 1982

Mr. Peter Calderone, Director
Division of Admin. Practices and
Labor Relations
Department of Civil Service
215 East State Street
Trenton, New Jersey 08625

Dear Mr. Calderone:

Our committee on A-1720 has concluded a preliminary analysis of the proposed Civil Service Act, and I have listed below some of the concepts, commitments, and amendments the union would need incorporated into this legislation before our union can support the bill. Most of the items we have discussed already, and this letter should serve to clarify our position. Perhaps after you read and analyze the contents, we should get together again to discuss the next steps. Please do not hesitate to contact me if our position is not clear to you.

A-1720 - NECESSARY AMENDMENTS OR COMMITMENTS FROM CIVIL SERVICE COMMISSION

11A:2-6C - Appoint and Compensate hearing officers

Thrust here is to get either an amendment or commitment from Civil Service in writing, that CWA's proposal be adopted. CWA would have input into selecting a panel of arbitrators which would hear disciplinary actions. Those arbitrators would be AAA or PERC recognized arbitrators. The cases would revolve similarly to the grievance procedure's arbitration panel. We should pay half the cost of the arbitrator as in other arbitration cases. The arbitrator would make recommendations to the Merit System Board for modification, affirmation or rejection.

In addition, we could make arrangements to retain the current system of using an Administrative Law Judge for certain cases which are more complicated or severe (such as dismissals). The Union would need to have input into which cases are presented to an ALJ or referred to the alternative appeal review procedure. The Union also welcomes and encourages a system of pre-hearing settlement conferences to facilitate disposition of appeals. The Union suggests language written into the Act which would mandate settlement conferences be convened within sixty (60) days of receipt of appeal by the board.

11A:2-11h - Role in Collective Negotiations

Amend to "In the absence of a majority representative the Commissioner shall have authority to prescribe, amend and enforce rules and regulations. The Commissioner shall negotiate in good faith with the majority representatives of recognized collective

bargaining units. The Commissioner shall have authority, subject to a final determination by the Merit System Board as enumerated under 11A:2-6e. On all other matters subject to the collective bargaining process relating to wages, hours, working conditions and the terms and conditions of employment, the Commissioner will meet and negotiate in good faith with the majority representative of a State bargaining unit."

The Union also needs to discuss with Civil Service the role the Commissioner would play in "Contract Administration" as mentioned in this section.

11A:2-14 - Amend to include "those bargaining units in State and Local service which have elected majority representatives, may make arrangements with the Merit System Board to allow appeal of suspensions or fines less than three days. The determining factor in these cases will be the cost of the appeal process. If the majority representative and Merit System Board mutually agree to acceptable arrangements, all disciplinary actions shall be appealable."

11A:2-17 - Based on our knowledge and discussion of this provision, we have reached a consensus that the second sentence of 11A:2-17 should be deleted. However, recognizing the importance that Civil Service has attached to this sentence, we are willing to further discuss this matter with Civil Service in the presence of our New Jersey Counsel to insure we are not deleting a provision which may prevent a change of unauthorized practice of law.

11A:3-4 - Unclassified Appointments

Ideally, we want language which prohibits the appointment of unclassified workers within our bargaining units. Currently, there are less than 1900 unclassifieds in our units. The problem revolves around other statutes which mandate unclassified appointments. As an alternative we could restrict the appointment of unclassifieds by amending the second half of 11A:3-4, 1 which allows the Merit System Board to create unclassifieds based on Civil Service rules. The Union will, in the near future, present results of a survey which will aid in determining whether unclassifieds in our bargaining units desire to be unclassified, covered under tenure (18A) or covered under Civil Service. Our committee wants 11A:3-4f and 11A:3-4k deleted. These workers, to the extent possible, should be classified. At the very least they could be assigned to the non-competitive class. Obviously we will need to discuss this section further. One area which needs clarification is 11A:3-4h which allows unclassified appointments to "each department head". What is the definition of a "department head". Restrictions should be placed on the ability of appointing authorities' privilege of creating unclassified political patronage jobs, especially during time of fiscal austerity. A limit should be placed on the ability to appoint both confidential secretaries and confidential assistants. We ask that the "and" be changed to "or". The Governor's household employees should be classified to prevent arbitrary action against them. The Governor's "servants" need Civil Service protection also.

11A:4-8 - Certification of eligibles with whole number scoring should be amended back to current system. Based on our conversation on October 27, 1982 we understand this will occur. The Union would like the current system amended to prohibit an appointing authority from constantly by-passing an eligible on a list. In addition, there should be language which limits or prohibits the use of "blanket" certifications. These proposals might better be addressed through a rule change rather than this legislation. We can discuss this at our next meeting.

11A:4-13 - Temporary appointments should not be extended to eight months. The previous provision limited these appointments to six months for State service and four months for local service, and should be retained if A-1720 becomes law.

11A:4-2 - Holding of Examinations should be clarified to indicate the appointing authority is obligated to notify the Division of Examinations as well as the Union of provisional appointments within thirty (30) days of date of hire. This would allow us to determine whether or not employers are notifying the Examination Division of the need for an exam.

11A:4-13b - We suggest amending the provision to require provisional promotions to be done on the basis of seniority. This would place a standard of uniformity on provisional promotional opportunities and end the appointing authorities' ability to use provisional appointments as patronage or favoritism.

Open competitive provisional appointments filled by people "off the streets" should be limited. Our suggestion, when open competitive provisional appointments are necessary, would be to require a similar eligible list to be used before hiring off the street. For example, if an appointing authority needed to fill an Employment Service Specialist II position, and there was no eligible list for that title, but a list existed for Senior Interviewer, then before a provisional appointment could be made "off the street", those eligible on the Senior Interviewer list would be offered the position and made permanent, perhaps after an extended probation period. The same title rights for layoffs could be applied to the filing of provisional open competitive positions. Details would have to be ironed out with the various parties involved. We can discuss this suggestion at our next meeting.

The general feeling we have is that the proposed Act does not go far enough in safeguarding the Union against unwarranted extended provisional appointments. We also suggest an "escrow account" be established for those provisional appointments and pension contributions be paid into this account. The interest on the revenue could be used for funding various activities (including establishment of examinations) afterwards, the contributions would be placed into the pension fund (once the worker becomes permanent) and the worker would not have such a large arrears balance to pay.

11A:4-15 - Working test period language should not allow extension of the work test period to 12 months. "The working test period

for most titles shall be three months. In exceptional circumstances, which shall be set forth in a comprehensive statement, a working test period may be extended to six months. The appointing authorities' decision to extend the working test period beyond three months shall be appealable to the Merit System Board. The burden of proof in such appeals will be on the appointing authority."

Also, 11A:4-15, f - Retention of permanent status should be amended to allow employees removed for cause to return to a previously held title on an ad hoc basis appealable to Merit System Board.

11A:6-11A - Leaves of Absence

Add amendment to include "Leaves of absence for Union activity; employees in career service, elected or appointed to a full time position with a Union, shall be granted a leave of absence with pay and full benefits upon written request from the Union. The Union shall reimburse the State for all salary and benefit costs which accrue as a result of the leave of absence. Such leave of absence with pay shall be renewed on an annual basis as the term of office or such position or length of appointment requires.

Upon expiration of the leave, the employee shall have the right to return to the former title and receive all of the rights, privileges and benefits of that title as if the employee had remained in that title.

This amendment is designed to allow the worker to be considered on the payroll and will serve to ensure that his employment status (seniority, health benefit coverage, etc.) is not adversely affected. A similar arrangement was once in place for Local 195 of the IFPTE and the Department of Transportation. Dominick Critelli was on a leave of absence paid for by the Department of Transportation. The Union in return, reimbursed the Department the full cost of his salary and benefits. We are asking that a similar arrangement be made for all Union representatives on leave of absence.

It would be great if we could obtain a retroactivity period included in the bill or a rider to cover those who have been on leave prior to passage of the bill.

11A:6-13 - Eligibility for promotions during leave of absence.

"Any leave of absence granted pursuant to 11A:6-11A shall not disqualify an applicant for a promotional appointment. If a promotional exam is announced during the course of the leave, the person shall be eligible to apply for and take a promotional examination as if the person were not on leave of absence. If the person appears on an eligible list resulting from the promotional examination and is appointed prior to the expiration of the list, such person may accept the promotion and return to employment after such leave in the promoted capacity subject to the satisfactory completion of a working test period."

11A:8-1 - Layoffs: Assuming the Negotiability amendment in 11A:2-11h is adopted, we will need to remove the sentence "the board shall adopt rules regarding the order of layoff and employee rights." Add instead, "the Commissioner of Personnel shall negotiate in good faith with majority representatives of Collective bargaining units concerning the rules regarding order of layoff and employee rights. In absence of a majority representative, the Board shall establish layoff rules and employee rights."

11A:8-3 - Alternatives to Layoffs - Change to allow negotiations of alternatives, rather than the Board having authority to prescribe rules.

Tied in with layoffs would be two areas which are dear to our hearts and have been strictly limited by Court decisions. Those two areas, transfer and reassignment, and subcontracting, should be incorporated into the act if possible. Since the State, at one time had agreed to the negotiated provisions which were struck down by the Courts, it would be proper to insert them into this statute and thereby legitimize their existence. We would be interested in your position on this suggestion.

Finally, last but not least, is a suggestion that around 11A:4-13 the act address the problem of Special Service by language such as "non-budgeted positions shall not be filled for periods of more than 3 months. Any position filled beyond a 3 month period in one year shall be considered a budgeted position and provisions of title 11A shall apply to that position.

The above are our main amendments. We will meet with you as soon as you are ready to discuss our proposals.

Respectfully yours,



Robert W. Pursell
CWA Representative

RWP/la



New Jersey Association of Counties

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January 28, 1983

Hon. Wynona M. Lipman, Chairperson
Senate State Government Committee
State House
Trenton, New Jersey 08608

Re: S-2019 [Cardinale]
A-1790 [Villane]

Dear Senator Lipman:

I write on behalf of the New Jersey Association of Counties to indicate to you and to the members of the State Government Committee, our support for S-2019 and its companion measure A-1790. Both of these bills seek to implement major reforms of the current Civil Service statutes under Title 11 by providing for a new Title 11A.

The New Jersey Association of Counties discussed these bills at great length and is urging passage of the bills for the following reasons.

First and foremost, the bill addresses a concern which counties have had for many years pertaining to the working test period. Under current law the working test period for local governments has been shorter than for State government, and, in many cases is inadequate to the needs of the appointing authority. Under the provisions of S-2019, the working test period for both local and State government would be at least 3 months and no more than 12 months for certain titles. NJAC fully supports this provision of the bill. Second, NJAC has long sought a provision in the Civil Service statutes whereby county government and public employers in general are consulted about specific areas of concern to local government. We believe that the provision in S-2019 providing for the creation of new advisory boards is a giant step forward in improving communication among all affected parties. Third, NJAC is very much in support of the bill's provision for establishing a bi-partisan merit review board with rulemaking and quasijudicial functions. Finally, in the case of political subdivisions, like counties, this bill provides that the Commissioner may, at the request of the political subdivision, initiate employee development programs similar to those authorized for State employees. We believe that this

S-2019 [Cardinale]
A-1790 [Villane]

is a step in the right direction.

In closing, the New Jersey Association of Counties would like to commend the sponsors of both bills and the Department of Civil Service for their efforts in promoting this important reform in the Civil Service statutes.

Sincerely,


Philip K. Beachem
Legislative Coordinator

cc: Hon. Herman Costello, Vice-Chairman
Hon. James Bornheimer
Hon. Gerald Cardinale
Hon. H. James Saxton
Mr. Joseph Capalbo, Committee aide



LEAGUE OF WOMEN VOTERS OF NEW JERSEY

212 WEST STATE STREET, TRENTON, NEW JERSEY 08608 / TELEPHONE 800-792-8836 / 609-394-3303

January 27, 1983

TO: Members of the Senate State Government, Federal and Interstate Relations and Veterans Affairs Committee

FROM: Joan A. Crowley, President

RE: Civil Service Reform Act

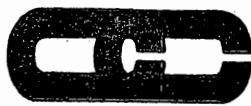
The League of Women Voters of New Jersey has a long standing position in opposition to the absolute preference given to veterans in New Jersey Civil Service hiring. We are dismayed that the proposed Civil Service Reform Act perpetuates this practice which discriminates against a substantial segment of society. Absolute veterans preference is especially disadvantageous to women in state government and is partially responsible for keeping the upper end of the spectrum of state employees almost exclusively male.

As recently as 1975, women constituted less than 5% of the armed forces. They therefore, as a group are almost entirely excluded from the benefit of veterans preference. This form of employment discrimination leads to situations such as the one which reached the New Jersey Supreme Court, in which a female employee of the Division of Consumer Affairs scored 99.999 on a promotional examination but lost the job to a male veteran who scored 17 points lower. It is ironic that the issue of "merit" is so often raised in questioning affirmative action policies, and yet veterans preference is rarely mentioned by those arguing that jobs should be given only on merit.

New Jersey and Massachusetts remain the only two states to preserve this relic of post-WWII hiring practices. All other states have modified their preference system to make it less than absolute. We recognize that court decisions have upheld the constitutionality of absolute veterans preference, but this fact is not an endorsement of it as wise policy. They have indicated it is a suitable subject for legislative reform.

We believe that some modification of absolute veterans preference is essential. Surely there exists a formula that protects disabled veterans and our recent Vietnam era veterans without discriminating so pervasively against women in the process. We urge the investigation of employment practices in other states and the proposal of a fair compromise. We would be happy to work with any group to achieve this end.

In facing the problems of the 1980's and beyond, New Jersey must not waste one of its great resources - the talent and expertise of its women.



January 28, 1983

Honorable Wynona Lipman
Chairwoman
Senate State Government, Federal &
Interstate Relations & Veterans Affairs Committee
50 Park Place
Newark, New Jersey 07102

Dear Senator Lipman:

I am writing in respect to Senate Bill No. 2019 to endorse the overall thrust of this important piece of legislation now pending in the Senate State Government, Federal & Interstate Relations & Veterans Affairs Committee. In general terms, this bill represents a long needed overhaul to the state's civil service system. The present statute is so lengthy, so detailed and so obfuscated that it lends itself to circumvention by those people who have mastered the technique of "creative" interpretation of its many details.

The reform elements in S-2019 give greater authority to managers and supervisors and greater incentives to civil servants to achieve higher performance while reinforcing the basic tenets of employee protection by establishing important safeguards against personal abuse. Common Cause supports the strong "whistle-blower" provision which offers protection to employees who disclose information on legal violations, governmental mismanagement and abuse of authority. This legislation also provides for legal representation for the employee by the Public Advocate. It is our belief that this provision will encourage responsible civil servants to reveal the existence of unlawful or improper behavior in their agencies.

The creation of a State Senior Executive Service is at the heart of S-2019. This will provide increased flexibility in top management positions and added incentives for exceptional performance; both of which have been long supported by public administrators and their professional organizations. The State Senior Executive Service represents a vital step in strengthening executive management within state government.

However, in order to achieve the flexibility necessary to give managers the ability to run their departments, existing hiring practices must be modified. The retention of the present veterans preference law makes difficult a true merit system, effective affirmative action and meaningful civil service reform. Nonetheless, we welcome Commissioner McCaffrey's promise to Common Cause to bring together the various citizens, womens, and veterans representatives to forge a compromise solution to this problem.

Honorable Wynona Lipman
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Common Cause considers civil service reform to be among the top legislative priorities of this legislative session. Senate Bill No. 2019 goes a long way in reforming the archaic Title 11. We applaud its most innovative features; protection for "whistle blowers" and the Senior Executive Service. We regret that the present veterans preference is retained and hope that by treating this difficult problem as a separate issue, it will receive the careful attention it deserves.

Sincerely,



Jo-Ann C. Oser
Executive Director
New Jersey Common Cause