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P U B L I C   H E A R I N G

before

THE SENATE STATE GOVERNMENT, FEDERAL AND  
INTERSTATE RELATIONS, AND VETERANS' AFFAIRS

on

S-1567, S-1829, and A-2194 2nd OCR  
(Civil Service reform)

May 27, 1986  
Room 410  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Wynona M. Lipman, Chairman  
Senator Gerald R. Stockman, Vice Chairman  
Senator Richard D. Codey  
Senator Gerald Cardinale

ALSO PRESENT:

Senator Francis J. McManimon  
District 14

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

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Public Hearing Recorded and Transcribed By  
Office of Legislative Services  
Public Information Office  
Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625





## New Jersey State Legislature

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

STATE HOUSE ANNEX, CN-068  
TRENTON, NEW JERSEY 08625  
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WYNONA M. LIPMAN  
*Chairman*  
GERALD R. STOCKMAN  
*Vice-Chairman*  
RICHARD CODEY  
GERALD CARDINALE  
C. WILLIAM HAINES

### NOTICE OF A PUBLIC HEARING

May 7, 1986

Senator Wynona M. Lipman, Chairman of the Senate State Government Committee, has announced that the committee will hold a public hearing on the subject of civil service reform. The hearing will be held on Tuesday, May 27, 1986 in Room 410 of the State House Annex. It is scheduled to start at 10:00 A.M.

The committee will take testimony on the following bills: S-1567, introduced by Senator Pallone; S-1829, introduced by Senator Cardinale; and A-2194 2nd OCR, introduced by Assemblyman Villane.

For further information, please contact Joseph P. Capalbo, Aide to the Committee, at (609) 292-9106.

SENATE, No. 1567

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STATE OF NEW JERSEY

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INTRODUCED JANUARY 30, 1986

By Senator PALLONE

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:*

TITLE 11A

CIVIL SERVICE

CHAPTER 1

General Provisions

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

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

3 It is the public policy of this State to encourage and reward  
4 meritorious performance by employees in the public service and  
5 to provide a modern personnel management system based on merit  
6 principles for the State and the political subdivisions covered by  
7 this Title; and

8 It is the public policy of this State to ensure equal employment  
9 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, abilities, and length of service.

5 b. Improvement in employee performance through training and  
6 education;

7 c. Retention of employees on the basis of the adequacy of their  
8 performance;

9 d. Nondiscriminatory treatment of applicants and employees in  
10 all aspects of personnel administration with proper regard for  
11 their privacy and constitutional rights; and

12 e. Protection of employees from arbitrary action, personal fav-  
13 oritism and political coercion.

## 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 by  
7 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  
2 five members, one of whom shall serve as the chairperson. Four  
3 members shall be appointed by the Governor with the advice and  
4 consent of the Senate for staggered terms of four years and until  
5 the appointment and qualification of their successors. The fifth  
6 member shall be elected at large by the employees covered by the  
7 various divisions of Title 11A. Three members of the board shall  
8 constitute a quorum. All members of the board must possess  
9 experience or knowledge, or both, in the field of labor relations  
10 or personnel management. No more than three of the five members  
11 shall be of the same political party. The holding over of an  
12 incumbent beyond the expiration of the term of office shall reduce,

13 in commensurate length, the term of office of a successor. Vacancies  
 14 shall be filled for the unexpired term in the same manner as  
 15 original appointments. No member, except the elected member,  
 16 may hold any other public office or position.

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

1 11A:2-5. Compensation. A board member shall receive a salary  
 2 as fixed by law and shall also be entitled to sums incurred for  
 3 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 shall  
 3 for those workers not covered by a collective bargaining agreement:

4 a. After a hearing held by the board, a board member or a  
 5 hearing 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 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  
 14 11A:2-12;

15 c. Appoint and compensate hearing officers;

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

18 e. Adopt and enforce rules to carry out this title and to effectively  
 19 implement a comprehensive personnel management system;

20 f. Adopt and enforce rules governing the conduct of hearings  
 21 and appeals;

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

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

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

1 11A:2-7. Where a majority representative represents a group  
2 or groups of workers, the rules and regulations of the Department  
3 of Personnel shall not apply except as minimum standards. The  
4 employer and the union shall negotiate on all matters referred to  
5 under 11A:2-6, except subsections h. and i. including disciplinary  
6 review procedures.

1 11A:2-8. 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 evidence  
4 or documents relevant to any proceeding under this title. Such  
5 persons may also administer oaths and take testimony. Subpenas  
6 issued under this section shall be enforceable in the Superior Court.

### ARTICLE 3

#### Commissioner of Personnel

1 11A:2-9. 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 shall  
5 hold no other public office or position.

1 11A:2-10. Term. The commissioner shall serve at the pleasure  
2 of the Governor.

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

1 11A:2-12. Powers and duties of the commissioner. In addition  
2 to other powers and duties vested in the commissioner by this title  
3 or any other statute, the commissioner:

4 a. Shall be the principal executive and request officer of the de-  
5 partment allocating the functions, activities and appropriations of  
6 the department among such departmental subdivisions as the com-  
7 missioner 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 to  
11 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 pro-  
15 grams and policies in State government and political subdivisions  
16 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 negotiate in good faith with the majority representative  
 23 of recognized collective bargaining units. On matters subject to  
 24 the collective bargaining process relating to wages, hours, working  
 25 conditions and the terms and conditions of employment, the commis-  
 26 sioner shall meet and negotiate in good faith with the majority  
 27 representative of recognized collective bargaining units. Proposed  
 28 new rules or modifications of existing rules governing working  
 29 conditions shall be negotiated with the majority representative  
 30 before they are established:
- 31 i. Shall render for workers not represented by a union, the final  
 32 administrative decision on a written record on all appeals from  
 33 classification, salary, layoff rights and noncontractual grievances.  
 34 The board may also delegate to the commissioner final review of  
 35 other types of administrative appeals. Appeals for workers cover-  
 36 ed by a collective bargaining agreement shall be handled in accor-  
 37 dance with the provisions of the negotiated agreement;
- 38 j. Shall provide for a public employee interchange program  
 39 pursuant to P. L. 1967, c. 77 (C. 52:14-6.10 et seq.) and may provide  
 40 for an employee interchange program between public and private  
 41 sector employees;
- 42 k. May establish an internship program;
- 43 l. Shall assist the Governor in general workforce planning and  
 44 personnel matters;
- 45 m. Shall establish and consult with advisory boards representing  
 46 political subdivisions, personnel officers, labor organizations and  
 47 other appropriate groups;
- 48 n. Shall make an annual report to the Governor and Legislature  
 49 and such other special or periodic reports as may be required; and
- 50 o. Shall recommend for workers not covered by collective bargain-  
 51 ing agreements, rules to the board for the implementation of this  
 52 title.

#### ARTICLE 4

##### Appeals

- 1 11A:2-13. Opportunity for hearing. Before any disciplinary ac-  
 2 tion in subsection a. of N. J. S. 11A:2-6 is taken against a perma-  
 3 nent employee in the career service or a person serving a working  
 4 test period, the employee shall be notified in writing and a hearing

5 shall be held before the appointing authority or its designated rep-  
6 resentative. Such hearing shall be held within 30 days of the notice  
7 of disciplinary action unless both parties consent to an adjournment  
8 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 forth degree if committed on the job or directly related  
15 to the job, the suspension may continue until a disposition of the  
16 charge.

17 The provisions of N. J. S. 2C:51-2 notwithstanding, when an  
18 employee in State service has been convicted of an offense, the  
19 appointing authority shall determine whether removal or other  
20 disciplinary action is warranted, and the determination shall be  
21 subject to review by the board in accordance with the provisions  
22 of N. J. S. 11A:2-14.

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 author-  
3 ity shall make a final disposition of the charges against the employee  
4 and shall furnish the employee with written notice. If the appoint-  
5 ing authority determines that the employee is to be removed, de-  
6 moted or receive a suspension, the employee shall have a right to  
7 appeal to the board, or in accordance with a negotiated agreement  
8 if the worker is represented by a union.

1 11A:2-15. Appeal procedure. Any appeal from adverse actions  
2 specified in N. J. S. 11A:2-13 shall be either in accordance with a  
3 negotiated agreement or made in writing to the board no later than  
4 20 days from receipt of the final written determination of the ap-  
5 pointing authority.

1 11A:2-16. 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.

1 11A:2-17. Authority of the board. The board may decrease the  
2 penalty imposed by the appointing authority or substitute another  
3 in its place except as provided in N. J. S. 11A:2-15. However,  
4 removal shall not be substituted for a lesser penalty. The board  
5 shall award back pay and benefits to an employee where the facts  
6 warrant as provided by rule.

1 11A:2-18. 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:2-19. Forms of disciplinary action. For employees not  
2 covered by a collective bargaining agreement the board shall  
3 establish by rule the causes which constitute grounds for disci-  
4 plinary action and the kinds of disciplinary action which may be  
5 taken by appointing authorities against permanent career service  
6 employees or those serving in their working test period. However,  
7 an appointing authority or the board may not impose a suspension  
8 greater than six months except as provided for in N. J. S. 11A:2-13.  
9 Discipline of workers covered by a collective bargaining agreement  
10 shall be imposed only for just cause. Disciplinary review proce-  
11 dures for workers covered by collective bargaining representatives  
12 shall be mandatory subjects for collective bargaining.

1 11A:2-20. 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 employer  
4 shall have the burden of proof that such removal, layoff or demotion  
5 was in good faith. The appointing authority shall have the burden  
6 of proving that such removal, layoff, or demotion was for just cause.  
7 The appointing authority shall be required to show cause giving  
8 the reasons why the employee should be removed, laid off or  
9 demoted.

## ARTICLE 5

### Employee Protection Against Reprisals

1 11A:2-21. An appointing authority shall not take or threaten  
2 to take any action against an employee in the career, senior  
3 executive or unclassified service in retaliation for an employee's  
4 lawful disclosure of information on the violation of any law or  
5 rule, governmental mismanagement or abuse of authority.

## ARTICLE 6

### Political Activity

1 11A:2-22. Political activity limited. No person holding a position  
2 in the career service or senior executive service shall directly or  
3 indirectly use or seek to use the position to control or affect the  
4 political action of another person or engage in political activity  
5 during work hours.

## CHAPTER 3

## Classification, Services and Compensation

1 11A:3-1. Classification. For titles not covered by a collective  
2 bargaining agreement the board shall assign and reassign titles  
3 among the career service, senior executive service and unclassified  
4 service. The commissioner shall, for workers not covered by a  
5 collective bargaining agreement:

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

10 b. Establish and abolish titles;

11 c. Review State positions to determine their need as vacancies  
12 occur;

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

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

17 f. Provide a specification for each title.

18 Where an employee has received a salary overpayment the  
19 board shall have the authority to waive recoupment upon a showing  
20 by the employee that he or she was without fault with respect to the  
21 overpayment and recoupment would create financial hardship. An  
22 employee shall have the right to appeal an initial determination  
23 that waiver is not warranted pursuant to Article 4 of chapter 2 of  
24 this title.

1 11A:3-2. For titles not covered under collective bargaining  
2 agreements, the items covered in N. J. S. 11A:3-1 shall be manda-  
3 tory subjects for collective negotiations.

1 11A:3-3. 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 it  
4 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 after a public hearing, shall assign and reassign titles to each  
9 division and may provide for movement, including promotion, of  
10 employees from one division to the other.

1 11A:3-4. 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. No title represented  
 5 by a collective bargaining agreement shall be allocated to the senior  
 6 executive service. The board shall adopt rules providing for the  
 7 selection, placement, transfer, development, compensation, separa-  
 8 tion and performance appraisal of senior executive service and this  
 9 service shall not be subject to the provisions of this title unless  
 10 otherwise specified. The senior executive service shall include  
 11 non-career and career service employees. The number of non-  
 12 career employees shall not exceed 15% of the entire senior execu-  
 13 tive 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  
 19 shall have a right to a position in the career service in a title  
 20 related to the duties of their former permanent title and at a salary  
 21 not less than that received in their permanent title immediately  
 22 prior to their entry into the senior executive service.

1 11A:3-5. State unclassified service. The State unclassified service  
 2 shall not be subject to the provisions of this title unless otherwise  
 3 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. Teachers whose positions require they be licensed or certified;
- 12 g. Assistant and Deputy Attorneys General and legal assistants
- 13 appointed by the Attorney General;
- 14 h. One secretary and one confidential assistant to each depart-
- 15 ment head, board, principal executive officer and commission
- 16 provided that such is essential to the work of the department,
- 17 board, principal executive officer or commission;
- 18 i. Employees in the military or naval service of the State; and
- 19 j. Students employed less than half time in educational institu-
- 20 tions.

21 No other grouping of employees shall be allocated to the un-  
 22 classified service.

23 All persons in unclassified titles which are not in the management  
 24 employee relations grouping shall acquire permanent status and



25 access to all appeal procedures after six months, other preexisting  
26 statutes and rulings to the contrary notwithstanding.

1 11A:3-6. 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 the 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. Teachers whose positions require they be licensed or certified;

12 g. Principal executive officers;

13 h. One secretary, clerk or executive director to each department,  
14 board and commission authorized by law to appoint such;

15 i. One secretary or clerk to each principal executive officer and  
16 judge provided that such is essential to the work of the principal  
17 executive officer or judge;

18 j. One deputy or first assistant to a principal executive officer  
19 who is authorized by statute to act for and in place of the principal  
20 executive officer;

21 k. No more than 12 department heads in counties organized  
22 pursuant to P. L. 1972, c. 154 (C. 40:41A-1 et seq.) and the heads  
23 of divisions within such departments provided that the total num-  
24 ber of unclassified positions created by the county administrative  
25 code pursuant to this subsection shall not exceed 20;

26 l. No more than 12 department heads in counties not organized  
27 pursuant to P. L. 1972, c. 154 (C. 40:41A-1 et seq.);

28 m. One secretary or confidential assistant to each unclassified  
29 department head;

30 n. One secretary or confidential assistant to each unclassified  
31 division head if so provided in the administrative code of any  
32 county organized pursuant to P. L. 1972, c. 154 (C. 40:41A-1 et  
33 seq.);

34 o. Employees of county park commissions appointed pursuant  
35 to R. S. 40:37-96 through R. S. 40:37-174 in counties of the second  
36 class;

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

39 q. One secretary or confidential assistant to each county free-  
40 holder;

41 r. In school districts organized pursuant to which N. J. S.  
 42 18A:17-1 et seq. applies, the executive controller, public informa-  
 43 tion officer and the executive directors of board affairs, personnel,  
 44 budget, purchasing, physical facilities, data processing, financial  
 45 affairs, and internal audits; and

46 s. The executive director, assistant executive director, director  
 47 of staff operations, director of administration, director of redev-  
 48 opment and the urban initiatives coordinator of a local housing  
 49 authority.

50 All persons in unclassified titles which are not in the manage-  
 51 ment employee relations unit shall acquire permanent status and  
 52 access to appeal procedures after six months, other pre-existing  
 53 statutes and rulings to the contrary notwithstanding.

1 11A:3-7. Employee compensation. The commissioner shall, for  
 2 workers not covered by a collective bargaining agreement, estab-  
 3 lish, administer and amend an equitable State employee compensa-  
 4 tion plan which shall include pay schedules and assignment and  
 5 reassignment of salaries to titles. The board shall adopt rules for  
 6 salary adjustments other than as provided for in the State com-  
 7 pensation plan for the career, senior executive and unclassified  
 8 services. The commissioner shall require that employees of politi-  
 9 cal subdivisions are paid in reasonable relationship to titles. The  
 10 majority representative of workers covered by a collective bargain-  
 11 ing agreement shall negotiate a compensation plan with the ap-  
 12 pointing authority.

1 11:3-8. Payroll audits. The commissioner may audit State pay-  
 2 roll and payrolls of political subdivisions to determine compliance  
 3 with this title. The commissioner may order and enforce immediate  
 4 compliance as necessary. No employee shall be paid a base salary  
 5 below the minimum or above the maximum established salary for  
 6 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 satis-  
 4 factorily perform the duties of a title or group of titles. Such ex-  
 5 aminations may include, but are not limited to, written, oral, per-  
 6 formance and evaluation of education and experience;

7 b. The rating of examinations;

8 c. The security of the examination process and appropriate sanc-  
 9 tions 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 ap-  
 14 pointing authority. Extra compensation may be provided for such  
 15 service outside normal working hours; and

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

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

1 11A:4-3. Eligible lists and certifications. The board shall pro-  
 2 vide for:

3 a. The establishment and cancellation of eligible lists;

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

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

1 11A:4-4. Use of eligible list. Once the examination process has  
 2 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 as  
 7 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:4-5. 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. The

9 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:4-6. Exceptions to duration of a list. Notwithstanding the  
2 provisions of N. J. S. 11A:4-5, a special reemployment list, a police  
3 reemployment list and a fire reemployment list shall have unlimited  
4 duration.

1 11A:4-7. Certification and appointment. The commissioner shall  
2 certify the eligible who has received the highest score on an open  
3 competitive list against the first provisional or vacancy. For each  
4 additional provisional or vacancy against whom a certification is  
5 issued at that time, the commissioner shall certify the next ranked  
6 eligible, except that if the Division of Affirmative Action, the  
7 United States Equal Employment Opportunity Commission, the  
8 New Jersey Division on Civil Rights, or other appropriate agency,  
9 certifies that the area or appointing authority has been demonstra-  
10 bly deficient in the hiring and retention of members of protected  
11 classes, or it is under court order or consent order requiring the  
12 fulfillment of certain goals, or the cessation and desistance from  
13 certain employment practices with regard to protected classes and  
14 the composition of the pool of persons who have passed the test is  
15 such that the rule of three would benefit affirmative action, then  
16 three eligibles may be certified for each vacancy until the appointing  
17 authority or area is in substantial compliance with the law.

1 11A:4-8. 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 State  
5 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 the  
10 service. The name of any such employee shall not remain on a  
11 reemployment list for more than three years from the date of  
12 resignation, unless otherwise extended pursuant to N. J. S.  
13 11A:4-5;

14 d. Police or fire reemployment, which shall include former perma-  
15 nent uniformed members of a police or fire department who have  
16 resigned in good standing and whose reemployment is certified by  
17 the appointing authority as in the best interest of the service; 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:4-9. 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:4-10. Removal on criminal record. Upon the request of an  
 2 appointing authority, the commissioner may remove an eligible with  
 3 a criminal record from a list when the criminal record includes a  
 4 conviction for a crime which adversely relates to the employment  
 5 sought. The following factors shall be considered in such determina-  
 6 tion:

- 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:4-11. Priority of lists. When more than one list exists, the  
 2 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 lieu  
 5 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 reemploy-  
 11 ment; and
- 12 e. Open competitive.

1 11A:4-12. 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 or  
 5 to a title in the noncompetitive division of the career service upon  
 6 appointment. Such appointments shall be permanent after satis-  
 7 factory completion of a working test period;

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

15    (1) All provisional promotions shall be offered to eligible per-  
16    sons in direct order of State seniority.

17    (2) The commissioner shall establish an escrow account for per-  
18    sons appointed provisionally and who are not members of the re-  
19    tirement system. The appointee and the employer shall make  
20    pension contribution into the account until the employee is made  
21    permanent and the contributions are paid. If the employee is  
22    terminated before the money is paid into the pension fund, the  
23    employee may request a refund in writing. Interest from the escrow  
24    account shall be used to fund activities whose effect will reduce  
25    the number of provisional employees including, but not limited to,  
26    paying for the writing and administration of examination.

27    (3) To reduce the number of provisional employees in open com-  
28    petitive titles, when a vacancy occurs where there is no eligible list  
29    or complete certification, the appointing authority shall seek from  
30    the department an authorized supplemental eligibility list. This  
31    list shall be composed of names of persons on eligibility lists for  
32    titles with qualifications identical or substantially similar to the  
33    title for which there is no eligibilty list of complete certification.  
34    Only after the authorized supplemental eligibility list is exhausted  
35    may the appointing authority proceed under paragraph (1) of this  
36    subsection.

37    The authorized supplemental eligibility lists shall be compiled  
38    by a panel of an equal number of members from the department,  
39    the majority representatives where there are any in proportion to  
40    the number of persons represented in the affected units and a  
41    representative from the department in which the original title was  
42    located. Authorized supplemental eligibility lists shall not be re-  
43    stricted to the department in which the original title was located:

44    c. Temporary appointments may be made for a maximum of six  
45    months, without regard to the provisions of this chapter, to tem-  
46    porary positions established as a result of a short term grant. Ap-  
47    pointees to temporary positions shall meet the minimum qualifica-  
48    tions of a title;

49    d. Emergency appointments shall not exceed 30 days and shall

50 only be permitted where nonappointment will result in substantial  
51 harm to persons or property;

52 e. Senior executive service appointments shall be made pursuant  
53 to N. J. S. 11A:3-4; and

54 f. Unclassified appointments shall be made pursuant to N. J. S.  
55 11A:3-5 and N. J. S. 11A:3-6.

1 11A:4-13. Promotion. The rules of the board shall establish the  
2 minimum qualifications for promotion and shall provide the candi-  
3 dates deemed capable through testing shall be appointed according  
4 to State seniority.

1 11A:4-14. Working test period. The purpose of the working test  
2 period is to permit an appointing authority to determine whether  
3 an employee satisfactorily performs the duties of a title. The  
4 board shall provide for:

5 a. A working test period following regular appointment for no  
6 less than three months and no more than six months except that  
7 the working test period for entry level law enforcement officer,  
8 correction officer and firefighter titles shall be for 12 months;

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

11 c. Progress reports to be made by the appointing authority and  
12 provided to the employee at the end of  $\frac{1}{3}$  and  $\frac{2}{3}$  of the working  
13 test period. A final progress report at the end of the entire work-  
14 ing test period shall be provided to the employee and the com-  
15 missioner;

16 d. Termination of an employee at the end of the working test  
17 period and termination of an employee for cause during the work-  
18 ing test period; and

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

1 11A:4-15. Transfer, reassignment and lateral title change. For  
2 workers not represented by a union the rules of the board shall  
3 define and establish the procedures for transfer, reassignment and  
4 lateral title change. Transfer and reassignment procedures for  
5 workers represented by a collective bargaining agreement shall be  
6 mandatory subjects in collective bargaining.

## CHAPTER 5.

## VETERANS PREFERENCE

1 11A:5-1. Definitions.

2 "Appointing authority" means a commission, board, person or  
3 group of persons having the power, authorized by law or by reason  
4 of a lawfully delegated authority, to make appointments.

5 "War service" means service by a veteran, as hereinafter de-  
6 fined, in any war, uprising, insurrection or expedition mentioned  
7 in this section during the periods specified.

8 "Veteran with a record of disability incurred in line of duty"  
9 means any veteran as hereinafter defined who is eligible under  
10 the United States veteran's bureau qualifications for compensation  
11 for service-connected disability from World War service or who is  
12 receiving or who is entitled to receive equivalent compensation for  
13 service-connected disability arising out of such other military or  
14 naval service hereinafter defined, and has presented to the board  
15 full and convincing evidence of such record of disability incurred in  
16 line of duty on or before the announced closing date for filing  
17 applications for a particular examination.

18 "Veteran" means any honorably discharged soldier, sailor,  
19 marine or nurse who served in any army or navy of the allies of  
20 the United States in World War I, between July 14, 1914, and  
21 November 11, 1918, or who served in any army or navy of the  
22 allies of the United States in World War II, between September  
23 1, 1939, and September 2, 1945, and who was inducted into such  
24 service through voluntary enlistment, and was a citizen of the  
25 United States at the time of such enlistment, and who did not,  
26 during or by reason of such service, renounce or lose his United  
27 States citizenship, and any soldier, sailor, marine, airman, nurse  
28 or army field clerk, who has served in the active military or naval  
29 service of the United States and has or shall be discharged or  
30 released therefrom under conditions other than dishonorable, in  
31 any of the following wars, uprisings, insurrections or expeditions,  
32 and who has presented to the board full and convincing evidence  
33 of such record of service on or before the announced closing date  
34 for filing applications for a particular examination:

35 (1) The Indian wars and uprisings during any of the periods  
36 recognized by the War Department of the United States as periods  
37 of active hostility;

38 (2) The Spanish-American War between April 20, 1898, and  
39 April 11, 1899;

40 (3) The Philippine insurrections and expeditions during the



41 periods recognized by the War Department of the United States  
42 as of active hostility from February 4, 1899, to the end of 1913;

43 (4) The Peking relief expedition between June 20, 1900, and  
44 May 27, 1902;

45 (5) The army of Cuban occupation between July 18, 1898, and  
46 May 20, 1902;

47 (6) The army of Cuban pacification between October 6, 1906,  
48 and April 1, 1909;

49 (7) The Mexican punitive expedition between March 14, 1916,  
50 and February 7, 1917;

51 (8) The Mexican border patrol, having actually participated  
52 in engagements against Mexicans between April 12, 1911, and  
53 June 16, 1919;

54 (9) World War I between April 6, 1917, and November 11, 1918;

55 (10) World War II, after September 16, 1940, who shall have  
56 served at least 90 days commencing on or before September 2,  
57 1945, in such active service, exclusive of any period he was as-  
58 signed (1) for a course of education or training under the Army  
59 Specialized Training Program or the Navy College Training  
60 Program, which course was a continuation of his civilian course  
61 and was pursued to completion, or (2) as a cadet or midshipman  
62 at one of the service academies; provided, that any person re-  
63 ceiving an actual service-incurred injury or disability shall be  
64 classed as a veteran whether or not he has completed the 90-day  
65 service as herein provided;

66 (11) Korean conflict, after June 23, 1950, who shall have served  
67 at least 90 days commencing on or before July 27, 1953, in such  
68 active service, exclusive of any period he was assigned (1) for a  
69 course of education or training under the Army Specialized  
70 Training Program or the Navy College Training Program which  
71 course was a continuation of his civilian course and was pursued  
72 to completion, or (2) as a cadet or midshipman at one of the service  
73 academies, any part of which 90 days was served between said  
74 dates; provided, that any person receiving an actual service-  
75 incurred injury or disability shall be classed as a veteran whether  
76 or not he has completed the 90-day service as herein provided;

77 (12) Vietnam conflict, after December 31, 1960, who shall have  
78 served at least 90 days commencing on or before the date of  
79 termination as proclaimed by the Governor in such active service,  
80 exclusive of any period he was assigned (1) for a course of  
81 education or training under the Army Specialized Training Pro-  
82 gram or the Navy College Training Program which course was a  
83 continuation of his civilian course and was pursued to completion.

84 or (2) as a cadet or midshipman at one of the service academies,  
 85 any part of which 90 days was served between said dates; and  
 86 exclusive of any service performed pursuant to the provisions of  
 87 section 511(d) of Title 10, United States Code, pursuant to an  
 88 enlistment in the Army National Guard or as a reserve for service  
 89 in the Army Reserve, Naval Reserve, Air Force Reserve, Marine  
 90 Corps Reserve, or Coast Guard Reserve; provided, that any person  
 91 receiving an actual service-incurred injury or disability shall be  
 92 classed as a veteran whether or not he has completed the 90 days  
 93 service as herein provided.

1 11A:5-2. Application of chapter. The provisions of this chapter  
 2 shall apply to the State, and to the counties, municipalities and  
 3 school districts operating under the provisions of this title.

1 11A:5-3. Wife or widow of veteran or deceased soldier. The  
 2 spouse of any veteran having a record of disability incurred in  
 3 line of duty shall be entitled to the same preference under this  
 4 chapter as the veteran is entitled to, so long as the veteran is not  
 5 in the service of the State or of any county, municipality or school  
 6 district operating under the provisions of this title; provided, how-  
 7 ever, that the veteran, if able to do so, waives, in writing, all  
 8 preference given to him by this chapter, so long as the spouse is  
 9 employed by the State or any county, municipality or school dis-  
 10 trict operating under the provisions of this title.

11 The surviving spouse of any soldier, sailor or marine, who died  
 12 while in service and who might qualify under this chapter as a  
 13 veteran if he had not so died, until the surviving spouse remarries,  
 14 shall be entitled to the same preference under this chapter as if  
 15 the spouse were a veteran accepted and designated as having a  
 16 record of disability incurred in line of duty.

17 The surviving spouse of any veteran as defined in this chapter  
 18 until remarriage shall be entitled to the same preference under  
 19 this chapter as the veteran would be entitled to if he were still  
 20 living.

1 11A:5-4. Mother and spouse of soldier, sailor, marine or nurse  
 2 who died in service. The mother of any soldier, sailor, marine or  
 3 nurse who died while in service and who might qualify under this  
 4 chapter as a veteran if he had not so died, shall be entitled to the  
 5 same preference, under this chapter, as the deceased person would  
 6 have been entitled to if he had not so died and were still living.  
 7 Where both a mother and a spouse survive, and both of them are  
 8 entitled pursuant to law to the preferences to which such deceased  
 9 person would have been entitled, the exercise of the preference by  
 10 either of them shall suspend the right of the other to exercise the

11 preference so long as the first to exercise it remains in the employ  
 12 of the State or any county, municipality or school district operated  
 13 under the provisions of this title.

1 11A:5-5. Veterans with record of disability incurred in line of  
 2 duty; name at top of list. Veterans with a record of disability in-  
 3 curred in line of duty, who shall receive a passing rating in com-  
 4 petitive examinations or tests as herein provided for entrance into  
 5 the public service, shall be placed at the top of the employment  
 6 list in the order of their respective final ratings.

1 11A:5-6. Certification of three candidates highest upon register  
 2 for position; appointment; exception in case of veterans. The board  
 3 shall certify to the appointing authority the names and addresses  
 4 of the three candidates willing to accept employment standing  
 5 highest upon the register for each position to be filled, and the  
 6 appointing authority shall select one of the three so certified; pro-  
 7 vided, however, that whenever the name or names of a veteran  
 8 or veterans shall be among those certified to the appointing au-  
 9 thority the choice of the appointing authority shall be limited to  
 10 the veteran or veterans whose name or names are included in such  
 11 certification; whenever the names of two or more veterans shall be  
 12 amongst those certified to the appointing authority, the appointing  
 13 authority shall appoint the veteran whose standing is the highest  
 14 on the register for the position to be filled.

1 11A:5-7. Certification of ties in school district; appointment.  
 2 Notwithstanding any provision of law, rule or regulation to the  
 3 contrary, if two veterans achieve the same score on an open com-  
 4 petitive examination for a position in a school district operating  
 5 under this title, and that score would otherwise qualify either of  
 6 those veterans for appointment to that position, then the appoint-  
 7 ing authority for that school district is authorized to appoint either  
 8 of those veterans, as it sees fit.

1 11A:5-8. Preference to nondisabled veterans. Veterans who  
 2 shall receive a passing rating in competitive examinations or tests,  
 3 as herein provided, for entrance into the public service shall be  
 4 placed on the employment list in the order of their respective final  
 5 ratings immediately after veterans with a record of disability in-  
 6 curred in line of duty.

1 11A:5-9. Inapplication of statutes to promotions; proviso. Noth-  
 2 ing contained in N. J. S. 11A:5-5 to N. J. S. 11A:5-8 shall apply  
 3 to promotions; provided, however, that whenever any examination  
 4 for promotions be held and any veteran shall receive the highest  
 5 certification from among those qualified, before such appointive  
 6 power shall appoint for promotion any nonveteran, such appointive

7 power shall show cause before the board why such veteran should  
8 not receive such promotion.

1 11A:5-10. Preference in appointment in noncompetitive class.  
2 From among those eligible for appointment in the noncompetitive  
3 class, preference shall be given to any veteran as herein defined.  
4 The board shall state in its annual report the number of persons  
5 who come within this class and the character of their services.  
6 Before the appointive power in such case shall select a nonveteran  
7 and leave unappointed any veteran who has been certified as being  
8 eligible, such department head shall show cause before the board  
9 why such veteran should not be appointed, at which time such  
10 veteran or veterans may be privileged to attend and present evi-  
11 dence and unless good cause be then shown, the board shall order  
12 the immediate appointment of such veteran; providing, however,  
13 that in all such cases the veteran with a record of disability in-  
14 curred in line of duty shall have preference over all others. The  
15 board shall be the sole judge of the facts constituting such qualifi-  
16 cations.

1 11A:5-11. Preference to veterans in employ of State, county,  
2 municipality or school district in case of reduction. When a reduc-  
3 tion is made of the employees in any department of this State or  
4 any county, municipality or school district operating under the  
5 provisions of this title for the purpose of economy or of promoting  
6 the efficiency of the public service, preference, in any such reduc-  
7 tion, shall be given to a veteran as herein defined, but such prefer-  
8 ence shall apply only where a veteran has seniority equal to the  
9 seniority of any other employee also affected by such reduction;  
10 provided, however, that preference in any such reduction shall be  
11 first given any veteran who shall have a record of disability as  
12 herein defined. No such soldier, sailor, marine or nurse shall be  
13 given such preference who shall have been convicted of a criminal  
14 offense in any civil, military or naval court.

1 11A:5-12. Hearing on dismissal of veteran. Before any depart-  
2 ment head shall dismiss any veteran, as provided in section  
3 11A:5-11 herein, such department head shall show cause before  
4 the board why such veteran should not be retained, at which time  
5 such veteran or veterans may be privileged to attend. The board  
6 shall be the sole judge of the facts constituting such qualification.

1 11A:5-13. Veterans injured in World War or emergency service  
2 not to be discriminated against because of physical defects; waiver  
3 of height and weight requirements. No person suffering from any  
4 physical defect caused by wounds or injuries received in line of  
5 duty in the military or naval forces of the United States in the

6 first or second World War or emergency service set forth in this  
 7 chapter shall thereby be discriminated against in an examination,  
 8 classification or appointment because of such defect, unless the  
 9 same shall, in the opinion of the board, incapacitate him from per-  
 10 forming properly the duties of the office, position or employment  
 11 for which he applies.

12 Whenever, in the opinion of the board, strict compliance with any  
 13 condition relative to height or weight is not essential to the proper  
 14 fulfillment of any position, it may order a waiver of said require-  
 15 ments as to veterans applying therefor. The provisions of this  
 16 paragraph shall apply to both competitive and noncompetitive  
 17 vacancies.

1 11A:5-14. Employment or promotion of person awarded con-  
 2 gressional medal of honor, distinguished service cross, air force  
 3 cross or navy cross. Any soldier, sailor, marine, airman or nurse,  
 4 who has served in the Army, Air Force, Navy, or Marine Corps  
 5 of the United States of America, and who has been awarded the  
 6 Congressional Medal of Honor, the Distinguished Service Cross,  
 7 Air Force Cross or Navy Cross, while a resident of this State, shall  
 8 be employed or promoted without complying with any of the rules  
 9 or regulations of the board. The head or person in charge of any  
 10 department or subdivision of this State and the various counties  
 11 and municipalities thereof, to whom such soldier, sailor, marine,  
 12 airman or nurse as above provided, shall apply for employment or  
 13 promotion, shall within his discretion employ or promote such per-  
 14 son, as in his judgment he shall deem proper and necessary for the  
 15 good of his department. Upon said promotion, appointment or  
 16 employment, the person shall then become subject to and under  
 17 the direct supervision, rules and regulations governing such em-  
 18 ployment by the board.

19 Nothing in this section shall be construed to limit the qualified  
 20 veteran under this chapter to only one appointment or to only one  
 21 promotion.

1 11A:5-15. Veteran policemen or firemen in city of first class;  
 2 examination and promotion. A member of the police or fire depart-  
 3 ment in a city of the first class who is a veteran as such term is  
 4 defined in this chapter shall be entitled to be admitted to examina-  
 5 tion for promotion to a superior rank and upon successfully passing  
 6 such examination shall be entitled to appointment in such superior  
 7 rank, notwithstanding the fact that such person may not have held  
 8 the position or rank held or occupied by him at the time of taking  
 9 the examination for a period of two years, if he has or shall have  
 10 held or occupied the same for a period of one year.

1 11A:5-16. Rules and regulations for enforcement of chapter;  
2 stenographic record of oral examination; proof of veteran's disa-  
3 bility; saving clause. The Merit System Board may, as it may be  
4 deemed necessary for the administration of the provisions of this  
5 chapter, prepare rules and regulations for the proper enforcement  
6 of the provisions hereof. In all competitive examinations or tests  
7 provided for in this title, wherein an oral examination or test is a  
8 part thereof, the board shall upon request provide for a steno-  
9 graphic record of such oral examination or test, which said record  
10 shall be available in cases of reconsideration of ratings.

11 The board shall require that any veteran who shall have a record  
12 of disability as herein defined shall have established proof of such  
13 disability on or prior to the date of any test held by the board.

14 Nothing herein contained shall be construed to amend, modify,  
15 or repeal N. J. S. 40A:14-25, N. J. S. 40A:14-115 or N. J. S.  
16 40A:14-143.

## CHAPTER 6

### ARTICLE I

#### Hours of Work, Leaves of Absence and Supplemental Compensation

1 11A:6-1. Holidays, hours of work, attendance, leaves. The board  
2 shall adopt rules for State employees not covered by collective  
3 bargaining agreements regarding holidays, hours of work, atten-  
4 dance, sick leave, vacation leave and such other leave with or with-  
5 out pay as it may designate and the length of service for eligibility.  
6 For workers covered by collective bargaining agreements the rules  
7 in effect on the effective date of this title shall establish the mini-  
8 mum standards. Thereafter all items in this section shall be manda-  
9 tory subjects of negotiation. Any political subdivision subject to  
10 the provisions of this title shall prepare procedures and policies  
11 regarding such items.

1 11A:6-2. Vacation leave. Vacation leave for full-time State em-  
2 ployees 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  
6 and 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 of continuous service, 15

14 working days; and after 20 years of continuous service, 20 work-  
15 ing days. Vacation not taken in a given year because of business  
16 demands shall accumulate and be granted during the next suc-  
17 ceeding 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 compensa-  
4 tion 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 re-  
4 mainder 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 Medicine  
5 and Dentistry of New Jersey shall be at least three working days  
6 per calendar year. Administrative leave shall not be cumulative  
7 and any administrative leave unused by an employee at the end of  
8 any 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. Leave of absence caused by injury  
2 or illness directly caused by and arising from employment shall be  
3 governed by rules of the board. Any sick leave with pay shall be  
4 reduced by the amount of worker's compensation, if any, received  
5 for the same injury or illness.

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

1 11A:6-9. Convention leave for police; firefighters. A leave of  
2 absence with pay shall be given to every employee who is a duly  
3 authorized representative of the New Jersey Patrolman's Benev-  
4 olent Association, Inc., Fraternal Order of Police, Firemen's Mu-  
5 tual 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 organiza-  
8 tion. The leave of absence shall be for a period inclusive of the  
9 duration of the convention with a reasonable time allowed for  
10 travel to and from the convention. A certificate of attendance at

11 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 to  
10 this act shall be no more than 90 calendar days in one year or the  
11 combined days of the official training camp and competition, which-  
12 ever is less.

1 11A:6-11. Appointment by Governor; leave of absence without  
2 pay. Any employee in the career or senior executive service who  
3 is appointed to any position pursuant to P. L. 1947, c. 14 (C.  
4 52:14-16.2) shall be entitled to a leave of absence without pay from  
5 the permanent career or senior executive service title for the length  
6 of appointment. Upon the expiration of the leave, the employee  
7 shall have the right to return to the former title and receive all of  
8 the rights, privileges and benefits of that title as if the employee  
9 had remained in that title.

1 11A:6-12. Leaves of absence for union activity. Employees in  
2 the career service, elected or appointed to a full-time position with  
3 a union, shall be granted a leave of absence with pay and full bene-  
4 fits upon written request from the union. The union shall reimburse  
5 the State for all salary and benefit costs which accrue as a result  
6 of the leave of absence. Such leave of absence with pay shall be  
7 renewed on an annual basis as the term of office of such position  
8 or length of appointment requires.

9 Upon expiration of the leave, the employee shall have the right  
10 to return to the former title and receive all of the rights, privileges  
11 and benefits of that title as if the employee had remained in that  
12 title, including seniority accrued during the leave.

1 11A:6-13. Elective office; leave of absence without pay. Any  
2 person holding a position in the career service of any political sub-  
3 division shall upon written request be granted a leave of absence,  
4 without pay, to fill any elective public office for the term of such  
5 office. Upon the expiration of the term of office, such person shall  
6 be entitled to resume the position held at the time of the granting  
7 of the leave of absence, if the employee shall apply for reinstatement  
8 before the expiration of the leave of absence and return to



9 duty within six years after the commencement of the leave. The  
 10 time spent in serving the term of an elective office, up to a maxi-  
 11 mum of six years from the commencement of the leave, shall be  
 12 included in the computation of such person's seniority rights.

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

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

1 11A:6-14. 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:6-13 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 exam and is appointed  
 7 prior to the expiration of the list; or wishes to take a promotional  
 8 examination prior to or during the course of the leave. Such person  
 9 shall be eligible to apply for and take such promotional exam as if  
 10 the person were not on leave of absence, and shall be treated as in  
 11 N. J. S. 11A:6-13.

12 In both cases, such persons may accept the promotions and  
 13 return to employment after such leave of absence in the promoted  
 14 capacity subject to the satisfactory completion of a working test  
 15 period.

1 11A:6-15. 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 granted  
 4 sick leave under terms and conditions similar to career service em-  
 5 ployees, shall be entitled upon retirement from a State Adminis-  
 6 tered retirement system to receive a lump sum payment as  
 7 supplemental compensation for each full day of accumulated sick  
 8 leave which is credited on the effective date of retirement.

1 11A:6-16. 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 com-  
 4 pensation 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 con-  
10 ditions similar to career service employees, including those em-  
11 ployees of the University of Medicine and Dentistry of New Jersey  
12 who are members of the Newark Employees' Retirement System.

1 11A:6-17. Deferred retirement. A State employee who elects  
2 deferred retirement shall not be eligible for the supplemental com-  
3 pensation provided under this chapter.

1 11A:6-18. Computation; Limitation. Supplemental compensa-  
2 tion shall be computed at the rate of one-half of the eligible em-  
3 ployee's daily rate of pay for each day of accumulated sick leave  
4 based upon the compensation received during the last year of em-  
5 ployment prior to the effective date of retirement, but no such  
6 supplemental compensation shall exceed \$15,000.00. In the event  
7 of an employee's death after the effective date of retirement, but  
8 before payment is made, payment shall be made to the employee's  
9 estate.

1 11A:6-19. Certification of accumulated sick leave. Upon ap-  
2 plication 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:6-20. Break in service. An employee who has incurred or  
2 shall incur a break in service as a result of separation due to lay-  
3 off shall be credited with sick leave accrued both before separation  
4 and after return to employment. An employee incurring a break  
5 in service for any other type of separation shall have sick leave  
6 computed only from the date of return to employment.

1 11A:6-21. Inapplicability 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:6-22. Rules. The board shall adopt rules for the implemen-  
2 tation of supplemental compensation, which shall include but need  
3 not be limited to application and eligibility procedures.

## ARTICLE 2

## Employee Programs

1 11A:6-23. State training programs. The commissioner may  
2 establish and shall review and approve training and education pro-  
3 grams for employees covered by this title.

1 11A:6-24. 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. For those  
6 employees covered by a collective bargaining agreement the per-  
7 formance standards and criteria shall be negotiable.

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

11 The board shall adopt and enforce rules with respect to the  
12 utilization of performance ratings in promotion, layoff or other  
13 matters, except that those units covered by a majority representa-  
14 tive shall be entitled to negotiate such rules.

## 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.

## 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 45-day notice  
4 must be served upon each permanent employee as he or she be-  
5 comes identified for purposes of layoff. Blanket layoff notices do  
6 not constitute adequate notice. A layoff notice served pursuant to  
7 this section expires 60 days after it is issued. A permanent em-  
8 ployee shall receive written 45 days' notice, unless in State  
9 government a greater time period is ordered by the commissioner,  
10 which shall be served personally or by certified mail, of impending  
11 layoff or demotion and the reasons therefor. At the same time  
12 such notice is served, the appointing authority shall provide the  
13 commissioner with a list of the names and permanent titles of all  
14 employees receiving such notice. The board shall adopt rules  
15 regarding the order of layoff and employee rights for workers not

16 covered by collective bargaining agreements. The commissioner  
 17 shall negotiate in good faith with majority representatives of  
 18 collective bargaining units concerning the rules regarding order of  
 19 layoff and employee rights. In the absence of a majority represen-  
 20 tative, the board shall establish layoff rules 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, for  
 3 workers not covered by a collective bargaining agreement. Em-  
 4 ployee participation in any such program shall not affect retention  
 5 rights or any other right or benefit based on length of service.  
 6 Such employees shall be restored to their former work schedule  
 7 before any new employee is hired in that title. The commissioner  
 8 shall negotiate in good faith with majority representatives of  
 9 collective bargaining units concerning the rules on voluntary  
 10 reduced worktime as an alternative to layoffs. In the absence of a  
 11 majority representative, the board may establish rules on voluntary  
 12 reduced worktime as an alternative to layoffs.

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 in accordance with a negotiated  
 4 procedure or to the board under N. J. S. 11A:2-6 and to appeal the  
 5 determination of any other rights to the commissioner. Appeals  
 6 must be filed within 20 days of final notice of such layoff or  
 7 demotion.

## CHAPTER 9

### Political Subdivisions

1 11A:9-1. Application. This title shall apply to any political sub-  
 2 division, including school districts, to which the provisions of Title  
 3 11 of the Revised Statutes applied immediately prior to their re-  
 4 peal pursuant to N. J. S. 11A:11-9 and to any political subdivision  
 5 which hereafter adopts the provisions of this title.

## CHAPTER 10

### Violations and Penalties

1 11A:10-1. Disapproval of salary. The commissioner may disap-  
 2 prove the salary of any person employed in violation of this title  
 3 or an order of the board or commissioner. Any persons who au-  
 4 thorize such payments shall be subject to penalties, including, but  
 5 not limited to, the disapproval of their salaries and payment from

6 their personal funds of improper expenditures of such monies as  
7 may be provided by the rules of the board.

1 11A:10-2. Violation of title or order. Any person who purpose-  
2 fully or recklessly violates or conspires to violate any provision of  
3 this title is guilty of a crime of the fourth degree. The commis-  
4 sioner or the board may bring civil or criminal action to enforce  
5 this title of 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. Monies 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 Transfers and Repealers

#### ARTICLE 1

##### Agency Transfers

1 11A:11-1. Appointment of Merit System Board. The President  
2 of the Civil Service Commission on the effective date of this title  
3 shall become the Commissioner of Personnel and the remaining  
4 members of the Civil Service Commission on the effective date of  
5 this title 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 Per-  
5 sonnel.

1 11A:11-3. Preservation of rights. Permanent employees in the  
2 career service of the Department of Civil Service which is abolished  
3 by this title shall not suffer loss of seniority, pension and demo-

tion rights in their permanent title by reason of the adoption of this title.

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

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

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

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

11A:11-8. Savings Clause. If any clause, sentence, paragraph, article, chapter, section or part of this title shall be adjudged invalid by any court of competent jurisdiction, such invalidation shall not affect or impair the remainder.

## ARTICLE 2

### Repealer

11A:11-9. Repealer and Inconsistent Laws. Title 11 of the Revised Statutes, as amended and supplemented, together with the following enumerated acts are repealed, but such repeal shall not affect any right now vested in any person pursuant to the provisions of that title or any of the following enumerated acts, nor any remedy where an action or proceeding thereunder has been instituted and is pending on the effective date of the repeal:

- P. L. 1938, c. 76 (C. 11:2A-1)
- P. L. 1938, c. 381, s. 10 (C. 11:27-13)
- P. L. 1939, c. 219 (C. 11:4-3.3)
- P. L. 1939, c. 232 (C. 11:24A-1 to 11:24A-6)
- P. L. 1939, c. 322 (C. 11:10-6.1)
- P. L. 1940, c. 15 (C. 11:4-3.4)
- P. L. 1940, c. 178 (C. 11:22-11.1)
- P. L. 1941, c. 91 (C. 11:4-3.5 and 11:4-3.6)
- P. L. 1941, c. 286 (C. 11:4-3.7)
- P. L. 1942, c. 65 (C. 11:20A-1)
- P. L. 1942, c. 137, s. 2 (C. 11:27-1.2)
- P. L. 1942, c. 253 (C. 11:24A-7)
- 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. 30 (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 P. L. 1983, c. 178 (C. 11:27-4.1)  
 74 P. L. 1983, c. 319 (C. 11:9-17.1)  
 75 Any law or statute which is inconsistent with any of the provi-  
 76 sions of this title are, to the extent of the inconsistency, superseded.
- 1 2. There is appropriated \$250,000.00 to implement the transition  
 2 provided for in section 3 of this act.
- 1 3. This act shall take effect upon the 180th day following the  
 2 date of its enactment, except that section 2 shall take effect im-  
 3 mediately and that any actions necessary to effect the implementa-  
 4 tion, of the provisions of this title may be taken at any time after  
 5 enactment.

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#### 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.

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#### STATE EMPLOYEES AND CIVIL SERVICE

Civil service, reform.

Repeals Title 11, creates a new Title 11A and establishes a Department of Personnel.

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SENATE, No. 1829

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STATE OF NEW JERSEY

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INTRODUCED FEBRUARY 27, 1986

By Senators CARDINALE and DiFRANCESCO

Referred to Committee on State Government and 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; revising parts of the statutory law; enacting a new title to be known as Title 11A, Civil Service, of the New Jersey Statutes and making an appropriation.

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

TITLE 11A

CIVIL SERVICE

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Chapter

- 1 1. General provisions, 11A:1-1 to 11A:1-2.
- 2 2. Department of Personnel, 11A:2-1 to 11A:2-24.

Article

- 3 1. Organization, 11A:2-1 and 11A:2-2.
- 4 2. Merit System Board, 11A:2-3 to 11A:2-7.
- 5 3. Commissioner of Personnel, 11A:2-8 to 11A:2-12.
- 6 4. Appeals, 11A:2-13 to 11A:2-22.
- 7 5. Political activity, 11A:2-23.
- 8 6. Employee protection against reprisals, 11A:2-24.

- 9 3. Classification, services and compensation, 11A:3-1 to 11A:3-8.
- 10 4. Selection and appointment, 11A:4-1 to 11A:4-16.
- 11 5. Veterans preference, 11A:5-1 to 11A:5-13.
- 12 6. Hours of work, leaves and employee development, 11A:6-1 to
- 13 11A:6-30.

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- 14 1. Hours of work and leaves of absence and supplemental
- 15 compensation, 11A:6-1 to 11A:6-22.
- 16 2. Employee programs, 11A:6-23 to 11A:6-26.
- 17 3. Awards, 11A:6-27 to 11A:6-30.
- 18 7. Equal employment opportunity, 11A:7-1 to 11A:7-13.
- 19 8. Layoffs, 11A:8-1 to 11A:8-4.
- 20 9. Political subdivisions, 11A:9-1 to 11A:9-15.
- 21 10. Violations and penalties, 11A:10-1 to 11A:10-4.
- 22 11. Agency transfer, 11A:11-1 to 11A:11-7.
- 23 12. Miscellaneous, 11A:12-1 to 11A:12-3.

### CHAPTER 1

#### GENERAL PROVISIONS

##### Section

1 11A:1-1 Short title.

2 11A:1-2 Declaration of policy.

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

1 11A:1-2. Declaration of policy. The Legislature finds and  
2 declares that:

3 a. It is the public policy of this State to select and advance  
4 employees on the basis of their relative knowledge, skills and  
5 abilities;

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

10 c. It is the public policy of this State to encourage and reward  
11 meritorious performance by employees in the public service and to  
12 retain and separate employees on the basis of the adequacy of  
13 their performance; and

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

CHAPTER 2  
DEPARTMENT OF PERSONNEL

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| 2 | 11A:2-2 | Implementation.                  |

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| 1 | 11A:2-23 | Political activity limited. |
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ARTICLE 6  
Employee Protection Against Reprisals

- |   |          |                               |
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| 1 | 11A:2-24 | Protection against reprisals. |
|---|----------|-------------------------------|

## 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 Per-  
5 sonnel, subdivisions and officers and employees as specifically  
6 referred to in this title and as may be constituted or employed by  
7 virtue of the authority conferred by this title or any other law.  
8 For the purposes of this title, "board" means Merit System Board,  
9 "commissioner" means the Commissioner of Personnel and "de-  
10 partment" means the Department of Personnel.

1 11A:2-2. Implementation. The department shall implement and  
2 enforce this title.

## ARTICLE 2

## Merit System Board

1 11A:2-3. Members; term; quorum; vacancies. The Merit Sys-  
2 tem Board shall consist of five members, one of whom shall be the  
3 Commissioner of Personnel who shall serve as the chairperson.  
4 The other members shall be appointed by the Governor with the  
5 advice and consent of the Senate for staggered terms of four years  
6 and until the appointment and qualification of their successors.  
7 Three members of the board shall constitute a quorum.

8 The holding over of an incumbent beyond the expiration of the  
9 term of office shall reduce, in commensurate length, the term of  
10 office of a successor. Vacancies shall be filled for the unexpired  
11 term in the same manner as original appointments. No member  
12 shall hold any other State or federal 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 cause, upon notice and an oppor-  
4 tunity to be heard. A board member removed from office shall be  
5 entitled to receive compensation only up to the date of the 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 shall:  
3 a. After a hearing, render the final administrative decision on  
4 appeals concerning permanent career service employees or those  
5 in their working test period in the following categories:

6 (1) Removal,  
 7 (2) Suspension or fine as prescribed in N. J. S. 11A:2-14,  
 8 (3) Disciplinary demotion, and  
 9 (4) Termination at the end of the work test period for unsatis-  
 10 factory performance.

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 h. of N. J. S.  
 14 11A:2-11;

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

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

19 e. Interpret the application of this title to any public body or  
 20 entity; and

21 f. Authorize and conduct such studies, inquiries, investigations  
 22 or hearings in the operation of this title as it deems necessary.

1 11A:2-7. Subpenas, oaths. The commissioner or the board  
 2 may subpoena and require the attendance of witnesses in this State  
 3 and the production of evidence or documents relevant to any  
 4 proceeding under this title. Those persons may also administer  
 5 oaths and take testimony. Subpenas issued under this section  
 6 shall be enforceable by order of the Superior 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  
 2 of the Governor.

1 11A:2-10. Compensation. The commissioner shall receive a  
 2 salary as fixed by law and shall also be entitled to sums incurred  
 3 for 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 title  
 3 or any other law, the commissioner:

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

8 b. May appoint one deputy commissioner who shall be in the

9 unclassified service and may appoint other necessary employees.  
10 All employees shall be confidential employees for the purposes of  
11 the "New Jersey Employer-Employee Relations Act" (P. L. 1941,  
12 c. 100; C. 34:13A-1 *et seq.*, as amended);

13 c. Shall maintain a management information system necessary  
14 to carry out the provisions of this title;

15 d. Shall have the authority to audit payrolls, reports or trans-  
16 actions for conformity with the provisions of this title;

17 e. Shall plan, evaluate, administer and implement personnel  
18 programs and policies in State government and political subdivi-  
19 sions operating under this title;

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

22 g. Shall develop programs to improve efficiency and effectiveness  
23 of the public service, including, but not limited to, employee  
24 training, development, assistance and incentives;

25 h. Shall set standards and procedures for review and render  
26 the final administrative decision on a written record or after  
27 recommendation by an independent reviewer assigned by the com-  
28 missioner of appeals from classification, salary, layoff rights and  
29 in the State service noncontractual grievances;

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

32 j. Shall provide for a public employee interchange program  
33 pursuant to the "Government Employee Interchange Act of 1967,"  
34 P. L. 1967, c. 77 (C. 52:14-6.10 *et seq.*) and may provide for an  
35 employee interchange program between public and private sector  
36 employees;

37 k. May establish an internship program;

38 l. Shall assist the Governor in general workforce planning.  
39 personnel matters and labor relations;

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

43 n. Shall make an annual report to the Governor and Legislature  
44 and all other special or periodic reports as may be required;

45 o. Shall have the authority to assess costs for special or other  
46 services; and

47 p. Shall recommend rules to the board for the implementation of  
48 this title.

1 11A:2-12. Delegation. The commissioner may delegate to an  
2 appointing authority the responsibility for classifying positions,  
3 administering examinations and other personnel functions accord-

4 ing to prescribed standards, but the commissioner may not delegate  
5 any function of the board.

6 This delegation shall be written and shall conform to the provi-  
7 sions 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. The employees shall  
10 continue as employees of the department. All delegation shall be  
11 subject to supervision by the commissioner and post-audit and may  
12 be cancelled, modified or limited at any time by the commissioner.

#### ARTICLE 4

##### Appeals

1 11A:2-13. Opportunity for appointing authority review. Be-  
2 fore any disciplinary action in subsections a. (1), (2) and (3) of  
3 N. J. S. 11A:2-6 is taken against a permanent employee in the  
4 career service or a person serving a working test period, the em-  
5 ployee shall be notified in writing and a review shall be held before  
6 the appointing authority or its designated representative. The  
7 review shall be held within 30 days of the notice of disciplinary  
8 action unless both parties consent to an adjournment to a later  
9 date. The board shall establish, by rule, procedures for suspen-  
10 sions with or without pay.

1 11A:2-14. Notice to employee of right to appeal. Within 20  
2 days of the review provided in N. J. S. 11A:2-13, the appointing  
3 authority shall make a final disposition of the charges against  
4 the employee and shall furnish the employee with written notice.  
5 If the appointing authority determines that the employee is to be  
6 removed, demoted or receive a suspension or a fine greater than  
7 five days, the employee shall have a right to appeal to the board.  
8 The suspension or fine of an employee for five days or less shall  
9 be appealable if an employee's aggregate number of days sus-  
10 pended or fined in any one calendar year is 15 days or more.  
11 Where an employee receive more than three suspensions or fines  
12 of five or less days in a calendar year, the last suspension or fine  
13 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  
3 board no later than 20 days from receipt of the final written deter-  
4 mination of the appointing authority. If the appointing authority  
5 fails to provide a written determination, an appeal may be made  
6 directly to the board within a reasonable time.

1 11A:2-16. Appeal procedure for suspension or fine of five days  
2 or less. If a State employee receives a suspension or fine of five

3 days or less, the employee may request review by the board under standards and procedures established by the board or appeal pursuant to an alternate appeal procedure where provided by a negotiated contract provision. If an employee of a political subdivision receives a suspension or fine of five days or less, the employee may request review under standards and procedures established by the political subdivision or appeal pursuant to an alternate appeal procedure where provided by a negotiated contract provision.

1 11A:2-17. Use immunity. A person shall not be excused from testifying or producing evidence on the ground that the testimony or the evidence might tend to incriminate the person, but an answer shall not be used or admitted in any proceeding against the person, except in a prosecution for perjury. The foregoing use immunity shall not be granted without prior written approval by the Attorney General.

1 11A:2-18. Representation. An employee may be represented at any hearing before an appointing authority or the board by an attorney or authorized union representative.

1 11A:2-19. Authority to increase or decrease penalty imposed. The board may increase or decrease the penalty imposed by the appointing authority, but removal shall not be substituted for a lesser penalty.

1 11A:2-20. Forms of disciplinary action. The board shall establish by rule the general causes which constitute grounds for disciplinary action and the kinds of disciplinary action which may be taken by appointing authorities against permanent career service employees or those serving in their working test period.

1 11A:2-21. Burden of proof. In categories listed in subsection a.(1), (2) and (3) of N. J. S. 11A:2-6, the employer shall have the burden of proof while in category (4), the employee shall have the burden of proof.

1 11A:2-22. Back pay, benefits and reasonable attorney fees. The board may award back pay, benefits and reasonable attorney fees to an employee as provided by rule.

## ARTICLE 5

### Political Activity

1 11A:2-23. Political activity limited. A person holding a position in the career service or senior executive service shall not directly or indirectly use or seek to use the position to control or affect the political action of another person or engage in political activity during working hours.



## ARTICLE 6

## Employee Protection Against Reprisals

1 11A:2-24. Protection against reprisals. An appointing authority  
 2 shall not take or threaten to take any action against an employee  
 3 in the career, senior executive or unclassified service in retaliation  
 4 for an employee's lawful disclosure of information on the violation  
 5 of any law or rule, governmental mismanagement or abuse of  
 6 authority. An employee who is the subject of a reprisal action by  
 7 an appointing authority for the lawful disclosure of information  
 8 may appeal such action to the board.

## CHAPTER 3

## CLASSIFICATION, SERVICES AND COMPENSATION

1 11A:3-1 Classification.  
 2 11A:3-2 Career Service.  
 3 11A:3-3 Senior executive service.  
 4 11A:3-4 State unclassified service.  
 5 11A:3-5 Political subdivision unclassified service.  
 6 11A:3-6 Public hearing required when moving title from career  
 7 to unclassified service.  
 8 11A:3-7 Employee compensation.  
 9 11A:3-8 Payroll audits.

1 11A:3-1. Classification. The board shall assign and reassign  
 2 titles among the career service, senior executive service and un-  
 3 classified 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;
- 7 b. Establish and abolish titles;
- 8 c. Ensure the grouping in a single title of positions with similar  
 9 qualifications, authority and responsibility;
- 10 d. Assign and reassign titles to appropriate positions; and
- 11 e. 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 commissioner shall assign and reassign such titles to each  
 4 division and may provide for movement, including promotion,  
 5 of employees from one division to the other.

1 11A:3-3. Senior executive service. A senior executive service  
 2 shall be established in State government and include those posi-  
 3 tions having substantial managerial, policy influencing or policy  
 4 executing responsibilities as determined by the board. The board

5 shall adopt rules providing for the selection, placement, transfer,  
 6 development, compensation, separation and performance appraisal  
 7 of senior executive service employees and for the reinstatement  
 8 of career service employees to the career service. The senior  
 9 executive service shall not be subject to the provisions of this  
 10 title unless otherwise specified. The senior executive service shall  
 11 include noncareer and career service employees. The number of  
 12 noncareer employees shall not exceed 15% of the entire senior ex-  
 13 ecutive service workforce.

14 Where an employee holds permanent career service status in a  
 15 position in a title that is assigned to the senior executive service,  
 16 the employee, with appointing authority approval, shall be pro-  
 17 vided the option of joining the senior executive service. Permanent  
 18 career service employees who opt not to join the senior executive  
 19 service or who do not receive approval to join the senior executive  
 20 service shall have a right to reinstatement to the career service  
 21 to a level directly under the senior executive service. Permanent  
 22 career service employees who join the senior executive service  
 23 and who are later separated from the senior executive service  
 24 shall have a right of reinstatement to the career service to a level  
 25 held prior to entry in the senior executive service unless the  
 26 employee has been separated, after opportunity for hearing, from  
 27 the senior executive service for reasons which constitute cause for  
 28 removal from the career service.

1 11A:3-4. State unclassified service. The State unclassified ser-  
 2 vice shall not be subject to the provisions of this title unless other-  
 3 wise 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. Physicians, surgeons and dentists;
- 10 f. Superintendents, teachers and instructors in the public
- 11 schools, the agricultural experiment station and State institu-
- 12 tions, where certified teachers are employed under the supervision
- 13 of and qualified by the State Department of Education, and other
- 14 institutions maintained wholly or in part by the State;
- 15 g. Assistant and Deputy Attorneys General and legal assistants
- 16 appointed by the Attorney General;
- 17 h. One secretary and one confidential assistant to each depart-
- 18 ment head, board, principal executive officer and commission;
- 19 i. Employees in the military or naval service of the State;

- 20 j. Student assistants;
- 21 k. Domestic employees in the Governor's household; and
- 22 l. All other titles as provided by law or as the board may
- 23 determine.

1 11A:3-5. Political subdivision unclassified service. The political  
 2 subdivision unclassified service shall not be subject to the pro-  
 3 visions of this title unless otherwise specified and shall include  
 4 the 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;
- 9 e. Physicians, surgeons and dentists;
- 10 f. Attorneys of a county, municipality or school district oper-  
 11 ating under this title;
- 12 g. Teaching staff as defined in N. J. S. 18A:1-1 in the public  
 13 schools and county superintendents and members and business  
 14 managers of boards of education;
- 15 h. Principal executive officers:
- 16 i. One secretary, clerk or executive director to each department,  
 17 board and commission authorized by law to make the appointment;
- 18 j. One secretary or clerk to each principal executive officer and  
 19 judge;
- 20 k. One deputy or first assistant to a principal executive officer  
 21 who is authorized by statute to act for and in place of the principal  
 22 executive officer;
- 23 l. No more than 12 county department heads and the heads of  
 24 divisions within such departments provided that the total number  
 25 of unclassified positions created by the county administrative  
 26 code pursuant to this subsection shall not exceed 20;
- 27 m. One secretary or confidential assistant to each unclassified  
 28 department or division head established in subsection (1);
- 29 n. Employees of county park commissions appointed pursuant  
 30 to R. S. 40:37-96 through R. S. 40:37-174 in counties of the  
 31 second class;
- 32 o. Directors of free public libraries in cities of the first class  
 33 having a population of more than 300,000;
- 34 p. One secretary to the municipal council in cities of the first  
 35 class having a population of less than 300,000;
- 36 q. One secretary or confidential assistant to each county free-  
 37 holder;
- 38 r. In school districts organized pursuant to N. J. S. 18A:17-1

39 et seq., the executive controller, public information officer and the  
 40 executive directors of board affairs, personnel, budget, purchasing,  
 41 physical facilities, data processing, financial affairs, and internal  
 42 audits;

43 s. The executive director, assistant executive director, director  
 44 of staff operations, director of administration, director of rede-  
 45 velopment and the urban initiatives coordinator of a local housing  
 46 authority; and

47 t. All other titles as provided by statute or as the board may  
 48 determine in accordance with criteria established by rule.

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

1 11A:3-7. Employee compensation. The commissioner shall estab-  
 2 lish, administer and amend an equitable State employee compensa-  
 3 tion plan which shall include pay schedules, the assignment and  
 4 reassignment of salaries for all State titles, and standards and pro-  
 5 cedures for salary adjustments other than as provided for in the  
 6 State compensation plan for the career, senior executive and un-  
 7 classified services. When an employee has erroneously received a  
 8 salary overpayment, the commissioner may waive repayment based  
 9 on a review of the case. Employees of political subdivisions are to  
 10 be paid in reasonable relationship to titles and shall not be paid a  
 11 base salary below the minimum or above the maximum established  
 12 salary for an employee's title.

1 11A:3-8. Payroll audits. The commissioner may audit State pay-  
 2 rolls of political subdivisions to determine compliance with this title.  
 3 The commissioner may order and enforce immediate compliance as  
 4 necessary.

## CHAPTER 4

### SELECTION AND APPOINTMENT

- 1 11A:4-1 Examinations.
- 2 11A:4-2 Holding of examinations.
- 3 11A:4-3 Admission to examinations.
- 4 11A:4-4 Eligible lists and certifications
- 5 11A:4-5 Use of eligible list.
- 6 11A:4-6 Duration of lists.
- 7 11A:4-7 Exceptions to duration of a list.
- 8 11A:4-8 Certification and appointment.
- 9 11A:4-9 Types of eligible lists.
- 10 11A:4-10 Arrests and criminal records.

11 11A:4-11 Removal on criminal record.

12 11A:4-12 Priority of lists.

13 11A:4-13 Types of appointment.

14 11A:4-14 Promotion.

15 11A:4-15 Working test period.

16 11A:4-16 Transfer, reassignment and lateral title change

1 11A:4-1. Examinations. The commissioner 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. The  
5 examinations may include, but are not limited to, written, oral, per-  
6 formance and evaluation of education and experience;

7 b. The rating of examinations;

8 c. The security of the examination process and appropriate sanc-  
9 tions 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 examina-  
17 tion and appointment process which shall include but not be limited  
18 to rejection of an application, failure of an examination and re-  
19 moval from an eligible list.

1 11A:4-2. Holding of examinations. A vacancy shall be filled by a  
2 promotional examination when considered by the commissioner to  
3 be in the best interest of the career service.

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

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

3 a. The establishment and cancellation of eligible lists;

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

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

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

1 11A:4-6. Duration of lists. The commissioner shall set the dura-  
2 tion of an eligible list which shall not be more than three years  
3 from the date of its establishment, except that it may be extended  
4 for good cause and a list shall not 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. The  
9 commissioner may revive a list to effect the appointment of an  
10 eligible whose working 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 police  
3 reemployment list and a fire reemployment list shall have unlimited  
4 duration

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

11 A certification that contains the names of at least three interested  
12 eligibles shall be complete and a regular appointment shall be made  
13 from among those eligibles. An eligible on an incomplete list shall  
14 be entitled to a provisional appointment if a permanent appoint-  
15 ment is not made.

16 Eligibles on any type of reemployment list shall be certified and  
17 appointed in the order of their ranking and the certification shall  
18 not 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 the  
10 service. The name of any such employee shall not remain on a  
11 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  
14 permanent 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; and

17 e. Special reemployment which shall include permanent em-  
18 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 an  
2 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 may be considered in such determina-  
6 tion:

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; and

12 e. Evidence of rehabilitation.

13 The presentation to an appointing authority of a pardon or  
14 expungement shall prohibit an appointing authority from rejecting  
15 an eligible based on such criminal conviction except for law enforce-  
16 ment, correction officer and other titles as determined by the com-  
17 missioner.

1 11A:4-12. Priority of lists. When more than one list exists, the  
2 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 lieu  
5 of layoff;

6 b. Promotional;

7 c. Special reemployment when the available position is located in  
8 a department other than that from which the eligible was laid off or  
9 demoted;

10 d. Regular reemployment, police reemployment or fire reemploy-  
11 ment; and

12 e. Open competitive.

1 11A:4-13. Types of appointment. The commissioner shall pro-  
2 vide for 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 or  
5 to a title in the noncompetitive division of the career service upon  
6 appointment. The appointments shall be permanent after satis-  
7 factory 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 pro-  
13 visional appointment will seriously impair the work of the appoint-  
14 ing authority;

15 c. Temporary appointments may be made, without regard to the  
16 provisions of this chapter, to temporary positions established for a  
17 period aggregating not more than six months in a 12 month period  
18 as approved by the commissioner. These positions include, but are  
19 not limited to, seasonal positions. Positions established as a result  
20 of a short term grant may be established for a maximum of 12  
21 months. Appointees to temporary positions shall meet the minimum  
22 qualifications of a title;

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

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

28 f. Unclassified appointments shall be made pursuant to N. J. S.  
29 11A:3-4 and N. J. S. 11A:3-5.

1 11A:4-14. Promotion. The commissioner shall establish the mini-  
2 mum qualifications for promotion and shall provide for the granting  
3 of credit for performance and seniority where appropriate.

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 A working test period is part of the examination process which



5 shall be served in the title to which the certification was issued and  
6 appointment made. The commissioner shall provide for :  
7 a. A working test period following regular appointment for not  
8 less than three months and not more than 12 months as set for a title  
9 except that the working test period for entry level law enforcement  
10 officer, correction officer and firefighter titles shall be for 12 months;  
11 b. The extension of the working test period for good cause pro-  
12 vided that the total duration shall not exceed 12 months;  
13 c. Progress reports to be made by the appointing authority and  
14 provided to the employee at the end of 1/3 and 2/3 of the working  
15 test period and a final progress report at the end of the entire  
16 working test period shall be provided to the employee and the com-  
17 missioner;  
18 d Termination of an employee at the end of the working test  
19 period and termination of an employee for cause during the work-  
20 ing test period; and  
21 e. The retention of permanent status in the lower title by a pro-  
22 moted employee during the working test period in the higher title  
23 and the right to return to such permanent title if the employee does  
24 not satisfactorily complete the working test period, but employees  
25 removed for cause during a working test period shall not be so  
26 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.  
2 11A:5-2 Spouse of disabled veteran or deceased veteran.  
3 11A:5-3 Parent and spouse of veteran who has died in service.  
4 11A:5-4 Disabled veterans preference.  
5 11A:5-5 Veterans preference.  
6 11A:5-6 Appointment of veterans.  
7 11A:5-7 Inapplication of statutes to promotions.  
8 11A:5-8 Preference in appointment in noncompetitive division.  
9 11A:5-9 Preference to veterans in layoffs.  
10 11A:5-10 Hearing on dismissal of veteran.  
11 11A:5-11 Veterans not to be discriminated against because of  
12 physical defects.  
13 11A:5-12 Employment or promotion of persons awarded Con-  
14 gressional Medal of Honor, Distinguished Service  
15 Cross, Air Force Cross or Navy Cross.

- 16 11A:5-13 World War soldiers in employment of a county, municipi-  
 17 pality or school district; promotion.  
 18 11A:5-14 Veteran police officer or firefighter in city of first class;  
 19 examination and promotion.  
 20 11A:5-15 Enforcement.

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 is  
 5 entitled to receive equivalent compensation for a service-connected  
 6 disability which arises out of military or naval service as set forth  
 7 in this chapter and who has submitted sufficient evidence of the  
 8 record of disability incurred in the line of duty to the commissioner  
 9 on or before the closing date for filing an application for an exam-  
 10 ination;

11 b. "Veteran" means any honorably discharged soldier, sailor,  
 12 marine or nurse who served in any army or navy of the allies of the  
 13 United States in World War I, between July 14, 1914 and November  
 14 11, 1918, or who served in any army or navy of the allies of the  
 15 United States in World War II, between September 1, 1939 and  
 16 September 2, 1945 and who was inducted into that service through  
 17 voluntary enlistment, and was a citizen of the United States at the  
 18 time of the enlistment, and who did not renounce or lose his or her  
 19 United States citizenship; or any soldier, sailor, marine, airman,  
 20 nurse or army field clerk, who has served in the active military or  
 21 naval service of the United States and has been discharged or re-  
 22 leased under other than dishonorable conditions from that service  
 23 in any of the following wars or conflicts and who has presented to  
 24 the commissioner sufficient evidence of the record of service on or  
 25 before the closing date for filing an application for an examination;

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

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

37 (3) Korean conflict, after June 23, 1950, who shall have served  
 38 at least 90 days beginning on or before July 27, 1953, in active

39 service, exclusive of any period assigned for a course in education or  
 40 training under the Army Specialized Training Program or the Navy  
 41 College Training Program, which course was a continuation of a  
 42 civilian course and was pursued to completion, or as a cadet or  
 43 midshipman at one of the service academies; except that any person  
 44 receiving an actual service-incurred injury or disability shall be  
 45 classed as a veteran whether or not that person has completed the  
 46 90-day service;

47 (4) Vietnam conflict, after December 31, 1960, who shall have  
 48 served at least 90 days beginning on or before August 1, 1974, in  
 49 active service, exclusive of any period assigned for a course of  
 50 education or training under the Army Specialized Training Pro-  
 51 gram or the Navy College Training Program, which course was a  
 52 continuation of a civilian course and was pursued to completion, or  
 53 as a cadet or midshipman at one of the service academies, and  
 54 exclusive of any service performed pursuant to the provisions of  
 55 section 511(d) of Title 10, United States Code, or exclusive of any  
 56 service performed pursuant to enlistment in the National Guard or  
 57 the Army Reserve, Naval Reserve, Air Force Reserve, Marine  
 58 Corps Reserve, or Coast Guard Reserve; except that any person  
 59 receiving an actual service-incurred injury or disability shall be  
 60 classed as a veteran whether or not that person has completed the  
 61 90-day service as provided;

62 c. "War service" means service by a veteran in any war or con-  
 63 flict described in this chapter during the periods specified.

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

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

1 11A:5-3. Parent and spouse of veteran who has died in service.  
 2 A parent and spouse of any veteran who died while in service and  
 3 who would have qualified under this chapter as a veteran, shall be  
 4 entitled to a disabled veterans preference. Where both a parent and  
 5 spouse survive, the exercise of the preference by one shall suspend  
 6 the right of any other so long as the first individual who exercises  
 7 preferences 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 order  
4 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 veteran  
2 or veteran shall be certified to an appointing authority from an open  
3 competitive employment list under the provisions of N. J. S.  
4 11A:4-8, the appointing authority shall appoint the disabled veteran  
5 or veteran in the order of ranking.

1 11A:5-7. Inapplication of statutes to promotions. Nothing  
2 contained in N. J. S. 11A:5-4 through 11A:5-7 shall apply to pro-  
3 motions but, whenever a veteran ranks highest on a promotional  
4 certification, a nonveteran shall not be appointed unless the  
5 appointing authority shall show cause before the board why a  
6 veteran should not receive such promotion.

1 11A:5-8. 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. In all  
7 cases, a disabled veteran shall have preference over all others.

1 11A:5-9. Preference to veterans in layoffs. When a layoff occurs,  
2 preference shall be given first to a disabled veteran and then to a  
3 veteran; but, the preference shall apply only where the disabled  
4 veteran or veteran has seniority in title equal to that of a non-  
5 veteran also affected by the layoff.

1 11A:5-10. Hearing on dismissal of veteran. Before any de-  
2 partment head shall dismiss any veteran, as provided in N. J. S.  
3 11A:5-9, such department head shall show cause before the board  
4 why such veteran should not be retained, at which time such veteran  
5 or veterans may be privileged to attend. The board shall be the  
6 sole judge of the facts constituting such qualification.

1 11A:5-11. Veterans not to be discriminated against because of  
2 physical defects. 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  
5 set forth in N. J. S. 11A:5-1 shall not be discriminated against  
6 in an examination, classification or appointment because of the

7 defect, unless this defect, in the opinion of the board, would in-  
 8 capacitate the veteran from properly performing the duties of the  
 9 office, 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  
 4 Army, Air Force, Navy, or Marine Corps of the United States  
 5 and who has been awarded the Congressional Medal of Honor,  
 6 the Distinguished Service Cross, Air Force Cross or Navy Cross,  
 7 while a resident of this State, shall be appointed or promoted  
 8 without complying with the rules of the board. The appointing  
 9 authority to whom the individual applies for appointment or pro-  
 10 motion shall, at its discretion, appoint or promote that person.  
 11 Upon promotion or appointment, that person shall become subject  
 12 to the rules of the board. A person who qualifies under this sec-  
 13 tion shall not be limited to only one appointment or promotion.

1 11A:5-13. World War soldiers in employment of a county,  
 2 municipality or school district; promotion. A soldier who served  
 3 in the Army of the United States during the war between the  
 4 United States and Germany, who holds the French medaille  
 5 militaire, the croix de guerre with palm, croix de guerre with  
 6 silver star, croix de guerre with bronze star and who was on  
 7 March 26, 1926, employed by any county, municipality or school  
 8 district operating under the provisions of this title shall be eligible  
 9 for promotion without complying with any of the rules or regu-  
 10 lations of the board. The head, or person in charge of the office  
 11 in which the person is employed, may promote such employee for  
 12 the good of the service as may in his judgment seem proper.

1 11A:5-14. Veteran police officer or firefighter in city of first  
 2 class; examination and promotion. A member of the police or  
 3 fire department in a city of the first class who is a veteran shall  
 4 be entitled to be admitted to the examination for promotion to  
 5 a superior rank and upon successfully passing such examination  
 6 shall be entitled to appointment in such superior rank, notwith-  
 7 standing the fact that such person may not have held the position  
 8 or rank held or occupied by him at the time of taking the examina-  
 9 tion for a period of two years, if the employee has or shall have  
 10 held or occupied the same for a period of one year.

1 11A:5-15. Enforcement. The board may promulgate rules for  
 2 the proper administration and enforcement of this chapter.

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

## CHAPTER 6

## LEAVES, HOURS OF WORK AND EMPLOYEE DEVELOPMENT

## ARTICLE 1

Leaves of Absence, Supplemental Compensation and  
Hours of Work

- 1 11A:6-1 Leaves.
- 2 11A:6-2 Vacation leave; full-time State employees.
- 3 11A:6-3 Vacation leave, full-time political subdivision em-
- 4 ployees.
- 5 11A:6-4 Death of employees having vacation credit.
- 6 11A:6-5 Sick leave.
- 7 11A:6-6 State administrative leave.
- 8 11A:6-7 Leaves for part-time employees.
- 9 11A:6-8 Sick leave injury in State service.
- 10 11A:6-9 Leaves of absence for police officers and firefighters.
- 11 11A:6-10 Convention leave of police officers and firefighters.
- 12 11A:6-11 Leave for athletic competition.
- 13 11A:6-12 Appointment by Governor; leave of absence without
- 14 pay.
- 15 11A:6-13 Elective office; leave of absence without pay; appoint-
- 16 ments to position; reemployment list.
- 17 11A:6-14 Eligibility for promotions during leave of absence.
- 18 11A:6-15 Supplemental compensation upon retirement in State
- 19 employment.
- 20 11A:6-16 Supplemental compensation; employees of Rutgers,
- 21 The State University of New Jersey, New Jersey
- 22 Institute of Technology and the University of Medi-
- 23 cine and Dentistry of New Jersey.
- 24 11A:6-17 Supplemental compensation; deferred retirement.
- 25 11A:6-18 Supplemental compensation; computation; limitation.
- 26 11A:6-19 Supplemental compensation; certification of accumu-
- 27 lated sick leave.
- 28 11A:6-20 Supplemental compensation; break in service.
- 29 11A:6-21 Supplemental compensation; ineligibility to other pen-
- 30 sion retirement benefits.
- 31 11A:6-22 Supplemental compensation; rules.
- 32 11A:6-23 Hours of work, overtime and holiday pay.

## ARTICLE 2

## Employee Programs

- 1 11A:6-24 State training programs.
- 2 11A:6-25 Employee career development.
- 3 11A:6-26 Political subdivisions.
- 4 11A:6-27 Employee performance evaluations.

20  
ARTICLE 3

Awards

- 1 11A:6-28 Awards Committee.
- 2 11A:6-29 Awards.
- 3 11A:6-30 Powers and duties of committee.
- 4 11A:6-31 Payment of awards.

ARTICLE 1

Leaves of Absence, Supplemental Compensation and  
Hours of Work

1 11A:6-1. Leaves. The board shall designate the types of leaves  
2 and adopt rules for State employees in the career and senior  
3 executive services regarding procedures for sick leave, vacation  
4 leave and all other designated leaves with or without pay as the  
5 board may designate. Any political subdivision subject to the  
6 provisions of this title shall prepare procedures regarding these  
7 items.

8 In all cases, a leave of absence with or without pay shall not  
9 exceed a period of one year at any one time unless renewal or  
10 extension is granted upon written approval of the commissioner.

1 11A:6-2. Vacation leave. Vacation leave; full-time State em-  
2 ployees. Vacation leave for full-time State employees in the career  
3 and senior executive service shall be:

4 a. Up to one year of service, one working day for each month  
5 of service;

6 b. After one year and up to five years of continuous service,  
7 12 working days;

8 c. After five years and up to 12 years of continuous service,  
9 15 working days;

10 d. After 12 years and up to 20 years of continuous service, 20  
11 working days;

12 e. Over 20 years of continuous service, 25 working days; and

13 f. Vacation not taken in a given year because of business de-  
14 mands shall accumulate and be granted during the next succeeding  
15 year only.

1 11A:6-3. Vacation leave; full-time political subdivision em-  
2 ployees. Vacation leave for full-time political subdivision em-  
3 ployees shall be:

4 a. Up to one year of service, one working day for each month  
5 of service;

6 b. After one year and up to 10 years of continuous service,  
7 12 working days;

8 c. After 10 years and up to 20 years of continuous service, 15  
9 working days;

10 d. After 20 years of continuous service, 20 working days: and

11 e. Vacation not taken in a given year because of business de-  
12 mands shall accumulate and be granted during the next succeeding  
13 year only.

1 11A:6-4. 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 compensa-  
4 tion for that vacation leave.

1 11A:6-5. 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 re-  
4 mainder of the first calendar year of service and 15 working days  
5 in every year thereafter. Unused sick leave shall accumulate  
6 without limit.

1 11A:6-6. State administrative leave. Administrative leave for  
2 personal reasons including religious observances for full-time  
3 State employees and those employees of Rutgers, The State Univer-  
4 sity, New Jersey Institute of Technology and the University of  
5 Medicine and Dentistry of New Jersey who perform services  
6 similar to those performed by employees of the New Jersey  
7 State Colleges who are in the career service shall be three working  
8 days per calendar year. Administrative leave shall not be cumula-  
9 tive and any administrative leave unused by an employee at the  
10 end of any year shall be cancelled.

1 11A:6-7. Leaves for part-time employees. Part-time employees  
2 shall receive proportionate vacation, sick and administrative leave.

1 11A:6-8. Sick leave injury in State service. Leaves of absence  
2 for career, senior executive and unclassified employees in State  
3 service due to injury or illness directly caused by and arising from  
4 State employment shall be governed by rules of the board. Any  
5 sick leave with pay shall be reduced by the amount of worker's  
6 compensation or disability benefits, if any, received for the same  
7 injury or illness.

1 11A:6-9. Leaves of absence for police officers and firefighters.  
2 Leaves of absence for police officer and firefighter titles shall be  
3 governed by the applicable provisions of Title 40A of the New  
4 Jersey Statutes and N. J. S. 11A:6-10.

1 11A:6-10. Convention leave for police officers and firefighters.  
2 A leave of absence with pay shall be given to every employee who  
3 is a duly authorized representative of the New Jersey Patrolmen'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 the organiza-  
8 tion. The leave of absence shall be for a period inclusive of the  
9 duration of the convention with a reasonable time allowed for  
10 travel to and from the convention. A certificate of attendance  
11 to the convention shall, upon request, be submitted by the re-  
12 presentative so attending.

1 11A:6-11. 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 re-  
8 tirement system of the State for the purpose of preparing for  
9 and engaging in the competition. The paid leave granted pursuant  
10 to this title 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:6-12. Appointment by Governor; leave of absence without  
2 pay. Any employee in the career or senior executive service who  
3 is appointed to any position pursuant to P. L. 1947, c. 14 (C.  
4 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  
8 and receive all of the rights, privileges and benefits of that title  
9 as if the employee had remained in that title.

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

14 All appointments to the position of that person during the period  
 15 of six years from the date the leave of absence commences shall be  
 16 made from eligible lists and the appointments shall, during such  
 17 six-year period, be held to be interim and shall be terminated on  
 18 the return to duty within the six-year period of the person to  
 19 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:6-14. Eligibility for promotions during leave of absence.  
 2 A leave of absence should not disqualify an applicant for a promo-  
 3 tional examination.

1 11A:6-15. 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 as  
 7 supplemental compensation for each full day of accumulated sick  
 8 leave which is credited on the effective date of retirement.

1 11A:6-16. Supplemental compensation; employees of Rutgers,  
 2 The State University, New Jersey Institute of Technology, and  
 3 the University of Medicine and Dentistry of New Jersey. The  
 4 supplemental compensation provided under this chapter shall also  
 5 be paid to each employee of Rutgers, The State University, New  
 6 Jersey Institute of Technology, and the University of Medicine  
 7 and Dentistry of New Jersey who performs services similar to  
 8 those performed by employees of the New Jersey State Colleges  
 9 who are in the career service or who have been granted sick leave  
 10 under terms and conditions similar to career service employees,  
 11 including those employees of the University of Medicine and  
 12 Dentistry of New Jersey who are members of the Newark Em-  
 13 ployees Retirement System.

1 11A:6-17. Supplemental compensation; deferred retirement. A  
 2 State employee who elects deferred retirement shall not be eligible  
 3 for the supplemental compensation provided under this chapter.

1 11A:6-18. Supplemental compensation, computation; limitation.  
 2 Supplemental compensation shall be computed at the rate of one-  
 3 half of the eligible employee's daily rate of pay for each day of  
 4 accumulated sick leave based upon the compensation received

5 during the last year of employment prior to the effective date of  
6 retirement, but, supplemental compensation shall not exceed  
7 \$12,000.00. If an employee dies after the effective date of retire-  
8 ment but before payment is made, payment shall be made to the  
9 employee's estate.

1 11A:6-19. Supplemental compensation; certification of accumu-  
2 lated sick leave. Upon application for supplemental compensation  
3 made by an employee, the appointing authority shall, within 45  
4 days, certify the number of accumulated sick days for which  
5 supplemental compensation is to be paid. Payment shall be made  
6 from a special State account established for this purpose.

1 11A:6-20. Supplemental compensation; break in service. An  
2 employee who has incurred or shall incur a break in service as a  
3 result of separation due to layoff shall be credited with sick leave  
4 accrued both before separation and after return to employment.  
5 An employee incurring a break in service for any other type of  
6 separation shall have sick leave computed only from the date of  
7 return to employment.

1 11A:6-21. Supplemental compensation; inapplicability to other  
2 pension retirement benefits. The supplemental compensation pro-  
3 vided for accumulated sick leave shall in no way affect, increase  
4 or decrease any pension or retirement benefits under any other  
5 statute.

1 11A:6-22. Supplemental compensation; rules. The board shall  
2 adopt rules for the implementation of supplemental compensation,  
3 which shall include but need not be limited to application and  
4 eligibility procedures.

1 11A:6-23. Hours of work, overtime and holiday pay. State  
2 employees in the career, senior executive and unclassified services  
3 in titles or circumstances designated by the board shall be eligible  
4 for overtime compensation and holiday pay. Overtime compensa-  
5 tion and holiday pay shall be either cash compensation at a rate  
6 representing  $1\frac{1}{2}$  times the employee's hourly rate of base salary  
7 or compensatory time off at a rate of  $1\frac{1}{2}$  hours for each hour  
8 worked beyond the regular workweek at the discretion of the  
9 department head with the approval of the commissioner.

10 The board shall adopt rules for the implementation of hours of  
11 work, overtime compensation and holiday pay programs which  
12 shall include but need not be limited to application and eligibility  
13 procedures.

## ARTICLE 2

## Employee Programs

1 11A:6-24. State training programs. The commissioner may  
2 establish and shall review and approve training and education  
3 programs for State employees in the career, senior executive and  
4 unclassified services and shall supervise a State training center  
5 with appropriate courses and fee schedules. Particular training  
6 may be required by the commissioner for certain employees for  
7 which an assessment to State departments may be imposed.

1 11A:6-25. 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:6-26. Political subdivisions. The commissioner may, at the  
2 request of any political subdivision, initiate programs similar to  
3 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:6-27. Employee performance evaluations. The commis-  
2 sioner shall establish an employee performance evaluation system  
3 for State employees in the career and senior executive service.  
4 The system shall utilize standards and criteria related to job  
5 content and program goals.

6 Political subdivisions may adopt employee performance evalua-  
7 tion systems for their employees.

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

## ARTICLE 3

## Awards

1 11A:6-28. 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  
4 composed 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 a  
 8 successor is appointed. No member shall serve more than two  
 9 consecutive full terms. Members shall serve without compensa-  
 10 tion but shall be entitled to sums incurred for necessary expenses.  
 11 The commissioner shall designate an employee of the department  
 12 as executive secretary to the committee.

1 11A:6-29. Awards. The committee, subject to appropriations  
 2 made for that purpose, may provide awards to State employees  
 3 for, but not limited to:

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

1 11A:6-30. Powers and duties of the committee. The committee  
 2 shall:

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

11 11A:6-31. Payment of awards. Suggestion awards shall be  
 12 paid from State funds appropriated for that purpose.

## CHAPTER 7

### EQUAL EMPLOYMENT OPPORTUNITY

- 1 11A:7-1 Equal employment opportunity.
- 2 11A:7-2 Division of Equal Employment Opportunity and
- 3 Affirmative Action.
- 4 11A:7-3 Equal employment opportunity and affirmative action
- 5 program.
- 6 11A:7-4 Agency goals.
- 7 11A:7-5 Department responsibilities.
- 8 11A:7-6 Agency affirmative action officer.
- 9 11A:7-7 Agency accountability for affirmative action plan.
- 10 11A:7-8 Agency affirmative action plan.
- 11 11A:7-9 Agency failure to achieve affirmative action goals;
- 12 penalties.

- 13 11A:7-10 Citation by Governor for attaining affirmative action  
 14 results.
- 15 11A:7-11 Equal Employment Opportunity Advisory Commis-  
 16 sion; creation.
- 17 11A:7-12 Equal Employment Opportunity Advisory Committee;  
 18 membership; term; vacancy; meetings; executive  
 19 secretary.
- 20 11A:7-13 Accommodation for the handicapped and examination  
 21 waiver.

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

10 The head of each State agency shall expore innovative personnel  
 11 policies in order to enhance these efforts and where appropriate  
 12 shall implement them to the fullest extent authorized. Where the  
 13 implementation of those 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 Affir-  
 2 mative Action. A division of Equal Employment Opportunity and  
 3 Affirmative Action is established in the department. The division  
 4 shall have all of the powers and shall exercise all of the functions  
 5 and duties set forth in this chapter, subject to the supervision and  
 6 control of the commissioner.

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

12 a. Ensure each State agency's compliance with all laws and rules  
 13 relating to equal employment opportunity and seek correction of  
 14 discriminatory practices, policies and procedures:

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

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

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.

26     f. Provide, under rules adopted by the board, for review of equal  
27 employment complaints.

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 prereq-  
15 uisites 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  
21 agencies.

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

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

1 11A:7-8. Agency affirmative action plan. Each State agency shall  
 2 submit 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 time  
 7 periods for the accomplishment of remedial action. Each State  
 8 agency shall make good faith efforts to meet its goals and time-  
 9 tables.

1 11A:7-9. Agency failure to achieve affirmative action goals:  
 2 penalties. If there is a failure by a State agency to achieve its  
 3 affirmative action goals, or to demonstrate good faith efforts, appro-  
 4 priate sanctions and penalties may be imposed by the department  
 5 in accordance with federal and State regulations, subject to the  
 6 concurrence of the Governor and the commissioner. These sanctions  
 7 may include, but are not limited to, placing a moratorium on depart-  
 8 mental personnel actions in the career, senior executive and un-  
 9 classified services, and such other sanctions as may be allowed by  
 10 law.

1 11A:7-10. Citation by Governor for attaining affirmative action  
 2 results. State agencies which achieve outstanding affirmative action  
 3 results shall be cited by the Governor for their efforts.

1 11A:7-11. Equal Employment Opportunity Advisory Commis-  
 2 sion; creation. There is established in the department an Equal  
 3 Employment Opportunity Advisory Commission which shall advise  
 4 the Division of Equal Employment Opportunity and Affirmative  
 5 Action and recommend improvements in the State's affirmative  
 6 action efforts.

1 11A:7-12. Equal Employment Opportunity Advisory Commis-  
 2 sion; membership; term; vacancy; meetings; executive secretary.  
 3 The Equal Employment Opportunity Advisory Commission shall  
 4 consist of 11 members appointed by the Governor, at least six of  
 5 whom shall be minorities, women and handicapped persons. Con-  
 6 sideration shall be given to appropriate representation of each  
 7 group. The remaining members of the commission may be com-  
 8 prised of State agency heads or their designated representatives  
 9 All members of the commission shall be residents of the State.  
 10 Members shall be appointed for staggered term of four years but  
 11 members appointed under section 10 of P. L. 1981, c. 124 (C.



12 11:2D-10) shall continue on the commission for the duration of  
 13 their respective terms. Each member shall hold office for the term  
 14 of the appointment and until a successor is appointed. Members  
 15 may not serve more than two consecutive terms. A vacancy in the  
 16 membership of the commission shall be filled by appointment by the  
 17 Governor for the remainder of the term. The commission shall  
 18 meet at least quarterly to review implementation of this chapter.  
 19 The Director of the Division of Equal Employment Opportunity  
 20 and Affirmative Action shall serve as executive secretary.

1 11A:7-13. Accommodation for the handicapped and examination  
 2 waiver. The commissioner may establish procedures for the reason-  
 3 able accommodation of handicapped persons in the employee selec-  
 4 tion process for the State and the political subdivisions covered by  
 5 this Title. Pursuant to rules adopted by the board, the commis-  
 6 sioner may waive an examination for an applicant who suffers from  
 7 a physical, mental or emotional affliction, injury, dysfunction, im-  
 8 pairment or disability which:

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

12 b. Does not prevent that person from satisfactorily performing  
 13 the responsibilities of the title under conditions of actual service;  
 14 and

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

## CHAPTER 8

### LAYOFFS

1 11A:8-1 Layoff.

2 11A:8-2 Pre-layoff actions.

3 11A:8-3 Alternatives to layoff.

4 11A:8-4 Appeals.

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

1 11A:8-2. Pre-layoff actions. The board shall adopt rules for  
2 preventive actions to lessen the possibility of a layoff or demotion  
3 of permanent employees.

1 11A:8-3. Alternatives to layoff. The commissioner, in consulta-  
2 tion with the advisory committee established pursuant to subsec-  
3 tion m. of N. J. S 11A:2-11, may recommend rules to the board on  
4 voluntary reduced worktime or other alternatives to layoffs. Em-  
5 ployee participation in the program shall not affect special reem-  
6 ployment or retention rights.

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 faith  
3 of such layoff or demotion to the board. Appeals must be filed  
4 within 20 days of final notice of such layoff or demotion. The burden  
5 of proof in such actions shall be on the employee and rules adopted  
6 pursuant to N. J. S. 11A:2-22 would also be applicable to these  
7 appeals.

## CHAPTER 9

### POLITICAL SUBDIVISIONS

1 11A:9-1 Application.

2 11A:9-2 Adoption of title; petition.

3 11A:9-3 Adoption of title; question placed on ballot; public  
4 notice.

5 11A:9-4 Refusal to comply.

6 11A:9-5 School districts.

7 11A:9-6 Adoption of title; elections.

8 11A:9-7 Results certified.

9 11A:9-8 Consolidation of functions.

10 11A:9-9 Status of employee;

11 11A:9-10 Seniority rights.

12 11A:9-11 Rescission of title; petition.

13 11A:9-12 Rescission of title; question placed on ballot; public  
14 notice.

15 11A:9-13 Rescission of title; elections.

16 11A:9-14 Rescission of title; results certified; effect of vote to  
17 rescind.

18 11A:9-15 Subsequent elections.

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 and the supplements thereto applied immediately prior to  
4 their repeal and to any political subdivision which hereafter  
5 adopts the provisions of this title.

1 11A:9-2. Adoption of title; petition. The clerk of any county or  
2 municipality not operating under the provisions of this title shall

3 submit the question of adopting the provisions of Title 11A of the  
4 New Jersey Statutes to the voters of the county or municipality  
5 upon the filing with the clerk of a petition requesting the adoption.  
6 The petition shall be signed by the registered voters of the county  
7 or municipality equal to 15% of the valid votes cast in the county  
8 or municipality during the last general election. Each name shall  
9 be signed in ink and the place of residence indicated by street and  
10 number or other description sufficient to identify the place. At-  
11 tached to each separate paper there shall be an affidavit of the  
12 circulator thereof that the circulator, and only the circulator,  
13 personally circulated the foregoing paper, that all signatures  
14 thereto were made in the circulator's presence, and that the  
15 circulator believes them to be genuine signatures of the persons  
16 whose names they purport to be. Within 10 days from the date of  
17 filing the petition, the clerk shall complete an examination and  
18 ascertain whether or not the petition is signed by the requisite  
19 number of qualified voters and shall attach to the petition a  
20 certificate showing the result of the examination.

1 11A:9-3. Adoption of title; question placed on ballot; public  
2 notice. If the petition is sufficient, the clerk shall, 15 days there-  
3 after, give public notice that the question will be submitted to the  
4 voters at the next general or municipal election. Public notice  
5 includes, but is not limited to, publication in the political sub-  
6 division's official newspaper once a week for at least four weeks  
7 and posting the notice in five of the most public places in the  
8 political subdivision for at least four weeks before the election.  
9 The clerk shall also cause the question to be printed upon the  
10 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.  
3 11A:9-3, a registered voter of the political subdivision or the  
4 commissioner may apply to a judge of the Superior Court in the  
5 county in which the political subdivision is located for an order  
6 directing and compelling the submission of the question involved  
7 in the petition. The judge shall hear the matter summarily. If  
8 the judge finds and determines that the petition is in accordance  
9 with law, an appropriate order shall be issued. Any clerk failing  
10 to comply with the order of the court, or any public official, officer,  
11 agent or employee interfering with, or preventing, such clerk from  
12 satisfying such order, shall be guilty of a crime of the fourth  
13 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  
 5 chapter as nearly as possible.

1 11A:9-6. Adoption of title; elections. The method of submitting  
 2 the question of the adoption of this title to the voters of a county  
 3 or municipality shall conform as nearly as possible to the provi-  
 4 sions of Title 19 of the Revised Statutes relating to the sub-  
 5 mission of public questions, and when submitted at a school district  
 6 election shall conform as nearly as possible to the provisions of  
 7 Title 18A of the New Jersey Statutes relating to the submission of  
 8 public questions in school 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 two  
 2 or more political subdivisions are consolidated, and any one of the  
 3 political subdivisions shall be operating under this title at the  
 4 time of such consolidation, the other political subdivision or sub-  
 5 divisions shall be deemed to have adopted this title with regard  
 6 to the combined functions.

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

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

1 11A:9-11. Rescission of title; petition. The clerk of any county,  
 2 municipality or school district operating under Title 11A of the  
 3 New Jersey Statutes shall submit to the voters of the political  
 4 subdivision at a general election in November the question of  
 5 rescinding the adoption of the provisions of Title 11A of the New  
 6 Jersey Statutes upon the filing with the clerk of a petition re-  
 7 questing the rescission. The petition shall be signed by the regis-  
 8 tered voters of the political subdivision equal in number to at  
 9 least 15% of the valid votes cast at the last general election in  
 10 November. Each name shall be signed in ink and the signer's place

11 of residence shall be indicated by street and number or other  
 12 description sufficient to identify the place. Attached to each sepa-  
 13 rate paper there shall be an affidavit of the circulator thereof that  
 14 the circulator, and only the circulator, personally circulated the  
 15 foregoing paper, that all signatures thereto were made in the  
 16 circulator's presence, and that the circulator believes them to be  
 17 genuine signatures of the persons whose names they purport to be.  
 18 Within 10 days from the date of filing the petition, the clerk shall  
 19 complete an examination and ascertain whether or not the petition  
 20 is signed by the requisite number of qualified voters and shall  
 21 attach to the petition a certificate showing the result of the  
 22 examination.

1 11A:9-12. Rescission of title: question placed on ballot; public  
 2 notice. If the petition is sufficient, the clerk shall, 15 days there-  
 3 after, give public notice that the question will be submitted to the  
 4 voters at the next general election in November. Public notice  
 5 includes publication in the political subdivision's official newspaper,  
 6 once a week for at least four weeks and posting the notice in five  
 7 of the most public places in the political subdivision for at least  
 8 four weeks before the election. The clerk shall also cause the  
 9 question to be printed upon the ballots to be used at the election.

1 11A:9-13. Rescission of title: elections. The method of sub-  
 2 mitting the question of the rescission of this title to the voters  
 3 of a political subdivision shall conform as nearly as possible to  
 4 the provisions of Title 19 of the Revised Statutes relating to the  
 5 submission of public questions.

1 11A:9-14. Rescission of title; results certified; effect of vote  
 2 to rescind. If the result of the election is favorable to the rescission  
 3 of the adoption of Title 11A, the result shall be certified by the  
 4 clerk to the commissioner. The rescission shall take effect three  
 5 months following the election at which it was approved. Perma-  
 6 nent employees in the career service on the effective date of the  
 7 rescission shall retain rights under this title.

1 11A:9-15. Subsequent elections. If a majority of the votes cast  
 2 at the election are against the rescission of Title 11A, a new elec-  
 3 tion within the political subdivision may not be held on the same  
 4 question before the third general election following the election  
 5 at which rescission was disapproved.

6 If a political subdivision rescinds the adoption of Title 11A, it  
 7 may not submit the question of adopting the provision of Title  
 8 11A for a period of three years following the election at which  
 9 the rescission was approved.

## CHAPTER 10

## VIOLATIONS AND PENALTIES

- 1 11A:10-1 Disapproval of salary.  
2 11A:10-2 Violation of title or order.  
3 11A:10-3 Noncompliance.  
4 11A:10-4 Board or commissioner action.  
5 11A:10-5 Resident actions.

1 11A:10-1. Disapproval of salary. The board or the commissioner  
2 may disapprove and order the payment stopped of the salary of  
3 any person employed in violation of this title or an order of the  
4 board or commissioner and recover all disapproved salary from  
5 such person. Any person or persons who authorizes the payment  
6 of a disapproved salary or have employment authority over the  
7 person whose salary has been disapproved may be subject to  
8 penalties, including, but not limited to, the disapproval of their  
9 salaries and payment from their personal funds of improper ex-  
10 penditures of the moneys as may be provided by the rules of the  
11 board. This section shall not be limited by the amounts set forth  
12 in N. J. S. 11A:10-3.

1 11A:10-2. Criminal violation of title or order. Any person who  
2 purposefully or knowingly violates or conspires to violate any  
3 provision of this title or board or commissioner order shall be  
4 guilty of a crime of the fourth degree.

1 11A:10-3. Noncompliance. The board or the commissioner may  
2 assess all administrative costs incurred under N. J. S. 11A:4-5.  
3 Other costs, charges and fines of not more than \$10,000.00 may  
4 be assessed for noncompliance or violation of this title or any  
5 order of the board or commissioner.

1 11A:10-4. Board or commissioner action. The board or the com-  
2 missioner may bring an action in the Superior Court for the en-  
3 forcement of this title or an order of the board or commissioner.

1 11A:10-5. Resident actions. Any resident shall have standing  
2 to enjoin payments in the Superior Court and require recovery  
3 of remuneration paid in violation of this title in the jurisdiction  
4 of residence, from the individuals signing, countersigning, autho-  
5 rizing or having employment authority for the payments. Moneys  
6 recovered in the action shall be paid from the personal funds of  
7 those individuals and shall be paid to the State Treasurer or the  
8 treasurer of the political subdivision as appropriate. The resi-  
9 dent shall be entitled to receive not more than 25% of the amount  
10 recovered and reasonable attorney fees at the discretion of the  
11 court.

CHAPTER 11  
AGENCY TRANSFER

- 1 11A:11-1 Commissioner of Personnel and Merit System Board.
- 2 11A:11-2 Department of Personnel.
- 3 11A:11-3 Names.
- 4 11A:11-4 Rules.
- 5 11A:11-5 Pending actions.
- 6 11A:11-6 Transfer.

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

6 The Commissioner of Personnel shall direct the consolidation  
7 and coordination of personnel, training and related functions in  
8 the executive branch of State government and transfer to the  
9 Department of Personnel such employees, positions, funding, equip-  
10 ment, powers, duties and functions from throughout the executive  
11 branch of State government to effectuate such consolidation and  
12 coordination.

1 11A:11-3. Names. Any law, rule, regulation, judicial or ad-  
2 ministrative proceeding, appropriation or otherwise which refers  
3 to the Department of Civil Service shall mean the Department  
4 of 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:11-4. Rules. All rules of the Civil Service Commission  
2 shall remain in effect except as changed or modified by this title  
3 or board action.

1 11A:11-5. Pending Actions. Any action pending on the effective  
2 date of this act shall continue under the prior law and rule.

1 11A:11-6. 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).

## CHAPTER 12

## MISCELLANEOUS

- 1 11A:12-1 Inconsistent laws.
  - 2 11A:12-2 Rights of current employees.
  - 3 11A:12-3 Statutes repealed.
  - 4 11A:12-4 Implementation.
  - 5 11A:12-5 Effective date.
- 1 11A:12-1. Inconsistent laws. Any law or statute which is in-
  - 2 consistent with any of the provisions of the title are, to the extent
  - 3 of the inconsistency, hereby superseded.
- 1 11A:12-2. Rights of current employees. Those employees with
  - 2 permanent classified status shall obtain permanent status in career
  - 3 service without loss of seniority or pension rights.
- 1 11A:12-3. Statutes repealed. The following statutes are re-
  - 2 pealed:
- 3 Title 11 of the Revised Statutes;
  - 4 P. L. 1938, c. 76 (C. 11:2A-1)
  - 5 P. L. 1938, c. 381, s. 10 (C. 11:27-13)
  - 6 P. L. 1939, c. 219 (C. 11:4-3.3)
  - 7 P. L. 1939, c. 232 (C. 11:24A-1 to 11:24A-6)
  - 8 P. L. 1939, c. 322 (C. 11:10-6.1)
  - 9 P. L. 1940, c. 15 (C. 11:4-3.4)
  - 10 P. L. 1940, c. 178 (C. 11:22-11.1)
  - 11 P. L. 1941, c. 91 (C. 11:4-3.5 and 11:4-3.6)
  - 12 P. L. 1941, c. 286 (C. 11:4-3.7)
  - 13 P. L. 1942, c. 65 (C. 11:20A-1)
  - 14 P. L. 1942, c. 137, s. 2 (C. 11:27-1.2)
  - 15 P. L. 1942, c. 253 (C. 11:24A-7)
  - 16 P. L. 1944, c. 65, s. 11 (C. 11:7-10)
  - 17 P. L. 1946, c. 148 (C. 11:24A-6.1 to 11:24A-6.3)
  - 18 P. L. 1946, c. 198 (C. 11:4-3.8 and 11:4-3.9)
  - 19 P. L. 1947, c. 201, ss. 2-4 (C. 11:14-3 to 11:14-5)
  - 20 P. L. 1947, c. 272 (C. 11:20A-2)
  - 21 P. L. 1948, c. 121, ss. 2-4,9 (C. 11:7-11 to 11:7-14)
  - 22 P. L. 1948, c. 121, ss. 6-8 (C. 11:22-50 to 11:22-52)
  - 23 P. L. 1948, c. 165 (C. 11:22-44.1 to 11:22-44.3)
  - 24 P. L. 1948, c. 257 (C. 11:21-5.1)
  - 25 P. L. 1948, c. 435 (C. 11:4-3.10)
  - 26 P. L. 1948, c. 466 (C. 11:22-44.4 and 11:22-44.5)
  - 27 P. L. 1950, c. 235 (C. 11:26B-1 to 11:26B-3)
  - 28 P. L. 1951, c. 278 (C. 11:21-5.2)
  - 29 P. L. 1951, c. 279 (C. 11:21-4.1)



- 30 P. L. 1952, c. 27 (C. 11:11-4)
- 31 P. L. 1952, c. 302 (C. 11:26C-1 to 11:26C-3)
- 32 P. L. 1952, c. 309 (C. 11:27-1.3)
- 33 P. L. 1952, c. 322, ss. 1 and 2 (C. 11:15-9 and 11:15-10)
- 34 P. L. 1952, c. 323, ss. 1 and 2 (C. 11:22-10.1 and 11:22-10.2)
- 35 P. L. 1953, c. 125 (C. 11:2C-1 to 11:2C-9)
- 36 P. L. 1953, c. 193 (C. 11:14-1.1)
- 37 P. L. 1953, c. 238 (C. 11:4-3.11)
- 38 P. L. 1953, c. 239 (C. 11:4-3.12)
- 39 P. L. 1953, c. 430 (C. 11:4-3.13 and 11:4-3.14)
- 40 P. L. 1954, c. 182 (C. 11:4-3.15)
- 41 P. L. 1954, c. 232 (C. 11:21-3.1)
- 42 P. L. 1955, c. 188 (C. 11:26C-4)
- 43 P. L. 1959, c. 88, s. 2 (C. 11:24A-1.1)
- 44 P. L. 1961, c. 18 (C. 11:26D-1)
- 45 P. L. 1962, c. 195 (C. 11:14-1.2)
- 46 P. L. 1962, c. 196 (C. 11:24A-1.2)
- 47 P. L. 1964, c. 169 (C. 11:27-1.4 and 11:27-1.5)
- 48 P. L. 1965, c. 46 (C. 11:21-5.3)
- 49 P. L. 1967, c. 199, s. 2 (C. 11:22-10.3)
- 50 P. L. 1968, c. 437 (C. 11:26C-5)
- 51 P. L. 1971, c. 1 (C. 11:21-4.2 and 11:21-4.3)
- 52 P. L. 1971, c. 153 (C. 11:1-20 to 11:1-24)
- 53 P. L. 1971, c. 274 (C. 11:1-25 to 11:1-28)
- 54 P. L. 1972, c. 74 (C. 11:14-6 to 11:14-8)
- 55 P. L. 1973, c. 130 (C. 11:14-9 to 11:14-17)
- 56 P. L. 1977, c. 160 (C. 11:24A-8 and 11:24A-9)
- 57 P. L. 1977, c. 261 (C. 11:9-10.1)
- 58 P. L. 1978, c. 81, s. 2 (C. 11:22-2.1)
- 59 P. L. 1978, c. 99 (C. 11:14-18)
- 60 P. L. 1978, c. 147 (C. 11:22-44.6)
- 61 P. L. 1980, c. 134 (C. 11:22-34.1)
- 62 P. L. 1981, c. 92 (C. 11:21-5.4)
- 63 P. L. 1981, c. 124 (C. 11:2D-1 to 11:2D-10)
- 64 P. L. 1981, c. 204 (C. 11:9-15 to 11:9-18)
- 65 P. L. 1981, c. 205 (C. 11:23-10 to 11:23-13)
- 66 P. L. 1981, c. 439 (C. 11:22-10.4)
- 67 P. L. 1981, c. 545, s. 3 (C. 11:21-9.1)
- 68 P. L. 1982, c. 181, ss. 2, 1 (C. 11:1-1.1 and C. 11:2-8)
- 69 P. L. 1983, c. 167 (C. 11:22-44.7 and 11:22-44.8)
- 70 P. L. 1983, c. 178 (C. 11:27-4.1)
- 71 P. L. 1983, c. 252 (C. 11:4-3.16)

- 72 P. L. 1983, c. 280 (C. 11:9-2.1 to 11:9-2.4)  
 73 P. L. 1983, c. 319 (C. 11:9-17.1)  
 74 P. L. 1984, c. 32 (C. 11:21-4.4)  
 75 P. L. 1984, c. 143 (C. 11:22-3.1)  
 76 P. L. 1984, c. 204 (C. 11:22-44.9 and 11:22-44.10)  
 77 P. L. 1985, c. 339 (C. 11:24A-2.1)  
 78 P.L. 1985, c. 484 (C. 11:21-5.5)
- 1 11A:12-4. Implementation. There is appropriated \$250,000.00  
 2 to implement this act.
- 1 11A:12-5. Effective date. This act shall take effect immediately  
 2 and any actions necessary to implement this act may be taken any  
 3 time thereafter. General implementation is to be completed no  
 4 later than twelve months following enactment.

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#### STATEMENT

This bill would repeal the current Civil Service statutes under Title 11 of the Revised Statutes and enact a new title to be known as Title 11A of the New Jersey Statutes establishing a new Department of Personnel which would be composed of a Merit System Board and a Commissioner of Personnel.

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#### STATE EMPLOYEES AND CIVIL SERVICE

Repeals the current Civil Service statutes and enacts new Title 11A, establishing a new Department of Personnel.

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ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2194

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MARCH 6, 1986

The committee reports this bill favorably.

Assembly Bill No. 2194 (OCR) establishes a Department of Personnel and repeals the current Civil Service statutes. The bill regulates the employment, tenure and discharge of certain State employees, enacts a new title, known as Title 11A and makes an appropriation.

FISCAL IMPACT:

The Department of Civil Service indicated that the appropriation of \$250,000.00 for implementation will be expended as follows:

1—3 new employees to develop new regulations and procedures .....	\$ 90,000
2—Consultant and management services for title allocations and Senior Executive Service .....	60,000
3—Printing/distribution of booklets, etc. ....	70,000
4—Consultant and management service for Department analysis and organization plan .....	30,000
<b>Total</b> .....	<b>\$250,000</b>

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2194**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: MARCH 6, 1986

The Assembly State Government Committee reports favorably and with committee amendments Assembly Bill No. 2194.

This bill, the "Civil Service Act," would repeal Title 11 of the Revised Statutes and enact in its place a new civil service law, Title 11A of the New Jersey Statutes.

The bill would replace the Department of Civil Service with a new Department of Personnel. The new department would consist of a Merit System Board, a Commissioner of Personnel, a Division of Equal Employment Opportunity and Affirmative Action, and such other subdivisions and employees as may be established under authority conferred by law.

The Merit System Board would consist of five members, including the Commissioner of Personnel, serving ex officio as chairperson, and four other members appointed by the Governor with the advice and consent of the Senate. The four appointed members would serve staggered terms of four years. The general powers of the board would include the power to hear appeals brought by permanent career employees and those in their working test period on termination and disciplinary actions. The board would also hear other appeals not delegated to the commissioner and have the power to provide for interim relief in pending appeals. Finally, the Merit System Board would adopt and enforce rules to implement the civil service statute.

The Commissioner of Personnel would be appointed by the Governor with the advice and consent of the Senate and would serve at the Governor's pleasure. The commissioner's general powers and duties would include: serving as the chief executive officer of the Department of Personnel; establishing and supervising the employee selection and performance evaluation processes; and hearing appeals from classification, salary, layoff rights and, in the State service, noncontractual grievances. The commissioner could delegate to an appointing authority the responsibility for classifying positions, administering examinations and other technical personnel functions, but could not dele-

gate any function of the Merit Service Board. The commissioner could assign department staff to assist an appointing authority in performing the personnel functions delegated to it.

The bill establishes general procedural guidelines for the commencement and the review of disciplinary actions.

The Merit System Board would assign titles of positions in the State and local government service among the career service, a new senior executive service, and the unclassified service. The career service would be composed of a competitive division and a noncompetitive division. The senior executive service would be established in accordance with rules adopted by the board and would not be subject to the provisions of the civil service law; it would be composed of noncareer and career service employees, with the former accounting for not more than 15% of the total number of employees in the senior executive service. Employees eligible to enter the senior executive service from the permanent career service could, if they wished, retain their positions in the career service, and a permanent career service employee who joined the senior executive service would, upon separation therefrom, have the right of reinstatement in the career service. The unclassified service would consist of persons holding various specified positions, including elective public office. The senior executive service and the nonclassified service would not be subject to the provisions of the civil service law.

Employee compensation would be governed by a compensation plan established, administered and amended by the commissioner. The commissioner would also have the responsibility of providing for examinations. Preference for admission to the examination would be accorded to State residents. On the basis of examination results, lists of persons eligible for appointment to public service positions would be prepared. The three eligibles receiving the highest rank on an open competitive or promotional list would be certified by the commissioner for regular appointment. Eligibles on any type of reemployment list would be certified and appointed in the order of their ranking. The current provisions of law regarding preference to veterans in the establishment of eligible lists would be retained.

The bill provides explicitly that working test periods would be considered part of the examination process. The bill provides that a test period for law enforcement and corrections officer and firefighter titles would be 12 months in length; test periods for other titles would be three to 12 months long, as set by the commissioner.

The bill would require the head of each State agency to ensure equality of opportunity for all of its employees and applicants for employment. A Division of Equal Employment Opportunity and Affirmative Action would be established to develop and administer an equal

employment and affirmative action program for State agencies. The director of the division would be charged with responsibility for ensuring that the goals of the program for minorities, women and the handicapped be reasonably related to their population in the relevant labor market area.

The bill would explicitly prohibit an appointing authority from taking or threatening to take reprisal action against an employee in retaliation for his lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority.

The committee amended the bill to:

(1) Require that the annual report of the commissioner indicate the total number of senior executive service appointees, and the number of those appointees who are noncareer employees, in employment as of the last day of each calendar quarter;

(2) Clarify that the commissioner's power of delegating to appointing authorities his responsibility for personnel functions extends only to technical functions;

(3) Authorize the Merit System Board, following disposition of an employee's appeal of a disciplinary action, to award seniority, as well as back pay, benefits and attorney fees;

(4) Prohibit union-covered titles from being included in the senior executive service;

(5) Reduce from five years to four years the maximum duration of eligible lists, other than reemployment lists, and clarify that extension of such lists shall be the responsibility of the commissioner;

(6) Clarify the applicability to fire officer titles, as well as to law enforcement and correction officer titles, of the provisions of the bill regarding the questioning of eligibles as to any arrest and the authorization of an appointing authority to reject an eligible based on a criminal conviction notwithstanding presentation of a pardon or expungement;

(7) Protect employees already undergoing a working test on the date on which the bill takes effect as law from being subject to the revised provisions concerning the working test period;

(8) Increase from \$12,000.00 to \$15,000.00 the maximum amount of supplemental compensation payable to a retiring employee for accumulated unused sick leave;

(9) Allow actions in Superior Court for enforcement of the new title to be brought by any interested party, and not only the Merit System Board or Commissioner of Personnel; and

(10) Provide explicitly that enactment of the proposed law should not be construed to expand or diminish collective negotiations rights under the "New Jersey Employer-Employee Relations Act."

ASSEMBLY, No. 2194

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1986

By Assemblymen VILLANE, RAFFERTY, Assemblywoman DONOVAN, Assemblyman MUZIANI, Assemblywoman OGDEN, Assemblyman SINGER and Assemblywoman RANDALL

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; revising parts of the statutory law; enacting a new title to be known as Title 11A, Civil Service, of the New Jersey Statutes and making an appropriation.

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

TITLE 11A

CIVIL SERVICE

Table of Contents

Chapter

- 1 1. General provisions, 11A:1-1 to 11A:1-2.  
2 2. Department of Personnel, 11A:2-1 to 11A:2-24.

Article

- 3 1. Organization, 11A:2-1 and 11A:2-2.  
4 2. Merit System Board, 11A:2-3 to 11A:2-7.  
5 3. Commissioner of Personnel, 11A:2-8 to 11A:2-12.  
6 4. Appeals, 11A:2-13 to 11A:2-22.  
7 5. Political activity, 11A:2-23.  
8 6. Employee protection against reprisals, 11A:2-24.

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted March 6, 1986.

\*\*—Assembly amendments adopted March 10, 1986.

- 9 3. Classification, services and compensation, 11A:3-1 to 11A:3-8.  
10 4. Selection and appointment, 11A:4-1 to 11A:4-16.  
11 5. Veterans preference, 11A:5-1 to 11A:5-13.  
12 6. Hours of work, leaves and employee development, 11A:6-1 to  
13 11A:6-30.

#### Article

- 14 1. Hours of work and leaves of absence and supplemental  
15 compensation, 11A:6-1 to 11A:6-22.  
16 2. Employee programs, 11A:6-23 to 11A:6-26.  
17 3. Awards, 11A:6-27 to 11A:6-30.  
18 7. Equal employment opportunity, 11A:7-1 to 11A:7-13.  
19 8. Layoffs, 11A:8-1 to 11A:8-4.  
20 9. Political subdivisions, 11A:9-1 to 11A:9-15.  
21 10. Violations and penalties, 11A:10-1 to 11A:10-4.  
22 11. Agency transfer, 11A:11-1 to 11A:11-7.  
23 12. Miscellaneous, 11A:12-1 to 11A:12-3.

### CHAPTER 1

#### GENERAL PROVISIONS

##### Section

- 1 11A:1-1 Short title.  
2 11A:1-2 Declaration of policy.  
1 11A:1-1. Short title. This title shall be known and may be cited  
2 as the "Civil Service Act."  
1 11A:1-2. Declaration of policy. The Legislature finds and  
2 declares that:  
3 a. It is the public policy of this State to select and advance  
4 employees on the basis of their relative knowledge, skills and  
5 abilities;  
6 b. It is the public policy of this State to provide public officials  
7 with appropriate appointment, supervisory and other personnel  
8 authority to execute properly their constitutional and statutory  
9 responsibilities;  
10 c. It is the public policy of this State to encourage and reward  
11 meritorious performance by employees in the public service and to  
12 retain and separate employees on the basis of the adequacy of  
13 their performance; **\*\*[and]\*\***  
14 d. It is the public policy of this State to ensure equal employ-  
15 ment opportunity at all levels of the public service **\*\*[.]\*\***; and **\*\***  
16 *\*\*e. It is the public policy of this State to protect career public*  
17 *employees from political coercion and to ensure the recognition of*  
18 *such bargaining and other rights as are secured pursuant to other*  
19 *statutes and the collective negotiations law.\*\**



## CHAPTER 2

## DEPARTMENT OF PERSONNEL

## ARTICLE 1

## Organization

## Section

- 1 11A:2-1 Department of Personnel created.
- 2 11A:2-2 Implementation.

## ARTICLE 2

## Merit System Board

- 1 11A:2-3 Members; term; quorum; vacancies.
- 2 11A:2-4 Removal of a board member other than commissioner.
- 3 11A:2-5 Compensation.
- 4 11A:2-6 Powers and duties.
- 5 11A:2-7 Subpenas; oaths.

## ARTICLE 3

## Commissioner of Personnel

- 1 11A:2-8 Commissioner of Personnel.
- 2 11A:2-9 Term.
- 3 11A:2-10 Compensation.
- 4 11A:2-11 Powers and duties.
- 5 11A:2-12 Delegation.

## ARTICLE 4

## Appeals

- 1 11A:2-13 Opportunity for appointing authority review.
- 2 11A:2-14 Notice of employee of right of appeal.
- 3 11A:2-15 Appeal procedure.
- 4 11A:2-16 Appeal procedure for suspension or fine of five days
- 5 or less.
- 6 11A:2-17 Immunity.
- 7 11A:2-18 Representation.
- 8 11A:2-19 Authority to increase or decrease penalty imposed.
- 9 11A:2-20 Forms of disciplinary action.
- 10 11A:2-21 Burden of proof.
- 11 11A:2-22 Back pay, benefits and reasonable attorney fees.

## ARTICLE 5

## Political Activity

- 1 11A:2-23 Political activity limited.

## ARTICLE 6

## Employee Protection Against Reprisals

- 1 11A:2-24 Protection against reprisals.

## 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 Per-  
 5 sonnel, subdivisions and officers and employees as specifically  
 6 referred to in this title and as may be constituted or employed by  
 7 virtue of the authority conferred by this title or any other law.  
 8 For the purposes of this title, "board" means Merit System Board,  
 9 "commissioner" means the Commissioner of Personnel and "de-  
 10 partment" means the Department of Personnel.

1 11A:2-2. Implementation. The department shall implement and  
 2 enforce this title.

## ARTICLE 2

## Merit System Board

1 11A:2-3. Members; term; quorum; vacancies. The Merit Sys-  
 2 tem Board shall consist of five members, one of whom shall be the  
 3 Commissioner of Personnel who shall serve as the chairperson.  
 4 The other members shall be appointed by the Governor with the  
 5 advice and consent of the Senate for staggered terms of four years  
 6 and until the appointment and qualification of their successors.  
 7 Three members of the board shall constitute a quorum.

8 The holding over of an incumbent beyond the expiration of the  
 9 term of office shall reduce, in commensurate length, the term of  
 10 office of a successor. Vacancies shall be filled for the unexpired  
 11 term in the same manner as original appointments. No member  
 12 shall hold any other State or federal 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 cause, upon notice and an oppor-  
 4 tunity to be heard. A board member removed from office shall be  
 5 entitled to receive compensation only up to the date of the 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 shall:  
 3 a. After a hearing, render the final administrative decision on  
 4 appeals concerning permanent career service employees or those  
 5 in their working test period in the following categories:

- 6 (1) Removal,
- 7 (2) Suspension or fine as prescribed in N. J. S. 11A:2-14,
- 8 (3) Disciplinary demotion, and
- 9 (4) Termination at the end of the work test period for unsatis-  
10 factory performance.
- 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 h. of N. J. S.  
14 11A:2-11;
- 15 c. Provide for interim remedies or relief in a pending appeal  
16 where warranted;
- 17 d. Adopt and enforce rules to carry out this title and to effec-  
18 tively implement a comprehensive personnel management system;
- 19 e. Interpret the application of this title to any public body or  
20 entity; and
- 21 f. Authorize and conduct such studies, inquiries, investigations  
22 or hearings in the operation of this title as it deems necessary.
- 1 11A:2-7. Subpenas, oaths. The commissioner or the board  
2 may subpoena and require the attendance of witnesses in this State  
3 and the production of evidence or documents relevant to any  
4 proceeding under this title. Those persons may also administer  
5 oaths and take testimony. Subpenas issued under this section  
6 shall be enforceable by order of the Superior 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  
2 of the Governor.
- 1 11A:2-10. Compensation. The commissioner shall receive a  
2 salary as fixed by law and shall also be entitled to sums incurred  
3 for 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 title  
3 or any other law, the commissioner:
- 4 a. Shall be the principal executive and request officer of the  
5 department allocating the functions and activities of the depart-  
6 ment among departmental subdivisions as the commissioner may  
7 establish;
- 8 b. May appoint one deputy commissioner who shall be in the

9 unclassified service and may appoint other necessary employees.

10 All employees shall be confidential employees for the purposes of

11 the "New Jersey Employer-Employee Relations Act" (P. L. 1941,

12 c. 100; C. 34:13A-1 *et seq.*, as amended);

13 c. Shall maintain a management information system necessary

14 to carry out the provisions of this title;

15 d. Shall have the authority to audit payrolls, reports or trans-

16 actions for conformity with the provisions of this title;

17 e. Shall plan, evaluate, administer and implement personnel

18 programs and policies in State government and political subdivi-

19 sions operating under this title;

20 f. Shall establish and supervise the selection process and em-

21 ployee performance evaluation procedures;

22 g. Shall develop programs to improve efficiency and effectiveness

23 of the public service, including, but not limited to, employee

24 training, development, assistance and incentives;

25 h. Shall set standards and procedures for review and render

26 the final administrative decision on a written record or after

27 recommendation by an independent reviewer assigned by the com-

28 missioner of appeals from classification, salary, layoff rights and

29 in the State service noncontractual grievances;

30 i. May establish pilot programs and other projects for a maxi-

31 mum of one year outside of the provisions of this title;

32 j. Shall provide for a public employee interchange program

33 pursuant to the "Government Employee Interchange Act of 1967,"

34 P. L. 1967, c. 77 (C. 52:14-6.10 *et seq.*) and may provide for an

35 employee interchange program between public and private sector

36 employees;

37 k. May establish an internship program;

38 l. Shall assist the Governor in general workforce planning,

39 personnel matters and labor relations;

40 m. Shall establish and consult with advisory boards representing

41 political subdivisions, personnel officers, labor organizations and

42 other appropriate groups;

43 n. Shall make an annual report to the Governor and Legislature

44 and all other special or periodic reports as may be required\*. *The*

44A *annual report shall indicate the number of persons, by title, who,*

44B *on March 31, June 30, September 30, and December 31 of each year,*

44C *held appointments to positions in the senior executive service and*

44D *the number of noncareer employees, by title, who, on those same*

44E *dates, held appointments to positions in the senior executive ser-*

44F *vice\*;*

45 o. Shall have the authority to assess costs for special or other  
46 services; and

47 p. Shall recommend rules to the board for the implementation of  
48 this title.

1 11A:2-12. Delegation. The commissioner may delegate to an  
2 appointing authority the responsibility for classifying positions,  
3 administering examinations and other *technical* personnel func-  
4 tions according to prescribed standards, but the commissioner may  
5 not delegate any function of the board.

6 This delegation shall be written and shall conform to the provi-  
7 sions 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. The employees shall  
10 continue as employees of the department. All delegation shall be  
11 subject to supervision by the commissioner and post-audit and may  
12 be cancelled, modified or limited at any time by the commissioner.

#### ARTICLE 4

##### Appeals

1 11A:2-13. **\*\*[Opportunity for appointing authority review. Be-**  
2 **fore any disciplinary action in subsections a. (1), (2) and (3) of**  
3 **N. J. S. 11A:2-6 is taken against a permanent employee in the**  
4 **career service or a person serving a working test period, the em-**  
5 **ployee shall be notified in writing and a review shall be held before**  
6 **the appointing authority or its designated representative. The**  
7 **review shall be held within 30 days of the notice of disciplinary**  
8 **action unless both parties consent to an adjournment to a later**  
9 **date. The board shall establish, by rule, procedures for suspen-**  
10 **sions with or without pay.]\*\* *Opportunity for appointing au-***  
11 ***thority hearing. Before and disciplinary action in subsection a.***  
12 ***(1), (2) and (3) of N. J. S. 11A:2-6 is taken against a permanent***  
13 ***employee in the career service or a person serving a working test***  
14 ***period, the employee shall be notified in writing and shall have the***  
15 ***opportunity for a hearing before the appointing authority or its***  
16 ***designated representative. The hearing shall be held within 30 days***  
17 ***of the notice of disciplinary action unless waived by the employee.***  
18 ***Both parties may consent to an adjournment to a later date.***

19 *This section shall not prohibit the immediate suspension of an*  
20 *employee without a hearing if the appointing authority determines*  
21 *that the employee is unfit for duty or a hazard to any person if*  
22 *allowed to remain on the job or an immediate suspension is neces-*  
23 *sary to maintain safety, health, order, or effective direction of*  
24 *public services. In addition, where a suspension is based on a formal*  
25 *charge of the crime of the first, second or third degree, or a crime*

26 *of the fourth degree if committed on the job or directly related to*  
 27 *the job, the suspension may be immediate and continue until a dis-*  
 28 *position of the charge. The board shall establish, by rule, proce-*  
 29 *dures for hearings and suspensions with or without pay.\*\**

1 11A:2-14. Notice to employee of right to appeal. Within 20  
 2 days of the **\*\*[review]\*\* \*\*hearing\*\*** provided in N. J. S. 11A:2-13,  
 3 the appointing authority shall make a final disposition of the  
 4 charges against the employee and shall furnish the employee with  
 5 written notice. If the appointing authority determines that the  
 6 employee is to be removed, demoted or receive a suspension or a  
 7 fine greater than five days, the employee shall have a right to ap-  
 8 peal to the board. The suspension or fine of an employee for five  
 9 days or less shall be appealable if an employee's aggregate number  
 10 of days suspended or fined in any one calendar year is 15 days or  
 11 more. Where an employee receives more than three suspensions or  
 12 fines of five or less days in a calendar year, the last suspension or  
 13 fine is appealable.

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

1 11A:2-16. Appeal procedure for suspension or fine of five days  
 2 or less. If a State employee receives a suspension or fine of five  
 3 days or less, the employee may request review by the board under  
 4 standards and procedures established by the board or appeal pur-  
 5 suant to an alternate appeal procedure where provided by a  
 6 negotiated contract provision. If an employee of a political sub-  
 7 division receives a suspension or fine of five days or less, the  
 8 employee may request review under standards and procedures  
 9 established by the political subdivision or appeal pursuant to an  
 10 alternate appeal procedure where provided by a negotiated con-  
 11 tract provision.

1 11A:2-17. Use immunity. A person shall not be excused from  
 2 testifying or producing evidence on the ground that the testimony  
 3 or the evidence might tend to incriminate the person, but an  
 4 answer shall not be used or admitted in any proceeding against  
 5 the person, except in a prosecution for perjury. The foregoing  
 6 use immunity shall not be granted without prior written approval  
 7 by the Attorney General.

1 11A:2-18. Representation. An employee may be represented

2 at any hearing before an appointing authority or the board by  
3 an attorney or authorized union representative.

1 11A:2-19. Authority to increase or decrease penalty imposed.  
2 The board may increase or decrease the penalty imposed by the  
3 appointing authority, but removal shall not be substituted for a  
4 lesser penalty.

1 11A:2-20. Forms of disciplinary action. The board shall es-  
2 tablish by rule the general causes which constitute grounds for  
3 disciplinary action and the kinds of disciplinary action which may  
4 be taken by appointing authorities against permanent career ser-  
5 vice employees or those serving in their working test period.

1 11A:2-21. Burden of proof. In categories listed in subsection  
2 a.(1), (2) and (3) of N. J. S. 11A:2-6, the employer shall have  
3 the burden of proof while in category (4), the employee shall have  
4 the burden of proof.

1 11A:2-22. Back pay, benefits\*, seniority\* and reasonable attor-  
2 ney fees. The board may award back pay, benefits\*\*, seniority\*\*  
3 and reasonable attorney fees to an employee as provided by rule.

#### ARTICLE 5

##### Political Activity

1 11A:2-23. Political activity limited. A person holding a posi-  
2 tion in the career service or senior executive service shall not  
3 directly or indirectly use or seek to use the position to control  
4 or affect the political action of another person or engage in political  
5 activity during working hours.

#### ARTICLE 6

##### Employee Protection Against Reprisals

1 11A:2-24. Protection against reprisals. An appointing authority  
2 shall not take or threaten to take any action against an employee  
3 in the career, senior executive or unclassified service in retaliation  
4 for an employee's lawful disclosure of information on the violation  
5 of any law or rule, governmental mismanagement or abuse of  
6 authority. An employee who is the subject of a reprisal action by  
7 an appointing authority for the lawful disclosure of information  
8 may appeal such action to the board.

#### CHAPTER 3

##### CLASSIFICATION, SERVICES AND COMPENSATION

1 11A:3-1 Classification.  
2 11A:3-2 Career Service.  
3 11A:3-3 Senior executive service.  
4 11A:3-4 State unclassified service.

- 5 11A:3-5 Political subdivision unclassified service.
- 6 11A:3-6 Public hearing required when moving title from career
- 7 to unclassified service.
- 8 11A:3-7 Employee compensation.
- 9 11A:3-8 Payroll audits.

1 11A:3-1. Classification. The board shall assign and reassign  
 2 titles among the career service, senior executive service and un-  
 3 classified 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;
- 7 b. Establish and abolish titles;
- 8 c. Ensure the grouping in a single title of positions with similar
- 9 qualifications, authority and responsibility;
- 10 d. Assign and reassign titles to appropriate positions; and
- 11 e. 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 commissioner shall assign and reassign such titles to each  
 4 division and may provide for movement, including promotion,  
 5 of employees from one division to the other.

1 11A:3-3. Senior executive service. A senior executive service  
 2 shall be established in State government and include those posi-  
 3 tions having substantial managerial, policy influencing or policy  
 4 executing responsibilities as determined by the board. *\*Titles in-*  
 5 *cluded in a collective negotiations unit shall not be included in the*  
 6 *senior executive service.\** The board shall adopt rules providing  
 7 for the selection, placement, transfer, development, compensation,  
 8 separation and performance appraisal of senior executive service  
 9 employees and for the reinstatement of career service employees  
 10 to the career service. The senior executive service shall not be  
 11 subject to the provisions of this title unless otherwise specified.  
 12 The senior executive service shall include noncareer and career  
 13 service employees. The number of noncareer employees shall not  
 13A exceed 15% of the entire senior executive service workforce.

14 Where an employee holds permanent career service status in a  
 15 position in a title that is assigned to the senior executive service,  
 16 the employee, with appointing authority approval, shall be pro-  
 17 vided the option of joining the senior executive service. Permanent  
 18 career service employees who opt not to join the senior executive  
 19 service or who do not receive approval to join the senior executive  
 20 service shall have a right to reinstatement to the career service



21 to a level directly under the senior executive service. Permanent  
 22 career service employees who join the senior executive service  
 23 and who are later separated from the senior executive service  
 24 shall have a right of reinstatement to the career service to a level  
 25 held prior to entry in the senior executive service unless the  
 26 employee has been separated, after opportunity for hearing, from  
 27 the senior executive service for reasons which constitute cause for  
 28 removal from the career service.

1 11A:3-4. State unclassified service. The State unclassified ser-  
 2 vice shall not be subject to the provisions of this title unless other-  
 3 wise 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. Physicians, surgeons and dentists;
- 10 f. Superintendents, teachers and instructors in the public
- 11 schools, the agricultural experiment station and State institu-
- 12 tions, where certified teachers are employed under the supervision
- 13 of and qualified by the State Department of Education, and other
- 14 institutions maintained wholly or in part by the State;
- 15 g. Assistant and Deputy Attorneys General and legal assistants
- 16 appointed by the Attorney General;
- 17 h. One secretary and one confidential assistant to each depart-
- 18 ment head, board, principal executive officer and commission;
- 19 i. Employees in the military or naval service of the State;
- 20 j. Student assistants;
- 21 k. Domestic employees in the Governor's household; and
- 22 l. All other titles as provided by law or as the board may
- 23 determine.

1 11A:3-5. Political subdivision unclassified service. The political  
 2 subdivision unclassified service shall not be subject to the pro-  
 3 visions of this title unless otherwise specified and shall include  
 4 the 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;
- 9 e. Physicians, surgeons and dentists;
- 10 f. Attorneys of a county, municipality or school district oper-
- 11 ating under this title;
- 12 g. Teaching staff as defined in N. J. S. 18A:1-1 in the public

13 schools and county superintendents and members and business  
14 managers of boards of education;

15 h. Principal executive officers;

16 i. One secretary, clerk or executive director to each department,  
17 board and commission authorized by law to make the appointment;

18 j. One secretary or clerk to each principal executive officer and  
19 judge;

20 k. One deputy or first assistant to a principal executive officer  
21 who is authorized by statute to act for and in place of the principal  
22 executive officer;

23 l. No more than 12 county department heads and the heads of  
24 divisions within such departments provided that the total number  
25 of unclassified positions created by the county administrative  
26 code pursuant to this subsection shall not exceed 20;

27 m. One secretary or confidential assistant to each unclassified  
28 department or division head established in subsection (l);

29 n. Employees of county park commissions appointed pursuant  
30 to R. S. 40:37-96 through R. S. 40:37-174 in counties of the  
31 second class;

32 o. Directors of free public libraries in cities of the first class  
33 having a population of more than 300,000;

34 p. One secretary to the municipal council in cities of the first  
35 class having a population of less than 300,000;

36 q. One secretary or confidential assistant to each county free-  
37 holder;

38 r. In school districts organized pursuant to N. J. S. 18A:17-1  
39 et seq., the executive controller, public information officer and the  
40 executive directors of board affairs, personnel, budget, purchasing,  
41 physical facilities, data processing, financial affairs, and internal  
42 audits;

43 s. The executive director, assistant executive director, director  
44 of staff operations, director of administration, director of rede-  
45 velopment and the urban initiatives coordinator of a local housing  
46 authority; and

47 t. All other titles as provided by statute or as the board may  
48 determine in accordance with criteria established by rule.

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

1 11A:3-7. Employee compensation. The commissioner shall estab-  
2 lish, administer and amend an equitable State employee compensa-

tion plan which shall include pay schedules, the assignment and reassignment of salaries for all State titles, and standards and procedures for salary adjustments other than as provided for in the State compensation plan for the career, senior executive and unclassified services. When an employee has erroneously received a salary overpayment, the commissioner may waive repayment based on a review of the case. Employees of political subdivisions are to be paid in reasonable relationship to titles and shall not be paid a base salary below the minimum or above the maximum established salary for an employee's title.

11A:3-8. Payroll audits. The commissioner may audit State payrolls of political subdivisions to determine compliance with this title. The commissioner may order and enforce immediate compliance as necessary.

#### CHAPTER 4

##### SELECTION AND APPOINTMENT

- 1 11A:4-1 Examinations.
- 2 11A:4-2 Holding of examinations.
- 3 11A:4-3 Admission to examinations.
- 4 11A:4-4 Eligible lists and certifications
- 5 11A:4-5 Use of eligible list.
- 6 11A:4-6 Duration of lists.
- 7 11A:4-7 Exceptions to duration of a list.
- 8 11A:4-8 Certification and appointment.
- 9 11A:4-9 Types of eligible lists.
- 10 11A:4-10 Arrests and criminal records.
- 11 11A:4-11 Removal on criminal record.
- 12 11A:4-12 Priority of lists.
- 13 11A:4-13 Types of appointment.
- 14 11A:4-14 Promotion.
- 15 11A:4-15 Working test period.
- 16 11A:4-16 Transfer, reassignment and lateral title change
- 1 11A:4-1. Examinations. The commissioner 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. The
  - 5 examinations may include, but are not limited to, written, oral, per-
  - 6 formance and evaluation of education and experience;
  - 7 b. The rating of examinations;
  - 8 c. The security of the examination process and appropriate sanc-
  - 9 tions 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 examina-  
 17 tion and appointment process which shall include but not be limited  
 18 to rejection of an application, failure of an examination and re-  
 19 moval from an eligible list.

1 11A:4-2. Holding of examinations A vacancy shall be filled by a  
 2 promotional examination when considered by the commissioner to  
 3 be in the best interest of the career service.

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

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

- 3 a. The establishment and cancellation of eligible lists;
- 4 b. The certification of an eligible list to positions in other appro-  
 5 priate titles; and
- 6 c. The consolidation of eligible lists which may include, but is not  
 7 limited to, the combining of names of eligibles by scores.

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

1 11A:4-6. Duration of lists. The commissioner shall set the dura-  
 2 tion of an eligible list which shall not be more than three years  
 3 from the date of its establishment, except that it may be extended  
 4 *\*by the commissioner\** for good cause and a list shall not have a  
 5 duration of more than *\*[five]\* \*four\** years. Notwithstanding the  
 6 duration of a list, the commissioner may revive a list to implement  
 7 a court order or decision of the board or commissioner in the event

8 of a successful appeal instituted during the life of the list or to  
9 correct an administrative error. The commissioner may revive a  
10 list to effect the appointment of an eligible whose working test  
11 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 police  
3 reemployment list and a fire reemployment list shall have unlimited  
4 duration.

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

11 A certification that contains the names of at least three interested  
12 eligibles shall be complete and a regular appointment shall be made  
13 from among those eligibles. An eligible on an incomplete list shall  
14 be entitled to a provisional appointment if a permanent appoint-  
15 ment is not made.

16 Eligibles on any type of reemployment list shall be certified and  
17 appointed in the order of their ranking and the certification shall  
18 not 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 the  
10 service. The name of any such employee shall not remain on a  
11 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  
14 permanent 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; and

17 e. Special reemployment which shall include ~~permanent~~ em-  
 18 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.  
 2 Eligibles for a law enforcement\*, **\*\*[fire]\*\*** **\*\*firefighter\*\*** or  
 3 correction officer title may also be questioned as to any arrest.

1 11A:4-11 Removal on criminal record. Upon the request of an  
 2 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 may be considered in such determina-  
 6 tion:

- 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; and
- 12 e. Evidence of rehabilitation.

13 The presentation to an appointing authority of a pardon or  
 14 expungement shall prohibit an appointing authority from rejecting  
 15 an eligible based on such criminal conviction except for law enforce-  
 16 ment\*, **\*\*[fire]\*\*** **\*\*firefighter\*\*** or correction officer and other  
 17 titles as determined by the commissioner.

1 11A:4-12. Priority of lists. When more than one list exists, the  
 2 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 lieu  
 5 of layoff;
- 6 b. Promotional;
- 7 c. Special reemployment when the available position is located in  
 8 a department other than that from which the eligible was laid off or  
 9 demoted;
- 10 d. Regular reemployment, police reemployment or fire reemploy-  
 11 ment; and
- 12 e. Open competitive.

1 11A:4-13. Types of appointment. The commissioner shall pro-  
 2 vide for 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 or  
 5 to a title in the noncompetitive division of the career service upon  
 6 appointment. The appointments shall be permanent after satis-  
 7 factory 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 pro-  
13 visional appointment will seriously impair the work of the appoint-  
14 ing authority;

15 c. Temporary appointments may be made, without regard to the  
16 provisions of this chapter, to temporary positions established for a  
17 period aggregating not more than six months in a 12 month period  
18 as approved by the commissioner. These positions include, but are  
19 not limited to, seasonal positions. Positions established as a result  
20 of a short term grant may be established for a maximum of 12  
21 months. Appointees to temporary positions shall meet the minimum  
22 qualifications of a title;

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

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

28 f. Unclassified appointments shall be made pursuant to N. J. S.  
29 11A:3-4 and N. J. S. 11A:3-5.

1 11A:4-14. Promotion. The commissioner shall establish the mini-  
2 mum qualifications for promotion and shall provide for the granting  
3 of credit for performance and seniority where appropriate.

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 A working test period is part of the examination process which  
5 shall be served in the title to which the certification was issued and  
6 appointment made. The commissioner shall provide for:

7 a. A working test period following regular appointment for not  
8 less than three months and not more than 12 months as set for a title  
9 except that the working test period for entry level law enforcement  
10 officer, correction officer and firefighter titles shall be for 12 months  
10A *\*and except that an employee in a working test period under Title*  
10B *11 of the Revised Statutes on the effective date of this act shall be*  
10C *subject to the time limits of the working test period under that*  
10D *title\**;

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

13 c. Progress reports to be made by the appointing authority and  
14 provided to the employee at the end of 1/3 and 2/3 of the working  
15 test period and a final progress report at the end of the entire

16 working test period shall be provided to the employee and the com-  
17 missioner;

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

21 e. The retention of permanent status in the lower title by a pro-  
22 moted employee during the working test period in the higher title  
23 and the right to return to such permanent title if the employee does  
24 not satisfactorily complete the working test period, but employees  
25 removed for cause during a working test period shall not be so  
26 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.
- 2 11A:5-2 Spouse of disabled veteran or deceased veteran.
- 3 11A:5-3 Parent and spouse of veteran who has died in service.
- 4 11A:5-4 Disabled veterans preference.
- 5 11A:5-5 Veterans preference.
- 6 11A:5-6 Appointment of veterans.
- 7 11A:5-7 Inapplication of statutes to promotions.
- 8 11A:5-8 Preference in appointment in noncompetitive division.
- 9 11A:5-9 Preference to veterans in layoffs.
- 10 11A:5-10 Hearing on dismissal of veteran.
- 11 11A:5-11 Veterans not to be discriminated against because of  
12 physical defects.
- 13 11A:5-12 Employment or promotion of persons awarded Con-  
14 gressional Medal of Honor, Distinguished Service  
15 Cross, Air Force Cross or Navy Cross.
- 16 11A:5-13 World War soldiers in employment of a county, munic-  
17 ipality or school district; promotion.
- 18 11A:5-14 Veteran police officer or firefighter in city of first class:  
19 examination and promotion.
- 20 11A:5-15 Enforcement.

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 is  
5 entitled to receive equivalent compensation for a service-connected  
6 disability which arises out of military or naval service as set forth



7 in this chapter and who has submitted sufficient evidence of the  
8 record of disability incurred in the line of duty to the commissioner  
9 on or before the closing date for filing an application for an exam-  
10 ination;

11 b. "Veteran" means any honorably discharged soldier, sailor,  
12 marine or nurse who served in any army or navy of the allies of the  
13 United States in World War I, between July 14, 1914 and November  
14 11, 1918, or who served in any army or navy of the allies of the  
15 United States in World War II, between September 1, 1939 and  
16 September 2, 1945 and who was inducted into that service through  
17 voluntary enlistment, and was a citizen of the United States at the  
18 time of the enlistment, and who did not renounce or lose his or her  
19 United States citizenship; or any soldier, sailor, marine, airman,  
20 nurse or army field clerk, who has served in the active military or  
21 naval service of the United States and has been discharged or re-  
22 leased under other than dishonorable conditions from that service  
23 in any of the following wars or conflicts and who has presented to  
24 the commissioner sufficient evidence of the record of service on or  
25 before the closing date for filing an application for an examination;

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

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

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

47 (4) Vietnam conflict, after December 31, 1960, who shall have  
48 served at least 90 days beginning on or before August 1, 1974, in  
49 active service, exclusive of any period assigned for a course of

50 education or training under the Army Specialized Training Pro-  
 51 gram or the Navy College Training Program, which course was a  
 52 continuation of a civilian course and was pursued to completion, or  
 53 as a cadet or midshipman at one of the service academies, and  
 54 exclusive of any service performed pursuant to the provisions of  
 55 section 511(d) of Title 10, United States Code, or exclusive of any  
 56 service performed pursuant to enlistment in the National Guard or  
 57 the Army Reserve, Naval Reserve, Air Force Reserve, Marine  
 58 Corps Reserve, or Coast Guard Reserve; except that any person  
 59 receiving an actual service-incurred injury or disability shall be  
 60 classed as a veteran whether or not that person has completed the  
 61 90-day service as provided;

62 c. "War service" means service by a veteran in any war or con-  
 63 flict described in this chapter during the periods specified.

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

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

1 11A:5-3. Parent and spouse of veteran who has died in service.  
 2 A parent and spouse of any veteran who died while in service and  
 3 who would have qualified under this chapter as a veteran, shall be  
 4 entitled to a disabled veterans preference. Where both a parent and  
 5 spouse survive, the exercise of the preference by one shall suspend  
 6 the right of any other so long as the first individual who exercises  
 7 preferences 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 order  
 4 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 veteran  
 2 or veteran shall be certified to an appointing authority from an open

3 competitive employment list under the provisions of N. J. S.  
4 11A:4-8, the appointing authority shall appoint the disabled veteran  
5 or veteran in the order of ranking.

1 11A:5-7. Inapplication of statutes to promotions. Nothing  
2 contained in N. J. S. 11A:5-4 through 11A:5-7 shall apply to pro-  
3 motions but, whenever a veteran ranks highest on a promotional  
4 certification, a nonveteran shall not be appointed unless the  
5 appointing authority shall show cause before the board why a  
6 veteran should not receive such promotion.

1 11A:5-8. 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. In all  
7 cases, a disabled veteran shall have preference over all others.

1 11A:5-9. Preference to veterans in layoffs. When a layoff occurs,  
2 preference shall be given first to a disabled veteran and then to a  
3 veteran; but, the preference shall apply only where the disabled  
4 veteran or veteran has seniority in title equal to that of a non-  
5 veteran also affected by the layoff.

1 11A:5-10. Hearing on dismissal of veteran. Before any de-  
2 partment head shall dismiss any veteran, as provided in N. J. S.  
3 11A:5-9, such department head shall show cause before the board  
4 why such veteran should not be retained, at which time such veteran  
5 or veterans may be privileged to attend. The board shall be the  
6 sole judge of the facts constituting such qualification.

1 11A:5-11. Veterans not to be discriminated against because of  
2 physical defects. 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  
5 set forth in N. J. S. 11A:5-1 shall not be discriminated against  
6 in an examination, classification or appointment because of the  
7 defect, unless this defect, in the opinion of the board, would in-  
8 capacitate the veteran from properly performing the duties of the  
9 office, 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  
4 Army, Air Force, Navy, or Marine Corps of the United States  
5 and who has been awarded the Congressional Medal of Honor,  
6 the Distinguished Service Cross, Air Force Cross or Navy Cross,  
7 while a resident of this State, shall be appointed or promoted

8 without complying with the rules of the board. The appointing  
 9 authority to whom the individual applies for appointment or pro-  
 10 motion shall, at its discretion, appoint or promote that person.  
 11 Upon promotion or appointment, that person shall become subject  
 12 to the rules of the board. A person who qualifies under this sec-  
 13 tion shall not be limited to only one appointment or promotion.

1 11A:5-13. World War soldiers in employment of a county,  
 2 municipality or school district; promotion. A soldier who served  
 3 in the Army of the United States during the war between the  
 4 United States and Germany, who holds the French medaille  
 5 militaire, the croix de guerre with palm, croix de guerre with  
 6 silver star, croix de guerre with bronze star and who was on  
 7 March 26, 1926, employed by any county, municipality or school  
 8 district operating under the provisions of this title shall be eligible  
 9 for promotion without complying with any of the rules or regu-  
 10 lations of the board. The head, or person in charge of the office  
 11 in which the person is employed, may promote such employee for  
 12 the good of the service as may in his judgment seem proper.

1 11A:5-14. Veteran police officer or firefighter in city of first  
 2 class; examination and promotion. A member of the police or  
 3 fire department in a city of the first class who is a veteran shall  
 4 be entitled to be admitted to the examination for promotion to  
 5 a superior rank and upon successfully passing such examination  
 6 shall be entitled to appointment in such superior rank, notwith-  
 7 standing the fact that such person may not have held the position  
 8 or rank held or occupied by him at the time of taking the examina-  
 9 tion for a period of two years, if the employee has or shall have  
 10 held or occupied the same for a period of one year.

1 11A:5-15. Enforcement. The board may promulgate rules for  
 2 the proper administration and enforcement of this chapter.

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

## CHAPTER 6

### LEAVES, HOURS OF WORK AND EMPLOYEE DEVELOPMENT

#### ARTICLE 1

#### Leaves of Absence, Supplemental Compensation and Hours of Work

- 1 11A:6-1 Leaves.
- 2 11A:6-2 Vacation leave; full-time State employees.
- 3 11A:6-3 Vacation leave, full-time political subdivision em-
- 4 ployees.

- 5 11A:6-4 Death of employees having vacation credit.
- 6 11A:6-5 Sick leave.
- 7 11A:6-6 State administrative leave.
- 8 11A:6-7 Leaves for part-time employees.
- 9 11A:6-8 Sick leave injury in State service.
- 10 11A:6-9 Leaves of absence for police officers and firefighters.
- 11 11A:6-10 Convention leave of police officers and firefighters.
- 12 11A:6-11 Leave for athletic competition.
- 13 11A:6-12 Appointment by Governor; leave of absence without
- 14 pay.
- 15 11A:6-13 Elective office; leave of absence without pay; appoint-
- 16 ments to position; reemployment list.
- 17 11A:6-14 Eligibility for promotions during leave of absence.
- 18 11A:6-15 Supplemental compensation upon retirement in State
- 19 employment.
- 20 11A:6-16 Supplemental compensation; employees of Rutgers,
- 21 The State University of New Jersey, New Jersey
- 22 Institute of Technology and the University of Medi-
- 23 cine and Dentistry of New Jersey.
- 24 11A:6-17 Supplemental compensation; deferred retirement.
- 25 11A:6-18 Supplemental compensation; computation; limitation.
- 26 11A:6-19 Supplemental compensation; certification of accumu-
- 27 lated sick leave.
- 28 11A:6-20 Supplemental compensation; break in service.
- 29 11A:6-21 Supplemental compensation; ineligibility to other pen-
- 30 sion retirement benefits.
- 31 11A:6-22 Supplemental compensation; rules.
- 32 11A:6-23 Hours of work, overtime and holiday pay.

## ARTICLE 2

### Employee Programs

- 1 11A:6-24 State training programs.
- 2 11A:6-25 Employee career development.
- 3 11A:6-26 Political subdivisions.
- 4 11A:6-27 Employee performance evaluations.

## ARTICLE 3

### Awards

- 1 11A:6-28 Awards Committee.
- 2 11A:6-29 Awards.
- 3 11A:6-30 Powers and duties of committee.
- 4 11A:6-31 Payment of awards.

ARTICLE 1

Leaves of Absence, Supplemental Compensation and  
Hours of Work

1 11A:6-1. Leaves. The board shall designate the types of leaves  
2 and adopt rules for State employees in the career and senior  
3 executive services regarding procedures for sick leave, vacation  
4 leave and all other designated leaves with or without pay as the  
5 board may designate. Any political subdivision subject to the  
6 provisions of this title shall prepare procedures regarding these  
7 items.

8 In all cases, a leave of absence with or without pay shall not  
9 exceed a period of one year at any one time unless renewal or  
10 extension is granted upon written approval of the commissioner.

1 11A:6-2. Vacation leave. Vacation leave; full-time State em-  
2 ployees. Vacation leave for full-time State employees in the career  
3 and senior executive service shall be:

4 a. Up to one year of service, one working day for each month  
5 of service;

6 b. After one year and up to five years of continuous service,  
7 12 working days;

8 c. After five years and up to 12 years of continuous service,  
9 15 working days;

10 d. After 12 years and up to 20 years of continuous service, 20  
11 working days;

12 e. Over 20 years of continuous service, 25 working days; and

13 f. Vacation not taken in a given year because of business de-  
14 mands shall accumulate and be granted during the next succeeding  
15 year only.

1 11A:6-3. Vacation leave; full-time political subdivision em-  
2 ployees. Vacation leave for full-time political subdivision em-  
3 ployees shall be:

4 a. Up to one year of service, one working day for each month  
5 of service;

6 b. After one year and up to 10 years of continuous service,  
7 12 working days;

8 c. After 10 years and up to 20 years of continuous service, 15  
9 working days;

10 d. After 20 years of continuous service, 20 working days; and

11 e. Vacation not taken in a given year because of business de-  
12 mands shall accumulate and be granted during the next succeeding  
13 year only.

1 11A:6-4. 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 compensa-  
4 tion for that vacation leave.

1 11A:6-5. 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 re-  
4 mainder of the first calendar year of service and 15 working days  
5 in every year thereafter. Unused sick leave shall accumulate  
6 without limit.

1 11A:6-6. State administrative leave. Administrative leave for  
2 personal reasons including religious observances for full-time  
3 State employees and those employees of Rutgers, The State Univer-  
4 sity, New Jersey Institute of Technology and the University of  
5 Medicine and Dentistry of New Jersey who perform services  
6 similar to those performed by employees of the New Jersey  
7 State Colleges who are in the career service shall be three working  
8 days per calendar year. Administrative leave shall not be cumula-  
9 tive and any administrative leave unused by an employee at the  
10 end of any year shall be cancelled.

1 11A:6-7. Leaves for part-time employees. Part-time employees  
2 shall receive proportionate vacation, sick and administrative leave.

1 11A:6-8. Sick leave injury in State service. Leaves of absence  
2 for career, senior executive and unclassified employees in State  
3 service due to injury or illness directly caused by and arising from  
4 State employment shall be governed by rules of the board. Any  
5 sick leave with pay shall be reduced by the amount of worker's  
6 compensation or disability benefits, if any, received for the same  
7 injury or illness.

1 11A:6-9. Leaves of absence for police officers and firefighters.  
2 Leaves of absence for police officer and firefighter titles shall be  
3 governed by the applicable provisions of Title 40A of the New  
4 Jersey Statutes and N. J. S. 11A:6-10.

1 11A:6-10. Convention leave for police officers and firefighters.  
2 A leave of absence with pay shall be given to every employee who  
3 is a duly authorized representative of the New Jersey Patrolmen'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 the organiza-  
8 tion. The leave of absence shall be for a period inclusive of the  
9 duration of the convention with a reasonable time allowed for

10 travel to and from the convention. A certificate of attendance  
11 to the convention shall, upon request, be submitted by the re-  
12 presentative so attending.

1 11A:6-11. 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 re-  
8 tirement system of the State for the purpose of preparing for  
9 and engaging in the competition. The paid leave granted pursuant  
10 to this title 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:6-12. Appointment by Governor; leave of absence without  
2 pay. Any employee in the career or senior executive service who  
3 is appointed to any position pursuant to P. L. 1947, c. 14 (C.  
4 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  
8 and receive all of the rights, privileges and benefits of that title  
9 as if the employee had remained in that title.

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

14 All appointments to the position of that person during the period  
15 of six years from the date the leave of absence commences shall be  
16 made from eligible lists and the appointments shall, during such  
17 six-year period, be held to be interim and shall be terminated on  
18 the return to duty within the six-year period of the person to  
19 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:6-14. Eligibility for promotions during leave of absence.  
 2 A leave of absence should not disqualify an applicant for a promo-  
 3 tional examination.

1 11A:6-15. 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 as  
 7 supplemental compensation for each full day of accumulated sick  
 8 leave which is credited on the effective date of retirement.

1 11A:6-16. Supplemental compensation; employees of Rutgers,  
 2 The State University, New Jersey Institute of Technology, and  
 3 the University of Medicine and Dentistry of New Jersey. The  
 4 supplemental compensation provided under this chapter shall also  
 5 be paid to each employee of Rutgers, The State University, New  
 6 Jersey Institute of Technology, and the University of Medicine  
 7 and Dentistry of New Jersey who performs services similar to  
 8 those performed by employees of the New Jersey State Colleges  
 9 who are in the career service or who have been granted sick leave  
 10 under terms and conditions similar to career service employees,  
 11 including those employees of the University of Medicine and  
 12 Dentistry of New Jersey who are members of the Newark Em-  
 13 ployees Retirement System.

1 11A:6-17. Supplemental compensation; deferred retirement. A  
 2 State employee who elects deferred retirement shall not be eligible  
 3 for the supplemental compensation provided under this chapter.

1 11A:6-18. Supplemental compensation, computation; limitation.  
 2 Supplemental compensation shall be computed at the rate of one-  
 3 half of the eligible employee's daily rate of pay for each day of  
 4 accumulated sick leave based upon the compensation received  
 5 during the last year of employment prior to the effective date of  
 6 retirement, but, supplemental compensation shall not exceed  
 7 \*\$12,000.00\* \*\$15,000.00\*. If an employee dies after the effective  
 8 date of retirement but before payment is made, payment shall be  
 9 made to the employee's estate.

1 11A:6-19. Supplemental compensation; certification of accumu-

2 lated sick leave. Upon application for supplemental compensation  
3 made by an employee, the appointing authority shall, within 45  
4 days, certify the number of accumulated sick days for which  
5 supplemental compensation is to be paid. Payment shall be made  
6 from a special State account established for this purpose.

1 11A:6-20. Supplemental compensation; break in service. An  
2 employee who has incurred or shall incur a break in service as a  
3 result of separation due to layoff shall be credited with sick leave  
4 accrued both before separation and after return to employment.  
5 An employee incurring a break in service for any other type of  
6 separation shall have sick leave computed only from the date of  
7 return to employment.

1 11A:6-21. Supplemental compensation; inapplicability to other  
2 pension retirement benefits. The supplemental compensation pro-  
3 vided for accumulated sick leave shall in no way affect, increase  
4 or decrease any pension or retirement benefits under any other  
5 statute.

1 11A:6-22. Supplemental compensation; rules. The board shall  
2 adopt rules for the implementation of supplemental compensation,  
3 which shall include but need not be limited to application and  
4 eligibility procedures.

1 11A:6-23. Hours of work, overtime and holiday pay. State  
2 employees in the career, senior executive and unclassified services  
3 in titles or circumstances designated by the board shall be eligible  
4 for overtime compensation and holiday pay. Overtime compensa-  
5 tion and holiday pay shall be either cash compensation at a rate  
6 representing 1½ times the employee's hourly rate of base salary  
7 or compensatory time off at a rate of 1½ hours for each hour  
8 worked beyond the regular workweek at the discretion of the  
9 department head with the approval of the commissioner.

10 The board shall adopt rules for the implementation of hours of  
11 work, overtime compensation and holiday pay programs which  
12 shall include but need not be limited to application and eligibility  
13 procedures.

## ARTICLE 2

### Employee Programs

1 11A:6-24. State training programs. The commissioner may  
2 establish and shall review and approve training and education  
3 programs for State employees in the career, senior executive and  
4 unclassified services and shall supervise a State training center  
5 with appropriate courses and fee schedules. Particular training  
6 may be required by the commissioner for certain employees for  
7 which an assessment to State departments may be imposed.

1 11A:6-25. 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:6-26. Political subdivisions. The commissioner may, at the  
 2 request of any political subdivision, initiate programs similar to  
 3 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:6-27. Employee performance evaluations. The commis-  
 2 sioner shall establish an employee performance evaluation system  
 3 for State employees in the career and senior executive service.  
 4 The system shall utilize standards and criteria related to job  
 5 content and program goals.

6 Political subdivisions may adopt employee performance evalua-  
 7 tion systems for their employees.

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

### ARTICLE 3

#### Awards

1 11A:6-28. 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  
 4 composed 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 a  
 8 successor is appointed. No member shall serve more than two  
 9 consecutive full terms. Members shall serve without compensa-  
 10 tion but shall be entitled to sums incurred for necessary expenses.  
 11 The commissioner shall designate an employee of the department  
 12 as executive secretary to the committee.

1 11A:6-29. Awards. The committee, subject to appropriations  
 2 made for that purpose, may provide awards to State employees  
 3 for, but not limited to:

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

1 11A:6-30. Powers and duties of the committee. The committee  
2 shall:

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

11 11A:6-31. Payment of awards. Suggestion awards shall be  
12 paid from State funds appropriated for that purpose.

## CHAPTER 7

### EQUAL EMPLOYMENT OPPORTUNITY

- 1 11A:7-1 Equal employment opportunity.
- 2 11A:7-2 Division of Equal Employment Opportunity and
- 3 Affirmative Action.
- 4 11A:7-3 Equal employment opportunity and affirmative action
- 5 program.
- 6 11A:7-4 Agency goals.
- 7 11A:7-5 Department responsibilities.
- 8 11A:7-6 Agency affirmative action officer.
- 9 11A:7-7 Agency accountability for affirmative action plan.
- 10 11A:7-8 Agency affirmative action plan.
- 11 11A:7-9 Agency failure to achieve affirmative action goals;
- 12 penalties.
- 13 11A:7-10 Citation by Governor for attaining affirmative action
- 14 results.
- 15 11A:7-11 Equal Employment Opportunity Advisory Commis-
- 16 sion; creation.
- 17 11A:7-12 Equal Employment Opportunity Advisory Committee;
- 18 membership; term; vacancy; meetings; executive
- 19 secretary.
- 20 11A:7-13 Accommodation for the handicapped and examination
- 21 waiver.

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

10 The head of each State agency shall expore innovative personnel  
11 policies in order to enhance these efforts and where appropriate  
12 shall implement them to the fullest extent authorized. Where the  
13 implementation of those 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 Affir-  
2 mative Action. A division of Equal Employment Opportunity and  
3 Affirmative Action is established in the department. The division  
4 shall have all of the powers and shall exercise all of the functions  
5 and duties set forth in this chapter, subject to the supervision and  
6 control of the commissioner.

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

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

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

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

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.

26 f. Provide, under rules adopted by the board, for review of equal  
27 employment complaints.

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 prereq-  
15 uisites 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  
21 agencies.

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

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

1 11A:7-8. Agency affirmative action plan. Each State agency shall  
2 submit 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 time  
7 periods for the accomplishment of remedial action. Each State  
8 agency shall make good faith efforts to meet its goals and time-  
9 tables.

1 11A:7-9. Agency failure to achieve affirmative action goals;  
2 penalties. If there is a failure by a State agency to achieve its  
3 affirmative action goals, or to demonstrate good faith efforts, appro-  
4 priate sanctions and penalties may be imposed by the department  
5 in accordance with federal and State regulations, subject to the  
6 concurrence of the Governor and the commissioner. These sanctions  
7 may include, but are not limited to, placing a moratorium on depart-  
8 mental personnel actions in the career, senior executive and un-  
9 classified services, and such other sanctions as may be allowed by  
10 law.

1 11A:7-10. Citation by Governor for attaining affirmative action  
2 results. State agencies which achieve outstanding affirmative action  
3 results shall be cited by the Governor for their efforts.

1 11A:7-11. Equal Employment Opportunity Advisory Commis-  
2 sion; creation. There is established in the department an Equal  
3 Employment Opportunity Advisory Commission which shall advise  
4 the Division of Equal Employment Opportunity and Affirmative  
5 Action and recommend improvements in the State's affirmative  
6 action efforts.

1 11A:7-12. Equal Employment Opportunity Advisory Commis-  
2 sion; membership; term; vacancy; meetings; executive secretary.  
3 The Equal Employment Opportunity Advisory Commission shall  
4 consist of 11 members appointed by the Governor, at least six of  
5 whom shall be minorities, women and handicapped persons. Con-  
6 sideration shall be given to appropriate representation of each  
7 group. The remaining members of the commission may be com-  
8 prised of State agency heads or their designated representatives  
9 All members of the commission shall be residents of the State.  
10 Members shall be appointed for staggered term of four years but  
11 members appointed under section 10 of P. L. 1981, c. 124 (C.  
12 11:2D-10) shall continue on the commission for the duration of  
13 their respective terms. Each member shall hold office for the term  
14 of the appointment and until a successor is appointed. Members  
15 may not serve more than two consecutive terms. A vacancy in the  
16 membership of the commission shall be filled by appointment by the  
17 Governor for the remainder of the term. The commission shall  
18 meet at least quarterly to review implementation of this chapter.  
19 The Director of the Division of Equal Employment Opportunity  
20 and Affirmative Action shall serve as executive secretary.

1 11A:7-13. Accommodation for the handicapped and examination  
2 waiver. The commissioner may establish procedures for the reason-  
3 able accommodation of handicapped persons in the employee selec-  
4 tion process for the State and the political subdivisions covered by  
5 this Title. Pursuant to rules adopted by the board, the commis-  
6 sioner may waive an examination for an applicant who suffers from  
7 a physical, mental or emotional affliction, injury, dysfunction, im-  
8 pairment or disability which:  
9 a. Makes it physically or psychologically not practicable for that  
10 person to undergo the testing procedure for the title for which  
11 applied, but  
12 b. Does not prevent that person from satisfactorily performing  
13 the responsibilities of the title under conditions of actual service;  
14 and  
15 c. In making such determinations, the commissioner may require  
16 the submission of sufficient and appropriate medical documentation.

## CHAPTER 8

### LAYOFFS

1 11A:8-1 Layoff.  
2 11A:8-2 Pre-layoff actions.  
3 11A:8-3 Alternatives to layoff.  
4 11A:8-4 Appeals.  
1 11A:8-1. Layoff. A permanent employee may be laid off for  
2 economy, efficiency or other related reason. The employee shall be  
3 demoted in lieu of layoff whenever possible. A permanent employee  
4 shall receive written 45 days' notice, unless in State government a  
5 greater time period is ordered by the commissioner, which shall be  
6 served personally or by certified mail, of impending layoff or  
7 demotion and the reasons therefor. At the same time the notice is  
8 served, the appointing authority shall provide the commissioner  
9 with a list of the names and permanent titles of all employees  
10 receiving the notice. The board shall adopt rules regarding the  
11 order of layoff and employee rights.  
1 11A:8-2. Pre-layoff actions. The board shall adopt rules for  
2 preventive actions to lessen the possibility of a layoff or demotion  
3 of permanent employees.  
1 11A:8-3. Alternatives to layoff. The commissioner, in consulta-  
2 tion with the advisory committee established pursuant to subsec-  
3 tion m. of N. J. S 11A:2-11, may recommend rules to the board on  
4 voluntary reduced worktime or other alternatives to layoffs. Em-  
5 ployee participation in the program shall not affect special reem-  
6 ployment or retention rights.  
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 faith  
 3 of such layoff or demotion to the board. Appeals must be filed  
 4 within 20 days of final notice of such layoff or demotion. The burden  
 5 of proof in such actions shall be on the employee and rules adopted  
 6 pursuant to N. J. S. 11A:2-22 would also be applicable to these  
 7 appeals.

## CHAPTER 9

### POLITICAL SUBDIVISIONS

- 1 11A:9-1 Application.
- 2 11A:9-2 Adoption of title; petition.
- 3 11A:9-3 Adoption of title; question placed on ballot; public
- 4 notice.
- 5 11A:9-4 Refusal to comply.
- 6 11A:9-5 School districts.
- 7 11A:9-6 Adoption of title; elections.
- 8 11A:9-7 Results certified.
- 9 11A:9-8 Consolidation of functions.
- 10 11A:9-9 Status of employee;
- 11 11A:9-10 Seniority rights.
- 12 11A:9-11 Rescission of title; petition.
- 13 11A:9-12 Rescission of title; question placed on ballot; public
- 14 notice.
- 15 11A:9-13 Rescission of title; elections.
- 16 11A:9-14 Rescission of title; results certified; effect of vote to
- 17 rescind.
- 18 11A:9-15 Subsequent elections.

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 and the supplements thereto applied immediately prior to  
 4 their repeal and to any political subdivision which hereafter  
 5 adopts the provisions of this title.

1 11A:9-2. Adoption of title; petition. The clerk of any county or  
 2 municipality not operating under the provisions of this title shall  
 3 submit the question of adopting the provisions of Title 11A of the  
 4 New Jersey Statutes to the voters of the county or municipality  
 5 upon the filing with the clerk of a petition requesting the adoption.  
 6 The petition shall be signed by the registered voters of the county  
 7 or municipality equal to 15% of the valid votes cast in the county  
 8 or municipality during the last general election. Each name shall  
 9 be signed in ink and the place of residence indicated by street and  
 10 number or other description sufficient to identify the place. At-  
 11 tached to each separate paper there shall be an affidavit of the

12 circulator thereof that the circulator, and only the circulator,  
 13 personally circulated the foregoing paper, that all signatures  
 14 thereto were made in the circulator's presence, and that the  
 15 circulator believes them to be genuine signatures of the persons  
 16 whose names they purport to be. Within 10 days from the date of  
 17 filing the petition, the clerk shall complete an examination and  
 18 ascertain whether or not the petition is signed by the requisite  
 19 number of qualified voters and shall attach to the petition a  
 20 certificate showing the result of the examination.

1 11A:9-3. Adoption of title; question placed on ballot; public  
 2 notice. If the petition is sufficient, the clerk shall, 15 days there-  
 3 after, give public notice that the question will be submitted to the  
 4 voters at the next general or municipal election. Public notice  
 5 includes, but is not limited to, publication in the political sub-  
 6 division's official newspaper once a week for at least four weeks  
 7 and posting the notice in five of the most public places in the  
 8 political subdivision for at least four weeks before the election.  
 9 The clerk shall also cause the question to be printed upon the  
 10 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.  
 3 11A:9-3, a registered voter of the political subdivision or the  
 4 commissioner may apply to a judge of the Superior Court in the  
 5 county in which the political subdivision is located for an order  
 6 directing and compelling the submission of the question involved  
 7 in the petition. The judge shall hear the matter summarily. If  
 8 the judge finds and determines that the petition is in accordance  
 9 with law, an appropriate order shall be issued. Any clerk failing  
 10 to comply with the order of the court, or any public official, officer,  
 11 agent or employee interfering with, or preventing, such clerk from  
 12 satisfying such order, shall be guilty of a crime of the fourth  
 13 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  
 5 chapter as nearly as possible.

1 11A:9-6. Adoption of title; elections. The method of submitting  
 2 the question of the adoption of this title to the voters of a county  
 3 or municipality shall conform as nearly as possible to the provi-  
 4 sions of Title 19 of the Revised Statutes relating to the sub-  
 5 mission of public questions, and when submitted at a school district

6 election shall conform as nearly as possible to the provisions of  
 7 Title 18A of the New Jersey Statutes relating to the submission of  
 8 public questions in school 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 two  
 2 or more political subdivisions are consolidated, and any one of the  
 3 political subdivisions shall be operating under this title at the  
 4 time of such consolidation, the other political subdivision or sub-  
 5 divisions shall be deemed to have adopted this title with regard  
 6 to the combined functions.

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

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

1 11A:9-11. Rescission of title; petition. The clerk of any county,  
 2 municipality or school district operating under Title 11A of the  
 3 New Jersey Statutes shall submit to the voters of the political  
 4 subdivision at a general election in November the question of  
 5 rescinding the adoption of the provisions of Title 11A of the New  
 6 Jersey Statutes upon the filing with the clerk of a petition re-  
 7 questing the rescission. The petition shall be signed by the regis-  
 8 tered voters of the political subdivision equal in number to at  
 9 least 15% of the valid votes cast at the last general election in  
 10 November. Each name shall be signed in ink and the signer's place  
 11 of residence shall be indicated by street and number or other  
 12 description sufficient to identify the place. Attached to each sepa-  
 13 rate paper there shall be an affidavit of the circulator thereof that  
 14 the circulator, and only the circulator, personally circulated the  
 15 foregoing paper, that all signatures thereto were made in the  
 16 circulator's presence, and that the circulator believes them to be  
 17 genuine signatures of the persons whose names they purport to be.  
 18 Within 10 days from the date of filing the petition, the clerk shall

19 complete an examination and ascertain whether or not the petition  
 20 is signed by the requisite number of qualified voters and shall  
 21 attach to the petition a certificate showing the result of the  
 22 examination.

1 11A:9-12. Rescission of title: question placed on ballot; public  
 2 notice. If the petition is sufficient, the clerk shall, 15 days there-  
 3 after, give public notice that the question will be submitted to the  
 4 voters at the next general election in November. Public notice  
 5 includes publication in the political subdivision's official newspaper,  
 6 once a week for at least four weeks and posting the notice in five  
 7 of the most public places in the political subdivision for at least  
 8 four weeks before the election. The clerk shall also cause the  
 9 question to be printed upon the ballots to be used at the election.

1 11A:9-13. Rescission of title; elections. The method of sub-  
 2 mitting the question of the rescission of this title to the voters  
 3 of a political subdivision shall conform as nearly as possible to  
 4 the provisions of Title 19 of the Revised Statutes relating to the  
 5 submission of public questions.

1 11A:9-14. Rescission of title; results certified; effect of vote  
 2 to rescind. If the result of the election is favorable to the rescission  
 3 of the adoption of Title 11A, the result shall be certified by the  
 4 clerk to the commissioner. The rescission shall take effect three  
 5 months following the election at which it was approved. Perma-  
 6 nent employees in the career service on the effective date of the  
 7 rescission shall retain rights under this title.

1 11A:9-15. Subsequent elections. If a majority of the votes cast  
 2 at the election are against the rescission of Title 11A, a new elec-  
 3 tion within the political subdivision may not be held on the same  
 4 question before the third general election following the election  
 5 at which rescission was disapproved.

6 If a political subdivision rescinds the adoption of Title 11A, it  
 7 may not submit the question of adopting the provision of Title  
 8 11A for a period of three years following the election at which  
 9 the rescission was approved.

## CHAPTER 10

### VIOLATIONS AND PENALTIES

1 11A:10-1 Disapproval of salary.

2 11A:10-2 Violation of title or order.

3 11A:10-3 Noncompliance.

4 11A:10-4 \***[Board or commissioner action]**\* *Action for enforce-*  
 5 *ment*.\*

6 11A:10-5 Resident actions.

1 11A:10-1. Disapproval of salary. The board or the commissioner  
2 may disapprove and order the payment stopped of the salary of  
3 any person employed in violation of this title or an order of the  
4 board or commissioner and recover all disapproved salary from  
5 such person. Any person or persons who authorizes the payment  
6 of a disapproved salary or have employment authority over the  
7 person whose salary has been disapproved may be subject to  
8 penalties, including, but not limited to, the disapproval of their  
9 salaries and payment from their personal funds of improper ex-  
10 penditures of the moneys as may be provided by the rules of the  
11 board. This section shall not be limited by the amounts set forth  
12 in N. J. S. 11A:10-3.

1 11A:10-2. Criminal violation of title or order. Any person who  
2 purposefully or knowingly violates or conspires to violate any  
3 provision of this title or board or commissioner order shall be  
4 guilty of a crime of the fourth degree.

1 11A:10-3. Noncompliance. The board or the commissioner may  
2 assess all administrative costs incurred under N. J. S. 11A:4-5.  
3 Other costs, charges and fines of not more than \$10,000.00 may  
4 be assessed for noncompliance or violation of this title or any  
5 order of the board or commissioner.

1 11A:10-4. **\*[Board or commissioner action]** \* *Action for en-*  
2 *forcement* \*. The board **\*[or]** \*, the commissioner *\*or other party*  
3 *in interest* \* may bring an action in the Superior Court for the en-  
4 forcement of this title or an order of the board or commissioner.

1 11A:10-5. Resident actions. Any resident shall have standing  
2 to enjoin payments in the Superior Court and require recovery  
3 of remuneration paid in violation of this title in the jurisdiction  
4 of residence, from the individuals signing, countersigning, autho-  
5 rizing or having employment authority for the payments. Moneys  
6 recovered in the action shall be paid from the personal funds of  
7 those individuals and shall be paid to the State Treasurer or the  
8 treasurer of the political subdivision as appropriate. The resi-  
9 dent shall be entitled to receive not more than 25% of the amount  
10 recovered and reasonable attorney fees at the discretion of the  
11 court.

20  
**CHAPTER 11**

**AGENCY TRANSFER**

- 1 11A:11-1 Commissioner of Personnel and Merit System Board.
- 2 11A:11-2 Department of Personnel.
- 3 11A:11-3 Names.
- 4 11A:11-4 Rules.
- 5 11A:11-5 Pending actions.
- 6 11A:11-6 Transfer.

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

6 The Commissioner of Personnel shall direct the consolidation  
7 and coordination of personnel, training and related functions in  
8 the executive branch of State government and transfer to the  
9 Department of Personnel such employees, positions, funding, equip-  
10 ment, powers, duties and functions from throughout the executive  
11 branch of State government to effectuate such consolidation and  
12 coordination.

1 11A:11-3. Names. Any law, rule, regulation, judicial or ad-  
2 ministrative proceeding, appropriation or otherwise which refers  
3 to the Department of Civil Service shall mean the Department  
4 of 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:11-4. Rules. All rules of the Civil Service Commission  
2 shall remain in effect except as changed or modified by this title  
3 or board action.

1 11A:11-5. Pending Actions. Any action pending on the effective  
2 date of this act shall continue under the prior law and rule.

1 11A:11-6. 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).

## CHAPTER 12

### MISCELLANEOUS

- 1 11A:12-1 Inconsistent laws.
  - 2 11A:12-2 Rights of current employees.
  - 3 11A:12-3 Statutes repealed.
  - 4 11A:12-4 Implementation.
  - 5 11A:12-5 Effective date.
- 1 11A:12-1. Inconsistent laws. Any law or statute which is in-  
2 consistent with any of the provisions of ~~"[the]"~~ *"this"* title are,  
3 to the extent of the inconsistency, hereby superseded\*, *except that*  
4 *the title is not to be construed either to expand or to diminish*  
5 *collective negotiations rights existing under the "New Jersey Em-*  
6 *ployer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A-1*  
7 *et seq.)*.\*.
- 1 11A:12-2. Rights of current employees. Those employees with  
2 permanent classified status shall obtain permanent status in career  
3 service without loss of seniority or pension rights.
- 1 11A:12-3. Statutes repealed. The following statutes are re-  
2 pealed:
- 3 Title 11 of the Revised Statutes;
  - 4 P. L. 1938, c. 76 (C. 11:2A-1)
  - 5 P. L. 1938, c. 381, s. 10 (C. 11:27-13)
  - 6 P. L. 1939, c. 219 (C. 11:4-3.3)
  - 7 P. L. 1939, c. 232 (C. 11:24A-1 to 11:24A-6)
  - 8 P. L. 1939, c. 322 (C. 11:10-6.1)
  - 9 P. L. 1940, c. 15 (C. 11:4-3.4)
  - 10 P. L. 1940, c. 178 (C. 11:22-11.1)
  - 11 P. L. 1941, c. 91 (C. 11:4-3.5 and 11:4-3.6)
  - 12 P. L. 1941, c. 286 (C. 11:4-3.7)
  - 13 P. L. 1942, c. 65 (C. 11:20A-1)
  - 14 P. L. 1942, c. 137, s. 2 (C. 11:27-1.2)
  - 15 P. L. 1942, c. 253 (C. 11:24A-7)
  - 16 P. L. 1944, c. 65, s. 11 (C. 11:7-10)
  - 17 P. L. 1946, c. 148 (C. 11:24A-6.1 to 11:24A-6.3)
  - 18 P. L. 1946, c. 198 (C. 11:4-3.8 and 11:4-3.9)
  - 19 P. L. 1947, c. 201, ss. 2-4 (C. 11:14-3 to 11:14-5)
  - 20 P. L. 1947, c. 272 (C. 11:20A-2)
  - 21 P. L. 1948, c. 121, ss. 2-4, 9 (C. 11:7-11 to 11:7-14)
  - 22 P. L. 1948, c. 121, ss. 6-8 (C. 11:22-50 to 11:22-52)
  - 23 P. L. 1948, c. 165 (C. 11:22-44.1 to 11:22-44.3)
  - 24 P. L. 1948, c. 257 (C. 11:21-5.1)
  - 25 P. L. 1948, c. 435 (C. 11:4-3.10)

- 26 P. L. 1948, c. 466 (C. 11:22-44.4 and 11:22-44.5)
- 27 P. L. 1950, c. 235 (C. 11:26B-1 to 11:26B-3)
- 28 P. L. 1951, c. 278 (C. 11:21-5.2)
- 29 P. L. 1951, c. 279 (C. 11:21-4.1)
- 30 P. L. 1952, c. 27 (C. 11:11-4)
- 31 P. L. 1952, c. 302 (C. 11:26C-1 to 11:26C-3)
- 32 P. L. 1952, c. 309 (C. 11:27-1.3)
- 33 P. L. 1952, c. 322, ss. 1 and 2 (C. 11:15-9 and 11:15-10)
- 34 P. L. 1952, c. 323, ss. 1 and 2 (C. 11:22-10.1 and 11:22-10.2)
- 35 P. L. 1953, c. 125 (C. 11:2C-1 to 11:2C-9)
- 36 P. L. 1953, c. 193 (C. 11:14-1.1)
- 37 P. L. 1953, c. 238 (C. 11:4-3.11)
- 38 P. L. 1953, c. 239 (C. 11:4-3.12)
- 39 P. L. 1953, c. 430 (C. 11:4-3.13 and 11:4-3.14)
- 40 P. L. 1954, c. 182 (C. 11:4-3.15)
- 41 P. L. 1954, c. 232 (C. 11:21-3.1)
- 42 P. L. 1955, c. 188 (C. 11:26C-4)
- 43 P. L. 1959, c. 88, s. 2 (C. 11:24A-1.1)
- 44 P. L. 1961, c. 18 (C. 11:26D-1)
- 45 P. L. 1962, c. 195 (C. 11:14-1.2)
- 46 P. L. 1962, c. 196 (C. 11:24A-1.2)
- 47 P. L. 1964, c. 169 (C. 11:27-1.4 and 11:27-1.5)
- 48 P. L. 1965, c. 46 (C. 11:21-5.3)
- 49 P. L. 1967, c. 199, s. 2 (C. 11:22-10.3)
- 50 P. L. 1968, c. 437 (C. 11:26C-5)
- 51 P. L. 1971, c. 1 (C. 11:21-4.2 and 11:21-4.3)
- 52 P. L. 1971, c. 153 (C. 11:1-20 to 11:1-24)
- 53 P. L. 1971, c. 274 (C. 11:1-25 to 11:1-28)
- 54 P. L. 1972, c. 74 (C. 11:14-6 to 11:14-8)
- 55 P. L. 1973, c. 130 (C. 11:14-9 to 11:14-17)
- 56 P. L. 1977, c. 160 (C. 11:24A-8 and 11:24A-9)
- 57 P. L. 1977, c. 261 (C. 11:9-10.1)
- 58 P. L. 1978, c. 81, s. 2 (C. 11:22-2.1)
- 59 P. L. 1978, c. 99 (C. 11:14-18)
- 60 P. L. 1978, c. 147 (C. 11:22-44.6)
- 61 P. L. 1980, c. 134 (C. 11:22-34.1)
- 62 P. L. 1981, c. 92 (C. 11:21-5.4)
- 63 P. L. 1981, c. 124 (C. 11:2D-1 to 11:2D-10)
- 64 P. L. 1981, c. 204 (C. 11:9-15 to 11:9-18)
- 65 P. L. 1981, c. 205 (C. 11:23-10 to 11:23-13)
- 66 P. L. 1981, c. 439 (C. 11:22-10.4)
- 67 P. L. 1981, c. 545, s. 3 (C. 11:21-9.1)



- 68 P. L. 1982, c. 181, ss. 2, 1 (C. 11:1-1.1 and C. 11:2-8)
- 69 P. L. 1983, c. 167 (C. 11:22-44.7 and 11:22-44.8)
- 70 P. L. 1983, c. 178 (C. 11:27-4.1)
- 71 P. L. 1983, c. 252 (C. 11:4-3.16)
- 72 P. L. 1983, c. 280 (C. 11:9-2.1 to 11:9-2.4)
- 73 P. L. 1983, c. 319 (C. 11:9-17.1)
- 74 P. L. 1984, c. 32 (C. 11:21-4.4)
- 75 P. L. 1984, c. 143 (C. 11:22-3.1)
- 76 P. L. 1984, c. 204 (C. 11:22-44.9 and 11:22-44.10)
- 77 P. L. 1985, c. 339 (C. 11:24A-2.1)
- 78 P.L. 1985, c. 484 (C. 11:21-5.5)
- 1 11A:12-4. Implementation. There is appropriated \$250,000.00
- 2 to implement this act.
- 1 11A:12-5. Effective date. This act shall take effect immediately
- 2 and any actions necessary to implement this act may be taken any
- 3 time thereafter. General implementation is to be completed no
- 4 later than twelve months following enactment.

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#### STATE EMPLOYEES AND CIVIL SERVICE

Repeals the current Civil Service statutes and enacts new Title 11A,  
establishing a new Department of Personnel.

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SENATOR WYNONA M. LIPMAN (Chairwoman): We are about ready to begin this hearing. We are here to hear testimony on the subject of Civil Service reform. Our discussion will focus on Senate Bill 1567, by Senator Pallone, Senate Bill 1829, by Senator Cardinale, and Assembly Bill 2194 (OCR), by Assemblyman Villane. All three of these bills repeal Title 11 and establish a new Title 11A, and replace the Department of Civil Service with a Department of Personnel. There are differences between S-1567, S-1829, and A-2194. The primary difference is the one pertaining to the scope of the collective bargaining process. We plan to examine this difference today, in addition to examining the function of the Merit System Board, the purpose of the proposed Senior Executive Service, the confidential nature of the Department of Personnel, and the issues of delegation and recision.

As you know, the Senate State Government Committee released a Civil Service reform bill sponsored by Senator Cardinale several years ago. Was that 1983, Senator? (affirmative response) The bills differ today from that bill and, therefore, require a new review and a new deliberation. We hope to begin that process today, and we hope to give all the interested parties a chance to testify.

So, we will begin the hearing with Senator Frank Pallone, Jr., speaking on his bill, S-1567. Senator Pallone?

S E N A T O R F R A N K P A L L O N E, J R.: Thank you, Senator Lipman. Madam Chairperson and members of the Senate State Government Committee: I thank you for this opportunity to present my proposal for improving the quality of our public work force. Civil Service reform, in my opinion, is an issue that has outlasted several administrations, but it has certainly not eluded this Committee. I know that this Committee, over the years, has looked at various proposals, as you have already alluded to.

In the proposal I have before you today, I have attempted to combine what I consider the best elements of several reform bills. It differs from the other two bills you have before you today in several important respects, and I would like to outline those differences initially.

First of all, my bill separates the administrative and collective bargaining functions of the Commissioner of Personnel from the rule-making and appeal functions of the Merit System Board. Secondly, my bill does not permit political subdivisions to withdraw from the Civil Service system once they have elected to join. I have to impress upon you that I consider that a very important provision. I also come from a background of serving in local government as a city councilman, and, therefore, look at it from that perspective, as well.

Thirdly, my bill subjects basic terms and conditions of employment to the collective bargaining process; and fourthly, my bill specifies that the five-member Merit System Board include an elected representative of the employers and reflect a partisan balance.

Now, I pointed out these differences between my approach and that of the other two bills you have before you, but I have to add that there are also some very fundamental similarities between my bill and the other two. All three bills, initially, create a new Department of Personnel with substantial authority to create job titles, administer the State work force, and govern conditions of employment. Secondly, all three bills create a new Senior Executive Service, which shall consist of employers having substantial managerial policy influencing or policy executing responsibility. And I think that one of the issues the Committee may want to get into, and that I am concerned about, is possibly capping that Senior Executive Service in terms of the numbers.

Thirdly, all three bills preserve the veterans' preference provision, which I consider very important. Fourth, all three bills protect whistle blowers against management reprisals. Fifth, all three bills prohibit political coercion, obviously something that is very important; and sixth, all three bills attempt to strike a sensible balance between an essential degree of management prerogative and a desirable standard of worker rights and privileges.

Now I am not going to sit here before this Committee and claim that my bill contains the only fair and workable set of proposals for Civil Service reform, but I do believe that it adheres to the best principles. And let me just state a few of those.

First of all, I think a Merit System Board that is to take appeals from disciplining actions of the Department of Personnel cannot act impartially if the Commissioner of the Department sits on the Board. Secondly, if the Merit System Board is to promulgate rules to effectuate this act, if it is to render final judgments on appeals, if it is to determine the very conditions which will characterize State employment, then that Board should have a designated representative of the employees as one of its members, as the bill provides.

Third, a Board that is to protect the nonpartisan integrity of the State work force should have a bipartisan complexion, which my bill provides for. To permit the Administration to dominate this Board with appointees from its own party would undermine the very goals of establishing merit and professional excellence and the standards which define public employment. And fourth, a political subdivision which operates under, or establishes Title 11A provisions, should not be permitted to withdraw. To permit this option, even by referendum, in my opinion, is to undermine the very protections the Civil Service system was established to extend. I realize this is an issue with which reasonable minds on both sides may

disagree, and I'm sure there would even be disagreement amongst the people I serve with on my local council, but I believe we should opt in favor of worker rights and protections over management's powers to dismantle a Civil Service system which extends those rights and protections.

Fifth, and finally, I adhere to the principle that a system functions at its best when management and workers jointly determine the characteristics of that system, and don't misunderstand me. I draw a very clear line between management's responsibility to supervise and at times discipline the work force, and the employees' rights role in the system. But, I cannot abide a personnel system which places almost exclusive authority over the terms and conditions of employment in the hands of management alone. If Civil Service reform is to have any meaning, if it is to achieve any lasting effect, that reform must be brought about amidst the broadest possible consensus of all interested parties. The very same principle extends to day-to-day management of State government. I am not short-sighted enough to presume that every term and every condition of employment should be the subject of collective negotiations, but I do accept the notion that somehow collective negotiations have no place in the Civil Service reform area. In other words, it clearly does. If the rights and privileges of employees have no place in the discussion of personnel reforms, then where do they belong?

There are two distinctly different proposals before this Committee today in the form of three different bills. There have been other bills before this Committee in prior years that are different still. I recognize the difficulty of finding the optimum solution to this complex problem, and I am, therefore, prepared to discuss amendments to, and variations of my bill, that would satisfy the greatest number of people.

I have outlined some of the standards that I think are essential in any Civil Service reform, and I thank this

Committee for the opportunity to make my views known. I am willing to take any questions, obviously, of the Committee about the provisions that I have outlined, or anything else that you might consider important.

Thank you again, Madam Chairwoman.

SENATOR LIPMAN: Okay. Thank you, Senator. Senator Stockman, do you have questions?

SENATOR STOCKMAN: Senator, your proposals for separating the two aspects of the operation of Civil Service-- That is something that was in previous legislation, as I understand it. I think Senator Cardinale himself had it. I gather that feeling grows out of a recognition of sort of a difference between those two functions. The other changes -- and that one in particular -- make a lot of sense to me. The scope of negotiations issue is one that has dogged this Committee, and I guess a lot of people working in this area. Your bill would much more expand the area of scope of negotiations.

Do you recall the debate we had and the legislation that would deal with this issue that came before the Senate in '82 or '83? Were you there at that time?

SENATOR PALLONE: No, I wasn't.

SENATOR STOCKMAN: All right. Well, I was going to really explore with you your reaction to what differences in approach you have. Let me turn to another area that I wanted to ask you about. Does the bill do anything to reduce the backlog of this problem of competitive and promotional examinations?

SENATOR PALLONE: Well, I would say, Senator, that basically, right now, I think the backlog has been created by allowing provisional employees in a lot of areas and, also, by not having the examinations you mention. I think to the extent that this bill, you know, allows for collective bargaining -- or mandates it in many areas -- that there would be more



control over the examinations and that procedure, and that there would be the power, in effect, to go ahead and eliminate that backlog. To that extent, to the extent that we are dealing with collective bargaining and that, you know, the unions would be able to negotiate a lot of the terms and conditions of employment.

SENATOR STOCKMAN: Your bill also, I notice, provides that there be collective bargaining units in negotiation with the Commissioner on rules for voluntary reduced work time as an alternative to layoffs.

SENATOR PALLONE: Uh-huh.

SENATOR STOCKMAN: Why is this important? Why do you think that makes sense?

SENATOR PALLONE: Well, I mean, I think it makes sense from the employees' point of view initially because we like to-- We would rather keep people on instead of laying them off. In general, you know, it's good in a situation where you have a budget crisis, and I think, although we don't have a budget crisis right now, we may very well be entering an era of tight budgets. You know, given that we might have a tight budget situation, you might have situations where layoffs are suggested or necessary, and, you know, this would be an option, instead of layoffs. So, it's my concern, I guess, that we may get into that situation because of the budgetary situation we face, or that we may face in the next few years.

SENATOR STOCKMAN: Okay. I don't have any other questions.

SENATOR LIPMAN: Okay. Senator Cardinale?

SENATOR CARDINALE: I think I will address the issues I would like to raise when I speak myself, Madam Chairman.

SENATOR LIPMAN: All right, which is pretty soon, Senator.

SENATOR CARDINALE: Let Senator Pallone off the hook.

SENATOR LIPMAN: Oh, all right. I have a couple of questions here, in the same line as Gerry's. Senator Codey just came in. Do you have any questions before I ask mine?

SENATOR CODEY: No, I don't.

SENATOR PALLONE: He's not allowed to ask any.  
(laughter)

SENATOR LIPMAN: Yes, he is too. You are aware that we heard testimony on this kind of bill about three years ago, and at that time this Committee suggested that this bifurcation that you have in your bill-- I just want to put a question to you. The Merit System Board and the Commissioner of Personnel-- About the Commissioner himself, he chairs -- and Senator Cardinale and Assemblyman Villane -- he is the chair of both, right?

SENATOR PALLONE: Right.

SENATOR LIPMAN: Okay. You suggest that this be bifurcated and he not be the chair because he would then have the burden of making the rules and deciding on them.

SENATOR PALLONE: I think it's, like, basically-- Well, I'll let you ask the question. But, I mean, the basic reason, at least the way I perceive it, is kind of a traditional separation of executive versus judicial functions, in the sense that if he is going to make a decision in a disciplinary matter, and that has to be appealed, he shouldn't be part of the Appeals Board--

SENATOR LIPMAN: Yeah.

SENATOR PALLONE: --because otherwise they are going to be influenced by his being there.

SENATOR LIPMAN: Well, this Committee came to that conclusion the first time we had a hearing. We knew it at that time. I don't know what conclusion we will come to now. Let me just ask-- Let's compare this to the Chancellor of Higher Education. It's not quite the same--

SENATOR PALLONE: Uh-huh.

SENATOR LIPMAN: --but he administers the Department, and then he sits as Secretary to the Board of Higher Education. Would you think that this is an incorrect procedure for this Civil Service group? Do you think he could pass on his administrative decisions and influence the Merit Board if he was just ex officio, or something?

SENATOR PALLONE: Do you mean rather than having a vote, that he would be there in an ex officio capacity?

SENATOR LIPMAN: Right.

SENATOR PALLONE: Well, that would probably be less dangerous, but I still think that, you know, the Department head -- and you used the analogy with the Chancellor of Higher Education -- is just going to have a lot of influence on the Board. That would be true even if he wasn't sitting there. In other words, his decision is going to carry a lot of weight even if he is not there, Senator, so it just seems to me that having him there, either as a voting member, or even in an ex officio capacity, is just going to make it that much worse. He is just going to have a lot more influence in his very presence. I think he has enough influence-- I mean, just like a court, you know, a trial court decision. I used to work for an appellate judge and, you know, we would devote a tremendous amount of weight to the opinion of the trial judge, and would only overturn it, you know, in an extreme circumstance. I just think that if you had the trial judge there on the appeal panel, it would just make it that much more difficult to overturn his decision or to not give it overwhelming weight.

SENATOR LIPMAN: All right. I think Senator Stockman has asked you about the opt-out provision that is there, where towns can withdraw if they want.

SENATOR PALLONE: Right.

SENATOR LIPMAN: I want to just return for a moment, although you answered most of my questions already, to this layoff provision. You know, many states have adopted what they

call a "short-time compensation," that is, they allow the worker to work four days a week and then have one day off to look for a job.

SENATOR PALLONE: Uh-huh.

SENATOR LIPMAN: Are you referring to a similar situation? I mean, you haven't gotten that far yet, but that it should have an alternative to layoffs in this line of thinking.

SENATOR PALLONE: Yeah. I don't know whether the provision specifies, you know, gets into any details. I don't think it does. Basically, it is just the idea that there would be alternatives to layoffs in terms of, you know, reduced time or reduced number of days, without really specifying how that would be. That would be left, you know, to later, either rules or negotiations.

SENATOR LIPMAN: I was talking for a moment, so I didn't hear whether Senator Stockman asked you if you thought that employees appealing directly to the Merit Board would put too much -- you know, an extraordinary administrative burden on this Board.

SENATOR PALLONE: Well, the only thing I would say is, the way I understand it, I mean, most of it is going to be-- I mean, the Merit System Board can appoint hearing officers to deal with those individual cases, so I don't see that it's that much of an administrative burden to them. I mean, basically it would be done by hearing officers.

SENATOR LIPMAN: Okay; all right. No other questions for Senator Pallone? (negative response) All right, thank you, Senator, for being here so bright and early this morning. Thank you very much.

SENATOR PALLONE: You, too; thanks a lot.

SENATOR LIPMAN: We are going to give careful consideration to your bill.

SENATOR PALLONE: Thank you.

SENATOR LIPMAN: Senator Gerald Cardinale? Assemblyman Villane, this being a Senate Committee, I have to call them first, although your bill has passed already.

A S S E M B L Y M A N A N T H O N Y V I L L A N E, J R.: Oh, we'll treat you the same way in the Assembly, Senator.

SENATOR LIPMAN: Yeah, I know; I've been there. But they would get me, you know.

ASSEMBLYMAN VILLANE: All except for Senator Codey.

SENATOR CODEY: You like it so much you want to come over, Doc.

ASSEMBLYMAN VILLANE: We want to get you back over in our house.

SENATOR CODEY: No way.

SENATOR LIPMAN: I just thought I better explain that. All right, Senator Cardinale.

SENATOR CARDINALE: Well, Senator Pallane, I promise you that I will be very, very brief, and not steal--

ASSEMBLYMAN VILLANE: Assemblyman Villane.

SENATOR PALLONE: He mixed the two, but that's all right, Gerry.

SENATOR CARDINALE: I'm sorry.

SENATOR CODEY: Yeah, a combination of Villane and Pallone.

SENATOR CARDINALE: (testifies as witness) First, I would like, Madam Chairman, to make a few comments about some specific provisions which have been brought up by the previous speaker. In terms of the recision of the Civil Service law, I think we ought to clearly put on the record and clearly understand that with respect to that issue there is a very structured procedure for that to happen. It is not some mere act of a mayor and council, or some mere act of a Board of Freeholders, or any other group, that would allow that to take place. It is an act that requires the consent of the people who are affected most by that action, and that is the people of

whatever municipality it is. They would act in a referendum process. And while everything, I suppose, can be amended in one or another direction in this bill by this Committee, to deny to the people of a community that aspect of self-government is, I think, a very serious step. It is naturally in a democratic society by the consent of the governed that we proceed, and the reason I have been so wedded to that particular-- I suppose you know that I introduced that particular amendment the last time this bill came before this Committee, and it was accepted by this Committee -- I know with a different make-up -- on the very basis that it extended to the people the ability to affect their own method of management of their employees.

Another point has been made in terms of partisanship on the Board. I believe this Board has to function in a way that is almost color-blind when it comes to political preferences. It is the kind of system where we should not limit ourselves to saying there should be "X" number of people from one party, and "X" number of people from another party. I haven't always felt that way. It is not a fixed conclusion on my part that I would never accept an amendment along those lines. I would like to listen to the arguments from the Commissioner, but at the same time, I think we have to be very careful about establishing partisan considerations as an element of what it is we're doing when we're talking about management of something that is designed, by its very nature, to take partisanship out of the system.

Thirdly, the question of bifurcation so that one would be a law-making and the other an administrative area. I think we have a great deal of precedent -- some of which I have disagreed with publicly -- but I think we have a great deal of precedent for that kind of administration. You called attention to one. There is another that has been in the news very much lately, and that is, we have the highest law-making

body in this State -- which happens to be a court -- which later judges whether people comply with the laws which they have made. And, as an attorney, I would think that Senator Pallone is more familiar with that than I ever have been.

Again on the question of separations of powers, if there was a member of the union -- and I know I took a different position on this, actually on television, a while back, maybe three or four weeks -- but I have thought about it some and, of course, I had a different position on this the last time the bill was before us. But I have thought about it some since then, and, you know, there is another provision that has not been mentioned; that is, the union -- the representative of the workers -- will have the opportunity, if this bill passes and if we don't amend out that provision, and I certainly hope we don't -- will have an opportunity to represent people before this Board. How can someone who is derived of that group sit as an impartial arbiter when, in essence, the counsel -- and I realize that what we are trying to do here is to obviate the need for lawyers in the process -- is going to be one of their members? I think that would create a conflict that would be almost irreconcilable, and I would like to hear some comments from others who have some experience with respect to those matters before coming to a firm conclusion on whether or not that ought to be part of what we do.

In a very general way, I would like to comment that the need for this kind of legislation has been very well documented over many years. Probably the first major bill that I was involved with in my legislative experience was before the Assembly, and Senator Codey was the Chairman of that Committee. We considered a Civil Service bill. Sena -- Assemblyman Villane was -- I stand corrected; I almost did it again -- certainly a member of that Committee and a sponsor of part of a package of bills, and this thing was divided. It was

bifurcated into many things. It had bipartisan support in that sense. Actually, the history of this bill preceded that 1979-81 session. It had been considered previously in the Legislature under the sponsorship of Assemblyman Burstein. Some of the provisions were the same, and some were different.

But, I think it has been obvious for many, many years that the system we presently have was generated when there was a much smaller work force in the State of New Jersey, numerically smaller. We had a different set of public needs at that point in time. We had different management techniques that were being employed at various levels of employment at that time. It was 80 years ago, or more, when the system was put into place, and such a system has shown us, by its very bulk, that it needs a major overhaul.

In fact, the last time we considered this bill, every living ex-Governor of this State came before our Committee -- I think one did not come before us, but issued a statement -- whatever party they were from, and indicated that that was the case. Governor Byrne made an excellent - I am not on record as having agreed with Governor Byrne on very many things, but I certainly agreed with him when he said, "If you want to hold any Administration accountable for its performance, give it the tools with which to perform, and then you can hold it accountable for the results of its stewardship."

This Committee then labored at very great length to report a bill in our last session, and in our zeal to satisfy the various competing interests, we amended that bill so drastically -- we discussed every provision at such great length -- that our end product was a bill about which no one was particularly enthusiastic. The result was similar to the results of the Assembly Committee -- on which I served with Senator Codey -- and so many other efforts that have been made here. Nothing was accomplished; nothing was put into place.



I believe that the people of our State deserve better. They deserve a bill which allows their managers to manage for the benefit, not of the Governor, not of the employees' representatives, but of the people that this system was put into place to serve. I think we should get on with that job.

SENATOR LIPMAN: All right. Thank you, Senator. Senator Codey?

SENATOR CODEY: Yes. Senator Cardinale, you say that you don't think it should be partisan, but yet -- correct me if I'm wrong -- you don't support a bipartisan Board.

SENATOR CARDINALE: I think before we can come to a conclusion, we have to-- You know, when you say bipartisan, that introduces the element of partisanship. I think we ought to hear from the people who have been working with this kind of setup, who have created this kind of system, and hear their opinions as to how it would work if we set it up in that fashion.

I am not against appointments being from people who happen to be of both parties. I am perhaps right now, before hearing the testimony, against the notion that the membership in a political party has to be a criteria for selection of one or another of the individuals who are to be on the Board.

I think this is different. You know, in many places, I support that kind of concept, but I think this is a different kind of body, one that has a different kind of function than most political entities, and is created specifically to remove politics from the management of the day-to-day function of government. I am loath to reintroduce it.

SENATOR CODEY: Yeah, but on the other hand, you can have a system whereby they are all of one political party, appointed by a Governor who says, "I ran on a certain platform, and they should carry that through." So it therefore becomes very partisan.

SENATOR CARDINALE: It may, and that certainly is the argument on the other side of the coin, Senator. I recognize that that argument exists. I just think that, again, to establish that as a requirement is not in the best interest of this management system.

You know, with all of these appointments, there is going to be legislative input with respect to those appointments, and I cannot foresee that the Legislature is ever going to be only members of one political party, particularly with the kind of legislative districts that we have achieved, and that we will always achieve.

SENATOR LIPMAN: Okay.

SENATOR STOCKMAN: Senator, two things. The question about legislative input-- Senator, with all due respect, I don't see significant legislative input into appointments of this sort, or many others that are made. I think that is typical of the operation of State government in New Jersey, but I may stand corrected. Put it this way: If there has been a lot of legislative input into appointments in the last few years, this is one legislator who hasn't had much of the action.

I don't want to get into a continued debate with Senator Cardinale, although I think these initial exchanges are certainly helpful to me, and I hope to the people listening, as to where we are going. I can't resist, at the risk of getting into debates about the whole question of the Judiciary -- which is a subject that I know Senator Cardinale feels strongly and sensitively about, and Mount Laurel and Chief Justice Wilentz, etc. -- but I would suggest, with all due respect to Senator Cardinale, that I take exception to the notion that the highest law-making body in our system is the courts. I think just the reverse. I think the Legislature is. That, of course, is a question about which we could debate at length, but, at any rate, thank you, Madam Chairman.

SENATOR LIPMAN: Senator Cardinale?

SENATOR CARDINALE: I don't feel any need to respond, Madam Chairman. I think we could have that debate, and I'm sure we will have it in another forum.

SENATOR LIPMAN: You can come up now, Assemblyman Villane. I just have a couple of questions for Senator Cardinale. Do you think that if the Board members receive a salary that it would insulate them more from politics?

SENATOR CARDINALE: If they received a salary would it insulate them more from politics? Well, I don't know. I don't think so. I think we can point to many areas in government where people are paid, and other areas where they are not paid, and I can tell you in my little municipality of Demarest, where I served as Mayor, people are not paid, and it's pretty darned partisan there. It switches around from one year to another. Sometimes we will elect a Democrat, and sometimes we will elect a Republican, and it's very equally contested.

On the other hand, we legislators are paid, and I think we get into some pretty partisan stances at election time. So, I don't think the question of pay really impacts on the partisan issue.

SENATOR LIPMAN: Okay. Just one more question. I know that-- Let's see, sometimes I get these bills confused. Your bill allows, as does Assemblyman Villane's bill, the municipalities to opt out. You know, you said that you would like a referendum by the people, and all. So I suppose that fits very closely into the Commissioner delegating to the local authorities various personnel functions. Is that fitting hand in glove into that?

SENATOR CARDINALE: Sure. I think if we made only that one change, it would certainly be less positive than if we made that change in conjunction with all of these others, because with the delegation to the municipality of many of these areas of authority, I think we would see less motivation on the part of municipalities to opt out of the system because

it is, after all, a very convenient system for people to use to have the advice of State government available to them and to have the mechanisms of State government available to them in a management situation.

So, I think we probably won't see a lot of that happening, but I think to deny the public vote of the people is sort of anti-democratic. If it is the only thing that can stop this bill from going into place, I will say to the rest of the Committee, "I give it up." I would give that up. It isn't the be-all and end-all of this. We had this at one time in a separate bill. I think it is a concept that could be handled in a separate bill, but it happens to be within this bill now. If it were the Committee's decision to remove that one provision-- I have heard arguments from people who share my political philosophy against that particular provision of the bill. They have said to me, "Suppose" -- and, of course, it is not a good example any more; three years ago perhaps, or four years ago it was a good example -- "Suppose in Jersey City" -- and I know we considered this -- "on the day before Easter Sunday, a referendum was put on the ballot at a time when everyone's attention was focused on other things. Would you feel comfortable with Jersey City coming out of the Civil Service system?"

ASSEMBLYMAN VILLANE: I wouldn't want you to pick on that Republican town the way you are, Senator. (laughter)

SENATOR CARDINALE: I understand now that things have turned around, and I said that it was not a good example any longer.

SENATOR LIPMAN: Now, I am not sure this follows, but the appeals from the employees would then be made on a local level also, since the authority is not delegated to the-- The personnel authority has been delegated by the Commissioner to the municipality. So, the appeals would no longer go to the Merit Board, they would stop at the local--

SENATOR CARDINALE: I don't know that it goes all that way. I think the Commissioner still sits in a-- You know, I may misunderstand what we're doing a little, but I don't believe that to be the case, that everything would then--

ASSEMBLYMAN VILLANE: I'll clear that up for you.

SENATOR LIPMAN: Okay; all right. When you talk you're going to clear it up, or now?

ASSEMBLYMAN VILLANE: Do you want me to talk about the whole bill, Senator, or do you want me to get to that one point?

SENATOR LIPMAN: I want you to answer that one point right now because I might forget it.

ASSEMBLYMAN VILLANE: Okay. We made it very clear in the bill on the Assembly side that none of the responsibility of the Commissioner at the Civil Service State level can be delegated away from that responsibility to review those cases from the State.

SENATOR LIPMAN: All right.

ASSEMBLYMAN VILLANE: I would like to talk to you about a lot of provisions of the bill, but I want to just say first, thank you very much. After a long weekend, to come back to work in the State House, and to have such a heavy agenda as this--

SENATOR LIPMAN: I'm sure they're delighted. I can speak for my Committee. (laughter)

ASSEMBLYMAN VILLANE: Well, I know they're not. Senator, you are the only one on this panel who hasn't served in the Assembly with me, so I know all these guys you're working with. They're huckleberries.

Let me say, Senator, I really do appreciate your having us here today. This bill-- I don't really take pride of ownership; the pride of ownership belongs to the five previous Governors and Assemblyman Burstein. Al Burstein really carried the ball a long time ago when Senator Cardinale and Senator Codey and myself served on that State Committee. This bill is not unlike what--

Really, the people have been calling for the reform of Civil Service for some 70 years. Let me tell you what happened to our bill in the Assembly. In the Assembly version of the bill, we met in a hearing just like yours. At that hearing we allowed for all the input and all the testimony that people wanted put into the bill. Then, in addition to that, so that we wouldn't be moving that bill any quicker than it ought to be moved, we met with people from organized labor. We met with Mr. Marciante, and we met with other people in the AFL-CIO. We met with Bob Pursell, and we met with other people in the State employee unions. We actually reviewed some 17 or 18 amendments they had recommended be considered in the bill.

Of those 17 or 18 amendments, we adopted 11 of them. In the Assembly, it received 45 favorable votes, and six against. All of the others were abstentions. Most of the debate on the floor had to do with a lot of the things you talked about today. I think that everybody recognizes that we need Civil Service reform, including all of the unions. Everybody recognizes that we have to do it; they just haven't decided the final package that this bill ought to address. Basically, the differences in the packages as we look at them now -- which are not unlike the Karcher bill of last year, which is exactly like the Pallone bill of this year -- are in the area of scope of negotiations. Some of the other things you brought up, Senator, are very important, about the layoffs, about who you respond to, the political make-up of the Board, how it is presently done, and how it should be done, but all of those things, I think, are doable discussion areas that we can make.

I really suggest that this Senate Committee has the ability to give the momentum to Civil Service reform like you never had the opportunity before, because the bill is in position right now to be approved by your house.

Let me must review with you a couple of things that we did do in the amendment process in the Assembly, Senator. The floor amendments that were approved added a provision that states explicitly that it is the public policy of the State of New Jersey to protect the careers of public employees from political coercion, and to recognize the existing collective bargaining rights. That is spelled out very clearly in the bill. It gives a permanent employee in the career service, or a person serving a working test period prior to having disciplinary action taken against him, the right to a hearing -- a hearing before the appointing authority -- not alone, he can come with his attorney and, not only with his attorney, he can come with his union representative.

Prior to this amendment, the bill granted an employee the right to a review before the appointing authority with hardly any notice, and we think that that is quite an improvement for the employees of the State of New Jersey. The amendments adopted by the Assembly State Government Committee on March 6, included these seven or eight additional amendments.

It stipulates that nothing in the bill can diminish the employees' collective bargaining rights under the Employer/Employee Relations Act. That is very important. That was a stipulation that the unions insisted be in there, and we agreed that this act was not to supersede the PERC regulations. It also provided that no job title in the public employee union will be included in the Senior Executive Service. This prevents the Senior Executive Service from expanding beyond high-level administrators and policymakers. The fear was that we would change that percentage of senior executives that filter down into other job titles, really attacking the union basis, and we wanted to guarantee that that would not happen.

You have to understand that the Senior Executive Service would represent, by this law, only 15% of those very

top managers, and we think that the top managers that we are talking about are about 800. So, 15% of the 800-- I think you're looking at about 100 to 120.

Also, the Assembly would have -- not only the Assembly -- the Legislature would be brought up to date on a quarterly basis, every three months, on just how many people were in the Senior Executive Corps, just what jobs they held, and who they were. It also directs the Department of Personnel to report; this is on a quarterly basis. It also increases the ceiling of compensation for unused sick leave. I think, Senator Stockman, you understand that presently the maximum you can utilize, if you haven't taken advantage of the sick leave provisions in your contract-- You can only utilize up to \$12,000 of that sick leave. This bill would provide that there be an increase up to \$15,000.

The amendments that we also accepted limit the power that the Department of Personnel may delegate to local authorities. We don't want to delegate away our responsibility at the State level for those people who are Civil Service employees. It adds seniority to the benefits that the Merit System Board may award to an employee who wins a disciplinary case. That was an area that the unions thought they needed, and we believed they were right about that area.

It guarantees that a newly hired or recently promoted employee who is in the working test period-- When the reforms take place, the employee will not be subject to the longer working test periods provided in the bill. It grandfathers in those people who are presently in the system working to the tenured position of Civil Service.

It also guarantees that any person or group with a legal interest in the system can bring action in the Superior Court for the enforcement of law or decisions by the Commissioner or the Merit System Board. Basically, what that says is, they are not precluded from going to a higher



authority. I think probably Judge Wilentz would agree that we don't want to deny anyone's rights to appeal beyond the appeal process of the Merit Review System.

The bill has some very interesting aspects, some of the things that I think you brought up as your concerns, Senator. One is the politicization of the Board itself. Right now, you probably know that the members of the Board are nominated by the Governor -- whoever the sitting Governor is then -- and those Board members must be approved by the Senate, and then they sit. And from that particular group of five members, they select the President of the Board.

Senator Codey had asked me about the salaries of the Board. The salaries of the Board membes are actually set by the Appropriations Committee. It is a line item in the budget. The Board salaries are recommended to the Appropriations Committee, and the Appropriations Committee includes that as a line item. The salaries right now, I think, are \$12,500 or--

FROM AUDIENCE: Fourteen, five.

ASSEMBLYMAN VILLANE: Fourteen, five. One of the things that we discussed in the Assembly about appointing political persons on the Board -- even though we don't do it now -- was that everybody would come in with an advocacy, saying, "I represent the Democrats; I want to protect the Democrats." "I represent the Republicans; I want to protect the Republicans." And a third group -- a third political party almost -- "I represent the labor unions, and I am the advocacy person for those particular groups."

Above and beyond that is the way people ought to serve on this Board. They ought to serve like the people on the Board of Higher Education serve, nonpolitically, to really review the merits of disciplinary actions, or the merits of merit itself, and how people ought to be addressed in the system we have.

One of the things I think we are all aware of-- I think that probably the people in State government -- and the longer I am in it the more I recognize this -- have a great deal of dedication, and I really mean that. But, there are problems sometimes in a work force of 70,000 people. When you have a commitment-- A Commissioner has a responsibility to run the Department. We now have 20 departments in government. When he has the responsibility to run that Department of government, he really needs managers under him who are responsible, and responsive enough, and maybe not protected with a Civil Service tenure that prevents him from requiring the best that he can get out of State employees.

This bill is an important reform bill, and I hope that we can come to an agreement on some of the amendments that have been put in in the Assembly, and some, I'm sure, that you want to approach in your house.

One of the other things that I wanted to touch on was the area of concern that some of you had about separating the Commissioner from the Board of Review -- the Board of Merit Review. I think if you give Commissioner McCaffrey -- or any other Commissioner; I have known three or four of them in that Department-- If you give him the responsibility of running that Department, and then you say, "We want to separate you from any review that has come up through the different review boards," you are creating different layers of political responsibility and political review. Not only will it cost you a whole lot of money, but everywhere along the process, you will be saying, "Well, we can go to the Board," or "We can go to the Commissioner," or you can go to the Board first and then the Commissioner, and then the courts. You are actually layering more responsibility by taking the Commissioner out of that. Every Commissioner ought to be responsible for his Department and for his actions, and I think he really belongs in that.

The layoffs-- I know I am concerned about that, too, and I have been in State government when we have had cutbacks, and I have seen whole departments kind of wiped out. And then with the bumping process that goes down, it takes months and months and months, and dislocates hundreds of people. When you lay off 10 people, maybe thousands of people are affected by the bump-down procedure. The bill we have today in the Assembly form has provisions in it where you can keep people on, where you can have a-- And there will be input from the labor groups. There will be a Labor Advisory Board in this new bill we have that will allow for them to suggest ways to do a four-day work week, or allow for people to take summers off. Regarding State employees who have children who come out of school, if we find that there is a cutback necessary, we may be able to create a nine-month, or a ten-month working period, rather than a 12-month work period. So, there are those provisions in the law that would guard against wholesale layoffs of whole divisions.

The bill on the floor in the Assembly took some three hours. There were a great number of questions about the bill. I'm sure there are a lot of questions that the Senate has about the bill, and I'm sure you are going to have them on the floor when you finally address the issue. But, I will be happy to answer any questions that I can, and maybe clear up some ideas that we are not clear on at this point. Thank you.

SENATOR LIPMAN: Okay. Senator Codey?

SENATOR CODEY: Yeah. On the issue, Assemblyman, of partisan representation, we nominated -- put on judges based on their political party, and no one's ever said it's a bad system, that they go there and act as Democrats, or go there and make decisions as Republicans; but rather, it's that you get the broad political spectrum when you do that. And it's served us, and I think it's served us very well. I think it's well-known that we have a good judiciary, and I don't think

that someone's going to go there on this particular Board, and vote as a Democrat for the unions, or that a Republican would be necessarily pro-Civil Service, as the -- as represented to be.

But I just think you really bring in the broad spectrum, and it creates a better Board. And I don't think someone's going to go there and say, "My job is to sit here as a Republican," or, "is to sit here as a Democrat" -- well, whatever, because I really don't think that happens on the boards that we have now that are bipartisan. I just don't understand the logic of not doing it. I think it makes a better bill.

ASSEMBLYMAN VILLANE: Well, you know, the bill now, Senator -- I'm sure you're aware -- has no partisan aspect to it. And the Board has functioned in a good fashion, and we don't--

SENATOR CODEY: So, therefore, it could become partisan. It could become all Republicans, if a Republican is governor--

ASSEMBLYMAN VILLANE: Yes.

SENATOR CODEY: --all Democrats if a Democrat--

ASSEMBLYMAN VILLANE: I was hoping you wouldn't bring up the question of partisan judgeships today.

And I think that there's an argument on both sides, Senator. I think you're right, and I think that people assume this level of responsibility. Certainly, we'll act in the area of responsible Commissioners. But every governor -- the last five governors -- has asked for reform, and every governor has appointed their people on this Commission. And that Commission, from its own body, has elected their own President. But there's an argument, I guess, on both sides.

Really, what you don't want, in a salary range of \$14,500, is to appoint somebody approved as a partisan -- somebody else approved as a partisan, and a third person

approved as a union representative. I think you destroy that concept of working for the good of the employees of the State of New Jersey. And they deserve good and accurate review. Some of the reforms that we talked about -- protecting whistle-blowers -- they're important things. People shouldn't be abused because they see a better way to do the system. But those are the things we brought into it.

SENATOR CODEY: Right. Another thing-- In your bill you have that the probationary time is a year.

ASSEMBLYMAN VILLANE: Yes, sir.

SENATOR CODEY: I think the present time is 90 days?

ASSEMBLYMAN VILLANE: Well, Commissioner -- I mean, Senator, right now we have probationary periods of up to a year also. And we also have probationary periods -- 30, 60, 90 and up to a year. And there are requirements that -- where we must review. And, it's been pointed out lately that you ought to be able to review people for longer periods of time. You ought to be able to take a look at somebody in highly technical or scientific fields beyond three months. You ought to -- like we do with police and firemen -- be able to test the competency of somebody that's directed to protect our safety. I think, in the winter and the summer and the spring and the fall, you ought to have a longer probationary period. And we do, in fact, have that now; and this bill merely calls for up to a year in certain areas that will have to be justified.

SENATOR CODEY: Yes, but if someone is unable to do the job that they were appointed to do, you can relieve them of their duties now, after the probationary period.

ASSEMBLYMAN VILLANE: I'm not sure if you can do that or not. I think that after the probationary period and they're brought in as full-time employees with tenure rights-- I'm not sure you can dismiss them.

ASST. COMMISSIONER PETER CALDERONE: The standards change. Up to the end of the probationary

period, they don't have tenure. At the end of the probationary period, they would be tenured.

One of the things the bill does -- which is a concept that we've tried to institute -- is that the probationary period is really part of a testing process that shows your on-the-job ability. Right now, you're correct -- in local government, it's three months for all titles except law enforcement and fire. In State, it's four months, extendable to six months, for all titles. This bill would allow the Board to set probationary periods by the type of job that you're doing.

SENATOR CODEY: It's not a fixed year?

ASST. COMMISSIONER CALDERONE: No.

ASSEMBLYMAN VILLANE: No. It's up to a year. And what we're looking at, Senator, is some of the areas that are highly technical -- computer industry, and the scientific areas where I think you need to prove out people longer than 30 days or 60 days. And it allows you that opportunity.

SENATOR CODEY: I have no argument with that, but we seem to be going far off, as opposed to a regular practice. That's all.

ASSEMBLYMAN VILLANE: Yes, it's different than what we presently have.

SENATOR CODEY: Well, it's a lot (indiscernible).

ASSEMBLYMAN VILLANE: It's up to, in certain specific areas -- that the Board approves.

SENATOR CODEY: Well, I'm assuming management would opt for the year.

ASSEMBLYMAN VILLANE: Not on every job. It wouldn't make much sense, because-- Some of the areas of concern, also, in the Assembly were areas of part-time or seasonal employees. And that discussion, of course, precipitated around the fact that we ought to bring all of those people that are seasonal or part-time to the Civil Services system. And the argument was

made that oftentimes, this required that we increase our workforce depending on what our workload is; that we have to hire accountants during times of the income tax area; and other times, we have to hire seasonal employees during recreational periods, in the summertime.

So, there are a great number of seasonal employees, I think, that are justifiably employed by the State of New Jersey that should not be full time or should not have tenure. That was another area of discussion in our House.

Provisional employees was another discussion. There seemed to be too many provisional employees, and part of the problems with provisional employees was the ability to give the test of some 6,000 different job categories. Under this bill under the new system, we anticipate that we'll be able to reduce the number of job categories in half, from 6,000 down to 3,000. And also, we'll be able to retain our lists longer than we presently are able to retain our lists.

SENATOR CODEY: Okay. Assemblyman, what about-- In your bill, you say that the union should -- and their negotiations would not be able to talk about sick leave--

ASSEMBLYMAN VILLANE: Yes.

SENATOR CODEY: --leaves of absences--

ASSEMBLYMAN VILLANE: Right. Sick leave, leaves of absences, conditions of employment and all of those things really belong in another bill that we ought to address, if you think that there's problems in that. And those are really scope of negotiations bills.

This is a management bill. This tells, you know, how the managers of the State government ought to manage all the divisions of State government. The Public Employee Relations Commission is a piece of legislation that dictates the terms of employment, and what we ought to do with the terms of employment -- sick leave, benefits, and all those other things. And those are the things that ought to be separated

from the management bill, that ought to be scope of negotiations bill. And if we're going to modify that scope of negotiations those things ought to be included in the PERC regulations.

SENATOR CODEY: But you've decided that it's not a scope of negotiations, so therefore, it is a scope of negotiation bill. Now, how can you say that it should be a separate bill when you've decided that--

ASSEMBLYMAN VILLANE: There's a separate law that addresses those things that you want to consider under scope of negotiations. And that-- This doesn't modify the Public Employee Relations Act; and in fact, it guarantees that this will not supersede or affect the Public Employees Negotiation Act.

SENATOR CODEY: I understand. No further questions.

SENATOR LIPMAN: Okay. Senator Stockman?

SENATOR STOCKMAN: Assemblyman, I have a few questions for you on some broad areas. And I know you've put a lot of time and effort, and hopefully, we are at about a point where somehow, on a compromise basis, we can pass a bill dealing with a question of Civil Service. It's a difficult area, and I think the proof of the pudding can be shown in a lot of different directions.

One question I can't resist asking you -- it's a general question, but you've lived with this problem for awhile, and I can appreciate your reaction. Two major studies of the Civil Service system in recent years, the Lutz report which Commissioner Woodson commissioned and went into a great detail studying this; and the GMIC study, which was the study which the Administration, certainly, has spoken in very positive and laudatory terms about -- both of these agreed that there should be a delegation of personnel management authority to line departments, subject to review post-audit and general oversight by the Department of Personnel -- in other words,



providing more flexibility, more authority at lower levels of government; almost analogous to a theme that arguably has been a part of a contention by your party, about letting things be handled more at a local level, where there's more sensitivity and appreciation of what the problems are. Why was this current bill-- Why has this current bill abandoned this current approach in favor of continued strong centralization of the personnel system in a Department of Personnel?

ASSEMBLYMAN VILLANE: Well, what it does, Senator-- And you have a good point. And the Governor's Management Improvement Commission, of which I was a member, really went through State government, and they looked at the management levels. They looked at how many managers managed how many people, and what the responsibilities were. We found out, to a great extent, that there needed to be more initiatives in management, and more prerogatives at the top, in even a delegation of authority. What this bill does--

SENATOR STOCKMAN: Right, and I've got in front of me that very clearly says that.

ASSEMBLYMAN VILLANE: It does. And what this bill does is eliminate -- you know, it eliminates 20 departments of personnel and creates one State Department of Personnel, where we can better serve those people that want to come to work for State government. Can you imagine, now, if you want to make an application to the Department of Health or the Department of Human Services, or the Department of Environmental Protection, you have to make out 20 separate applications for employment -- has to be reviewed, has to be storehoused?

One of the problems of serving minorities -- Hispanics and blacks and women -- in State government is that their applications are in 20 different spots, in storage in a catalogued area. When we want to--

SENATOR STOCKMAN: Are you telling me, Assemblyman, that this --

ASSEMBLYMAN VILLANE: That there's going to be one Department of Personnel.

SENATOR STOCKMAN: --that this direction of this bill is the direction recommended by GMIC? I think it's just the reverse.

ASSEMBLYMAN VILLANE: Well--

SENATOR STOCKMAN: Let me read to you, for instance, specifically -- and I'm trying to follow what you're saying. But let me read some specific observations by GMIC. Now, I'm not saying I subscribe to these, but I certainly have to be concerned about finding the recommendations of that group, that's spent a lot of time, and this Commission--

ASSEMBLYMAN VILLANE: I really don't understand the relevancy of it, but if you want to bring in to those recommendations, I mean, I'm happy to listen to them, Senator.

SENATOR STOCKMAN: Well-- The relevance of the GMIC report?

ASSEMBLYMAN VILLANE: Yes.

SENATOR STOCKMAN: Well, it may be irrelevant. I'm trying to find out whether, from looking at the GMIC report as part of trying to come to grips with your bill, it seems to me the bill moves in the opposite direction from GMIC. Now, if you're telling me that frankly, so be it, I don't subscribe to those recommendations of GMIC, I can understand that. If you're telling me that GMIC really suggests what your bill suggests, I am puzzled and I'm trying to clear that up.

ASSEMBLYMAN VILLANE: Well, I'd like to point out-- You know, the good parts of this bill that maybe took some recommendations of the government's management improvement project -- you know, if there's some areas of similarity, I'll be happy to agree with you. But this bill was not the result of the GMIC report, and is not the result-- I don't know whether you served on that Commission or not, Senator?

SENATOR STOCKMAN: No, I didn't. I didn't.

ASSEMBLYMAN VILLANE: I did serve on that, and we discovered a lot of things that have helped us improve management at all levels. Maybe one of the areas that came out of that -- and I don't know specifically the document you're looking at, but we found that employees wanted a more regular area where they could be evaluated.

SENATOR STOCKMAN: Let me read--

ASSEMBLYMAN VILLANE: Right now, there's no system for it.

SENATOR STOCKMAN: Let me read to you the things like I'm referring to. "The centralization of Civil Service employee testing for appointment and promotion for State agencies and jurisdictions under Civil Services causes delay which impede the work of individual departments." Their suggestion was, these things should be delegated to the departments. Again, I emphasize, I'm not saying I necessarily agree with this report, but I want to be sure I understand that the recommendations in your bill seem to go directly contra to the recommendations of GMIC, on this question of centralization. "The centralization of the State's personnel function and the politicizing the process, which leads to wage increases, has failed to reward employees for mere performance."

ASSEMBLYMAN VILLANE: Right.

SENATOR STOCKMAN: And one other point. They get very specific and say, "This is alternatives. The principle thrust of these alternatives is that the personnel function of State government be substantially delegated, under prescribed standards, from the Department of Civil Service to State agencies. We would have the Department set merit system personnel policy, promulgate guidelines, advise agencies, coordinate personnel functions, and monitor and audit their performance. The individual agencies would classify established positions; however, new titles would require budgetary and Civil Service approval.

"We believe that the high degree of centralization characteristic of the State's personnel system has adversely influenced the effectiveness of State government." Now, that's-- I'm quoting GMIC. And again, I want to be clear, saying I don't necessarily agree with them, but I think, if I read the report right, the bill -- your bill -- goes in the opposite direction of centralizing, and bringing a lot more power and control, clearly, to a department of State government.

ASSEMBLYMAN VILLANE: Well, it centralizes in some aspects and decentralizes in others. It allows for the local governments at the county and municipal level to administer some of the testing, and provides that the State shall design the test in the categories that we identify as categories of employment, but allows us to allow for local governments who are more responsive to the needs of what they need. We have a category, probably, in local government that says truckdriver, and we have one that's signpainter, but we probably don't have one that includes both of those things, and we have to provide a separate and individual test. What we're asking for is that the local levels be able to give the test in areas of need rather than create one centralized list. But we're asking for people that come to State government for jobs to be centrally treated through a Department of Personnel.

The GMIC recommendations are really not the genesis of this bill. This bill had its genesis, as far ago as I know, 10 years ago in the Byrne Administration.

SENATOR STOCKMAN: Oh, I know. I know that. I was just interested in your observations as to whether it was consistent with some of the recommendations. Let me change--

SENATOR CARDINALE: Senator, let me comment on that point too, if I may, because-- I don't know the context in which the particular management improvement report was dealing, in terms of the section that you read. But it would seem to me--

SENATOR STOCKMAN: Personnel policies and practices.

SENATOR CARDINALE: --It would seem to me that any reasonable, logical approach would suggest that if a stenographer wants to apply to work for State government-- Now, we use stenographers in all areas of State government. There should be a centralized place where that application could be fed out and the individual departments could say, "We need 'x' number of stenographers; who's applied, and who's passed the exam, and who's available in this pool?" And they could then draw from that pool, instead of each department-- You know, in one, they may have gotten a lot of applications. In another, they may have gotten almost none, and it's a very inefficient system. And that's the kind of inefficiency we're trying to get out of.

On the other hand, it may be necessary that the Department of Environmental Protection, for instance, have certain peculiar kinds of expertise, or the Department of Transportation have certain peculiar kinds of expertise, where it would still be necessary-- And I think this bill provides the flexibility, that those things can be done in that kind of fashion, so that where it's to the benefit of the system, for it to be done one way-- I think if the system is established within this bill, and yet, the flexibility remains, certainly, someone can apply too, if they're an engineer or they have some special skills that are required in a particular department.

ASSEMBLYMAN VILLANE: Senator Lipman, with your permission, would it be possible to invite the -- Commissioner McCaffrey to come up and maybe participate in some of the answering of the questions? Would that be all right with you, Senator?

SENATOR LIPMAN: Yes. He's here? He's behind the post? I can't see him.

ASSEMBLYMAN VILLANE: One of the things -- while the Commissioner is getting ready, Senator, is that when we-- The

Assembly Appropriations Committee had a special day to address affirmative action in this State of New Jersey, and jobs, and how we can provide jobs for minorities. And one of the problems that was brought home in the whole system was that we had no central way to identify those percentages of people that wanted to come into State government according to minority status. And this centralization of a personnel department would allow us much better to identify those people -- minorities that want to come into State government, that have those qualifications. We're actually going out and soliciting, and having job fairs, and trying to attract the minorities to come into State government so we can provide that step up for minorities.

And one of the things that consistently came home at the Appropriations hearings is that there are so many applications in Human Services, there are so many applications in DEP -- is there a way to centralize that? And this is one of the ways to do that, to get a better handle on what we're trying to deliver.

Thank you. Commissioner?

C O M M I S S I O N E R   E U G E N E   J.   M c C A F F R E Y:  
I had a statement to give, but I'll wait until my turn to do that. I just wanted to-- Unless you have something else you want me to do, Senator.

I think Doc Villane was absolutely right. I was going to mention that while we sat in appropriations, they had it set up in the Assembly last year so that we had one full day of Affirmative Action officers testifying, at the end of my departmental testimony. And--

SENATOR STOCKMAN: Commissioner, is it your position -- because I got us all into this debate -- with all due respect, through the Chairman-- Is it your position that on this question of centralization, that the bill is consistent with the recommendations of the spirit of the GMIC report?

COMMISSIONER McCaffrey: Yes, I think it is. I think it is for the reasons--

SENATOR Stockman: I'm really--

COMMISSIONER McCaffrey: --that both Cardinale and Villane mentioned, and that is that one section of the bill gives you the ability, the permission to consolidate; and another section gives you the permission to delegate. And while they may seem to be on separate ends, they're not, because I sense, Senator, that if we didn't have the right to consolidate, no one would accept our delegation.

SENATOR Stockman: Well, I'm confused, but maybe everyone else isn't. That's a matter of record. Let me move to another area, that perhaps -- with your permission--

SENATOR Lipman: Yeah, okay. Although -- Is it you questioning now? I thought it was-- Oh, he just answered your question.

SENATOR Stockman: Yeah.

COMMISSIONER McCaffrey: I just wanted to say, on that point--

SENATOR Lipman: I'm getting confused now; I don't know who's talking.

COMMISSIONER McCaffrey: --on that point, that it was very, very clear that day that we need some central direction on affirmative action throughout our Departments. I think Assemblyman Brown recognized it and noted it in summing up that day.

SENATOR Lipman: Excuse me just a minute, but you are speaking of having this centralizing of affirmative action. Isn't it already centralized? And the EEO--

COMMISSIONER McCaffrey: No, it is--

SENATOR Lipman: It's not. You're talking about recruitment, rather than--

COMMISSIONER McCaffrey: We do all that, but actually, the Affirmative Action officer, while is advisory to me and I

to them through our Director, Audrey Howze, is really not under the wing of our agency -- our Department. They really report to and are responsible to the various department heads. I think there has to be some kind of duality there, because, to get the innovation, to get the spirit, to get the movement that we want-- We achieved some of that, a lot of that with our awareness program that you're familiar with. That was a bringing together kind of an apparatus, but it really should be an ongoing thing.

SENATOR LIPMAN: I can remember this sort of arrangement with the Affirmative Action office, where we created that section. But she's responsible -- in this case, she -- is responsible to you, as well as to the other department heads. Is she not? Is she not under your Department?

COMMISSIONER McCAFFREY: In a sense, sure she is. But as I -- and Audrey's here with us today, in the event that we need her to straighten me out on something. Audrey does not have the authority to go out and force compliance, in any sense.

SENATOR LIPMAN: Oh.

COMMISSIONER McCAFFREY: It's a voluntary kind of action, a jawboning operation--

ASSEMBLYMAN VILLANE: Centralizing records, too.

COMMISSIONER McCAFFREY: Yeah, centralizing records, of course -- thanks, Doc. But really, that's -- there's not as much togetherness as we'd like to have, and I think this -- maybe we're going too far, just talking about that and centralization.

SENATOR LIPMAN: It's not in the bill.

COMMISSIONER McCAFFREY: Generally, as the Commissioner, if I'm the one to succeed the President of the Civil Service Commission -- if it happens that way -- my thought is that you're going to do some consolidation, some delegation, and a little bit of both. But as Senator Cardinale



pointed out, it gives you the flexibility and the management position to do what has to be done in each individual case.

SENATOR LIPMAN: I see.

SENATOR STOCKMAN: May I pursue that a little further--

SENATOR LIPMAN: Go ahead -- you go ahead.

SENATOR STOCKMAN: --since I opened up what might turn out to be a Pandora's box? Is it my understanding that the Affirmative Action Office or operation that emanates out of your Department, Commissioner, has no authority to enforce affirmative action policies or programs of the State? Is it-- I'm confused about that, and I'm wondering--

COMMISSIONER McCAFFREY: The enforcement section of it is, as I understand it, Senator, urging, commenting -- as we do all the time -- reminding department heads that they have to come up to par in these certain areas; that they're lacking in certain areas. As far as enforcement -- what do you do if they refuse -- it's--

SENATOR STOCKMAN: How do you enforce other policies? I mean, Civil Service has a variety of responsibilities. You brought up Affirmative Action, and it's obviously an issue that this Committee is very sensitive and very concerned about, and I'm sure that's one of the reasons that you brought it up. But how do you enforce other policies within Civil Service?

COMMISSIONER McCAFFREY: Well, the law gives us the right to go into most areas. Take payroll disapprovals, for example. If we have a payroll disapproval, we send it over to the Attorney General and they will do that. If there is any-- But as far as this law is concerned, as far as I know, there is nothing in it that bridges the law. If the certain quotas and so forth aren't maintained, or the right ratios aren't maintained--

SENATOR STOCKMAN: Don't you think -- and it's no reflection on you, because we, apparently, in the Legislature, haven't given you that authority, I guess-- Don't you think

that there ought to be some authority in your operation to see that anti-discrimination practices of the affirmative action policies are carried out just as strongly as payroll policies, or a myriad of other responsibilities your Department has?

COMMISSIONER McCAFFREY: Well, I believe -- and I'm getting in deep water, because I'm not an attorney, but I do believe these civil rights actions and so forth are pretty much enforced and carried on through the Division of Civil Rights, and so in those areas, I don't think it's necessary -- and I think there are, clearly, laws there that can be enforced by that Division. Now we're talking about the Affirmative Action concept in State government; we're talking about doing better and more to bring minorities into State government and women into State government.

I'm not sure you can legislate penalties for that, because -- or whatever -- because, for example, when you go into the field of transportation, where you have engineers, we all know that it's very, very difficult to obtain the number of people we want in the engineering core through minority representation and women. For whatever reasons, we can go back and talk about those for months, but, the fact is, if there was a penalty, it would be an unfair penalty for enforcement, as long as the appointing authority is doing everything that they can to meet their quotas and meet their goals. If you put just a penalty onto that and say, "You shall do this," you would run into a very serious problem, in my opinion.

SENATOR STOCKMAN: Well, couldn't there be penalties for this question, this area of doing everything? I mean, that's the whole crux of that problem.

COMMISSIONER McCAFFREY: Then, that's a very, very big and wide area. You're getting back to--

SENATOR STOCKMAN: Well, all right. We've gotten sidetracked, and the record will speak for itself on this area. But I want to come back to two other areas that I wanted

to explore with the Assemblyman, and, I think, with yourself, either now or when you came back up. I personally have real problems at not separating -- bifurcating -- these responsibilities, the quasi-judicial role responsibility in appeals and review of disciplinary action -- that sort of thing -- and personnel management. And again, I want to refer to some past history on this. During consideration of earlier efforts at reform in '78, both the Lutz report and the New Jersey Chapter of the American Society for Public Administration recommended strongly the separation of the Civil Service Commission and its quasi-judicial role from the Department of Civil Service, with its personnel management role. Why does the current bill ignore those recommendations and continue the system that, in the words of the Lutz report, quote, "creates an ambivalent attitude within the Department of Civil Service among its staff, since these roles are often in conflict"?

Now, just to take it one step further. Assemblyman Villane, you suggested that every Commissioner is responsible for his own Department, and somehow, tried to analogize the suggestion that therefore, the Commissioner of Civil Service should be responsible for that kind of issue. My problem is this: isn't it fair to distinguish this responsibility -- Civil Service -- from, let's say, the Commissioner of Education? The Commissioner of Education has responsibilities, but the responsibilities that grow out of his role as a shaper of policy, in the final sort of word, short of the Governor himself, in educational policy-- And it's important, therefore, it seems to me, that he has some control over the performance within his Department of anything and everything that deals with implementing that educational policy, and seeing it to its realization.

The Commissioner, in this area, is the Commissioner that cuts across all 20 departments. It's to see to a healthy

employment situation -- see to the right kind of employees, the right kind of spirit, the right kind of relationship, compensation, etcetera. I see a difference there, and I see a lot of good argument -- and I gather it was in the previous bill -- that these two functions would be separated. And I really am -- I'm hard-pressed not to feel that that ought to be the way to do it.

COMMISSIONER McCAFFREY: Senator, in--

ASSEMBLYMAN VILLANE: That's a tough question.

COMMISSIONER McCAFFREY: --In the previous bill, I believe the Public Advocate introduced this particular thought, that these things be bifurcated. I didn't agree with it then, I don't agree with it now, I do not agree with the Lutz report. I see no conflict at all, as a matter of fact.

If one studies the Federal system prior to the abolition of the Civil Service Commission -- the Federal Civil Service Commission -- you had a Merit Protection Board, now -- then and now -- and you have the OPM, the Office of Personnel Management. They have created two huge bureaucracies, two very big bureaucracies, and very, very often in conflict. One hand doesn't know what the other is doing.

As far as conflict with the Commissioner is concerned here, he would be one vote on the Merit Protection Board, with four counter-balancing votes to review the rules that he recommends to them. I say 4-1 is a pretty good balance. Sure, he'll be an advocate for his views and for the Commissioner of Personnel, and for the Department of Personnel; but he'll be there. It'll be a constant linkage in continuity between the Merit Protection Board and between the Commissioner of Personnel. I think it's healthy for the State; I think it prevents lawsuits. I think it prevents the building of too-big bureaucracies.

As far as the disciplinary matter is concerned -- that we hear, on a regular basis -- there's absolutely no conflict,

because the charges don't emanate from the Department of Personnel, they come from local government through the various departments of State.

SENATOR STOCKMAN: Is this-- Is there a trend, nationally, on this issue; and if so-- I thought the trend was in the opposite direction, that is, separating these functions?

COMMISSIONER McCaffrey: I see no national trend except that anyone you speak to in the Federal establishment will probably agree with you that it was a mistake to separate those bodies completely.

SENATOR STOCKMAN: One more area, and perhaps the most difficult, and-- But I'm sorry. Assemblyman Villane -- through the Chairman -- did-- You said that was a difficult question--

ASSEMBLYMAN VILLANE: Well, it's because it had so many parts to it. And as legislators, we end up doing that. I think we usually ask about six questions and add one statement or two into -- and I do that all the time, Senator. And it's really difficult to get into that, because, you know, there's -- try to keep track of the six parts of that. I think that the President of Civil Service answered it adequately. I think he's really the expert in the area.

SENATOR STOCKMAN: My final question to the Assemblyman and to the Commissioner at this point, before your statement, goes to this question of scope of negotiation. That's an issue that's been kicked around a great deal -- and I've heard -- and the Commissioner suggested to me this proposition just the other day, and I appreciate his calling me and telling me about it-- I hear this suggestion about, "That's another bill, this is a management bill. And whatever needs there are in that area, let's deal with them another time, and in another bill in another setting." Now, if-- I don't think this bill can be looked at exclusively as a management bill. And I think the proof of the pudding is a

great concern, and I say frankly -- and I salute you for it -- the willingness for you to very carefully try to negotiate what the legislation is, with the major public employees unions. If it wasn't a bill that very, very seriously potentially impacts on them, I don't think you would have done it. I don't think you would have made the amendments and the changes that you've already done, and I think that's very good.

I have a difficult time with the notion that we not at all think about or be concerned about this question of scope of negotiations at this time. If that came up in the last six months, juxtapositioned against an issue -- Civil Service reform -- that we've been struggling against for years, and now suddenly, as we're on the threshold of a Civil Service bill that can be arguably described as a reform -- a real step forward -- and then suddenly, someone came up and said, "Well, there are problems here," I could see where it could be said, "Wait a minute. You're entangled. We'll deal with that, but let's go somewhere else and get this other matter resolved." But the issue -- and the seriously troublesome issue of scope of negotiations -- has been talked about, has been an issue of battle, of debate, of discussion, for not weeks and not months, and not even a year, not even two years, but longer. And how do I respond to people who are very much concerned about collective bargaining, and represent tremendous numbers of my constituents, with a proposition that something ought to be done, or some commitment ought to be made, in that area now, as opposed to saying, "Well, hey, look, that's a great subject, but, you know, we're here today. Tomorrow we'll deal with that"? What, Assemblyman Villane, can you tell me about your position with regard for the need for some changes in the scope of collective bargaining among public employees? And I'm going to ask the same question of--

ASSEMBLYMAN VILLANE: I think the President of Civil Service really can answer you a great deal more clearly than I

can. But let me tell you as a legislator, what my experience has been, and I think that you'll agree with me, because it's typical of what happens when we do pieces of legislation.

Admittedly, negotiations -- scope of negotiations -- employee working conditions are handled in the Public Employee Relations Commission. And admittedly, management's handle in this is Title XI. As a legislator, when you see a bill moving through -- and they're not far removed, they have to do a -- people that work in State government, and the conditions that they work in, and benefits, and vacations, and times, and compensatory pay, and sick leave, and all -- they're close. And so traditionally, what happens when a piece of legislation that's moving through the Legislature -- and you are the most sensitive, I guess, by the nature of the legislative district you represent -- the people come to you and they say, "Senator, here's a thing that has to do with employee -- employment of State people in State government. Wouldn't this be a great opportunity to present some of the functions, or some of the things that we've addressed in 585, and why would it be some of the good things to talk about conditions of employment?" But you see, this has to do with Civil Service employees, not all State employees.

And so, when you talk about scope of negotiations, you ought to talk about a piece of legislation that affects all the employees of the State of New Jersey, rather than just some of them. It ought to talk to the teachers; it ought to talk to the non-Civil Service. It ought to talk to all State employees. And that more accurately is handled in the piece of legislation that you and I have been part of in public employee relations. And Civil Service management ought not to take pieces of that, and apply it to only Civil Service employees, as opposed to all State employees.

Why don't you answer -- probably better than I can--

COMMISSIONER McCAFFREY: I don't know about that.

Doc. One of the-- Part of my statement, Senator, which seems to be appropriate at the time, was a quote from Assemblyman Burstein in '81 or '82, before they reported it out. And he said one of the most troublesome issues before the Committee during its consideration of this bill was the subject of what matters can and should be negotiable between State government and employee unions. The Committee decided that the issue of negotiability should not be considered during the deliberations relating to the Civil Service Reform Act. Instead, it is the Committee's intent that the Civil Service Reform Act, both in whole and through each of its individual sections, neither broaden nor narrow the existing situation pertaining to matters fixed by law or rules and regulations, and that any changes of this status quo be made by other legislation.

I think that, as you said early on, this negotiable question has been going through and through for a long time. I think Burstein, who obviously had a lot to do with that bill -- if not everything, in many areas -- recognized that it wasn't possible to consider both of these great issues at the same time, and have one come through without--

SENATOR STOCKMAN: Al Burstein was one of the great legislators that I served with, so I say respectfully that nevertheless, we didn't get a Civil Service bill back at that time.

COMMISSIONER McCAFFREY: Well, it-- Okay, I agree with that. I'm not--

SENATOR STOCKMAN: Maybe that's part of the reason.

COMMISSIONER McCAFFREY: I'm not sure that that's the reasons; I'm not sure that that's the history of that. And by the way, my age corrected me on that. It wasn't Burstein's quote; it was the quote of the Committee when they reported it out. So, it was the entire Committee that said that.

I-- Again, I feel, as I've told you in other conversations, that there is something -- and I'm speaking



directly for McCaffrey, and no one else -- there is something that can be done, in scope. But I think it's going to take some screening, and some time to find that which we all can live with. And I don't think we can do that in the time frame that we have. I think we have the momentum going now; I think the Assembly has passed it -- hopefully, this Committee will put it out for a vote in the full Senate, and then we'll be able to get this aside once and for all, and sit down and in good faith talk about whatever we can focus on as scope. I don't-- I think it would delay us; I think it would stop the momentum, that whatever momentum this bill has gathered so far, and it would make the process very difficult to continue.

SENATOR CARDINALE: I'd like to comment on that too, since it's partly my bill, if I can answer that question--

SENATOR LIPMAN: You guys are not going to let me say a--

SENATOR CARDINALE: I'm sorry.

SENATOR LIPMAN: Right here, since both of you have spoken -- Codey too, and I haven't-- I just have to ask on this one point, and then I will allow you to speak. What is it-- We are talking now about his point, the scope of negotiations, and why it should or should not be included in this bill. But it seems to me that you have included sick leave, vacation time -- doesn't that belong in the scope of negotiations?

COMMISSIONER McCAFFREY: Well, they were things, for the most part, that were already there, Senator, and have been expanded. I don't think there was any new material. If there is, it is not much involved. So, it was a voluntary thing, and they were done, really, as something that we all knew didn't need to be negotiated, because everyone agreed on it at the time -- that sick leave was long overdue. As far as reimbursement was concerned, we wanted to do something to stop abuse thereof, and that was sort of a management and--

SENATOR LIPMAN: By fear rather than negotiation?

COMMISSIONER McCaffrey: Yes. So, I wouldn't consider that addressing scope, as Senator Pallone's bill does. Sprinkled through the bill, it says, "subject to negotiability," etcetera, through the bill. So, it's quite different in that respect.

SENATOR LIPMAN: All right. Senator Cardinale?

SENATOR CARDINALE: I'd just like to comment on Senator Stockman's point. Scope negotiation is an issue that has not been ignored by the Legislature. It is an issue that the Legislature has struggled with, has dealt with, and has voted on. Civil Service reform is an issue that only the committees thus far have struggled with, but no house of the Legislature -- not one house of the Legislature since I've been here -- has voted on this issue.

We have turned down a particular version of scope of negotiations in a vote of the elected representatives here. And so, I think-- We haven't ignored it. It's not something that we've been-- It's not something, perhaps, that you're pleased with, in terms of the outcome.

But Assemblyman Villane has pointed out very clearly that it is a very, very different concept. It involves some very, very different notions than this bill does, and really belongs in a separate bill so that it can be considered on an independent basis.

SENATOR LIPMAN: All right. Now, back to me. I'm asking anybody who wants to answer -- Assemblyman Villane, Mr. McCaffrey, or Mr. Calderone -- would you define a confidential employee for me?

COMMISSIONER McCaffrey: I'll defer to Assistant Commissioner Calderone.

SENATOR LIPMAN: What is a confidential employee?

ASST. COMMISSIONER CALDERONE: Are you talking about confidential aids -- the unclassified service -- or confidential employees for bargaining purposes?

SENATOR LIPMAN: It seems to me that the Villane -- well, Villane anyway, makes even clerical workers in the Department of Personnel confidential employees. So, what is a confidential employee, and is any other department in our system classified in this manner?

ASST. COMMISSIONER CALDERONE: We have-- The whole Casino Control Commission and its employees are all confidential.

SENATOR LIPMAN: All right.

ASST. COMMISSIONER CALDERONE: Portions of the Department of the Treasury are all confidential. There are confidential employees in all the different personnel departments in State government.

SENATOR LIPMAN: You make clerical workers confidential in his bill.

ASST. COMMISSIONER CALDERONE: No. The current law does not mention whether confidential or not, for bargaining purposes. In fact, the PERC Act, of course, became effective much after the Civil Service Act.

Currently, all the employees in the Department of Civil Service are confidential. There are no employees that are part of a bargaining unit. That is an ongoing dispute at the PERC Commission. There's cases in the Appellate Division.

At the present time, throughout its organization, the employees of the Department of Civil Service have been confidential. There's no clear language in the PERC Act or the current Civil Service Act. This bill makes it clear that employees in the department of personnel would be confidential for bargaining unit purposes.

COMMISSIONER McCAFFREY: But not as we know confidential employees in other departments of State, as unclassified confidential agents.

SENATOR LIPMAN: Say the first--

COMMISSIONER McCAFFREY: Confidential agents in other

departments of State are unclassified confidential agents. Confidentiality to which Peter refers is that of the Department for purposes of bargaining.

SENATOR LIPMAN: All right.

COMMISSIONER McCAFFREY: We're not in the bargaining units.

SENATOR LIPMAN: I understand, there's two different--

COMMISSIONER McCAFFREY: Except certain clerical groups.

SENATOR LIPMAN: (continuing) --statuses here.

COMMISSIONER McCAFFREY: Right.

SENATOR LIPMAN: Okay. Could you answer a couple of questions on this Senior Executive Service? I think Assemblyman Villane said that about 15%--

ASSEMBLYMAN VILLANE: The law addresses, in hard numbers, 15% of that category for the senior executive corps, and we estimate in the State Government Commission, I think-- Did we say there was between 800 and 1000 in that category?

COMMISSIONER McCAFFREY: We thought-- Well, first of all, the bill says 15% -- Doc's right, or Assemblyman Villane's right -- may come from the outside. Eighty-five percent must come from the classified service, and we estimate that there are between 700 and 1000 in that category.

ASSEMBLYMAN VILLANE: Those that come into-- Maybe I can explain it a little bit to you, Senator.

SENATOR LIPMAN: Yeah.

ASSEMBLYMAN VILLANE: Yeah, it's--

SENATOR LIPMAN: Enormous proportions.

ASSEMBLYMAN VILLANE: Well, it isn't a lot -- when you think about the numbers -- at all.

COMMISSIONER McCAFFREY: Remember, 85% of these people are classified, already working in tenured positions in the State.

ASSEMBLYMAN VILLANE: And when they opt to come into

the Senior Executive Service, they can either opt to come in or not to come in, but we will, at no time under this legislation-- We're going to report on a quarterly basis. But we-- By law, this piece of legislation says that no more than 15% will come from without the system and that 85% will come from within the system.

SENATOR LIPMAN: From within -- ah, now I understand. There's a distinction there.

COMMISSIONER McCAFFREY: Someone has portrayed them somewhere along the line as patronage jobs. I read that somewhere, where these 85% are people who are already working for the State. Democrats, Republicans, independents, and classifications of all types must come from the classified service, just as much as you required that my deputy come from the classified service when we changed the law about that--

SENATOR LIPMAN: Yeah.

COMMISSIONER McCAFFREY: (continuing) --three years ago, or so. So, that's what we're really doing. Fifteen percent will come from the outside, and I expect that they're going to be very, very short-tenured people. I would expect those 15%, in the functional sense, will come in for special duty, when they have special expertise -- borrowed from industry, or from colleges, or someplace else, to do specific jobs and then come and go. I think that's what you need that 15% for -- for special knowledge.

SENATOR LIPMAN: Okay. My next question is about career employees. When they opt to change to Senior Executive Service, they lose their Civil Service standing, right? They do not?

COMMISSIONER McCAFFREY: They don't lose their Civil Service standing.

SENATOR LIPMAN: What do they do?

COMMISSIONER McCAFFREY: They lose tenure.

SENATOR LIPMAN: They lose tenure?

COMMISSIONER McCaffrey: But they can revert back to Civil Service standing at any time.

SENATOR Lipman: But they may not be at the same level that they were.

COMMISSIONER McCaffrey: They will drop back one level.

ASSEMBLYMAN Villane: The next level.

SENATOR Lipman: They would drop back one level. So, if you go to SES and you're unhappy and you want to go back, then that means you've got to decide to take a lower position -- does it?

COMMISSIONER McCaffrey: They go back to the same position, the same level.

SENATOR Lipman: The same position as--

COMMISSIONER McCaffrey: But one position under what's been defined as Senior Executive Service. But they will go back to the same money level -- the same compensation level.

SENATOR Lipman: Oh, the same salary level.

COMMISSIONER McCaffrey: But will have a different title.

ASSEMBLYMAN Villane: And, presently, I think-- For Senator Stockman, none of the people we are talking about in the Senior Executive Service are presently members of the union, and nobody will be.

SENATOR Lipman: That's what I'm talking about too.

ASSEMBLYMAN Villane: Yeah, well I want you to understand that because I think it's an important point, that we won't be taking people to take them out of the union, so to speak. All--

SENATOR Lipman: That's what I mean.

ASSEMBLYMAN Villane: You know, it would not deplete in any way or form the numbers of people that are presently in the CWA or the other affiliated unions.

COMMISSIONER McCaffrey: The Senior Executive Service will come from the non-bargaining units.

SENATOR LIPMAN: Senator Stockman?

SENATOR STOCKMAN: Where did this idea come from?

COMMISSIONER McCAFFREY: Senior Executive Service? It's before me, Senator. It was in-- As I recall, it was in Al Burstein's bill, and I think it's been used in other states. I know Massachusetts has one. Michigan has one.

SENATOR STOCKMAN: What's the experience been?

COMMISSIONER McCAFFREY: The experience is mixed. Some of them haven't gone all the way in. Some of them -- they just kind of put their foot in the water, and that's not just-- People talk about pilots and trying things. That's okay, but we've had enough experience with our own State government that we think we know what we should have for the State of New Jersey. I don't think it's real easy to compare. Michigan might be the best comparable, but it's not easy to compare, state to state.

SENATOR STOCKMAN: It's been suggested to me that the Federal experience is less than persuasive. One report characterized the Federal effort as a failure; that there have been no changes in the proportion of career and political appointees, that there's been little mobility in the system, and that the bonus incentive plan does not work. Are you aware of these findings, or--

COMMISSIONER McCAFFREY: I think that the bonus incentive plan fell flat on its face in that system because they had-- They really didn't have a good appraisal system -- a good way of deciding who gets bonuses and who doesn't -- and that can be very, very damaging to morale when you just decide to give your good friend a \$10,000 bonus, or something like that.

SENATOR STOCKMAN: How many employees in State government today will potentially be eligible for this program if this bill were passed today -- approximately?

COMMISSIONER McCAFFREY: We're thinking 700 to 1000.

SENATOR STOCKMAN: So, there are 700 to 1000 people.

COMMISSIONER McCaffrey: Is that right, Pete?

ASST. COMMISSIONER CALDERONE: Anywhere up to about 1200.

COMMISSIONER McCaffrey: Twelve hundred, perhaps.

SENATOR STOCKMAN: Twelve hundred? There are roughly 1200 people working for State government today, in various positions. They would all be, I guess, classified positions, right?

COMMISSIONER McCaffrey: No, not all.

SENATOR STOCKMAN: Most of them?

COMMISSIONER McCaffrey: We could theoretically go for those 15% to unclassified people now working for the government, if we wanted to.

SENATOR STOCKMAN: Well--

COMMISSIONER McCaffrey: I would think it would make a lot of sense.

SENATOR STOCKMAN: Let me start again. If this bill passed, how many people in State government would be eligible? I'm not saying who you'd pick. But, theoretically, under the terms of the bill, who would you -- if you were the head of this new entity -- have available to you to select from, to possibly invite into this program?

COMMISSIONER McCaffrey: About 1200.

SENATOR STOCKMAN: Twelve hundred. And let me make sure I know who those 1200 are, roughly. Most of them would be people who are in the Civil Service system who have classified positions now, right?

COMMISSIONER McCaffrey: Most of them would be, yes.

SENATOR STOCKMAN: And most of them would be people in higher levels of State government, probably earning a minimum of, what -- \$30,000?

COMMISSIONER McCaffrey: Maybe higher than that.

SENATOR STOCKMAN: Forty thousand?



COMMISSIONER McCaffrey: Maybe.

SENATOR STOCKMAN: Of those people, if we took a vote after intelligently studying this bill and this proposal -- this program -- what, is it your opinion or suggestion, would the outcome of that vote would be among those people? That is, would you think a very large majority of them would support the creation of a Senior Executive System Program of this sort, oppose it, or be neutral?

COMMISSIONER McCaffrey: I really don't know, although I will make a general statement about that. I think the middle managers in the State understand that this bill is going to have some effect on them, and I think, like all of us, they're kind of resistant and sometimes afraid of change; and I think, unless they had a full and complete explanation as to what was going to happen and some experience as to what happens, they would probably be somewhat negative about it.

SENATOR STOCKMAN: I'm concerned about this proposal. I really am apprehensive that it's going to go one of three ways: it's going to be successful and improve the quality of performance of State government -- that's the ideal and that's what Assemblyman Villane, I'm sure, hopes for; the second is that it will make matters worse, and it will introduce a lot more politics and negative things into the system; another is that it will really have a minimal impact, except that it may complicate the system a little bit more.

I don't understand -- and let me ask you-- Why hasn't an effort been made to reach out and pull in these very people who this proposal is going to impact on? They're captive. They're part of State government. They're identifiable. And, when you suggest to me-- And I don't say this critically, but I say it very probingly, hopefully. Why hasn't an effort been made to share with those people this idea, and get back from them their reaction, which might be, "Hey, what are those clinkers in the Legislature doing? Why haven't they put this

program in operation before now?" Or, it might be, "Hey, you've got to be crazy. You set this system up and I can kiss my future goodbye in terms of opportunity."

ASSEMBLYMAN VILLANE: Senator, you're asking another one of those six-part questions that I ask all the time.

SENATOR STOCKMAN: No, I think, Assemblyman -- with all due respect -- this is a very basic question, and I don't think it's complex. And, Assemblyman, with all due respect to you, I don't think--

ASSEMBLYMAN VILLANE: Let me tell you why I didn't do it.

SENATOR STOCKMAN: Excuse me, Assemblyman. I don't know what the rules are in the Assembly, but I think, through the Chair, the rules here are that when someone is asking a question, he gets a chance to ask it. So, let me say to you I don't think it's a complex question; I think it's a very straightforward, simple one which goes to the question of the very people who are going to be impacted. Why not question them?

SENATOR LIPMAN: So, you're going to get four answers to a six-part question?

SENATOR STOCKMAN: Well, I may get 40 answers.

SENATOR LIPMAN: That's one of these things that-- Senator Cardinale?

SENATOR CARDINALE: I think I can give the Senator one answer. Maybe it will be -- it won't be too long. I think, Senator, that-- First of all, I say this very respectfully. I don't think that that group of people are the people who were looking for the greatest impact, or the people we want to help the most. I think we want to help the system, which, generally, is the taxpayers.

I know the administrators are going to have some problems with it. They've evidenced-- And we have, by the way-- There is an Association of Administrators -- directors

of administration -- throughout State government, and my people have met with them. Two of my people -- Nelson and another one -- have met with them and explained the bill, listened to their concerns; and we are aware of their concerns.

There's no way-- When you're dealing with something that's going to change someone's employment situation, there's no way, until they see it on line -- in my experience in life -- that they can say "Yes, I would be in favor of it."

What my answer to you is, I think you're right. I think a poll might be negative at this time, but it wouldn't be for -- the answer wouldn't be for the right reasons; it would be because of fear of change, not understanding the system, and it would be shooting down something, perhaps, that will -- that I think a year from now, everyone will be very satisfied with.

SENATOR STOCKMAN: Commissioner, I think I disagree with your initial premise. I understand what we're about is much more important than, strictly speaking, the number of State employees that operate this system, and that the greater good and the greater concern has to be the public interest. But I am uncomfortable about the suggestion that the very people -- these 1200 people who will be impacted aren't an important weathervane of where we're going.

I'm not suggesting -- and I hope my question wasn't so simplistic to suggest that the mere fact that if a poll was taken and 601 of them were opposed to it and 599 were in favor of it, that that's the end, we take our marching orders and we turn in a different direction.

On the other hand, if there is an overwhelming expression of concern about it, that concern has got to reflect something, and I would think that out of that effort of polling them and getting them involved a little bit more, maybe in it would come some ideas and suggestions: "We don't like the proposal as it is, but it could be refined in another direction." This is, I think you'd agree, a significant new

step; and I think there are sincere people in State government now who are concerned whether or not five or ten years from now it will produce some serious problems in terms of the morale and the motivation of people who are not in it but are in the Civil Service system looking to move up, as well as people who are in it, as to how they are dealt with and treated, particularly from a political perspective. You're tampering with a delicate entity, and I would just think that those 1200 -- give or take -- people would be extraordinarily valuable to hear from if they can be identified and something gotten back from them.

COMMISSIONER McCAFFREY: We've identified their concerns, I think, through their Directors of Administration who, in each department of State, as you know, are pretty much the people who understand the personnel workings and concerns.

SENATOR STOCKMAN: Where do they stand on this idea?

COMMISSIONER McCAFFREY: I would think that the jury is out, pretty much, that there's nobody for or against it in a very strong way. And I really can't fault that stand on their part. You know, I understand that, and if I were there I'd be waiting with bated breath to see what this Administration and this Legislature was going to do.

SENATOR STOCKMAN: But they're not clearly opposed? They're not expressing serious opposition?

COMMISSIONER McCAFFREY: I have not had any serious-- I've had a few letters from local towns about something different from this completely -- you know, about recision and that kind of thing -- but I haven't had any strong, absolute opposition to this bill.

SENATOR STOCKMAN: I shared with you an opportunity that I had, just several weeks ago, to speak before a group of black administrators -- minority administrators -- and they seemed unanimous in expressing apprehension about this particular aspect of the bill. There were other problems they

had with it, too. Now, whether that was explained based on extraordinary influence of one or several people in that group or otherwise, I'm not sure, but I know -- and I told you that the other day -- that there was a concern.

But I gather if you tell me that the broader group is mixed, or the jury is out, that's something--

COMMISSIONER McCAFFREY: What we had-- What we've had, Senator, is suggestions, for example, that the Senior Executive Service be layered in little by little, which is sort of -- in my opinion -- cutting off your limb a little bit, by a little bit, by a little bit. The pain and the suffering probably will never get you to where you want to go.

There have been suggestions that they retain absolute right to their titles. In other words, that Senior Executive Service presupposes someone is willing to move into the executive and take a bit of a chance, and what some of the administrators were looking for was absolute safety in their present positions if they opt to go into the SES. Now, they're not forced to go into the SES, so we don't see any reason to give them that option, since they're perfectly able to stay -- and receive their benefits and increments -- where they are if they choose not to come in, once offered.

And, so, we've had that kind of a dialogue with them, but, outside of that, nothing really serious. Peter, unless there's something that you've touched on?

ASST. COMMISSIONER CALDERONE: No, I think you're right. Some people want a guaranteed salary. If they join the SES, they want a guaranteed salary coming back.

As to the concept itself, I don't think there's that opposition. But different groups see different kinds of protections that they want in, and very little risk in concept.

SENATOR LIPMAN: The way that I have been envisioning this new Department of Personnel and the Senior Executive Service is that the Senior Executive would be delegated to

departments in the government -- you know, what is their function? I know that I'm going a little far when I ask that.

COMMISSIONER McCaffrey: No, you're not. Doc, whenever you want.

ASSEMBLYMAN VILLANE: That is a good question, and what we're looking at is, under the Department of Environmental Protection--

SENATOR LIPMAN: Right.

ASSEMBLYMAN VILLANE: (continuing) --that next director, or division director. Some 15% of that next level of administrative management personnel would be a member of the Senior Executive Service. Eighty-five percent of that would all come from the present system, but they would be given greater duties or responsibility and the opportunity to be moved laterally into other departments, where we needed personnel and a lot of functions that really dictate the possibility -- or the probability of better management.

And, of course, one of the biggest stumbling blocks to any Civil Service reform -- and probably for some almost 80 years -- has been the fear of the unknown, or fear of change.

But, the bill addresses the needs of the residents of the State of New Jersey -- almost 7-1/2 million people -- and not only the needs of some 85%, or 850 people in the top management group.

The reason why I'm supporting the bill, and the reason why I'm working for the bill -- I worked for it under Democratic administrations as well as Republican administrations -- is, we feel there is an opportunity for better management for the work force, the employees of the State of New Jersey, to deliver better service to the residents -- 7-1/2 million people in the State. But, Commissioner, you can probably address the -- well, the initial question.

COMMISSIONER McCaffrey: I'll try to get to Senator Lipman's concern, and that is, what will these folks be doing?

I guess, basically -- as we were saying -- what they'll be doing is whatever the Commissioner requires of them. As they are brought into the Senior Executive Service, their duties, their functions, their titles, in fact, and their salaries -- subject to budgetary provision -- will be dictated by the Commissioner. And, what you're giving every Commissioner is more flexibility in running his department.

SENATOR LIPMAN: It's like being a special assistant?

COMMISSIONER McCaffrey: He may call them all assistant commissioner. He may call them special assistants. It will depend -- or she may -- on what function he sees, or she sees, that that category of trained administrators, as they pick them, will operate within their department. And so, they will be able to, hopefully, take advantage of what you and I helped to put together -- a Certified Public Managers Program, where we're training more executives in minorities and women to come into these spots. We'll be able to draw on those trained people. We already have 1000 of those people graduated from CPM Society. We'll be able to be into more areas where we wanted more minority representation, without concern for testing, without concern for anything else except the ability of the person to do the job and bring them on up. That's what the Senior Executive Service is all about.

SENATOR LIPMAN: All right. Have we made the Commissioner make his statement now? Do you want to make your statement, or do you think you've covered it?

SENATOR CODEY: I think he's been making it.

COMMISSIONER McCaffrey: I think I've been making a statement for 20 minutes or so now.

SENATOR LIPMAN: I think so.

COMMISSIONER McCaffrey: There are some points that perhaps I haven't covered because I haven't made a statement.

MR. CAPALBO: If the Commissioner wants, he can just hand the statement into the record and it can be appended to the record.

COMMISSIONER McCAFFREY: I would ask, if you don't mind, Senator, if perhaps -- if Commissioner Calderone has something that I've missed that he'd like to point out on anything. Peter's been very, very helpful in putting this bill together and technically helping us with it.

ASST. COMMISSIONER CALDERONE: Why don't you just go through and continue.

COMMISSIONER McCAFFREY: Okay. Let me, if I may -- I'll just get through a minute or two.

SENATOR LIPMAN: We didn't ask all the questions.

COMMISSIONER McCAFFREY: All right. Point: A-2194 was not developed by gubernatorial appointees or academics. We had input from personnel professionals and from all affected organizations. In particular, a view was made of the past legislative proposals we talked about today, and what came out -- and I think this is important -- is a plain-language bill. What emerged was a revision of the current law from its 35 disorganized and overlapping sections into 12 properly developed chapters. Technical jargon, legal terms, and imprecise wording were deleted and replaced by non-discriminatory language and plain English. The elimination of a 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 -- most importantly -- the taxpayers.

SENATOR LIPMAN: We congratulate you on the language of the bill.

COMMISSIONER McCAFFREY: Okay. We also -- as someone mentioned earlier today -- have a whistle-blower provision. We're all familiar with that. We know it's an important thing that all Republicans, Democrats, and all agree on -- that there should be protection for the whistle-blower.

One of the things about consolidating departments, as Senator Gerry Stockman talked about, was, would it be



consolidated or would it be delegated? In that sense, I would like to point out that there will be some money saved in some consolidations. I can see, for example, small departments, such as Civil Service-- Well, let's strike Civil Service because we're confidential. Let's say Banking and, perhaps, Insurance. While they're not together as a department anymore, you might be able to combine and use personnel facilities and some other facilities. Just strictly from an administrative standpoint I think it's challenging, and it will be a lot of fun to be able to look into those opportunities for savings of money, efficiency, and morale without having somebody saying, "You can't do that." I think that's one place the taxpayers will all benefit, from better service and less money.

Also, Doctor Villane mentioned it, but let me say it again: veterans' preference is not touched in any way. There is not comma, not one period, not one word changed in veterans' preference, and provisions for Congressional Medal of Honor winners and other highly decorated veterans are similarly continued.

I know that Senator McManimon has been talking about veterans' preference being changed here and there. There is no change. If there's anything he wants to put in the bill to tighten it up, we'd be glad to consider it. But, there is no change. I can't say that often enough, because it just keeps popping up.

Now, I know from your standpoint, Senator -- the woman's standpoint -- it isn't the greatest--

SENATOR LIPMAN: No, there's no change.

COMMISSIONER McCaffrey: (continuing) --thing in the world, but -- as I told you three years ago -- the longer we stay away from conflicts, and the further we get away from the Vietnamese date, the fewer and fewer people are affected by it. And also -- remember this -- it's only on entry level for the most part. Once you're in the system, for the most part it doesn't apply.

We've talked about continuing sick and vacation leave programs. I won't take your time up with that any further.

Senator, unless you have some questions, I think -- between the testimony of Senator Cardinale and Assemblyman Villane and myself -- we've pretty much covered what my statement would have covered. So, I don't want to take any more of your time, except that I, for whatever it's worth, assume you've seen the endorsement by The Newark Star Ledger. I guess it was in Sunday's newspaper -- an editorial on Civil Service reform.

SENATOR LIPMAN: All right. So, if we have no other--

SENATOR CARDINALE: I'd like the Commissioner to answer one question that I might want to pose to him. In terms of various groups, I know each of the prior times that we have had this bill before us there's been sort of a dichotomy here. Management types were on one side and labor types were all on the other side. I have been reading in the press that that's not exactly the case; that there are some labor groups today that oppose it but it's not all labor groups. Can you expand on that thought a little bit?

COMMISSIONER McCaffrey: Well, I'll take a change. I do not like to speak for labor; I'd rather see them speak for themselves. However, it's my concern, my consideration, that other than some minor things that some of the other unions want to talk about, the only major problem that we can't seem to get over is CWA's scope of negotiations. I've met with AFSCME, CWA, IFTE, PBA. I think the PBA has endorsed our bill, except for the recision section which, as you said, is something we can work out somewhere along the line. I've had long, long meetings with AFSCME over the past three years, since you and I worked on this bill last time with Doctor Villane. And so, with IFTE and the AFL-CIO, I think we're now in a position where, except for scope of negotiations, we have an opportunity, with some labor support, to put this bill to a vote.

SENATOR CODEY: Do you have any more questions? Do you want Senator Cardinale there?

COMMISSIONER McCAFFREY: We didn't even talk about it, Dick, I'll tell you -- so help me.

SENATOR CARDINALE: I just thought it should come up because I'm looking at the list and I don't see AFL-CIO there, Dick, and I think it's no secret that they have endorsed this bill -- just about -- in the public media, and, I think, even before the Assembly Committee.

SENATOR LIPMAN: When it's five or six to one, you know, in the case of the union--

I want to thank you, gentlemen, for coming here today -- and Senator Pallone. I would just like to have a statement from Reverend Woodson, whose representative is here.

ASST. COMMISSIONER CALDERONE: Thank you very much, Senator, and thank you all.

SENATOR LIPMAN: Oh, yes. Assemblyman Villane, we're going to vote this bill out today, contrary to your expectations. I'm kidding.

ASSEMBLYMAN VILLANE: Wonderful.

SENATOR LIPMAN: I'm kidding.

ASSEMBLYMAN CARDINALE: Just as it is, no changes, right?

SENATOR LIPMAN: No changes. Okay, Jaqi.

J A Q I H O R F E N D O R F: Good afternoon. I am here on behalf of Reverend Woodson, who is a former Speaker of the Assembly and former President of the Department of Civil Service. He could not be here today because he is hospitalized, but he is very interested in Civil Service reform and he asked me to make this statement to you:

"Dear Senators: I am disappointed that I could not attend your hearing on Civil Service reform legislation, but would like to present my views on this issue. This matter has been of prime importance to me as a former member of the Legislature, and as Civil Service Commission President.

"I continue to serve as a member of the Civil Service Commission, and strongly believe that the time is right for meaningful Civil Service reform.

"Assembly Bill Number 2194 represents needed changes in the Civil Service System, which I support. In particular, the creation of a Senior Executive Service is essential to State government to attract, train, and retrain the best possible government managers.

"A-2194 provides for such a service, which is also a necessary vehicle to ensure equal employment opportunity and affirmative action in all areas of government employment. I am keenly aware that affirmative action efforts have not been fully effective in the managerial appointments, due to the inflexible constraints of the current law.

"The Senior Executive Service, as envisioned by this bill, will be a needed revision to professional lives, government, and will benefit the employees and citizens of New Jersey.

"I am aware that the scope of negotiations issues have been raised in the discussion of Civil Service Reform. As other legislative committees recognize, the scope of negotiations matters cannot be appropriately addressed in the context of Civil Service legislation. Negotiation concerns should be separate and distinct from Civil Service legislation.

"Assembly Bill 2194, as amended in the Assembly, properly emphasizes that this legislation does not alter current public negotiation laws or rights.

"I urge this Committee to research an opinion, handed down by the Supreme Court of New Jersey some years ago, relative to a demand on the part of organized labor to legalize their proposal for increasing the scope of negotiations. It was the finding of the Supreme Court that the increased scope proposed would impinge upon management prerogatives, decrease management responsibilities, and place personal upgrading at the whim of organized labor.

"A further investigation of the matter revealed that in those Civil Service jurisdictions outside of the State of New Jersey which did increase the scope of negotiations -- they discovered that there was an increase in cost of operation while, at the same time, a decrease in management responsibility resulting in the frustration of many managers who felt helpless in making legitimate management decisions.

"In my humble opinion, it does not make good sense to pay managers good wages and make them responsible for their decisions on one hand, and then take from them their prerogatives for decisions on the other. If anything, it would seem to me that the Legislature, in any reform attempts, should make certain that the best possible managers are selected, give them adequate management tools, and hold them strictly accountable for the decisions that they have made.

"A review of successful private sector personnel policies reveals that this is the approach taken by major corporations across America, and I believe that this is the policy which should be the agenda for the operation of government in New Jersey. To do anything less than this would be to diminish the efficiency which results in a diminished service, which is the end product of government.

"Other sections of A-2194, including the delegation of certain technical administrative functions, the emphasis on employee training, and the strong enforcement powers, are vital features for Civil Service reform.

"As one who has been intimately involved with the Civil Service System, on both the State and local level, I ask the Committee's approval for A-2194, which I believe will provide for a responsive and fair government for this State.

"Sincerely, S. Howard Woodson, Jr."

SENATOR LIPMAN: Thank you very much, Jaqi, for reading that statement. I suppose he was-- Jaqi, I suppose he was present when the Assembly considered the bill?

MS. HORFENDORF: Yes, he was.

SENATOR LIPMAN: And he presented his testimony?

MS. HORFENDORF: Yes.

SENATOR LIPMAN: Tell him we hope he recovers very soon.

MS. HORFENDORF: Thank you very much.

SENATOR LIPMAN: Do any of the members have any questions? (no questions) Okay.

Well, that being the case, I think we'll take about a 40 minute break so you can get something -- a little lunch -- and then we'll be back for the other witnesses.

(RECESS)

AFTER RECESS:

SENATOR STOCKMAN: We're going to get started. Senator Lipman has asked me to begin the afternoon session. Apparently she has another commitment, but I think she expects to be back in a while. Also, I understand that Senator Codey had to leave. So, rather than delay, we will start this afternoon off with Bob Pursell of the Communications Workers of America.

R O B E R T W. P U R S E L L: Thank you, Senator Stockman. It was somewhat torturous this morning sitting in the audience and listening to some of the comments made about how the current system operates and how the new system will operate under the legislation that is being considered. It just drove home the point that a little knowledge is a dangerous thing.

One of the problems, I think, which is happening, is

that the focus of where we should be going is lost, in that the Civil Service system was created out of assassination attempts and successful assassinations of American presidents, but eventually was brought into being to protect employees from political patronage, and for Assemblyman Villane to sit up here and say that Civil Service reform should be a management bill is ridiculous. The thrust of the movement should be to retain the general focus of why Civil Service came into being, to protect employees from personal favoritism, political coercion, and arbitrary actions. To the extent that the bill is used to streamline management and make it more flexible and more efficient, that's fine. That should be a secondary consideration to the overall protection concept that Civil Service was originally designed to bring to public workers.

I think what I will do is just put on record that we are opposed to Senator Cardinale's version and Assemblyman Villane's version of Civil Service reform. They take giant strides backwards, and protections that workers have had are stripped away. We support Senator Pallone's version, recognizing that while his bill tends to be an ideal version for labor and that we can't expect to get everything that is in his bill, from our perspective, we should use Senator Pallone's bill as a starting point to try to reach a consensus among all parties as to what should be placed into some final version of Civil Service reform.

The make-up of the new Merit System Board is in contention. We also believe that it should be a bipartisan Board, with a representative from organized labor, either appointed or elected to the position, to at least give the employees a voice in the wilderness, so that when cases come up, there will at least be someone to lay out the employees' perspective of these cases.

SENATOR STOCKMAN: Bob, may I stop you for a minute, taking the prerogative not only of the Acting Chair, but

apparently as the only member of the Committee hearing this at this point? To the extent that it will help me, I'm sure that makes sense. I don't want to cut you off at any point. At least at the end, I want to give you an opportunity to put into the record anything you want. But in terms of my following CWA's position in this matter, it would be helpful to me if we could take these matters one at a time, and discuss them to the extent that they engender questions in my mind.

We have had some discussions on this bill, as you know, and I have discussed the subject with you in the past, but today is a fresh day, we have heard some new arguments, and have had a new discussion of the bills before us. I was going to ask you-- You mentioned one, and I want to question you about that, but I was going to ask you, if you could-- We know that CWA has a number of objections and suggestions with regard to these bills, and probably the most serious quarrel is the question of: Why not deal more with the question of scope of negotiations?

Could you list for me, in order of, shall we say seriousness, or preference, the points that you would make with regard to what the bills should look like? I know you have a number of suggested amendments or complaints, but could I ask you to try to focus in order of what you feel are probably the most serious flaws or needs, on down? That's putting you in a little bit of a spot. I don't know whether you can do it. If you can, we can take it that way. And as you go through them, I would like to maybe ask you some questions about them.

MR. PURSELL: Yeah. I don't think we intended to go through every one of our points, and I pretty much narrowed down to seven or eight points things that we feel should be addressed in the bill. Again, we get upset when we hear that tacking scope of negotiations issues onto this bill is going to doom the bill, is going to ruin the bill. We hear that with a number of other bills that are being dealt with in the Legislature, and with this bill it is totally false.



I think Senator Codey was right this morning when he said that, to the extent that a Civil Service reform bill restricts the ability to negotiate, that also makes it a scope of negotiations bill. It is just a matter of what issues are going to be brought up at the bargaining table.

SENATOR STOCKMAN: Right on that subject, which is the most contentious and the most difficult to come to grips with, and as someone who had -- as a matter of record -- some uncomfortableness with the piece of legislation that would have greatly expanded scope of negotiations, and not wanting to rekindle an old, perhaps, disappointment, in terms of my position on it, can you spell out any idea as to what might be a compromise scope of negotiations kind of approach that might somehow bring the parties together, or are we far from that yet?

MR. PURSELL: No, I don't think so.

SENATOR STOCKMAN: I tried to ask that question of other witnesses.

MR. PURSELL: Yeah. The scope bills that have been dealt with separately in the Legislature were broad scope issues that would have made almost every topic negotiable. Rules and regulations promulgated by these agencies would have been negotiable. We firmly believe that they should be, but in the interest of narrowing down our priorities, I guess you'd say, and trying to reach a consensus and compromise on this kind of legislation, we believe there are a number of items that currently are negotiable in local government service for classified workers that are not negotiable for State service workers. We currently have a disparage system right within the current Civil Service system, and those issues deal with the hours of work, overtime pay, holiday pay, and leaves of absence, and outside of those issues, which currently are negotiable in the local government sector, there are two other issues that we feel should be negotiable, which the courts, in the last seven or eight years, have taken away from us through

various court decisions, those being an alternative disciplinary action procedure and negotiation over transfer and reassignment rules.

In 1981, the courts ruled that discipline is a managerial prerogative, and struck out of our existing contracts provisions which allowed for binding arbitration of disciplinary actions. It worked fine up until that point. Why the courts took it out-- They had their own reasons. It is something that could be negotiable if it was specifically addressed in legislation. The same with transfer and reassignment rules.

We are also cognizant that we have to protect what are perceived to be merit principles under the Civil Service system. We are confident that language could be developed that would allow those topics to be negotiable -- that narrow laundry list of items to be negotiable -- while still protecting the basic merit and fitness concepts within the legislation.

SENATOR STOCKMAN: How close do you think you came to some sort of an agreement?

MR. PURSELL: Except for transfer, we thought we had reached a consensus with the Administration on hours of work, leaves of absence, holiday pay, overtime pay, and reassignment rules. Unfortunately, it never got to the point where we could finalize an agreement into writing and co-sponsor legislation.

SENATOR STOCKMAN: Okay.

MR. PURSELL: Again, it makes me wonder how sincere the Administration is in reaching a Civil Service reform measure. From our perspective, scope is a very-- I wouldn't say it was a minor issue in this legislation, but compared to the other problems and the powers that they will receive through this legislation to administer the personnel system-- We feel it is a valid compromise that they should reach with us, and they haven't been able to reach it.

SENATOR STOCKMAN: Why don't you give me the other points?

MR. PURSELL: Well, all right. Back to the bipartisan Board and the labor appointment. We believe there should be someone appointed from labor to represent organized labor's interests on the Board.

SENATOR STOCKMAN: A bipartisan Board?

MR. PURSELL: Yes.

SENATOR STOCKMAN: Let me take up that issue with you for a minute. You think that by-- It has not been a bipartisan operation to this point, although I guess historically, because of the carry-over of appointments, it has almost worked that way.

MR. PURSELL: That's right.

SENATOR STOCKMAN: You know, one of my problems with a bipartisan appointment -- at least one I throw out to you for consideration -- is the question of-- There are Democrats and there are Democrats; there are Republicans and there are Republicans. When you get into this business of appointments and someone is carrying a label, and a Governor is making that choice, it can become very difficult to necessarily really be satisfied that you have a true mix, a true--

MR. PURSELL: Balance.

SENATOR STOCKMAN: Do you think, though, that it would work better that way than without some, at least attempt at that kind of balance?

MR. PURSELL: I think absolutely that bipartisanship, while it is not going to solve a lot of our problems, and recognizing that anyone who is appointed to the Board is serving, to a certain extent, in a management capacity, it at least provides a system of checks and balances if the system gets skewed too far one way, which I would say the current system is getting skewed to that way now. Currently there are four Republicans serving on the Civil Service Commission, and

the general trend -- and I was going to suggest this at the beginning -- may be useful if there were a Civil Service Commission meeting held in front of a joint session of the Legislature, so that you could actually see how these meetings are conducted. But, that would just put things into the current historical perspective.

SENATOR STOCKMAN: Do you suggest that there has been a change in the operation of the Civil Service Commission since it has--

MR. PURSELL: Politically? Most definitely. It has gotten considerably more conservative. In 1981, when we started representing State workers and attending the Civil Service Commission meetings, cases that had gone to the Office of Administrative Law and had come back with recommendations for the Civil Service Commission to either modify, affirm, or reject, were generally-- In a case where an Administrative Law Judge had recommended that the penalty be reduced, the Civil Service Commission generally went along with that. As the Civil Service Commission has changed from Democratic holdovers to Republican appointments, the conservative trend has been just the opposite. As long as the Administrative Law Judge upholds a disciplinary action, there is generally no discussion about the penalty. However, when the Administrative Law Judge recommends the reverse or a modification of the penalty, there is considerable discussion about why they should not change the disciplinary action recommended. We're finding that in many more cases than in the past. In the Law Judge's recommendations where he has been more lenient than the original penalty, we're finding that those penalties are being -- that the appointing authority's original penalties are being upheld.

SENATOR STOCKMAN: You think a bipartisan Board would reduce that likelihood.

MR. PURSELL: Especially if there was a representative

from labor on the Board. Again, when you go to the Civil Service Commission meetings, members of the audience can't participate in the meeting. So, while the discussion about a particular case is going on, there is no one there who really looks at the case from a worker's perspective, who could lend some information that may influence their decision from a humanitarian perspective.

SENATOR STOCKMAN: What about the quarrel that you are putting someone who has a vested interest, or a conflict because of an allegiance to organized labor, on the other side of the hearing table?

MR. PURSELL: Well, currently you have that problem. The appointees right now-- There is Phil Matalucci, who is, I believe, the Chairman of the Cape May County Republican Party. You have former Senator Vreeland, and Commissioner Woodson from Trenton. When cases come up involving their districts, or their cities, or even their counties in many cases, they will abstain from participating in a vote. The same thing could happen in the case of-- Say a representative from AFSCME was appointed to the Merit System Board, he would certainly have a right to abstain from voting to avoid an appearance of conflict, or an actual conflict. I don't believe they should have to abstain, but that is certainly one option available to him.

SENATOR STOCKMAN: Well, I mean, either they should or they shouldn't, it seems to me. If a representative of AFSCME is on the Board, and if AFSCME is against-- Would they be officially appearing -- I guess they would, strictly speaking -- with one of their members on appeal, from time to time?

MR. PURSELL: Sure.

SENATOR STOCKMAN: Would you think that they should abstain? Then it raises the question of whether or not you are not going to preclude a, you know, participant rather frequently from deliberations of the body.

Let me ask you another question. I really--

MR. PURSELL: There are ways of getting around that. You could appoint someone from organized labor who only represents private-sector workers; therefore, someone from the UAW-- Well, they represent some public workers; there are not very many unions that do not represent public workers, but you could appoint someone from--

FROM AUDIENCE: The paper workers.

MR. PURSELL: The paper workers? (laughter) Someone from a union that doesn't represent that many public workers.

SENATOR STOCKMAN: What about this practice in other states? Is there any analogy where this is a bumping practice in another state and it has worked, or not?

MR. PURSELL: New Jersey is way behind the times. In most states, you don't have disciplinary action appeals going to the Merit System Boards. You have binding arbitration where the cases are dealt with before-- The employer presents their case; the union presents theirs, and an impartial third-party makes the decision, which is not reviewed by a Merit System Board. That is why we want an alternative review system, so that cases can go to binding arbitration. Then, once the arbitrator awards his opinion, the strict standards of rejection of his award would be the statutory restrictions on how the courts can reverse or modify or vacate an arbitrator's award. So, you would drastically reduce the discretion of the Merit System Board, and you would have to defer to the arbitrator's expertise, unless he clearly misunderstood the law or exercised undue means.

SENATOR STOCKMAN: Thank you. (Senator Lipman returns at this point.) Back to the Chairman. Mr. Pursell has been pursuing a series of objections that CWA has.

SENATOR LIPMAN: Oh, okay.

SENATOR STOCKMAN: He has gone through the one concerning a bipartisan Board and participation on that Board by a union representative. I guess that is where we are.

MR. PURSELL: I might add that--

SENATOR LIPMAN: That you want? You support that?

MR. PURSELL: Yes, we support that. The Public Employment Relations Commission has representatives appointed to represent both labor and management. The Public Employment Retirement System has representatives elected from the various groups of employees to represent their interests. I don't see any radical departure from existing practice by implementing a procedure like that.

The Senior Executive Service was also discussed at length this morning. You could argue that since none of our employees in the bargaining units are going to be affected directly by that, by having their titles moved into the Senior Executive Service, that we shouldn't really be concerned with the Senior Executive Service. In theory, the Senior Executive Service sounds like it would work. We do have a lot of reservations about it, one being the more titles that move into the Senior Executive Service, the more upward mobility of our members is restricted. More than that, though, is the possibility that the system can revert into a patronage system. Originally we weren't going to oppose the concept of the Senior Executive Service, but the more we hear today, it makes us wonder if we shouldn't have opposed it because I don't think we want to be on record five years down the road, when we see that the Senior Executive Service has turned into a nightmare where political appointees come and go at will, and there is no kind of checks and balances in the system.

We checked into-- The current law, under 11:4-4M, allows principal departments and executive officers of the State to appoint confidential agents and confidential secretaries to positions within the State unclassified service, and the law is specific. It says: "You are entitled to one confidential agent and one confidential secretary for each principal department," which would make you think that out of

20 Executive Branch departments, coupled with the boards and commissions that exist, that maybe there would be 100 or so confidential agents and secretaries hired at any given time working for the State.

Well, the Civil Service Commission, in its regular meetings, publishes the appointments -- the names, the dates, and the salaries that those folks are appointed to. We went through the last four or five years of Commission agendas and pulled out the names and dates and salaries of the people who have been appointed to the confidential agent and confidential secretary positions. We would argue that the State already has a Senior Executive Service in place through this system. Instead of having one per department, in many cases we are finding 10 or 12 in each department, which is clearly in violation of the statute. On top of that, there is not a small number. There are probably over 300 currently serving in these positions.

SENATOR STOCKMAN: Excuse me. With the Chairman's permission, a statement like that engenders an interest in Mr. Calderone being here to maybe respond. That is a rather--

SENATOR LIPMAN: If the Commissioner is no longer here.

SENATOR STOCKMAN: Or the Commissioner, or both.

ASST. COMMISSIONER CALDERONE: I think, Bob-- Doesn't the rest of that statute say: "Boards, commissions, principal executive officers," not just each department?

MR. PURSELL: Come on up here. I can't say--

SENATOR STOCKMAN: We can't read the record back, like the advantage they have in court, but Bob just made a--

ASST. COMMISSIONER CALDERONE: Thanks, they invited me up; you invited me up.

SENATOR STOCKMAN: --suggestion that there are eight, ten--

SENATOR LIPMAN: Ten, twelve--



ASST. COMMISSIONER CALDERONE: You know, I can't really respond because it is something that I heard for the first time this morning, but I think the statute goes a little farther and provides for-- As the Legislature creates boards and commissions and principal executive officers, they also get confidential appointments.

MR. PURSELL: Yeah. If I may, I have copies of the current statute, as well as a list of the employees who have been appointed to these positions.

ASST. COMMISSIONER CALDERONE: So, it is not limited by department; in fact, this is one clerk or secretary, and one confidential employee for each -- and then they talk about some of the court people: "Each State department, board, or commission..." And then there is another section that also provides that: "For each principal executive officer..." So, I think, Bob, the important thing is to link them -- to whether they are linked to a board, commission, principal executive officer, or department, and I don't have that data with me so I can't verify it.

SENATOR STOCKMAN: Well, is it roughly accurate, I mean, enough-- Are you surprised at the numbers we are talking about?

ASST. COMMISSIONER CALDERONE: I just don't know. I have to look at the data and see what--

SENATOR LIPMAN: Commissioner? The Commissioner has just come in. Mr. Pursell has just made a statement that in his opinion the Civil Service Department already has a Senior Executive Service goal. It already has this kind of position, because they read the old statute, and it permits one secretary to be appointed. When they looked through the departments, they found that there were 10 or 12, which is, in his opinion, a violation of the statute. That is what Mr. Calderone is attempting to answer right now.

ASST. COMMISSIONER CALDERONE: He's not talking about-- He is talking about confidential appointments. He has presented the Committee with a list of names and departments.

COMMISSIONER McCAFFREY: Right. What is the point; I'm not sure.

ASST. COMMISSIONER CALDERONE: These are really unclassified appointments. These are the unclassified service.

SENATOR LIPMAN: Well, what he is trying to say, in effect, is, there is, in violation of the statute right now, a Senior Executive Service because of the numbers of persons per department who have been appointed to these departments.

ASST. COMMISSIONER CALDERONE: That is not as I understood Bob. I think what he is saying is that there is a statute that provides for confidential appointments.

SENATOR LIPMAN: Yes.

ASST. COMMISSIONER CALDERONE: In the unclassified service -- unclassified service under current law, and whether or not this list comports with the current law.

SENATOR LIPMAN: Yes; that's right.

MR. PURSELL: To take it a step further, there is no clearly defined duties as to what these confidential agents and secretaries are supposed to be performing. I submit that with 300 confidential agents and secretaries, and a payroll in excess of \$7 million, that this could be the Senior Executive Service, rather than creating another layer of bureaucracy to enable 150 or 200 people from off the street to be hired into these kinds of positions.

SENATOR LIPMAN: Glad you're going to join us. (Speaking to Commissioner McCaffrey, who is returning to the witness table.)

COMMISSIONER McCAFFREY: Yeah. As far as the unlawfulness of those positions is concerned, the Attorney General or somebody will have to rule on that. As far as them serving as a Senior Executive Service, I think you have to

assume that these people are already engaged in some function other than what we consider the Senior Executive Service will be doing, that whatever commissioners are using them, they are using them in certain functional situations and, as I recall the history of Civil Service law, going back to whenever it was started, this was sort of a compromise between the Administration and the Legislature, giving some confidential appointments and confidentiality to some certain few people in exchange for classifying everyone else.

It has been well-recognized in the past that there are certain confidential positions that should not be classified, and that they are the commissioners' positions, or the Governor's positions, or whomever. Freeholders have them in local government, as you and I well know having been Directors. So, I'm sure these people are now doing things for their bosses and their departments which are separate and apart from those which we expect the Senior Executive Service will do, if and when it is created.

SENATOR LIPMAN: Yeah, well the County Officers Association of New Jersey has proposed amendments -- has sent us proposed amendments which add a confidential assistant to each county constitutional officer and register.

COMMISSIONER McCAFFREY: That's NJAC, I guess.

SENATOR LIPMAN: Yeah.

COMMISSIONER McCAFFREY: Yes, I think NJAC is here today.

SENATOR LIPMAN: Are they here?

COMMISSIONER McCAFFREY: Yes, there is a representative of NJAC here. But really, you know, there is no way that we could -- knowing the system as I do now after four years and two months and four days -- convert what now exists as confidential agents to a Senior Executive Service and make it workable.

MR. PURSELL: I might add that the bills proposed before you perpetuate the confidential aide and secretary positions, in addition to the Senior Executive Service. I think a hard look needs to be taken at how many people have been appointed through this process, what type of work they are doing, and if they couldn't utilize this process instead of a new category of Senior Executive Service to accomplish what they are doing.

COMMISSIONER McCAFFREY: There may be a need to do that. I can't say that Bob Pursell is wrong. This is the first time he has broached this particular idea to me. There may be a reason to review this once we get a reform bill and a Senior Executive Service under way. We may find that we do want to distill some of that, because it does give us the right to do rules, to change rules, and so forth, and maybe it would be the amount of confidentials, if we examine them and see that we really don't need them, or that they are under-functioning.

SENATOR STOCKMAN: This is an interesting list. Am I reading Page 2 correctly? I see that Roger Bodman, in April, was appointed confidential aide at the Office of the Assistant Commissioner at \$69,500.

MR. PURSELL: That's right. Apparently, one way of getting them onto the payroll quickly before they are either confirmed or--

SENATOR STOCKMAN: Oh, that was '85. That was just before-- I thought it was after he left the Commissioner's job. I'm sorry.

COMMISSIONER McCAFFREY: I think if you went further, Senator, you might find that Hazel Gluck is serving in Transportation now as a Project Specialist or something, awaiting her swearing in, which is in about a half an hour.

SENATOR STOCKMAN: Okay. I didn't see your-- I thought it was current, a current appointment.

COMMISSIONER McCAFFREY: Right. It is a way of doing continuity, I think.

MR. PURSELL: I think what you find interesting is, there are a number of people who are either Assemblymen's daughters or Assemblymen's sons, or friends of politicians who have managed to get onto the payroll. I just can't help but think that the Senior Executive Service will be used for the same purpose, and to establish it without capping it, or having some kinds of restrictions built into it, I think is just folly.

COMMISSIONER McCaffrey: Just remember, Senator, it is still 85% from the classified section, so that window has been closed 85% of the way.

SENATOR LIPMAN: I'm sorry Senator Cardinale is missing this discussion. But, let me just ask Mr. Pursell a question, if I may zero in on something. Mr. Pursell, regarding your comparison between the Senior Executive Service and a confidential agent, your point is well taken. But the Senior Executive, as visualized by this new legislation, would be an expert in management. You have more than-- You are acquainted with the confidential aides, but you're saying that the Senior Executive Service, or the people who work in it, would be classified, ah, unclassified as confidential aides, and I am trying to equate that with the Department's desire to have better management. It has just come out -- and I don't know how to reconcile these two things -- that Hazel Gluck is probably on a temporary payroll until she gets to Transportation. I don't know what we can do about the situation, Mr. Pursell.

MR. PURSELL: Those kinds of situations I can understand. Many of these are still employed. I would say the bulk of them are still employed in one capacity or another as a confidential agent or secretary, at a fairly exorbitant salary I might add. There is nothing written into the Senior Executive Service that says they have to have expertise in management.

SENATOR LIPMAN: Yeah.

MR. PURSELL: It says they will be performing that work, but that doesn't mean that when they are brought into the position they have to have that kind of experience.

SENATOR LIPMAN: That's what you meant just a minute ago when you said their function was not described.

MR. PURSELL: That's right.

SENATOR LIPMAN: Okay, I've got it.

MR. PURSELL: Again, as I pointed out, to a large extent the only reason we are concerned with the Senior Executive Service is from our concern for good government. It is not going to affect our employees that much, only to the extent that the money that goes to the Senior Executive Service will be less money that will go into filling staff vacancies that actually perform the day-to-day work. It's just something for the Committee to consider in your deliberation as to what final version, if any, the Senior Executive Service should have in the legislation you release.

SENATOR LIPMAN: Okay. Where are we now? Did you finish your presentation?

MR. PURSELL: No, I have several more items. I could go on for the rest of the day, but I will cut it short because I think--

SENATOR LIPMAN: Well, the main ones that you want to touch, please do so.

MR. PURSELL: The main ones-- Unfortunately, neither Senator Cardinale's nor Assemblyman Villane's bill deals with the provisional problem that currently exists. The Office of Legislative Services, in November I believe it was, or October of last year, did an audit of the Department of Civil Service, and found Civil Service in violation of their own statute by employing over 3500 provisionals longer than six months. The current statute reads, in 11:10-3 that: "No provisional appointment may continue for longer than four months."

COMMISSIONER McCaffrey: That's down 3000 from when I arrived.

MR. PURSELL: And I think Gene deserves credit for lowering the amount of provisionals. I don't think 3500 is acceptable and, coupled with the fact that we're talking there of only open competitive appointments, we're not talking about promotional exams, where our current bargaining unit in the State government -- we represent 34,000 employees-- The list of provisionals we got from the Department of Civil Service shows over 9000 of our employees are serving in a provisional capacity waiting for an exam.

Now that may mean that there are a lot of employees getting promoted, but the reality of it is, it's more likely that tests are not being developed quickly enough to deal with the number of titles that have been created.

SENATOR STOCKMAN: What would you say would be the answer to that -- through the Chairman?

SENATOR LIPMAN: Yeah, that's all right.

MR. PURSELL: I would say there has to be a commitment in any legislation that comes out of here, that within one year of enactment, the provisional roster has to be down to the irreducible minimum, that, either through a supplemental appropriation or a commitment of existing funds, the Department of Civil Service has to initially stop creating new titles and test -- develop tests, certify the people against the provisionals, and reduce the number of provisionals within one year of enactment.

SENATOR STOCKMAN: May I ask the Commissioner something?

SENATOR LIPMAN: Go ahead.

SENATOR STOCKMAN: This question of provisionals-- These are people who come in without any test and without any -- what, clear title definition?

COMMISSIONER McCAFFREY: No, no, there is a clear title definition. They have been hired into a Civil Service classification, say, Bridge Inspector I, but they have not tested for it yet.

SENATOR STOCKMAN: Okay, and there are how many of them currently, 3500?

MR. PURSELL: There are approximately 3500 serving longer than six months in open competitive appointments.

SENATOR STOCKMAN: Okay, and that number, Gene, was 6500?

COMMISSIONER McCAFFREY: Sixty-five hundred when I came in.

SENATOR STOCKMAN: Sixty-five hundred when you came in, so you have been reducing it. Are you continuing to be able to reduce it?

COMMISSIONER McCAFFREY: We're fighting it. The first cuts were easy because I found new ways to do things. For example, I took clerk typists who had been working for the State longer than a year, or something like that, and I said, "Listen, you know--" From county government, I remember that I used to see these people hauling their typewriters to places to test and all. If a supervisor has had a person for a year and he doesn't think the person can type, he should have been rid of him by now. So we simply said, "The working test period for that clerk stenographer is enough. Get those people into service." We did the same thing with LPNs. They take a rather rigorous State test now. The requirements for LPNs are much greater than they were before, so we said, "If the State licenses them, why in the world are we testing them?" We did a number of those kind of practical things to get people on board and get them out of the provisional status and in tenured positions.

We had an ongoing program examining provisionals appointed. The appointing authority is not supposed to appoint



someone provisionally unless they have the qualifications to take the exam, and many times they do. So we try to monitor that. We try to speed up exams. We found different ways to do examinations, assessments, and so forth. But given all that, you are still going to have problems when you have-- You know, DEP comes in and they need 1000 for this; Corrections needs another 300 for this; and suddenly, you know, you've got a large implosion of employees on your hands.

Some of it can be corrected by various new ways of doing things. Obviously, Senator, money can always do it. If we have more money to do the examinations in a more timely fashion, to construct an exam, to put it on, to get people to take it, that helps. I may as well get a plug in for the Department. At this point -- Senator Lipman has heard me at Appropriations -- we get the smallest percentage of increase every year -- that is, Civil Service -- of any department in the State. I would say for Bob Pursell and his group, they have advocated more money for it, though not nearly as strongly as they have advocated scope of negotiations. (laughter)

But, that is about where it is. I don't think we have any trouble with it. I think he may have a problem with it, but he knows that we have been forcing the provisionals on line in every way we can, and we are developing new ways to do it all the time.

SENATOR STOCKMAN: Should there be any provision in the Civil Service reform law to deal with this issue?

SENATOR LIPMAN: He just suggested it.

COMMISSIONER McCaffrey: I think if you as a Senate recommend that and put it in, then you should really do a fiscal note with it because I can't do it unless you give me the money.

SENATOR LIPMAN: Okay. Mr. Pursell was suggesting that in one year's time, the number of provisional employees should be down to an irreducible minimum. Mr. McCaffrey, Mr.

Pursell, has been here four years, and it took him those four years to bring it down half. Do you think the Department could actually achieve that, Mr. McCaffrey?

COMMISSIONER McCAFFREY: I wouldn't want to be violating the law if I couldn't. That would worry me, to be held to that. I think if we build the proper kinds of rules into the system we can do a lot about the thing.

For one thing, Bob, we have more titles than we need. We have 6000 titles in the system, and we probably don't need more than 2500. And, as we learned from GMIC, which Senator Stockman was talking about this morning, one of the ways in the old system -- and in the present system -- is, people give increments to secretaries who are at the ninth step who can't go any further -- they give them a promotion. So now you have another test, another title -- Administrative Assistant I, or II, or whatever it is, so you are building titles on top of titles simply to give promotions.

Under this new bill, we would be able to do some generic kind of classification, where we would have Secretary Is with nine steps, IIs with nine steps, IIIs with nine steps, so if you had someone who was a good secretary who wanted to remain a good secretary, she could stay in her title and continue to advance her skills and get increments.

All those things go into reducing the provisional situation. You know, to put someone under the gun -- whether it be this Commissioner or another Commissioner, Republican or Democrat -- is very difficult to do, unless we have that crystal ball -- which we don't have -- where we could see the future and what is going to happen.

MR. PURSELL: While we are on that topic, Assemblyman Villane came in this morning and said that through this legislation they are going to be able to reduce the number of titles from 6000 to 3000. One thing I don't understand is why that can't be done now.

SENATOR LIPMAN: But, he's doing it.

MR. PURSELL: A lot of what we're saying-- We're not necessarily opposed to the creation of new titles to reflect new technologies and changes in job content, but, if I might, I have a list of the titles that have been created in the last four years. These are just new additions of titles that Civil Service, again, at their regular meeting every two weeks, proposes. (Witness hands lists out to members of the Committee.)

The list has 863 new titles, 437 of which are managerial executive titles -- chief titles. The one on the top, I think, is Plant and Food Technician. I think Civil Service has to take a close look at what they are doing with creating all these titles. The more titles they create, the less titles they are going to be able to make tests for and certify.

SENATOR STOCKMAN: What span of time are we talking about with this list of titles? Is this over a period of time, or is this--

MR. PURSELL: Four years, about.

SENATOR STOCKMAN: Thank you.

MR. PURSELL: Why there had to be 437 managerial executive titles created over that period is beyond me. There is a chief title for every conceivable situation, and for them to continue promulgating new titles just perpetuates the provisional problem because, while they are creating more titles, it makes more work for them to create tests for them.

SENATOR CARDINALE: Hasn't the Commissioner just answered that, that people are creating new titles because there is no place for people to go to be advanced? How many of these relate to the same person, a new title being created so that that same person can fit into a category? I mean, have you analyzed it from that perspective?

MR. PURSELL: Sure.

SENATOR CARDINALE: And, how many of them are there? How many of these are really new people coming in, and how many are just promotions for existing people? And, are you against giving people who are part of your group promotions, however we label it?

MR. PURSELL: We are against creating-- First of all, there are about 80,000 State workers. These are only State worker titles. There are 10,000 managers in the State. To create proportionately-- Half of the new titles that have been created over the last four years have been for a small group of 10,000 managers. We are not opposed to creating new titles, but I think there has to be some kind of sense of purpose put to why they are creating new titles for managerial executives at increasingly higher salaries, while employees in our bargaining units go without new titles, or with titles that take years to be promulgated.

SENATOR CARDINALE: If someone is a secretary, and has bumped her head against what a secretary can be paid, and they create a title that seems by its title to be a management title to make that person an Administrative Assistant X-- That is what I think he said has been occurring, and I think this list is probably -- and that is what I am asking you -- inflated in number by that kind of a situation. Can you quantify that situation?

MR. PURSELL: They have all the statistics. We don't have those statistics.

SENATOR CARDINALE: Well, you have a lot of them here. I mean, you gave us this piece, and you know, it's like a telephone book.

MR. PURSELL: They are all separate titles, completely separate titles from each other. For each chief title, that's probably one or two people. Creating a separate title for one chief -- why can't there be a generic chief title?

SENATOR CARDINALE: A little while ago we were talking about this, and there seemed to be some objection in terms of the centralization. I think the testimony earlier was that in the centralization process, you might be able-- Instead of having different categories of stenographers for each department, if you did this on a central basis and you had a test for Stenographer I, Stenographer II, or however many categories you need, and you centralized all of that, you would certainly cut down the titles. I think what they have asked us for is the flexibility to do that.

MR. PURSELL: No, no.

SENATOR CARDINALE: Why do you object to that?

MR. PURSELL: They are not asking for the flexibility to do that; they have that flexibility now. Unless there is a severe commitment made to change that, it will continue, no matter what legislation is passed. They have the ability to deal with that problem now.

COMMISSIONER McCAFFREY: Well, that's true, Bob, but it's not true, in the sense that I can only act now -- acting as a Commissioner -- as a traffic policeman, so to speak. I can say stop or go. I have no right to go into a department and make recommendations to combine titles, to set up generic titles, or to make them stick. I don't have the right to do that. That has to come directly from the department head as a request to the Commission, and they have to act under the Open Public Meetings Act, in public, and either grant or deny that request. In the meanwhile, of course, down in the boiler room, all the technical stuff is going on which finally boils it up to the Commission level. This would allow us to go in and say, "You don't need this title. This is the way to do it." And, "You can do it without that title," or "We can do this generically." We don't have the right to do that.

MR. PURSELL: I think, under your legislation, every two weeks at your meeting, you move, at the first part of the

agenda, the creation of new titles. If you don't want to create new titles, you just don't approve new titles.

COMMISSIONER McCAFFREY: Well, if you don't create new titles as management as requested, then what happens to the wheels of government when people begin to quit, when they go out in the private sector to get more money, and all the things that we face every day, especially in the environmental areas and the corrections areas, where you have to do things for the public safety that can't be done yesterday, they have to be done today?

SENATOR STOCKMAN: May I get into this questioning?

SENATOR LIPMAN: Yes.

SENATOR STOCKMAN: Commissioner, how often do you find yourself at odds, serious odds, with other department heads over these creations of commissions and so on? It is an interesting question to me, in that, you know, you're part of -- and I don't say this critically -- you're part of an Administration. You are appointed by the same Governor as the Commissioners of Departments X, Y, and Z.

COMMISSIONER McCAFFREY: Right.

SENATOR STOCKMAN: How often do you find yourself really at odds, and arguing with, and resisting a particular commissioner in this or that department who wants to create these different categories and move people?

COMMISSIONER McCAFFREY: Quite often, and more often than many of the Cabinet officers. In fact, I would never win the "Miss Congeniality in the Cabinet" contest; I'll guarantee that. The process begins, and they come over and they say, "We need this." And I say, "Why do you need that?" Then we go back and forth. We go on sometimes literally for months, until we finally get to the point where I am satisfied that they are not pulling my leg too much, that they really need this, and then we finally do it. That is the process, and that is how it comes out. But, we don't roll over. You have to remember,

part of my obligation, as well as doing personnel work, is to make sure that they are not loading the payroll with people we don't need, or promoting somebody who shouldn't be appointed.

We haven't had-- I have had a good relationship with my fellows in the Cabinet, but because of my position as President of the Civil Service Commission, I am not too close.

SENATOR STOCKMAN: Thank you.

SENATOR LIPMAN: Could I get one question in about reprisals and discipline before you get-- Are you going to get to that in your comments? If so, I will wait.

MR. PURSELL: I think I dealt with that earlier.

SENATOR LIPMAN: Why do you oppose fines as a disciplinary measure?

MR. PURSELL: Well, up until recently we opposed fines because we felt it was involuntary servitude to force someone to come to work and not pay him while he was performing services for you. It was more a philosophical objection to the use of fines than anything. Recently, we have become convinced that with the extension of the Fair Labor Standards Act of 1938 to State and local government employees, that to force someone to work and not pay him, at least the minimum wage, is a violation of the Fair Labor Standards Act. For someone to come in and work for a week, 35 hours, and not get paid anything violates the Fair Labor Standards Act. Hopefully, we can address that here, and deal with the use of fines to take into consideration the Fair Labor Standards Act. We'll see where that goes.

SENATOR LIPMAN: Okay. Just one other thing that has been bothering me. You have representatives for employees when they have to go up for a hearing, so maybe I am jumping the gun a little bit. But, in your objection to, you know, if a whistle blower was going to be persecuted -- I mean have a hearing prosecuted by the Department -- let's put it like that-- Why would you have the Public Advocate defend that employee, rather than his bargaining person?

MR. PURSELL: Oh, I believe firmly that an employee within our bargaining unit who has a reprisal taken against him for whistle blowing should be represented by the union, but we're talking about several thousand, 20,000 employees, outside of the collective bargaining--

SENATOR LIPMAN: A class action?

MR. PURSELL: Yes.

SENATOR LIPMAN: You're talking about as a class--

MR. PURSELL: As a class.

SENATOR LIPMAN: But they should be represented by the--

MR. PURSELL: That's right, because we can't come in and represent a managerial executive who has a reprisal action taken against him. It would be the unauthorized practice of law. The Public Advocate is better suited to represent someone who doesn't have a bargaining agent.

SENATOR LIPMAN: But they wouldn't be unionized, would they, managers?

MR. PURSELL: There are 10,000 managerial executives who are not unionized and fall in the middle-level-management category.

SENATOR LIPMAN: Yeah, that's what I mean.

SENATOR STOCKMAN: Madam Chairman, may I take the prerogative as a member of the Committee to recognize a really distinguished member of the State Senate who perhaps might want to be called up to participate in the discussion? He is from the Fourteenth Legislative District, the Honorable Francis McManimon.

SENATOR LIPMAN: Senator McManimon. I was thinking of calling the Senator next, Senator Stockman.

SENATOR STOCKMAN: Oh, is he going to speak, too?

SENATOR LIPMAN: Would a Senator, you know, refrain from speaking, especially if he came to a hearing?



SENATOR CARDINALE: I think we should tell Senator McManimon that his name did come up earlier today with relation to veterans' preference. The statement has been made that, unequivocally, the language of this bill does not change the veterans' preference one iota, not one comma, not one punctuation mark, not one letter. If that is not correct, I would like to know where and when those changes were made, because I will see to it as one of the sponsors that that is put back the way it should be. I know you have a real interest in this, Senator, so if I may impose on the Chairman -- since that issue was before us earlier when he wasn't here.

SENATOR LIPMAN: Okay. What was the point that you wanted to bring up, Mr. Pursell?

MR. PURSELL: With the provision in Senator Cardinale's and Assemblyman's Villane's bills allowing for rescission of Civil Service, you are abolishing veterans' preference for counties and municipalities which opt out of Civil Service. So, I assume that Senator Cardinale is now willing to concede that the rescission amendment should be deleted from his bill.

SENATOR LIPMAN: Did you hear that, Senator McManimon?

SENATOR McMANIMON: Pardon?

MR. PURSELL: Well--

SENATOR LIPMAN: Oh, excuse me. Mr. Pursell is maintaining that since municipalities can opt out--

SENATOR McMANIMON: Once they drop out of Civil Service, it wipes out veterans' preference.

SENATOR LIPMAN: Yeah.

SENATOR McMANIMON: Regardless of how you cut it, it's as simple as that.

SENATOR CARDINALE: I think we can address that issue.

SENATOR LIPMAN: All right.

SENATOR CARDINALE: Okay? Is that the only objection with respect to--

SENATOR McMANIMON: Oh, no, no.

SENATOR LIPMAN: Oh, you mean you have other objections?

SENATOR McMANIMON: I have serious problems with the whole concept that is being presented. I mean, we are perpetrating a fraud by just changing the title structure. You know, we're strictly opening up the political spoil system under the CS whether we like it or not. That is my personal conviction on the bill.

I have a lot of respect for the Commissioner. I think basically he is doing a good job down there. Why he wants to change it now is beyond me. If certain changes should be made, I think they should be made within the Department, but keep the present structure.

SENATOR LIPMAN: All right. Okay, Mr. Pursell?

COMMISSIONER McCAFFREY: Amen.

MR. PURSELL: Another concern of ours -- a major concern -- which actually dwarfs the-- The scope issue is nothing compared to some of these other problems -- the Special Services problem, the State employees -- thousands of employees outside of the Civil Service system without regard to Title 11. There is no provision under any current statute giving them the authority to do that. It exploits women and minorities who are hired into positions and perform the same work as classified and permanent employees, but who get paid less money, no benefits, no job protection, no pension benefits. Neither Senator Cardinale's bill nor Assemblyman Villane's bill even recognizes the problem, let alone deals with it. Senator Pallone's bill abolishes the concept of Special Services. We support that. The Governor's own Task Force, which came out with a report on the Special Services problem, recommended abolishing Special Services. We feel this is the perfect time to address the abolishing of Special Services categories.

SENATOR LIPMAN: Senator Stockman, did you want to ask something?

SENATOR STOCKMAN: Yeah, I would like to hear from the Commissioner on that.

COMMISSIONER McCaffrey: I think it is very difficult to abolish Special Services inasmuch as you are going to find it difficult to locate Special Services if you look for them in any statute or any law book anywhere. What are referred to as Special Services actually reflect a grouping of part-time, temporary, full-time, temporary/part-time, and so forth classifications, if you will, or titles, under existing Title 11. They have become known as a group called Special Services. If you are going to address that, I think you have to address it in a more technical fashion. By the way, I have no trouble with that. I think it is time for it. I think it is something that has been going on for many, many years under the title of Special Services, but there are ways to classify these employees in a legitimate fashion under whichever title we are operating under.

So, Special Services would really be a misnomer to address in legislation.

SENATOR STOCKMAN: Is it, Commissioner, your suggestion that it is just a matter of misclassification?

COMMISSIONER McCaffrey: Yes.

SENATOR STOCKMAN: And not a matter of improper dealing with, or handling of these employees. I have heard complaints about the short shrift in the working conditions, and so on, of these people, problems in terms of pension rights after they have been there many years, etc. It seems to me that State government ought to set an example in terms of employment relations, and so on. I wonder if, in the bill, or whatever form of bill we take on, if we can't come a little more to grips with this issue, which has been a creeping problem.

I appreciate that there is technically no such thing in the law as a Special Services kind of operation, but I gather you know and understood -- and I think I do -- what Mr. Pursell is talking about.

COMMISSIONER McCaffrey: I sure do, yeah.

SENATOR STOCKMAN: Why, in a reform bill -- a so-called reform bill in this area -- wouldn't there be something to really try to improve the conditions of those people?

COMMISSIONER McCaffrey: Well, I think actually, Senator, you can do it by simply putting a provision in the bill that anything-- Well, I can't write legislation, but let me say this: You can just say it by one line in the bill that will simply say, "You must comply with all job categories, all job specs," and so forth, to make sure that Special Services would be eliminated legally.

SENATOR STOCKMAN: Commissioner, I've got to ask you--

COMMISSIONER McCaffrey: Yeah?

SENATOR STOCKMAN: I mean, I am sort of a novice at this -- this struggle that you are into, and Mr. Pursell, and a lot of people in this room. In the history of where we are, it has gone on for two, three, four years. If what we are talking about is simple, and it is a one-liner, why isn't it in a 30-page bill?

COMMISSIONER McCaffrey: Well, the reason -- my reason -- is that I never thought about putting it in a bill. I think it is something that should be corrected now, and it should be corrected within the existing statute. I think the existing statute, since it makes no provision for a Special Services, certainly makes provision for something else. Therefore, we--

I chaired a committee for the Governor on Special Services and submitted my report to the Chief Counsel, whereby we made certain recommendations as to what should be done, and some implementation has begun. I am not really sure where it is right now, but I know there has been implementation.

The problems that you speak of do exist. The one I think of quickly is in the unemployment offices where they have claims takers sitting next to other claims takers making more money and doing the same job, and various things like that. They have to be addressed, but I say that you can address them now within the existing law; you really don't have to put them in legislation.

SENATOR STOCKMAN: But they haven't been, right?

COMMISSIONER McCAFFREY: They are being, yes.

SENATOR STOCKMAN: Are you telling us that the problems associated with Special Services are improving statistically and actually in the State system?

COMMISSIONER McCAFFREY: Yes, sir.

SENATOR STOCKMAN: They're not growing, they're shrinking?

COMMISSIONER McCAFFREY: They're shrinking, I believe. Perhaps Commissioner Calderone can tell me a little more as to what he knows is going on up there.

SENATOR STOCKMAN: I'm getting confused, and I may just have to study the record of what is being said here because I am really having a hard time following, Commissioner, what you just said. You said you were part of a Task Force that recommended-- Are you telling me that those recommendations are being implemented now without legislation, and are correcting the problem?

COMMISSIONER McCAFFREY: Yes.

ASST. COMMISSIONER CALDERONE: Special Services are actually a form of temporary employment. There is no set term "Special Services." It is just a word of art that is attached to temporaries who have continued on the payroll. This bill, A-2194, does provide that you cannot have temporary positions beyond six months in the aggregate in a 12-month period. That is the way to control Special Services. You've actually got to cut off the position.

The Task Force Report that has been implemented has been doing that where people have been on the payroll. The position then converts into a permanent position. That is really the change that has to happen. I think one of the things that is going to help a lot is when Civil Service records are automated.

SENATOR STOCKMAN: You know, I wanted to ask you--

ASST. COMMISSIONER CALDERONE: Then you will be able to track the positions. One of the problems we are having now is that you are not able to track positions.

SENATOR STOCKMAN: One of the questions I wanted to ask you -- because it's tough handling really with no specific category-- We have been making tremendous strides and have been investing very substantial sums of money in computerization, new technology, and OTIS, generally in State government. How is that impacting, and how does this bill take into account those changes, if it does, in terms of how we are going to be functioning?

COMMISSIONER McCAFFREY: Well, we're interfacing with OTIS now, and we're coming along well. This bill, of course, is not a data processing bill in any sense, but I think any practice of business, in government or in the private sector, these days, anticipates heavy involvement in communications -- automatic communications.

SENATOR STOCKMAN: Should we wait a while to get that catch-up and to get, through new technology, a handle on who is who, what's what, and where's where, before we make a major change in the system?

COMMISSIONER McCAFFREY: If you do that now, Senator, you're just saying, in a sense, "We're holding up on doing things that can be done with the present technology." I don't see why we can't be running two railroads, one with what we have to work with now, and one with what we will be working with in the future.

SENATOR STOCKMAN: Did Mr. Pursell -- through you, Madam Chairman -- want to respond to this question of whether we are making strides and progress in the Special Services area, from his perspective?

MR. PURSELL: I think they have made more strides in reducing the number of provisionals than they have in reducing the number of Special Services. In 1983, the Department issued a Salary Administration Memorandum, instructing the appointing authorities to convert Special Services appointments over into permanent classified, either full-time or part-time positions. There has been no enforcement. It is just as if they put a memo out; nothing was done to see if anybody was following it. Some appointing authorities have followed it. We have had to sue the Department of the Treasury to get them to change positions over. It seems like in many ways the CWA becomes the enforcement arm of the Department of Civil Service. If we are passing legislation that is going to make them the Department of Personnel, granted there are increased enforcement provisions in that law, but the way it has been dealt with up until now isn't anywhere near satisfactory. It is our feeling that the problem needs to be addressed in the legislation.

COMMISSIONER McCaffrey: You know, Senator, one thing you have to realize -- and I am sure you do -- is, if Special Services happened to exist in a very tough job in Human Services, in a hospital, or something like that, and you just cut them off like this and enforced it, you would be doing away with that help. Whether it was there properly or improperly, you would still need the help. You can't just say, "We're stopping those assistant nurses, or part-time nurses," or whatever we're doing, "until you comply." That might be fine for Bob's union, but it is not great for the people they are taking care of down there.

I submit that I did not cause the problem. He didn't cause the problem. We are all trying to solve the problem.

MR. PURSELL: We're agreeable to some type of phase-out period. If it takes a year to phase it out, that's fine.

SENATOR STOCKMAN: Thank you.

SENATOR LIPMAN: Okay -- continue.

MR. PURSELL: One other major area that we are concerned about is, we represent, and a number of other unions represent, State unclassified employees who have been assigned to our collective bargaining agreements. The titles are either professional, administrative clerical, supervisory, or operations titles that, through statutes, have been assigned to the unclassified service, or through Civil Service's authority, have been assigned to the unclassified State service. Of the 2300 we represent, over half of them are teachers and instructors in State institutions, psychiatric hospitals, or correctional facilities. New Jersey Network has employees in the unclassified service. We don't see any reason why they should be assigned to the unclassified service. They should either be in the noncompetitive service or, at the very least, entitled to use the appeal procedures that permanent classified employees are entitled to use when there is disciplinary action taken against them.

It is a very sad day when a teacher in a State school with 12 years of service is fired without any kind of access to any kind of appeal procedure. We feel that this legislation is the proper form to address extending some kind of job protection to these employees.

SENATOR STOCKMAN: Could the Commissioner respond?

SENATOR LIPMAN: Yes.

COMMISSIONER McCAFFREY: I don't think it has anything to do with Civil Service reform. It is not part of the Personnel Management Program. I think it is something that Bob is throwing in because it seems like a good time to do it. It probably does need looking into, but I don't think it should be part of this bill.



MR. PURSELL: I think I'll just end. There are a number of other things that I haven't dwelled on, but just with the recision portion of the bill, we are opposed to allowing municipalities and counties to opt out of Civil Service through a referendum. We feel that once a commitment is made to employees to bring them into the classified service, that that commitment should stay and employees should be entitled to know they are going to be protected through their careers. To create a two-tiered system, one set of employees entitled to use Civil Service, and one set not to use it, is just going to create too many problems of administration. It is not a healthy provision to be attached to this bill.

I think overall a lot of the problems that currently plague the system could be addressed with the current system in place. We would like to see increased enforcement provisions, and a number of the other items in the bill would help government, but we are not going to agree to support legislation that strips workers of the rights they have gained over the years, which Senator Cardinale's bill and Assemblyman Villane's bill do. We will support, and we will come to the Committee with amendments to improve the bills to make them something that we can all live with. We know what our bottom line is from labor's end. I think the Administration has to decide just what they are willing to live with. Hopefully, we can come up with a bill that we can all live with.

COMMISSIONER McCAFFREY: You know, as far as that situation is concerned, Senators, Senator Lipman and Senator Cardinale probably remember where it came from. It actually came from Herman Costello. We didn't put it in the bill last time, and Herman just had this feeling about whatever you get into, there should be a way to get out of. It was one of the amendments he wanted before it came out of this Committee last time. That is how it got there. We didn't put it there. Somebody suggested it was the Administration's way of floating

an initiative and referendum issue, or something, but it is just that simple. It came from that source at the time.

SENATOR LIPMAN: Senator Stockman, are you finished?

SENATOR STOCKMAN: Yes.

SENATOR LIPMAN: Senator Cardinale?

SENATOR CARDINALE: I would just like to observe that if we do maintain that recision, I think we could write in a provision to satisfy Senator McManimon that any present-- Obviously, the bill already does say any present benefits do remain, and that would be one of them which would remain, but a substitute veterans' preference would have to be maintained in public employment. If that becomes the issue, I think we can handle it rather easily.

COMMISSIONER McCAFFREY: Senator, I just want to say one thing.

SENATOR LIPMAN: All right.

COMMISSIONER McCAFFREY: This morning, in response to Senator Cardinale's question about labor support, I believe I answered that I did not want to speak for labor, but that I had met many of the requests and suggestions that most of the unions have made, that the PBA has supported us in writing, except for the recision, and that the CWA, of course, had serious problems with scope. I did not mean to imply that any other unions had endorsed us or given us a written endorsement of any kind. I would like to clarify that point.

SENATOR LIPMAN: All right.

MR. PURSELL: Thank you, Senator Lipman and members of the Committee.

SENATOR LIPMAN: Thank you very much. We have a young lady who must leave right away. Ms. Marks?

P H Y L L I S M A R K S: Thank you; I really appreciate it.

SENATOR LIPMAN: You're welcome.

MS. MARKS: I will have to be very brief. I am Phyllis Marks. Does my physical location have to be stated

here, too? (no response) I live at 121 Union Avenue, Deal Park. I am here as a Legislative Agent, but I am Chairman of the Monmouth County Board of Social Services.

I will be very limited in what I can say here on the advice of the attorney because some of the things are in litigation, so I cannot address them today. But the counties have not been represented here in any way that I can see. Civil Service addresses itself not just to State government, but to county government. We, too, have to look at it very closely. We have to deal with it, and I have to quote Senator Cardinale. I didn't often agree with Governor Byrne either, but we must have the tools to do our job.

As Board members, we are working under an antiquated statute which still refers to us as the "poorhouse." This has not been looked at, and this has not been addressed. Now, since I am limited, I will simply say-- I will simply address myself to Civil Service and address myself to something you were debating here on the State level.

I would like to see a nonclassified position for top administrators, which would be the Director of the Board, who is totally protected under Civil Service, and 10 Board members there; two of them are Freeholders, and one County Adjuster, who sits there by statute. Nobody has ever defined for us clearly, if they sit there as ex officios, do they or don't they have a vote? They do vote, but I am not going to address myself to that.

We have guidelines provided by the State Division of Public Welfare which cannot always be enforced because Civil Service has different ideas. I feel the county government should have the prerogative to employ an administrator who is not a civil servant. We have an attorney who is not a civil servant, but we have a Certified Public Accountant who is coming in now, and to a very important area with a \$47 million budget, and he has to take a Civil Service exam and be at the

mercy of Civil Service as to whether he can be there or not. This is a \$47 million corporation. It must have the authority to choose someone at the top who can communicate with government, with staff, and with the public, and he has to be a businessman, too. I think that should be the decision of the Board, not of Civil Service.

I feel there is much more here that I would like to address, but I don't have the time, and I don't know if you ladies and gentlemen would be interested in listening. I would like to read you some of the things that were given to us to administer, but I can't. The Board's responsibility is to employ a competent Director and to delegate to him or her the responsibility for employing and maintaining qualified staff. However, it is appropriate for the Board to make policy and issue rules to the Director and staff. Such rules are an exception to the supplemental rules and regulations of the State Division of Public Welfare, the New Jersey Department of Civil Service, and locally negotiated collective bargaining agreements. Right? But we also have someone who is protected by Civil Service, and he said, "Are you going to evaluate me? How? You can't; I am protected by Civil Service." A county administrator is not.

I am simply lobbying here. Please consider this position and an amendment we have to District 11 legislators in both the Senate and the Assembly, who are here with two bills -- some kind of an amendment to give the 10 members who are volunteers, who are appointed by Freeholders, the authority to do their very best on behalf of the 500,000 people in Monmouth County. The statute under which this Board has been created is really antiquated in many ways, but this is the only day the county government can come here, or the County Board of Social Services, to represent a miniscule portion of those issues. As I stated before, I cannot address them.

I would like to see an amendment to one of these bills

to consider, you know, our problem, but not only our problem in Monmouth County, because this is the problem of every county. I am State Vice Chairman of the New Jersey Association of County Board Members, and this is something I would like to go into in depth; however, I can't, for reasons that I have explained before.

The statute also tells us that four members constitute a quorum. We would like to have at least six. I think the Board members should have the responsibility to attend at least eight meetings. We have no problem in Monmouth County. It is a very dedicated Board. We have at least eight or nine, and most of the time 10, members attending meetings.

Since I am limited in time, I hope you will consider, you know, the real plea of Monmouth County. Ocean County has presented a resolution of their own to Monmouth County asking for support that board members receive compensation. We unanimously and soundly rejected that request. I think county board members must serve without compensation. Yes, they are political appointments, but both parties have been extremely responsible in choosing dedicated men and women who have expertise in different areas, and who can really do an excellent job on behalf of the people and on behalf of the system itself.

I feel that this works in Monmouth County, and I know it works in other counties, too. But, compensation for board members? I think the most important and honorable title I have, amongst many, is that of a volunteer in public service. I think once you compensate a board member, every board will become a dumping ground for political supporters, and one's partisan feelings will be presented there as an issue on the board. But now when board members come in and they are volunteers, they totally divorce themselves from their philosophical beliefs. They sit there as members of the community representing the system, representing the people, and representing the taxpayers, and as humanitarians.

SENATOR LIPMAN: I just want to find out, in view of the fact that you have such a short time-- Do either of the Senators have a question to ask Ms. Marks?

SENATOR STOCKMAN: No.

SENATOR LIPMAN: Do you, Senator Cardinale?

MS. MARKS: There are no questions?

SENATOR CARDINALE: Are you here officially representing Monmouth County?

MS. MARKS: I cannot officially represent Monmouth County; I cannot really represent the Board. I do not represent county government. I am wearing a badge; I am a Legislative Agent on behalf of Human Services. I cannot speak here as Chairman of the Board for the simple reason that I just explained, but I feel some consideration should be given to county government and its need.

SENATOR CARDINALE: Do you feel that the counties ought to be able to opt out of the Civil Service system, or do you feel they should not be able to opt out?

MS. MARKS: I am only talking about top personnel. I am talking about the Director of the agency. As you have addressed here on the State level, they should be an unclassified position, as an attorney is.

SENATOR CARDINALE: Do you feel that the Senior Executive Service should be extended to counties?

MS. MARKS: Well, yes, definitely.

SENATOR CARDINALE: Now I understand. I'm sorry, I didn't--

MS. MARKS: I don't know what you want to call it, but this position should be a nonclassified position. It really needs someone who is a businessman. We should have the prerogative to say, "You have a contract. Our county will evaluate your performance like we do an attorney's, and your contract will be renewed yearly," or every two or three years, depending on the county.

I think Senator Stockman had many questions for many people. I have given an excellent presentation, but he is not interested. I must presume that-- (laughter)

SENATOR LIPMAN: That's not it, Ms. Marks. You are really asking-- Am I correct saying you are asking that the counties have the right to classify the--

MS. MARKS: No, to ask that the top Director and Deputy Director be considered unclassified positions. That means that they are not civil servants. I am not addressing myself to the gentleman from CWA because the CWA just picketed my house last week, so I don't dare touch them. I don't dare touch them. I recognize their right, but that doesn't mean that I have to agree with them. So you see, there are other issues that I would like to address, but I wouldn't dare until the contract is settled.

But, living my life for 19 years -- since I have been 19 years old -- in the system, in the State boards, and in the county, and as a humanitarian, I feel that I represent a very important issue. I would like to see an amendment to that bill to consider counties. It is very important, Senator Lipman. I know you are the Chair of the Committee. I am also a Commissioner on the Monmouth County Advisory Commission on the Status of Women, and I see many of your bills -- and support many of them.

SENATOR LIPMAN: Right. Thank you.

MS. MARKS: Therefore, I know you are very much involved.

May I ask the Senator a question? Would that be in order?

SENATOR LIPMAN: Senator Stockman?

SENATOR STOCKMAN: The Senator, oh, is that me?

MS. MARKS: Senator Stockman, you're on.

SENATOR STOCKMAN: Madam Chairlady, if you reverse this-- This has never happened to me before. You know, I

usually ask the questions, but the Chairman controls the Committee.

MS. MARKS: I am asking if I would be out of order, and I will respect the decision of the Chair.

SENATOR LIPMAN: No, you will not be out of order here, Ms. Marks. You may ask the Senator a question.

MS. MARKS: Senator, you just heard me, and you showed very little interest. Do you think there is a need to consider those two top positions unclassified positions? I heard you address other areas there, too, that you wanted to poll your 15% to see how they agreed with you, but you didn't poll the other 85% for their opinion. They, too, have an opinion, Senator.

SENATOR STOCKMAN: I understand.

MS. MARKS: Yes, I asked you a question, sir.

SENATOR STOCKMAN: I will look at whatever amendments you put to the Committee.

MS. MARKS: If you want me to present these amendments--

SENATOR STOCKMAN: I thought you were suggesting--

MS. MARKS: --fine, I will do that. I can work with either Assemblyman Villane or Senator Pallone.

SENATOR STOCKMAN: I think that would be fine, and I think we are going to hear further from the counties in terms of their position from Linda Spalinski.

MS. MARKS: This is not county. This is the Board of Social Services. This is not county staff; this is Board staff. This is an autonomous agency.

SENATOR STOCKMAN: But, it is at a county level.

MS. MARKS: Well, it is functioning in a county, but it administers things which have to do with the State and with the Federal government. This is basically what we do. Our greatest authority is only in personnel and social services which the county chooses to provide. These are options by every county.



SENATOR STOCKMAN: I have no objection to looking at any amendments you want to suggest to this--

MS. MARKS: To this body?

SENATOR CARDINALE: I think an interesting question has really been raised here. If this principle of Senior Executive Service is good -- and I happen to believe it is; it's in the bill -- why would it not also be good that there could be some extension of that, in some fashion, to county government, which is also a large--

SENATOR LIPMAN: Well, we are talking about delegating personnel matters to local government.

MS. MARKS: It is extremely important. It has created many dissensions in every county. I go into all of the other counties, too. I think it is about time that the authority of the Board, you know, be recognized, and I again ask you, no compensation for any board member because this would demolish and destroy the moral infrastructure of this State and this nation. I consider it a privilege to serve and to be given the opportunity.

SENATOR CARDINALE: Thank you very much.

SENATOR LIPMAN: Thank you so much for your testimony.

MS. MARKS: Thank you so much for listening to me. I appreciate it.

SENATOR LIPMAN: All right. We will now have the New Jersey Association of Counties, Ms. Linda Spalinski.

L I N D A S P A L I N S K I: Good afternoon, Madam Chairwoman and members of the Committee. My name is Linda Spalinski. I am the Assistant Executive Director of the Association of Counties. We represent all 21 counties across the State. Our Board of Directors -- this is for clarification so that you understand -- is comprised of a Freeholder from each of the 21 counties, and one constitutional officer.

We formed a special subcommittee to review the Civil Service legislation because we consider it to be of particular

importance to county government. There was a great deal of participation on that committee by county personnel directors, by Freeholders, and by various legislative analysts in the counties. The statement we have prepared reflects that committee's consensus over the major portions of the bill that affect county government.

So, let me begin by expressing the Association of Counties' strong support for Assemblyman Villane's legislation. We believe that an overhaul of the Civil Service system is long overdue, and we believe that Assemblyman Villane's and Senator Cardinale's legislation provides a good basis for substantive reform.

While the legislation deals predominantly with State government and State employees, it also impacts in certain areas on local government and local government employees. The two most significant elements of the bill with respect to local government are the rescission provisions found in Chapter 9, and the section in Chapter 2, Article 3, which allows the Commissioner to delegate various personnel functions to a local appointing authority.

The rescission provisions in Chapter 9 will allow county and municipal governments to withdraw from the Civil Service system by referendum. A petition signed by 15% of the voters in the last general election would be required to place the question on the ballot. I must tell you emphatically that the New Jersey Association of Counties strongly endorses this element of the bill. If a local government can enter the Civil Service system by referendum, as is now the case, it is only a matter of basic logic and fairness that they should have the ability to withdraw from that system by referendum. There is no basis to predict a mass exodus by the counties and municipalities if they are given the option to rescind. Nonetheless, it is an option which should be available. Towns and counties should not be forced to stay with a system adopted

by their ancestors which, in their estimation, does not work. The New Jersey Association of Counties strongly urges this Committee to retain this very important and sensible provision of the bill.

NJAC also supports the section which allows the Commissioner to delegate to an appointing authority the responsibility for classifying positions, administering examinations, and other technical personnel functions which, in many cases, can be done more effectively and promptly at the local level. We do, however, suggest some additional language in this section which would permit the Commissioner to delegate these various tasks only with the approval of the county or municipality. The counties wish to be protected in the event that the Commissioner, if faced with a budget crunch, decides to delegate assignments that the counties are not equipped to handle.

I'd like to briefly mention another area of concern to county government with regard to appeals of disciplinary actions. The legislation allows the Merit System Board to award reasonable attorney's fees to an employee who appeals a penalty. NJAC does not object to this provision of the law. We do, however, believe that a similar, reciprocal provision should be added which would allow the local appointing authority to be reimbursed for legal fees if the Merit Board finds no basis for the appeal. We recognize that this is a point that will not be easily accepted, but as you consider the suggestion, please keep in mind that the costs of defending a frivolous appeal are borne by the taxpayers -- and our already heavily burdened taxpayers have a right to be protected against unwarranted costs.

Finally, I would like to call your attention to the portion of the bill dealing with unclassified positions in political subdivisions. Legislation enacted in 1984, and again in 1985, provided some additional unclassified positions for

certain non-charter counties which have undergone a reorganization of their management structure. These changes, which are now part of the law, are not reflected in Assembly Bill 2194. We recommend an amendment which would add these provisions to the bill and make them applicable to all counties -- both charter and non-charter. I would be happy to work with the Committee staff on the technical changes needed to accomplish this recommendation.

Thank you very much for this opportunity to comment. I would be happy to respond to any questions.

SENATOR LIPMAN: If the Commissioner delegated tasks to the counties -- personnel tasks -- that the counties didn't agree with, and didn't recommend how the counties would be reimbursed for these extra tasks, then wouldn't you say we would be adding mandated costs? That is also an objection of the counties, that we would be mandating costs.

MS. SPALINSKI: Yes. That is exactly why the Association wants some additional language inserted in the bill which would say basically that the Commissioner may delegate these tasks, but only with the approval of the local appointing authority, so that the counties and municipalities would be protected against additional costs that they had not anticipated, and certainly had not planned for in their budget cycles.

SENATOR LIPMAN: Right, but couldn't you opt out if you didn't like the mandate? See, that is what this legislation does. You could decide to disconnect yourselves from Civil--

MS. SPALINSKI: Oh, in other words-- Well, the county could not decide to rescind. That would have to be a decision that would be made by the voters. But certainly the county Freeholders--

SENATOR LIPMAN: Could not decide to--

MS. SPALINSKI: Right.

SENATOR LIPMAN: It would be done by referendum of the voters.

MS. SPALINSKI: Right.

SENATOR LIPMAN: So until then, you would have to bear the mandated costs?

MS. SPALINSKI: The additional costs.

SENATOR LIPMAN: All right. I understand, but technically you approve of this new system, 11A, as we propose to call it?

MS. SPALINSKI: Yes.

SENATOR LIPMAN: Okay. Senator Stockman?

SENATOR STOCKMAN: Just a couple of questions. Linda, I gather you are not troubled by the mixing of this quasi-judicial role and the personnel management role into one operation.

MS. SPALINSKI: No.

SENATOR STOCKMAN: The scope of negotiations isn't an area that you are concerned about expanding, I gather, at this point.

MS. SPALINSKI: No, it's not.

SENATOR STOCKMAN: All right. Now, the area I am concerned about is this option to withdraw. Do counties and local governments have that option now?

MS. SPALINSKI: No.

SENATOR LIPMAN: No, they do not.

MS. SPALINSKI: Once they elect by referendum to go into the Civil Service system, they're in it.

SENATOR STOCKMAN: They're in it. So, they have functioned without that option until now.

MS. SPALINSKI: Right.

SENATOR STOCKMAN: Your argument is that if we are going to change it, they ought to have the option now, logically.

MS. SPALINSKI: Right.

SENATOR STOCKMAN: Do you--

MS. SPALINSKI: Particularly, Senator, if the beneficial effects of Civil Service reform, which we are all hopefully anticipating, don't -- in the worst instance -- occur, the counties would want to have the option.

SENATOR STOCKMAN: Well, I was looking at it another way. I was going to say, I see some potential mischief in terms of opting out because of, let's say, political reasons. One county that is under, say, a Democratic administration for a long period of time, if the Administration at the State level is Republican and there is a sense of feeling that you would do better, because I think logically it would be a preferable arrangement if all of State government, and its subsidiary levels of government -- which is what county and local governments are within the same system-- I was going to say that at the very least--

I am not terribly sympathetic instinctively with the opting out provision, but if we were going to have it, my instinct was going to suggest that it be done within a limited period of time, within a six-month period, or something of that sort, once the system was in place, and that they either had to come in or not, rather than give them forever an option, if down the road, different administrations, different political parties, and maybe a particular case or two that was handled in a way that was uncomfortable to them, to suddenly find it engendering a referendum and an option out.

MS. SPALINSKI: Well, you know, it is an alternative--

SENATOR STOCKMAN: What about that?

MS. SPALINSKI: --that I think we would be willing to consider, but I think, Senator, that you should consider a longer waiting period. The counties -- I can't speak for the municipalities -- would certainly want to be able to have some experience with the Civil Service reform legislation before they pass judgment as to whether or not they would support the

referendum question. I don't want to say that your fears are totally unwarranted, but a movement to put the question on the ballot would probably not come from a county governing body, for political reasons.

If it did originate with the county, I believe it would come from a sincere effort to have the ability to promote employees based on merit.

SENATOR STOCKMAN: See, that is one of the problems I'm having and, of course, it may touch on the whole question of initiative and referendum. I'm hard-pressed to visualize, in my County of Mercer, a referendum movement of real great momentum on an issue as complex, in some ways, as this is, because the option you are talking about pointing to the electorate -- and there is always an appeal to put in things to masses; I think that's why they elected representatives by and large-- But, you are going to give them an option to pull out of a system -- a 40-page system -- that has been developed and put together with a lot of, you know, compromise, negotiation, experience, technical input, etc., opting out into something that I daresay I can't imagine any voter being able to explain what they were opting into; that is, if such a referendum to pull out were on a ballot in Town X or County Y, and I were to ask one of those voters who was going to pull the lever in Town X if he wanted out of this State system-- Let's assume they have some sense that it's cumbersome, it's too centralized, whatever. I would be very amazed how many of them could say yes, and instead what is going to happen is, you are going to find in our town, or in our county, that public employees are going to be dealt with in this way. They are going to have this option-- I mean, to me, it is probably one of the great arguments against initiative and referendum. If there is an issue and a problem that seems poorly designed for the general public to really be expected to take the time and the attention to come to grips with, I think it might be this one. Do you-- Am I making myself clear?

MS. SPALINSKI: I understand, except that on the other side of the coin, we're assuming a certain amount of insight and awareness of the issue when we give citizens the right to vote to opt into the system. Can't we take the opposite side of the coin and say, "Well, if they have the ability to make that judgment, they have the ability to judge when the system is not working for them."

SENATOR STOCKMAN: Well, let me tell you, at the risk-- This is a public record, and I stand ready to be quoted on it. I am a legislator who has dealt with this issue, and struggled with it, and with some of the complexities and some of the issues that I have been trying to bring up and resolve, hopefully sensibly in my own mind. And I can tell you, I am having a devil of a time really being satisfied on a number of the issues in this bill. The Senior Executive Service is one, and there are others.

So, I want to give the general public all that it is due, and maybe I should say that there are a lot of members of the general public -- and I'm sure there are -- who are better able at it than I. But, I think common sense really raises a tough question about the wisdom of this being put to the electorate in an option.

Again I say in part because it is a unique kind of a situation. You are not choosing one or the other. That vote would be, I guess, a vote to leave it open to some new design that I am not sure would be clearly defined at the time the removal would be taken.

MS. SPALINSKI: Well, can we take a look at Somerset County, which is the one county in the State that is not in the Civil Service system.

SENATOR STOCKMAN: Right.

MS. SPALINSKI: And yet, they have a merit system, a merit system that is approved by the Federal government for participation in Federal programs that require a merit system.



The question has been put on the ballot up in Somerset County to join Civil Service three times, two in recent years, and another time several years ago. The campaign to defeat the question was organized and financed, in large part, by the employees of Somerset County, who felt that their interests were better protected by the merit system that Somerset County now has in place.

SENATOR STOCKMAN: How would that work? I asked the Commissioner that because it seems unique that you have one county in the State and, while it is not analogous, let's say, to a Essex or a Hudson maybe, there are some counties that it is analogous to. What is the reading on how that system works, as compared to the other counties?

MS. SPALINSKI: The Somerset County Freeholders and the administration and the employees are very happy with this system. Basically, as I understand it, they have a merit system that does not place a great deal of emphasis on testing. They test where they feel it is appropriate for hiring. They place greater emphasis on education and experience. The Personnel Department works very closely with the department heads, will interview candidates, and will make recommendations to the department heads, and the department heads will work in close consultation with the Personnel Department.

They have a Personnel Manual with rules and regulations that provide for a grievance procedure and an appeal for disciplinary action. The appeal provides various steps straight up to the Freeholder Board.

SENATOR STOCKMAN: Do you get the impression that it is working at least as well, or better than, the system that is under State operation in other counties?

MS. SPALINSKI: My sense, from the county administrators and county personnel people who have to deal with the Civil Service system on a daily basis, and the

officials in Somerset County, is that the Somerset system is working extremely effectively. They are very pleased with it.

SENATOR STOCKMAN: Incidentally, does the union -- if we could bring them in -- represent Somerset employees as well, and could it comment on whether your experience across county lines--

D O N A L D F I L I P P I: I live in Somerset County, and it is strictly run by politics. The party that wins the point, you give the applications to the politicians, and that is how you get on there. (laughter)

SENATOR LIPMAN: Thank you for that.

MR. FILIPPI: The employees didn't want to change because they are all political appointments.

SENATOR LIPMAN: Oh, I see.

SENATOR STOCKMAN: Maybe I opened up a Pandora's box.

SENATOR LIPMAN: Yeah, you did, and attorney's fees.

SENATOR STOCKMAN: All right.

SENATOR CARDINALE: If Senator Stockman is finished, Madam Chairman, I would like to ask a question.

SENATOR LIPMAN: All right. Have you finished, Senator Stockman?

SENATOR STOCKMAN: Yes, thank you.

SENATOR LIPMAN: Okay. Senator Cardinale?

SENATOR CARDINALE: First, I would like, very frankly, to thank you for being both brief and right to the point on a number of the issues that are before us.

In terms of the Pallone bill -- I think Senator Stockman sort of went around the Pallone bill -- did you examine the Pallone bill?

MS. SPALINSKI: The Association of Counties has not officially reviewed Senator Pallone's bill. We have, in the past, proposed legislation that would provide for an expansion of the scope of negotiations. We have not looked at Senator Pallone's specific legislation on the subject.

SENATOR CARDINALE: Okay. In this recision provision-- The question of veterans' preference came up a little while ago with respect to that provision. In Somerset County, is there any veterans' preference in place and, if there is, is it the same as we have, or is it different in any way?

MS. SPALINSKI: Senator, I'm afraid I can't answer that question, but I can certainly get a response to you.

SENATOR CARDINALE: All right. If we were to write in a provision with respect to that recision agreement -- that recision provision -- that veterans' preference would have to be maintained in some fashion identical to the veterans' preference which now remains, would the Association -- and you may not have considered this-- What is your sense of how the Association would feel about that?

MS. SPALINSKI: As a compromise, I think I would feel that the Association could accept that.

SENATOR CARDINALE: Okay. You talked about frivolous appeals. Do you feel that there are now, currently, a significant number of frivolous appeals? You talked about this as a problem and you would like to see some changes in the way those are handled. Is it a problem?

MS. SPALINSKI: Some of the counties are suggesting to us that it is becoming a serious, or has been a serious problem for them, and that the legal fees have gotten out of hand. They want to establish some sort of disincentive for frivolous appeals, and feel that this would be the route to take.

SENATOR CARDINALE: Okay. Just on the recision agreement -- for Senator Stockman's benefit, who was not on the Committee the last time -- I would like to put on the record that the reason for the referendum portion of that is to prevent, or to answer the concerns of some who expressed the fact that they thought there might be mischief by local officials, as you alluded to, in terms of, if one party gets

elected they throw everybody out by virtue of getting out of the Civil Service system. Therefore, we thought the safeguard against that would be to put it on the ballot so as to keep it once removed from public officials.

On the other hand, if you were amenable to having the Board of Freeholders or the Mayor and Council simply vote to do this, I think we could discuss that and could put it on the table, but it was in order to prevent the very mischief that you talked about, that you were concerned public officials might be involved with.

SENATOR STOCKMAN: Well, just to continue the dialogue, my instincts are that if we are doing the right thing, I'm not sure the option should be there. I mean, that is the direction I'm going in. So, putting it to the people in a general sense for the reason I talked about gives me some concern. Putting it to the Freeholders might be just as troublesome for the reason you are talking about. But, let's see.

MS. SPALINSKI: May I say one further thing?

SENATOR STOCKMAN: Senator Lipman had to step out for a couple of minutes, but we will continue the hearing.

MS. SPALINSKI: This is somewhat in response to the gentleman behind me who spoke with experience as a resident of Somerset County. I'm not sure which union he is affiliated with. I would like to say this basically on behalf of our Executive Director, who is the former County Administrator of Somerset County, and was the Administrator there for 15 years. I know that if he were here with me today he would have taken a great deal of umbrage at that statement. He took a great deal of pride in the fact that Somerset County government honestly wanted a personnel system and a merit system that would work effectively for the people of Somerset County, in which they would not be hamstrung to keep on board people who were not performing well, could not promote people who were performing

well, and were looking for a private-sector model that would work effectively in a public-sector setting.

I think those would be the sentiments of our Executive Director had he been with me here today.

SENATOR STOCKMAN: Well, I think it just shows what a divergence of opinion we can find on the subject. Obviously, that is understood.

Any other questions, Senator Cardinale?

SENATOR CARDINALE: I have no further questions.

SENATOR STOCKMAN: Thank you very much.

Is Rick Proth from the City of Trenton still here? (no response) He may have had to leave. The City has a number of concerns about the bills, Senator Cardinale. I think they left us copies of a letter outlining those, and I suppose we can deal with them. They are a matter of record, and the Committee can deal with them hereafter. I guess he had to leave.

How about John Burns, South Jersey Chamber of Commerce? Mr. Burns?

J O H N E. B U R N S: I want to change one thing in the written-- It starts off with, "Good morning, Senator Lipman." And I say, Good afternoon Senator Stockman and other Senators."

SENATOR STOCKMAN: I'm sorry, go ahead.

MR. BURNS: Okay. I'm John Burns, President of Burns Beverage Company, Pennsauken, New Jersey. We're wholesale beer distributors. And I'm representing the South Jersey Chamber of Commerce, an organization in which I've been for about ten years now. And, I'm on the State Affairs Committee. With me is Dennis Bradley, Vice President of the Chamber, and he's presented you with our official statement.

The South Jersey Chamber of Commerce has over 1,000 members, representing about 275,000 employees. And, I'm submitting the following statement that, yes, we are in favor of the 2194, for the following reasons, which you can read:

Number one, all the particular points that the legislation does bring out:

the Cabinet-level Department of Personnel.

the merit system;

the ability to consolidate personnel functions;

the SES;

the appraisal system that creates the performance standards;

the training that it employs;

and the veterans preference.

Dealing with a small organization of about 20 people, that I do -- I know that personnel is common to everybody in our association, and of course here to the State, and the management of it. And, having the flexibility to handle these personnel in changing times and changing situations, and still maintaining the rights of the personnel, and keeping them motivated, and keeping them trained is extremely necessary to the efficient running of a company, to the efficient running of a state.

The South Jersey Chamber is very much in favor of the upgrading of our personnel system in the State, and of 2194. Thank you.

SENATOR STOCKMAN: Senator, any questions?

SENATOR CARDINALE: If we-- A new issue has sort of been raised, and I hope you don't mind my asking this question. In terms of the recision provisions -- I'm sorry-- In terms of the SES provisions, would you feel that those should be extended to county or perhaps even to local government, which we did not address in the bill?

MR. BURNS: Without being a tremendous expert on civil service, and the particular constraints, and just being an expert on middle management -- as I have in my own company, I've seen in other companies in our Association -- the flexibility of having career people who can be moved, can be

created, and can be eliminated as the situation dictates, I think, is good. And the county and the local, as well, have to meet new situations, and I think the SES would be good for there too. That is my personal -- without having, you know, speaking for the Chamber.

SENATOR CARDINALE: Thank you very much.

SENATOR STOCKMAN: May I, Gerry, continue? Mr. Burns, did the Chamber or you have any concerns about this question of politics really being a driving force, or becoming a driving force in the operation of the Senior Executive Service? That is, I would think, as a businessman, your instincts probably -- and correct me if I'm wrong -- are to question a lot of aspects of the Civil Service system. And in view of, perhaps, it's rather cumbersome and restrictive -- and that may not be your view. But, I know, at least in talking to businessmen and my own experience, there is that tendency to look really, kind of, down at the system, and of public employees, as being much more security conscious and, well, whatever. Do you-- Are you concerned that some executive at some future time -- chief executive, governor -- might use this layer to bring in political people for political purposes more than governmental purposes, because it gives that kind of flexibility? Or don't you see that?

MR. BURNS: I don't see it much more differently than the system that we have right now, because, when we elect a new governor, we get a new cabinet. And, we have people in the cabinet, many times, who have chosen their security vehicle as the star for the particular man that they are backing. I would hope that the governor that is elected, I would hope that any chief executive that is elected, would bring along with him and choose those people in the SES layer that would do the best job.

Occasionally, you know, new governors keep the same cabinet members, because they recognize them as being good administrators. So that it's not just political, it's people

they know who can do a good job. And I have to have that faith in the elected officials, that they would put those people in there that would do the best job -- that they feel would do the best job.

SENATOR STOCKMAN: Thank you.

SENATOR LIPMAN: Yes-- Mr. Burns-- Mr. Burns, I think we all agree that the Civil Service system, as it presently stands, needs some changes. And I haven't had a chance to read your whole -- I was just going through it -- your whole testimony here. But I gather that you are fully in support of this bill, A-2194, and that you don't have any amendments that you would like to suggest added?

MR. BURNS: No, we don't. The Chamber of Commerce does not get into the very nuts and bolts of this particular type of legislation. And, I did personally listen with great interest to the nuts and bolts that were discussed here. We feel that those kinds of things can be worked out, you know, ably in this particular Committee through the unions, the CWA, the AFSCME, the Civil Service Commissioner. You know, what we endorse is this particular piece of legislation, because it embodies the concept that we see any system that has been in place for 78 years, you know, without substantive change, and controls 65,000 people, you know, should be upgraded.

And I bring a particular point: in the veterans' preference system here, I see we give preference to those veterans who fought against Germany and won the Croix de Guerre with Palms, and were working for the particular agency on March 26, 1926. My calculations would put the youngest of them would be 81. I really hope we give those poor guys preference, because they need a job. The point being I think we need to bring the system up into 1986.

SENATOR LIPMAN: Right. All right, well thank you very much for your testimony.



MR. BURNS: Thank you.

SENATOR LIPMAN: Don Filippi? Mr. Don Filippi, Local 195, IFPTE.

MR. FILIPPI: Madam Chairperson, members of the Committee, I'm very interested in listening to some of the people who testified -- how interested you are in the revision, when recently there was a bill by Senator Lynch put up taking all the employees who were under Civil Service and the authorities who were obeying the law; he took them all out, and most of the people on this Committee voted for that bill. In one vote, you took them all out of Civil Service and left them empty-handed.

To continue on with this bill, I'd just like to make some comments regarding Special Services, because I think I'm one that worked on this from the beginning. What had happened is, and the reason you have Special Services, is because you have budget problems. The appointed authorities cannot fill positions because the budget officer won't let them. Consequently, they have other funds they can use in other accounts, and they can hire hourly people. So, instead of fighting the process of Dick Standiford, they go out and they hire Special Services people. And that's what they do.

Well, in 19-- Really, what happened, they were doing this more around 1981/1982. I have over 300 women that drive buses for retarded children -- their main source of income. And I went to Civil Service. I told them the problem. I said these people are doing the same work; they only work about maybe 25 or 30 hours, but they should be getting some benefits. So, we instituted at that time what we called the 1044 Rule. You work 1044 hours, that position would be converted to a part time permanent position. And then the employees would get sick leave, they'd get some vacation, they'd get some holidays, and they were put into the pension system. Except that some of the agencies didn't put them into

their pension system, especially in Senator Cardinale's district, in Bergen Day Care Center. Most of those women were not put in and properly enrolled, and they all got penalized. And to many of them in Senator Stockman's district it also happened. They work right out here at Mercer Day Training and the Adult Center. They were not enrolled properly, and they were all penalized.

But to proceed on, later on some of the women complained to the Commissioner, to their Senators, their Assemblymen, and we had the rule dropped down to 944 hours. Because, if you worked the 1044, you took a few days vacation -- because some were only working 20 hours a week -- and then when the Department found out they had to convert the people over, they wouldn't want the people to work over 20, so they didn't have to bring any more aboard permanent part time. That's what they tried to do to prevent it. In fact, the CWA had an unfair labor practice case that they won at Kean College. They deliberately wouldn't make the people work over 20 hours, so they didn't have to appoint them. They won that case before PERC. But it all started the process of getting the people aboard us.

But still, the main reason is because of the budget process here. They don't let them fill positions. All right, you don't have positions -- they didn't have positions at the time -- to put bus drivers in; many were delayed from being put in the positions. That's why everything was going to the hourly. They had money in the hourly accounts, and that's why they brought people aboard in the same titles. So, you'd have -- you know, we have an-- We have carpenters in our union, we have operating engineers, we have plumbers. And we have some of them that come aboard hourly, because they can't hire them full time. They bring them aboard hourly. But we have it policed. When they come up to 944 now, they fire them; they get rid of them, so they don't have to appoint them. That's what's happening.

But to continue on with the Special Service problem, that's how that was brought into the 944. There's still some abuses out there that Bob Frascella had mentioned. We've got a Special Services, and these abuses aren't -- there's really no enforcement power out there to do it. I mean, right now I know in Senator Cardinale's district, I have complaints to people who are not appointed for Bergen Day Care Center who hit 944 three months ago that should have been appointed, should have been put in the pension system. And Senator Stockman, from your district right out here, at Mercer Adult Center, that should have been put in, and have not been appointed. You know, it's not the Civil Service Commission, this is the departments job, to make sure they're enrolled in the pension system. And they're not enrolled. And consequently, now, when they come up for enrollment, they'll be penalized because they'll say you got to go out and take a physical. That's the penalty. And they're penalized to take a physical, because the department's not doing their job.

Now, basically, we support the Villane bill, and those amendments as far as they go. We think a lot of them are very good amendments. And I won't go down the line, but we support all of them, and amended a lot of them that I worked on in consultation with different people that worked on the bill, and through the State Federation of Labor.

Some amendments that we see additionally necessary have to do with fines. Now, most of you have been on Committees in the Assembly -- and Senator Lipman has heard me screaming about how this fine is being abused by these departments. How they're fining people, really, not for any serious disciplinary action. For instance, if you're late too many times in the DOT, you can get a fine now. If you're late, all right. They never fined for lateness. I've been here since 1971, representing employees since we won the election. And all types of fines are popping up for State workers we

never had before. I think fines should only be used for restitution. And if something was taken, or somebody was accused of something, he had a penalty; they were fined for restoring it. They were in an accident, they were careless, you get discipline, you fine them, and that restores the penalty.

Another amendment we see as necessary has to do with the transfer reassignment we got knocked out on the Supreme Court, and also layoffs. One of the things that was brought up this morning, and it's important on layoffs -- I think Assemblyman Villane was talking about it -- there's a provision in there to negotiate, and why it's important. The reason it's important, when layoffs occur, the first thing that is done is the department head picks the titles to be laid-off. All right, and when he does that, that bypasses the whole union operation. Here's what happens: If he picks, say, a senior engineer, a senior inspector, and an equipment operator, it doesn't matter -- other titles that are there -- if you've been there six months in another title, you'll stay. Only those titles are the ones effected to be layoffs. So, there's no cross. So the-- How the titles are picked is one of the most important factors of the layoff. But, the language in the bill allows us to sit down and negotiate with these departments. I think Senator Stockman had a very fine bill in on supplying transportation costs and everything on a phase-out here at Trenton State Hospital. Our people didn't get it yet; we're still trying to negotiate. He wrote a beautiful bill to help our people that got sent 50 miles down. They didn't call it a layoff, they called it a reassignment. But to go to Marlboro Hospital from Trenton State Hospital is a hell of a long way to go without getting some type of assistance.

And he wrote a very fine bill to get assistance, but we never got it. All right? And, you know, I think the Governor says it's a negotiate on it. We've been talking to people about getting this assistance. We think, you know,

something should be in this bill on assistance to people when they don't call it a layoff; they call it a reassignment. Fifty miles is a long reassignment, I think.

But there's nothing in this bill saying, if they phase-down a state hospital, they phase-down an institution, and the people are sent-- I think there's been a little bit of talk lately -- you heard some screaming when the announcement was made here about the Casino Control Commission which might have to go from Mooresville to Atlantic City. You know, you hear some screaming if they have to move down there, but you know, when employees in lower categories that are working -- our maintenance and craft people -- have to move, they forget about them.

But, that's the type-- I think there should be something on -- along with Senator Stockman's bill on reimbursement of some type of expenses for employees who were transferred, reassigned, phased-down, closed-down, whatever you want to call it.

Regarding the option on the revision to go in, we personally don't represent too many people in the county. I know what happens in Somerset County. I know the workers very well; they've known me a long time. In fact there have been other attempts to organize in Somerset County -- the workers - and many groups do. But, you know, basically, they're all scared of their job, because they have no protection, because it's strictly controlled by politics.

But, we would think that, if they did have an option to vote in or out, it should be at least up to 30%. You wouldn't want some small group voted in to control. I think what would really happen with the Senator Lynch bill, I don't think there are a lot of Senators who would tell what that bill is about. If you got everybody that obeyed the law, and what the Superior Court said, all these water authorities are under Civil Service, they went through everything, got job

descriptions, did all the work, and then for the people that don't, you're rewarded. The ones that didn't obey the law, you said, boot them out. That's what happened. I would think, at least, if you had a revision here it would have to be at least a 30% vote.

I think we feel there should be labor representation, you know, on the Board of the Commissioners, here, and also on the Advisory Board.

And, those are basically, you know, the few amendments that we feel that, you know, should be in the Villane Bill A-2194, and, you know, we're prepared at that stage to support it.

If there's any questions, I'll be happy to answer them.

SENATOR LIPMAN: Mr. Filippi, are you going to give a copy of your remarks to us?

MR. FILIPPI: That's the only copy-- (indicating copy is at Hearing Reporter's table)

SENATOR LIPMAN: That's right. I wanted to know that, because I'm interested in the point that you make about being transferred and expenses. I note that you did not say, that the employee in question should not be transferred; you only asked for his expenses -- the expenses -- if he would be transferred to another position, to -- say if -- from one end of the State to the other.

MR. FILIPPI: That was a decision made by the big people up in the Supreme Court, you know, on a case that said we cannot negotiate transfers or reassignments. And being a statewide unit, we know it can be used for discipline. You can send somebody from High Point to Cape May, and may have a good excuse why they should be there. And, you know, there's nothing we can do about it. That's why, before that decision, we think it should be a negotiable item on transfers, especially when you're representing the statewide union. Now, if you're in one town, like a school board, you know, you might

have four schools in one town. You're going maybe three or four miles. I'm talking when they go to-- DOT maintenance yards and institutions, you can go 50, 60, 70 miles. Look at Marlboro -- Senator Stockman's bill -- that was 50 miles. And they didn't even call that. If they were to call that transfer they couldn't have transferred anybody, because on transfers the Civil Service regulation says they have to have mutual agreement with the person. They didn't call it -- they called it just a phase-down and a reassignment. That's how they got around moving it. That's why Senator Stockman had to help just to put in that bill, to help get those-- The people never got it; the Governor vetoed that bill. But he said in the veto it should be negotiated. And you know, we've been at Civil Service, we've been at the Office of Employee Relations. They have something in there-- We can negotiate to get this assistance. But, you know, there's talk of other phase-downs and other closings of different--

And we had, you know, other close-downs of institutions before. We've had a school for girls closed. I remember that, when that really closed, before the Department of Corrections took it over. And, I remember up in Denville there was a satellite agency to Greystone. It was in Denville; it closed up. And I think in the Department of Health, he had all those drug centers recently, you know, completely closed-up, or went private, or went to the counties, or whatever happened on that operation. But those are big concerns of the workers, when you phase-up the ladder, or if you move a large group of people, like from Newark into Trenton, or something.

You know, we feel we should be able to negotiate that assistance they receive. Mileage -- or when they get on the clock, or for some cases, moving expenses. Some of our people had housing at Trenton State. They had housing. They were kicked out of their housing even, and when they went to Marlboro, they had no housing.

Those are some of the ramifications that can happen on a move. And nobody looks at all these areas.

SENATOR LIPMAN: Are you saying, also, that the fines imposed by an agency for disciplinary action are just pulled out of the blue by the agency? I mean, the reasons--

MR. FILIPPI: No, they have a disciplinary handbook, but they never--

SENATOR LIPMAN: The reasons for the fine?

MR. FILIPPI: They have a disciplinary handbook, but it never added fines to things like being late or having too many "W's", which means you used up all your benefit time, so you're on W time. You're not getting paid, but, if you have too many W's you get a discipline. Part of the discipline might be a five day fine. Not only that, you've got to work. You got to work first. You worked, and after you worked, you've still got to pay the fine. If they give them the five days off, I would say-- But you got to work, work for the money, then they take the money back you just earned. See. that's why we oppose it. But we never had that before; the last few years it's popped up on everything. Restitution we've always had. A guy damaged a truck, it was his fault, he got a fine. He got time off too, you know. There's both. If there's negligence on the thing, or if there's restitution on -- sometimes it happens where there's damage done on certain things, and our men on the highway might have dropped something, accidentally, off the truck, and on somebody's property -- a can of paint or something. You know.

SENATOR LIPMAN: And you are saying too that these fines differ by state agencies -- the amount of them? And the reasons--

MR. FILIPPI: The amount-- The amount and the penalty are all -- they're all different. You have no consistency at all. There's no control by anybody on what you can do. They're all different. You can all find something different.



There's no consistency from department to department. Some departments don't even have any disciplinary regulations. They have nothing. They don't have any disciplinary regulations; you heard me correct.

SENATOR LIPMAN: That's why--

MR. FILIPPI: They have no policy book out saying what happens for this. There's only about three or four that actually have a policy that shows you the penalty for certain offenses. The rest of them have nothing. I mean, I think of one department -- Community Affairs. You can get a one day penalty, two, three, from the same hearing officer, with different people each week. And I've seen it happen. They have no written policy.

SENATOR LIPMAN: Anybody else?

SENATOR STOCKMAN: Well, I didn't ask Mrs. Marks any questions, and I got attacked. I don't know what I'm going to do here. No, I think I understand your testimony, and I appreciate it. Yeah.

SENATOR LIPMAN: I think I understand it too now. Thanks very much.

SENATOR CARDINALE: Madam Chair, may I just--

SENATOR LIPMAN: I'm sorry. Senator Cardinale?

SENATOR CARDINALE: You forgot that I'm here, I think. In terms of the people being laid-off, you made a point that the supervisor, or someone, picks which titles are going to be laid-off, and that might be some sort of chicanery that--

MR. FILIPPI: Absolutely.

SENATOR CARDINALE: --the titles are picked because of the individual rather than-- Won't those individuals have, if they have a certain amount of seniority, don't they have bumping rights?

MR. FILIPPI: Only to certain other jobs. Only to certain other jobs, all right, they have bumping rights. It usually is only in a series. It's very limited where you can bump. Very limited where you can bump.

SENATOR CARDINALE: So, you feel that people with a great deal of seniority are not able to maintain themselves in a Civil Service position if there is a reduction in force, and that reduction takes place within their particular title?

MR. FILIPPI: Absolutely.

SENATOR CARDINALE: Even though we still have other people in that same title in other parts of the State? Or in other departments, or in other--

MR. FILIPPI: Absolutely. You could have people in other departments, and they continue to work. Right.

SENATOR CARDINALE: I want to look into that.

MR. FILIPPI: In fact, you can have brand-new-- We have a situation where, we have one department -- other departments are all hiring, while our people are being laid-off, in the DOT, when other people are hiring.

SENATOR CARDINALE: I understand the situation at Marlboro, that you mentioned. That's where you're having a basic large shift in where a function is going to take place. But, do you maintain that reassignment is being used as a punitive measure against employees?

MR. FILIPPI: Absolutely.

SENATOR CARDINALE: Can you document that? In other words, if you have ten people doing job "x" here, they take one person and send him 50 miles away, and then hire somebody else in this location to replace that function?

MR. FILIPPI: No, I wouldn't say they would hire anybody, but they would just send you to a different location a long ways away.

SENATOR CARDINALE: Well, isn't that a reduction in staff?

MR. FILIPPI: No, not a reduction in staff. They send you to--

SENATOR CARDINALE: If you had ten doing it, and then nine?

MR. FILIPPI: For instance, if you're an inspector and you have two counties. All right? Say you've got Mercer and Burlington. All right? All the boss has to say is -- in fact it happened, when you had the flooding down the shore -- they told three or four groups of inspectors, "you all report down the shore." That's when they had to fill out the forms to get the Federal aide. They reassigned certain guys. But the regular guys they wanted, they kept them in their territory. They didn't touch them. The guys they didn't, they sent them all down to make out these forms for the Federal aide, to stay down in the other counties. That's how they do it.

SENATOR CARDINALE: In terms of the funds, I don't mind observing that I think there's a great deal of merit to what you've had to say. Remember the discussions that we had the last time, and we did put in some amendments that dealt with that issue. But, I think there are two distinct areas when fines are imposed. And I want to just hear if I am understanding it correctly.

One is a punitive kind of thing, and another is really restitution. If someone goes out and, in a sense -- let's say, the extreme situation -- deliberately destroys a piece of State property, we may have that employee responsible for restitution. And maybe that takes the form of a fine or something. But then you have another situation where someone, as you pointed out, is just late. Would you be satisfied with an amendment that addressed the issue of punitive fines as opposed to restitution type fines?

MR. FILIPPI: No, I'd rather see the restitution fine, and get rid of the-- We never had the punitive before. They never used the punitive.

SENATOR CARDINALE: So, if we made that amendment, then you would be happy with that?

MR. FILIPPI: If you made the restitution?

SENATOR CARDINALE: If we made the amendment that there's no punitive fine anymore.

MR. FILIPPI: Yeah, I would-- First, I don't think you should fine somebody, you know, like I said. In some of the discipline books, if you're late too many times, you get a fine. They never did that. If you have too many "w"'s you get a fine.

SENATOR CARDINALE: What would you prefer to see happen in that case?

SENATOR LIPMAN: They get dismissed.

MR. FILIPPI: After certain-- They get a suspension. They get a reprimand. They get a suspension. They get time off. A fine, you got to work for, and then pay back after you work. It's slavery. That's what I'm saying.

SENATOR CARDINALE: On that issue, I agree with you.

MR. FILIPPI: So, I'm saying restitution. You know, we've had guys that punched windows out. They should make the restitution. Pay it. That's what they do. And they get time off too. But--

SENATOR LIPMAN: Thank you, Mr. Filippi.

MR. FILIPPI: You're welcome, Senator.

SENATOR LIPMAN: Next is Mr. Bob Angelo from AFSCME.

R O B E R T A N G E L O: Good afternoon, or evening, I'm not sure which it is. I want to commend the Senators--

SENATOR LIPMAN: Good afternoon.

MR. ANGELO: --this afternoon for your interest in spending the day. I will attempt to be brief, again, in consideration of the hour, and really not repeat a lot of things that my colleagues from CWA and IFTE have raised concerning the bill. AFSCME, as you might know, represents 40,000 public employees in the State; 10,000 of those are State employees, the rest are in city/county jurisdictions.

Let me correct from the outset. Commissioner McCaffrey did a little bit of what was said this morning, and

that was that AFSCME and other unions were supporting 2194. We are not supporting, in its present form, 2194. The State Federation of Labor does not speak for AFSCME on the Civil Service Reform Bill. Our position is, basically, that we would prefer Senator Pallone's bill over 2194. However, I'm going to restrict my remarks, I think, for the purposes of this discussion, to things we think are critical issues that are not covered or not addressed by 2194 and would be minimal, as far as our union is concerned.

Let me also say there was a characterization of our support of 2194 -- rather sarcastic, if you'd let me say it -- it was CWA who sat here hand-in-hand with the Department of Civil Service, and we come by ourselves. (laughter)

I think that--

SENATOR CARDINALE: You should know the Commissioner's in the back of the room.

MR. ANGELO: I know it, that's why I said it sarcastically. Opposite the fact that Assemblyman Villane characterized it as a management bill, that in itself indicates, I think, that it would be very difficult for a labor union to support it in its current form.

For us, the smoking gun of all the things is the recision portion of the bill. Representing city and county employees, we see that as a hammer that will be held over the union's head in every set of negotiations; we see it as a Jarvis-style political issue that could be raised from the dead whenever someone wants to make some gains politically. Whether you call it a mini I&R, or any other process, we're totally opposed to it. And, if we had our option, we would like to see every city and county in the Civil Service system. Public employees have been fighting for 80 years to get some kind of minimal protection from a merit system, and if we had any druthers at all, we would mandate that all sub-divisions be covered by the Civil Service system. So, for us, at an absolute minimum, that would have to come out of 2194.

Let me say that we're also extremely concerned about the delegation of certain personnel functions to cities and counties. Where it sounds like-- And we've had discussions with the Department -- very straight forward and I think wholesome discussions with the Department -- on the provisions of this bill. I am, personally, petrified with the thought of some cities and counties that we negotiate with administering tests or other kinds of selection criteria under which employees receive their jobs. The thought of Civil Service exams that have been administered in a county or a city government floating through the mail to be scored in Trenton and then the grades going back to the county scares me. We're much more comfortable with the Civil Service Department or the Personnel Department handling the entire process from start to finish. To interject another level of government in that process we're very uncomfortable with.

I agree totally with what Don just said about the fine situation. We're concerned about the -- also the -- relocation issue, which isn't addressed, which was in Senator Stockman's bill. And we're very disappointed that that wasn't passed at some point.

Another issue, which I really haven't heard anyone address today, that concerns us is there is currently a limit of six months on a suspension that can be imposed on an employee. 2194 doesn't seem to address a limit on suspensions, and my concern is that if we don't there will be suspensions of a year, or two years, or three years, and I think that's intolerable. And what would happen is that the longer a person is suspended, what typically occurs is that vacant position is not filled, and there are less employees to do the job. I just think it's patently unfair that someone be suspended for any length of time. I think 6 months is too great, but certainly anything over that I don't think is tolerable.

And let me just close with a couple of other things. One, I noticed it in Senator Cardinale's bill that the amendment made on the Assembly side to include all the regulations and rules of PERC, that they not be disturbed by the Civil Service Reform Bill, obviously, you know, that would be a must for us. The few rights that we won under the PERC Law must be maintained, and obviously, if Senator Pallone's bill becomes a reality, they'll be greatly expanded.

Let me just add on the issue of Special Services, which greatly effects AFSCME members working in the State hospitals. It's a 24-hour, seven-day-a-week operation. And, Special Services, in some institutions, there may be as many as two or three hundred people that are being hired by the hour to provide direct care functions to retarded citizens. And, it's very difficult to get people to perform that work. And what's happening is an institution will, say, put out an ad for LPNs or a human services assistant; a person will come in and apply as an hourly employee in these jobs, and they will tell the management of that institution, "but, I can only work Tuesdays and Wednesdays." The management, being so desperate to get some help, will take a regular employee, who maybe works Monday through Friday, change their days off, and in some cases, their shift, on five days notice. And that employee, who might have been with the State for 20 or 25 years, is adversely affected because now their days off are Tuesday and Wednesday, and they work all weekend long.

It's a situation that's Catch 22 for our union. One is, we need the extra help, our employees who provide direct care services are over-burdened now, and if we cut off Special Services tomorrow, they'd be more over-burdened, because it's that extra bit of help that makes us get through each shift sometimes. But, those employees should be covered by the contract, they should be made a permanent part of the system, whether they're part-time or full-time, and they should get all

the benefits of the contract, because they're working right next to someone who has the benefits, is entitled to a grievance procedure, and is entitled to the benefits.

So, let me close saying that we've indicated to the Department, and I want to indicate today to the Committee, that we're fully prepared to submit any kind of written submission. I'll be interested to see what brother Filippi's remarks were myself. And we're prepared. Our overriding concern is we want to see a Civil Service reform bill become a reality. And we think that there needs to be amendments to 2194 if that's going to become the reality, and we're prepared to work with the Committee and the Legislature as a whole, to see something. Because, the employees expect something to be done. They've expected it for a number of years, and they're entitled to it. And, maybe this is the year.

SENATOR LIPMAN: All right. Senator?

SENATOR STOCKMAN: No questions.

MR. ANGELO: We're going to picket your house.

(laughter)

SENATOR LIPMAN: Senator?

SENATOR CARDINALE: Just two observations. One, if I didn't say it earlier -- and I'm just trying to think about whether I did or I didn't; and I don't recall. I'd have to read the record. My bill will be amended in the same fashion to contain the Assembly amendments. They were identical when they were originally introduced, and I intend for them to be identical when they are released from this Committee, if it's the will of the rest of the Committee members.

And the second thing is, on the item of suspension--

SENATOR STOCKMAN: I was going to say, I didn't realize you had all those votes on this Committee. (laughter) You're telling me this bill was going to be amended, I was going to say, I didn't realize you had all those votes on this Committee. I'm only kidding.



SENATOR CARDINALE: Well, if it's going to be released, it's going to come out the same as-- Okay.

In terms of the suspensions, I think this was also, perhaps in some ways, even an oversight on my part, at least, that I didn't realize when I introduced that that it would have that affect just by not addressing the problem. I think that that's probably something that the Department probably would live with. I don't know if the Commissioner would like to comment on that, but I think that we can certainly address the problem. I think unlimited suspensions is unreasonable, and I think you made a good point, and I think we could certainly address that in some fashion.

I wonder if the Committee members would like to hear comment on that, because it didn't come up before.

SENATOR LIPMAN: Yes, I would.

SENATOR STOCKMAN: I'm curious of how many people, let's say in 1985 -- through you, Madam Chairlady--

SENATOR LIPMAN: Yes.

SENATOR STOCKMAN: -- were suspended for six months -- for that long -- in New Jersey. Are there, and would anybody have a handle on that, or is that something that--

COMMISSIONER McCAFFREY: (speaking from audience -- not entirely audible) We could provide it for you, Senator. But I can tell you, six month suspension is not uncommon.

SENATOR STOCKMAN: It's not uncommon?

COMMISSIONER McCAFFREY: It's usually the precursor to removal in a progressive disciplinary matter.

SENATOR STOCKMAN: I mean, that's a long time to be suspended.

COMMISSIONER McCAFFREY: Oh, yeah.

SENATOR STOCKMAN: That's not to suggest some people don't deserve it, but I would think when you get to that point, you almost--

SENATOR LIPMAN: Does it have to do with the indictment of something?

COMMISSIONER McCaffrey: It could be that. Well, indictment and conviction require removal.

SENATOR LIPMAN: Requires removal.

COMMISSIONER McCaffrey: The six months is a very very heavy, heavy-- You know, when you get (remainder of sentence inaudible)

MR. ANGELO: Let me say, too, that sometimes people are suspended pending discharge. By the time they get to the hearings, six months or more has elapsed.

SENATOR LIPMAN: Yeah.

MR. ANGELO: At the hearing, they reduce the discipline from discharge to the six month suspension, which has already been served.

And, six months is too long. But, certainly, the bill that would provide for even longer suspensions is a worst-scenario.

SENATOR LIPMAN: Without pay.

MR. ANGELO: Without pay.

SENATOR CARDINALE: Is it possible to process these within a six-month situation, in most cases?

MR. ANGELO: I'd say, yeah, most cases. There are cases that go a lot longer depending on what the delay is at the departmental level, when the next hearing is held, and if it's appealed to the Commission. But I think most of them are held prior to six months.

SENATOR LIPMAN: I know that I'm belaboring this point some, Mr. McCaffrey, and you, sir. If a man is exonerated after indictment, what happens to him then?

COMMISSIONER McCaffrey: After he's been indicted, and the Commission has taken some action, prior to--

SENATOR LIPMAN: Yeah, you said he's removed automatically.

COMMISSIONER McCAFFREY: He's removed if convicted.

SENATOR LIPMAN: First suspended without pay, and then-- Well, I know if he's convicted, but suppose he's exonerated?

COMMISSIONER McCAFFREY: On appeal, I expect if he was exonerated, we'd reverse the decision.

SENATOR LIPMAN: And take him back?

COMMISSIONER McCAFFREY: I can't say that I ever ran into that, personally. But, I would only think that makes common sense. Whether it legally makes common sense, I don't know.

SENATOR STOCKMAN: I can't resist, because I just read an editorial on this rather celebrated case, involving a State Trooper now, and some real flap over the approach to handling that particular case. Was Civil Service involved in that?

COMMISSIONER McCAFFREY: No. Civil Service -- we do not handle Trooper discipline. That doesn't come within our jurisdiction.

MR. ANGELO: Let me-- You opened up that subject, which is a pet-peeve of mine. We're in negotiations, as you know, with the State, and we feel that employees -- and we've been upheld in municipal courts all across the State -- where an employee is charged with abusing a patient. They are then suspended; they are taken to municipal court "x" number of weeks later, found innocent, and go back to work. However, the expense of the attorney and that municipal court proceeding is borne by the employee. The union can't represent them. They shouldn't be represented by themselves. They may have difficulty getting a public defender. So that, an employee is found innocent in municipal court of abuse of a patient, goes back to work, but has paid eight or nine hundred dollars in attorneys fees to have that indictment -- you know, to be found innocent.

Where, in this case I think you're referring to, Senator, the State employees got an attorney all the way through the process, and now on appeal are getting an attorney. Now, whether that's right or wrong I won't judge, but it's being applied to one group of State employees and not others.

SENATOR STOCKMAN: They're, at the least, -- May I, through you--

SENATOR LIPMAN: Yeah.

SENATOR STOCKMAN: This is not a simple area, but I would be sympathetic to providing some sort of discretion -- and this may be troublesome to you, Bob, -- in the authorities involved, or an administrative law judge, or somewhere, to approve an award of attorney's fees, or some sort of relief there. But, only on a discretion -- on a basis that it's not automatic in every case.

SENATOR LIPMAN: Case by case.

SENATOR STOCKMAN: Because, frankly, there are cases where someone may not be convicted, under a standard of beyond a reasonable doubt, of a criminal violation that would subject him to incarceration, and yet there might be very substantial evidence to a reasonable mind to suggest that, in fact, there wasn't performance of one's job in the manner that was--

MR. ANGELO: But then, there's a system for that. I mean, the Department could then discipline people even though they've been found innocent in court. They may discipline for actions which occurred in the same incident. You know, leaving their job post, or something else. So, in a sense, there's another set -- once they're found innocent in court doesn't mean they don't come back to the institution and be found guilty of violating the disciplinary policy.

SENATOR STOCKMAN: Okay, I see your point.

MR. ANGELO: But they don't have to pay for a lawyer there; the union represents them.

SENATOR LIPMAN: That's my next question. All right, have you--

SENATOR CARDINALE: Of course, this bill would provide that the union could represent them in those cases.

MR. ANGELO: I understand that.

SENATOR LIPMAN: But they return to the institution.

SENATOR CARDINALE: I'd like to just pursue a little bit more a point that Gerry raises, and that is, if we have someone who perhaps is accused of abusing a patient. And the legal standards of proof are such, or the seriousness of the offense, and the crowded calendar, and so forth, may preclude a conviction taking place. Does the Commission-- Would you object to the Commission having some discretion to separate that individual? I can think of one case where there was absolutely no question about what occurred, on a school board where I sat, where the prosecutor just decided not to go forward because it was such a common thing. People got involved with drugs, and a school psychologist who had been involved with a drug pusher, and an attempted murder, perhaps, of a policeman -- was not indicted. They just dropped the whole issue. But, we felt very insecure, on that school board, letting this person continue to function as a school psychologist. Would you see some distinction -- and maybe we can put something in a bill that would be short of conviction allowing these people to be separated?

MR. ANGELO: Not really. Not unless you would call that the judicial reform bill. I think that what we're doing is we're providing subjective judgments where someone has been found innocent in the process that we've established to adjudicate people, you know, accused of crimes. And, we're saying, through some quirk, a person is not convicted beyond a reasonable doubt, then there should be a double jeopardy where, we can't get him there, we'll get him here.

And believe me, that's happening now. And we're fighting it all the time, where someone is found innocent in court, but guilty in the departmental process of what we consider to be, basically, the same offense.

SENATOR STOCKMAN: I can't resist.

SENATOR LIPMAN: Go ahead.

SENATOR STOCKMAN: I find myself -- I mean this is troublesome, with the union representative. I tend to sympathize with Senator Cardinale in this very limited sense. Very limited. (laughter) It's my understanding of the judicial process, and particularly the criminal process, that an acquittal is not a finding of innocence. I mean, there's a very clear distinction of someone being accused of a serious crime, being tried and found not guilty, and an interpretation of that jury system determination that that person has been found innocent. He has been found not guilty. That may sound like lawyerese, or wherever you want to put it. In the area that we're talking about -- I think you've touched on it yourself -- that there can be distinctions whereby a person is not convicted of a criminal, particularly, offense -- because of the standards and so on -- but their conduct in the setting in which it occurred could not be necessarily -- necessarily -- legitimized by that forum's determination. I also want to say I can't imagine if someone were expected to be involved in the kind of serious offense that, Senator Cardinale, you're talking about, especially if it involved possible assault on or murder of a policeman, that, if there was any basis there the law enforcement would have come down pretty hard on it. But I don't want to get into the particular case.

SENATOR CARDINALE: I'll talk to you later.

MR. ANGELO: I'm sorry I was the catalyst for you two to agree, (laughter) but let me just say that there is that system that exists now. We think it's being abused. We think employees are, in effect, being tried twice in some cases.

Obviously, we're not here to be proponents that a person who is guilty of some crime that should be punished be found innocent through a loophole, either.

But, we think there is that second system that exists now in the disciplinary process. And in some institutions, in some cases, with some managers, it's being abused, and that's our job to fight that.

SENATOR LIPMAN: All right. All right, thank you. Thank you so much for coming. Thank you all for coming. I think he's our last witness.

COMMISSIONER McCAFFREY: Senator, just one second if I may?

SENATOR LIPMAN: All right.

COMMISSIONER McCAFFREY: I didn't get a chance to read my complete statement. With your permission I would like to put it on the record, and send copies to all the Senators. The reason why I say that is I point out one important -- what I consider a big point missing in S-5067. It also neglects to include the essential equal employment opportunity and affirmative action provisions found in the current law and retained in 2194. So, there's a serious weakness in S-1567, I think we should not, and I'll make it part of my statement when I submit it to you.

SENATOR LIPMAN: All right, thank you. An important omission. Thank you all. We're going to end this public hearing now.

(HEARING CONCLUDED)

## **APPENDIX**





**STATE OF NEW JERSEY  
DEPARTMENT OF CIVIL SERVICE**

EUGENE J. McCAFFREY, SR., PRESIDENT  
CN 317  
TRENTON, N. J. 08625

STATEMENT ON CIVIL SERVICE REFORM

BY

EUGENE J. MC CAFFREY, SR.

PRESIDENT, CIVIL SERVICE COMMISSION

/x

During my four years as Civil Service Commission President, I have discussed Civil Service revisions with various individuals and groups and I believe there is agreement that the current system must be changed since it does not serve the interests of our citizens or the public employers and employees.

In this regard, I note that this year the New Jersey Civil Service system will mark its 78th anniversary. While there have been numerous changes and innovations in personnel management and employee development throughout the country during these 78 years, the Civil Service law and procedures in this State continue, for the most part, the same provisions as contained in the 1908 enabling legislation. 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, the current Civil Service Title 11 remains basically unchanged; it is obsolete and confusing.

The question of Civil Service reform and revision is an issue of great importance and has been addressed at the federal and state levels in recent years. Both Democratic and Republican Governors and legislators in this State have sought basic changes in the Civil Service law. Recently, in his Annual Message before the Legislature, Governor Kean emphasized the need to clarify the Civil Service law in a manner which would provide adequate employee protections in a merit system and ensure effective and responsive government. Assembly, No. 2194, which is before this Committee and passed as amended by the Assembly after public hearing, provides for a meaningful and balanced reform of the Civil Service system.

A-2194 was developed not by gubernatorial appointees or academics unfamiliar with actual government operation but rather by personnel professionals with input from all affected organizations. In particular, a review was made of the past legislative proposals in this area and the comments and criticisms of those measures. What emerged was a revision of the current law from its 35 disorganized and overlapping sections into 12 properly developed chapters. Technical jargon, legal terms and imprecise wording were deleted and 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, most importantly, the taxpaying public.

In general, Assembly 2194 provides for the selection and advancement of employees on the basis of their 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 a "whistle blower provision." The Assembly, with backing from organized labor, further amended this bill to specifically declare that it is the public policy of this State to protect career public employees from political coercion.

A new Department of Personnel would be created under the bill with a Merit System Board which would have rulemaking and quasi-judicial duties and a cabinet-level Commissioner of Personnel with executive responsibilities and functions. In order to bring economy and efficiency to 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. The intent of this mechanism was further clarified in an Assembly amendment, supported by organized labor, which limits such delegation to "technical" personnel functions. This delegation would only be done under close Department of Personnel supervision after careful training of an agency or locality's staff or by the detailing of technicians from the Department to work closely with State and local jurisdictions.

The current veterans preference is retained in A-2194 with no changes to current preference provisions in entrance or promotional situations. Provisions for Congressional Medal of Honor and other highly decorated veterans are similarly continued.

In disciplinary and other hearings, A-2194 provides additional employee protections and, pursuant to Assembly amendment, 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. Additionally,

there are new sections allowing for seniority restoration, reasonable attorney fees and back pay and benefits to a vindicated employee and for union representation at these proceedings.

A-2194 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, this 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 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. Further, to address concerns of organized labor, the Assembly developed amendments to preclude the inclusion of negotiating unit titles from the Senior Executive Service and to provide a quarterly accounting to the Legislature of the composition of the Senior Executive Service. Under A-2194, strong equal employment and affirmative action mandates are retained and employee interchange programs between various levels of government and private industry are provided.

Assembly 2194 continues the current sick and vacation leave programs and, pursuant to a labor supported Assembly amendment, the Lump Sum Sick Leave provision maximum is increased from \$12,000 to \$15,000. Further, unlike the current law, A-2194 emphasizes employee training and development. We believe that a good personnel program furthers employee advancement through education and skill improvement.

Additionally, this bill provides, for the first time, alternatives to layoffs whereby employees may voluntarily select such items as reduced work hours and voluntary leaves to avoid agency staff reductions. Such programs would provide necessary flexibility to administer personnel during times of fiscal emergencies and includes measures open to employees that will reduce spending and possibly avoid layoffs. Additionally, A-2194 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 A-2194 and includes, among other things, provisions for costs against and the payment of administrative expenses by persons or entities that violate the statute. A labor backed Assembly amendment also clearly establishes the right of any party in interest to bring action in Superior Court for the enforcement of this title. 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 I have discussed some of the more critical features of A-2194, I emphasize that this bill contains numerous other improvements in every area of personnel procedures and these have been fully discussed with affected organizations and groups.

6x

During the review of A-2194 in the Assembly and in the consideration of Civil Service revisions in prior legislative sessions, deliberation was given to the question of collective negotiations. Based on the request of organized labor, the Assembly amended A-2194 to provide in the policy section for a clear recognition of collective negotiations laws and specifically included in 11A:12-5 that this title was not "either to expand or to diminish collective negotiations rights" under the New Jersey Employer-Employee Relations Act.

This amendment to A-2194 is consistent with the position of this Committee which considered Civil Service revisions in 1983 as Senate, No. 2019. In the Committee Statement to S-2019 it was emphasized that Civil Service legislation should not be the basis for reviewing scope of negotiations issues.

Further, the Assembly Committee that reviewed the original Civil Service legislation sponsored by Assemblyman Al Burstein stated and I quote:

One of the most troublesome issues before the committee during its consideration of this bill was the subject of what matters can and should be negotiable between State Government and employee unions...[T]he Committee decided that the issue of negotiability should not be considered during the deliberations relating to the Civil Service Reform Act...Instead, it is the Committee's intent that the Civil Service Reform Act, both in whole and through each of its individual sections, neither broaden nor narrow the existing situation pertaining to matters fixed by law or rules and regulations...and that any changes of this status quo be made by other legislation.

In this regard, I note that this Committee has also listed Senate, No. 1567 for consideration. A reading of that bill clearly demonstrates that its emphasis is on scope of negotiations and not Civil Service reform. That bill would mandate that negotiations be conducted on virtually all Civil Service rules, policies, procedures and appeal mechanisms. This is not only bad public

policy but also is likely unconstitutional. S-1567 would require that matters at the very foundation of the constitutionally mandated merit and fitness system, such as sound classification schemes and uniform examination administration mechanisms, be put into the negotiations process. The nearly three hundred local jurisdictions and autonomous bodies and State government itself would be continually negotiating with hundreds of separate negotiating units on the Civil Service system leading to total confusion, conflicting negotiations agreements and the likely disruption of public services.

Besides the unacceptable expansion of scope of negotiations, S-1567 also neglects to include the essential equal employment opportunity and affirmative action provisions found in current law and retained in A-2194. Senate, No. 1567 also eliminates sound management and constitutional requirements by mandating, among other things, promotions on the basis of seniority rather than examination scores and converts unclassified employees to tenure status without test. S-1567 does not provide a useful basis for considering Civil Service reform.

The Committee has also listed Senate, No. 1829 on its agenda which is identical to A-2194 prior to Assembly action. Thus, A-2194 represents an amended S-1829 with provisions requested by organized labor and others in the Assembly.

As I stated at the outset, the present Civil Service law is 78 years old. I believe it is time for a change. A-2194 establishes a fair balance between managerial obligations and flexibility and employee protections and rights. In this manner, all the citizens of our State will be better served through a responsive and effective government. A-2194 is legislation that this Committee can be proud to endorse and I request your support for this bill.

8x



PRESIDENT  
LARRIE W. STALKS  
Register, Essex County

PRESIDENT-ELECT  
GILBERT W. LUGOSSY  
Sheriff, Mercer County

VICE PRESIDENT  
ALBERT E. DRIVER JR.  
County Clerk, Mercer County

SECRETARY  
TERRANCE D. LEE  
County Clerk, Warren County

TREASURER  
JOSEPH J. HOFFMAN  
Clerk, Gloucester County

# COUNTY OFFICERS ASSOCIATION OF NEW JERSEY



May 23, 1986

The Honorable Wynona M. Lipman  
Chairman, Senate State Government, Federal  
and Interstate Relations Committee  
State House Annex  
Trenton, NJ 08625

RE: A-2194  
Civil Service Reform

Dear Senator Lipman:

Having reviewed provisions of Assembly Bill 2194 adopted by the Assembly in March, the Executive Board of the County Constitutional Officers Association has asked that I forward to you and the Committee suggested amendments concurred in by the section leaders of the Association made up of County Clerks, Registers, Surrogates and Sheriffs.

The Association's primary concern with this and related legislation is the provisions pertaining to "political subdivisions unclassified service" 11A:3-5.

Under current statute a deputy, undersheriffs, secretary and confidential aide to the county officers provided by the State Constitution are members of the unclassified services based upon an interpretative status under department heads while similar positions for non-constitutional offices (i.e., mayor, freeholders, etc.) are specifically cited in the statute.

It is the hope of the County Constitutional Officers Association that the status of the Constitutional Offices be recognized within any new statute dealing with reform contained in 11A:3-5.

In addition to the proposed amendments to remedy the constitutional status issue (amendments enclosed), it is our hope the Committee will take action to include "Sheriff's investigators" within 11A:3-5.

9x

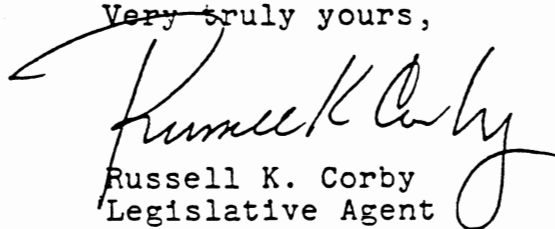
Senator Lipman  
May 23, 1986  
page 2

Last year both houses of the Legislature unanimously passed Senate Bill 2683 providing for the appointment of investigators in the unclassified services. Governor Kean subsequently vetoed this legislation on the grounds that while he concurred with the Legislature's wishes to provide such flexibility in the Sheriff's appointment powers, he felt it more appropriate that it be done in the context of overall Civil Service reform.

Amendatory language regarding Sheriff's investigators is enclosed.

On behalf of the County Constitutional Officers Association, I would like to express our thanks for the Committee's consideration of the suggested amendments at the public hearing on Civil Service reform and subsequent Committee action on this issue.

Very truly yours,

A handwritten signature in cursive script, reading "Russell K. Corby". The signature is written in dark ink and is positioned above the printed name and title.

Russell K. Corby  
Legislative Agent

cc: Larrie W. Stalks, President  
County Constitutional Officers Assn.  
Joseph Capalbo, Senate Committee Staff

PROPOSED AMENDMENTS  
ASSEMBLY BILL 2194 (11A:3-5)

- Page 11      SECT 3-5    Line 6    INSERT: "b. One secretary and one confidential assistant to each County Constitutional Officer, and the Register."
- Page 12      SECT 3-5    Line 15    INSERT: "i. One deputy and the under-sheriffs to the County Constitutional Officers and the Register."
- Page 12      SECT 3-5    Line 29    INSERT: "p. The Sheriff's investigators of any county appointed pursuant to PL \_\_\_\_\_ c. \_\_\_\_\_ (C \_\_\_\_\_) (now pending before the Legislature as Senate Bill 1403 of 1986)"

May 29, 1986

The Honorable Wynona M. Lipman  
Chairperson  
Senate State Government Committee  
State House Annex  
Trenton, New Jersey 08625

Dear Senator Lipman:

We are pleased to have been provided the opportunity to express our views on three pieces of legislation before your committee: A-2194; S-1829 and S-1567; Civil Service Reform as envisioned by Assemblyman Villane, Senator Cardinale and Senator Pallone, respectively.

In preparing these remarks, we reviewed an eloquent submission by Civil Service Commission President Eugene J. McCaffrey Sr., in addition to reflecting upon testimony made by various individuals at the public hearing which was held on May 27, 1986.

Our principal concern is the apparent shift in the perception of Civil Service, as seen in both A-2194 and portrayed even more blatantly in S-1829, from one of an organ which protects and insulates career civil servants from the "Spoils System" to a mere tool of middle management and political partisanship. Neither the Villane or Cardinale bill protect the integrity of the Merit System Protection Board, since they do not (as does the Pallone bill) mandate a bipartisan structure, nor is Labor Relations experience a requirement. Also they omitted a Union representative from the board proving their management bias.

The responsibility to provide a fair hearing with a minimum expenditure of public funds could be easily accomplished via binding arbitration as an alternative procedure for reviewing disciplinary actions. In a recent article published in the NJ Law Review, settlements arrived at by employees (with the assistance of full-time union staff) were applauded since they helped to alleviate the Administrative Law Office backlog, as well as speed-up the decision making process. Arbitration is a more streamlined and cost efficient concept and should be considered. It is fair to the worker and efficient in terms of State operations.

On the report furnished by Commission President McCaffrey, certain issues were not addressed. One, impacting on both the public and the public servant is the burgeoning Special Services (hourly worker) population. The majority of these employees are female, minority or both. They have no rights, accrue no benefits and the State denied their existence until 1983. Management hires these employees in lieu of classified workers, pays them as little as possible and continually intimidates them since they can be fired at any time. Even Governor Kean, who commissioned a study on Special Services and refuses to make it public, would be bound by its findings. These authors have learned it (the report) calls for the eventual elimination of this category of employee. We think the elimination of Special Services and creation of classified titles is what is needed to better provide services for the public.

The Honorable Wynona Lipman

Page 2

May 29, 1986

Another transgression of good public policy is being perpetrated at present in the Department of Civil Service. In direct contravention of their own statute, tens of thousands of workers languish in provisional status, mostly due to the lag in test development and administration by Civil Service. President McCaffrey and others claim that gains are being made in this area, but it's not enough. Only the Pallone bill (S-1567) addresses this problem. The public expects the merit and fitness of its workforce to be determined by the testing process (Classified Service). Let's underscore that policy by including it in the bill released by your committee.

Why is it that only S-1567 places limits on the lengths of suspensions. If an employee has committed such a grievous infraction, is suspension of a year or two years good public policy? No, suspensions of inordinate length represent punishment for its own sake. Disciplinary actions should be corrective in nature, not punitive. Suspensions limited to six months protect worker rights (even criminals know the length of their sentence). The State is presently operating at minimum staffing levels. Suspensions in excess of six months and their effect on the already overburdened workforce would exacerbate the problem and represents poor management.

Our last public policy question; is it good government practice to extend the Working Test Period from its present 4 - 6 month length (3 months in County and Municipal Government) to one year or more? It seems that the State should train its managers. In the private sector, a thirty-day test period is standard. Are private managers so much better than their public counterparts? Probably not, they may, however get better managerial training. Many departments in State government dedicate little or no resources to training. If the committee wants good management, it need only appropriate the funds for training.

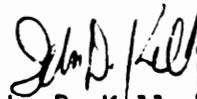
Abdicating this responsibility by extending the Working Test Period is not the answer.

There are other issues that we think should be addressed by the legislation, but CWA Representative Robert W. Pursell has clearly addressed those. We think the foregoing are key to balancing the public mandate for an efficient, non-partisan Civil Service and the protection of the rights and dignity of the public workforce.

Sincerely,



Peter D. Burkhalter  
CWA Local 1034



John D. Kelly  
CWA Local 1033

dt

c: Senate State Government Committee Members



STATEMENT OF JOHN E. BURNS  
REPRESENTING THE  
SOUTH JERSEY CHAMBER OF COMMERCE  
ON THE CIVIL SERVICE REFORM ACT - ASSEMBLY 2194  
BEFORE THE  
NEW JERSEY SENATE STATE GOVERNMENT,  
FEDERAL & INTERSTATE RELATIONS & VETERANS AFFAIRS  
MAY 27, 1986

GOOD MORNING SENATOR LIPMAN & MEMBERS OF THE COMMITTEE. MY NAME IS JOHN E. BURNS, PRESIDENT OF THE BURNS BEVERAGE COMPANY IN PENNSAUKEN, NEW JERSEY. I'M HERE TODAY REPRESENTING THE SOUTH JERSEY CHAMBER OF COMMERCE. I SERVE AS MEMBER OF THE ORGANIZATION'S STATE AFFAIRS COMMITTEE. WITH ME IS DENNIS BRADLEY, VICE PRESIDENT OF THE CHAMBER.

THE SOUTH JERSEY CHAMBER OF COMMERCE HAS OVER 1,000 MEMBER FIRMS EMPLOYING APPROXIMATELY 275,000 PEOPLE.

I RESPECTFULLY SUBMIT THE FOLLOWING STATEMENT RELATIVE TO ASSEMBLY-PASSED BILL 2194, THE NEW JERSEY CIVIL SERVICE REFORM ACT. THE CHAMBER'S POSITION ON THE BILL WAS DEVELOPED BY ITS STATE AFFAIRS COMMITTEE AND OFFICIALLY APPROVED BY ITS BOARD OF DIRECTORS.

AS A BUSINESS ORGANIZATION, WE WERE SURPRISED TO LEARN THAT A SYSTEM THAT EMPLOYS 65,000 PEOPLE HAD NOT HAD ANY SUBSTANTIVE CHANGES IN 78 YEARS. WITH THIS IN MIND, WE REVIEWED ASSEMBLY BILL 2194 AND FULLY SUPPORT THE BILL FOR THE FOLLOWING REASONS:

1. THE BILL CREATES A DEPARTMENT OF PERSONNEL WITH CABINET LEVEL STATUS FOR THE COMMISSIONER, AND ABOLISHES THE EXISTING, ANTIQUATED CIVIL SERVICE COMMISSION. THIS WILL PERMIT STATE-OF-THE-ART HUMAN RESOURCE PLANNING, THUS BENEFITTING THE EMPLOYEES AS WELL AS IMPROVING THE SERVICES OFFERED TO THE CITIZENS OF OUR STATE.

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2. IT CREATES A MERIT PROTECTION SYSTEM TO HEAR DISCIPLINE AND OTHER APPEALS, A LONG OVER DUE AND INTEGRAL PART OF AN EFFECTIVE EMPLOYEE-EMPLOYER RELATIONSHIP.

3. IT CONSOLIDATES CERTAIN PERSONNEL FUNCTIONS TO ELIMINATE DUPLICATION. CURRENTLY, EACH STATE DEPARTMENT OPERATES INDEPENDENTLY, DUPLICATING MANY INTERNAL SERVICES, AND OBVIOUSLY AN UNNECESSARY WASTE.

4. IT ESTABLISHES A NON-TENURED SENIOR EXECUTIVE SERVICE FOR HIGH LEVEL MANAGERS. THIS WILL CREATE AN OPPORTUNITY FOR CAREER EMPLOYEES TO ATTAIN AN EXECUTIVE LEVEL POSITION WHILE SIMULTANEOUSLY CREATING A MANAGEMENT LEVEL CURRENTLY NOT IN EXISTENCE.

5. IT MANDATES AN EMPLOYEE APPRAISAL SYSTEM CREATING PERFORMANCE STANDARDS SO EMPLOYEES CAN ACCURATELY FULFILL THEIR JOB RESPONSIBILITIES, AND FINALLY GIVING GOVERNMENT A WAY TO MEASURE HOW WELL A JOB IS BEING PERFORMED.

6. IT PROVIDES EMPLOYEES WITH NECESSARY TRAINING, TO ENHANCE CAREER DEVELOPMENT WITHIN STATE GOVERNMENT.

7. IT MAINTAINS CURRENT VETERANS PREFERENCE AND CONTINUES TO IMPLEMENT EQUAL OPPORTUNITY EMPLOYMENT LAWS.

THE SOUTH JERSEY CHAMBER OF COMMERCE KNOWS YOU ARE COMMITTED TO HAVING STATE GOVERNMENT OPERATE AS EFFICIENTLY AND EFFECTIVELY AS POSSIBLE. WE THEREFORE RESPECTFULLY REQUEST YOU TO RELEASE ASSEMBLY BILL 2194 FROM COMMITTEE.

WE THANK THE MEMBERS OF THE COMMITTEE FOR ALLOWING US TO PRESENT OUR POSITION ON THIS IMPORTANT STATE ISSUE.

15x

CITIZENS EEO MONITORING COMMITTEE

c/o F.H. Reeves, Pres.  
2010 Lawrence Road  
Lawrenceville, NJ 08648

May 21, 1986

To Governor Tom Kean and all NJ Legislators:

Many taxpayers and their families are state workers, too.

Present thinking supports less burden on taxpayers and good government with top notch service to the public with economical costs.

The tribute systems of the past and present are archaic. When do we grow up? Guess what? The "political way" of running the government-- we cannot any longer afford.

Right now very large dollars are paid to politicians and those they place in state jobs. Guess what else? These large dollars are nearly completely wasted because most of these high priced persons are not only so inept that they can't run anything efficiently, but they also interfere and prevent (at high cost) the career employees from doing the effective job that they already are most competent to accomplish.

Case in point: The "Civil Service Reform Bills" (as proposed) will give the final guillotine to the "Merit System". Strange you should ask: "What is the Merit System? Guess what? It's a system that gets the best person that merits the job into it, because they can do a fine job for us taxpayers.

For many years, the "Merit System" has been eroded by politicians and those they sneak in to high level jobs to the point that these fine "soles" now want the public to believe that we must "reform" (fracture is more like it) the Civil Service Merit System. Simply reshaping the present corrupt system is no reform at all.

True enough, there are things wrong with the Civil Service Merit System. For example:

1. PROBLEM: There are presently thousands of job titles--because those titles can be used to shuffle people politically or otherwise connected from one job to another. So the Merit System cannot operate to put the best qualified career servants into the jobs that should be theirs.



SOLUTION: Reduce job titles to modern "job family titles"  
--like 200 maximum with a moratorium on creating any more  
titles.

2. PROBLEM: Now there is totally inadequate modern personnel  
need forecasting.

SOLUTION: Predict by probable retirement analyses by job  
categories and prior turnover analyses and budget predictions  
what jobs will be vacant one, two and three years hence.  
Pretest so that qualified persons will be available and  
eligible for hire as needed.

3. PROBLEM: Present rules and regulations restrict mobility  
of persons including protected classes-- i.e. minorities  
and females in moving into promotional opportunities in  
different departments and agencies, mainly to protect those  
politically and otherwise with "connections".

SOLUTION: Establish up-to-date management practices that  
dictate that mobility is the healthy, efficient way to operate  
with greater innovative and productive increases and there-  
fore less costs.

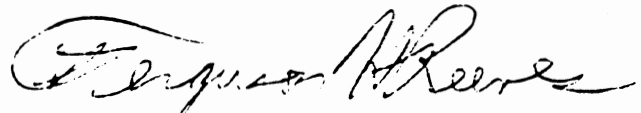
4. PROBLEM: Unclassified jobs provide jobs based on patronage.

SOLUTION: Eliminate unclassified jobs in the official and  
administrative categories and all lower titles.

5. PROBLEM: The newspaper format of advertising state job  
opportunities is not adequate to reach all interested appli-  
cants.

SOLUTION: Supplement the newspaper format with an 800 in-  
formation phone line, plus: Television and radio public  
and cable broadcasting of job opportunities information.  
Additionally, computer terminal access for colleges and other  
state institutions and homes would allow tap-in to current  
and projected job opportunities.

We sincerely hope that you will consider the aforementioned  
suggestions to really make meaningful changes in the Civil Service  
law, that will benefit the government, state workers and the people  
of New Jersey.



Ferguson H. Reeves, President  
Citizens EEO Monitoring Committee

2010 Lawrence Road  
Lawrenceville, NJ 08648

Trenton Times  
cc: The Trentonian  
~~NEWARK~~ Star Ledger

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**CITY OF TRENTON, NEW JERSEY**

ARTHUR J. HOLLAND, MAYOR

DEPARTMENT OF ADMINISTRATION

May 23, 1986

Senator Wynona Lipman, Chairperson  
Committee on State Government, Federal  
and Interstate Relations and  
Veterans' Affairs  
New Jersey State Senate  
CN-042  
State House Annex  
Trenton, New Jersey 08625

Dear Senator Lipman:

Re: A-2194  
Civil Service Reform Bill

The Civil Service Reform Bill (A-2194) which was passed by the Assembly and is now before you contains several provisions which are of concern to the City of Trenton. We also have questions regarding the definition of certain terms used in the language of the Bill and the intent of certain provisions.

We will address our concerns in the order in which the relevant provisions appear in the Bill.

Chapter 2, Article 3, Section 11A:2-11(f), page 6, provides that the Commissioner of Personnel "shall establish and supervise the selection process and employee performance evaluation procedures." We submit that the establishment and supervision of an employee performance evaluation procedure is the province of the appointing authority and is a basic managerial prerogative. The City of Trenton, however, recognizes the desirability of obtaining union cooperation in implementing such a procedure and has negotiated our present performance evaluation program at the bargaining table. The interposition of the Commissioner of Personnel in the area of employee performance evaluation represents an intrusion upon managerial prerogative.

Chapter 2, Article 3, Section 11A:2-11(o), page 7, provides that the Commissioner of Personnel "shall have the authority to assess costs for special or other services." We are concerned about the vagueness of the provision in that it does not specify the kind of costs or type of services and does not specify to whom such costs will be assessed.

Chapter 2, Article 3, Section 11A:2-12, page 7, provides that the Commissioner of Personnel "may delegate to an appointing authority the responsibility for classifying positions, administering examinations and other technical personnel functions according to prescribed standards..." and further, that "all delegation shall be subject to supervision by the Commissioner and post-audit and may be cancelled, modified or limited at any time by the Commissioner." We suggest that this provision represents a thinly-disguised effort by the Department to shift its most onerous burdens to the jurisdictions while retaining control over these activities. The City of Trenton, for one, has no resources to undertake the classification and examination functions which would entail the employment of trained personnel. We also believe that delegation of these critical functions could lead to a lack of uniformity in job specifications and a loss of control over the examination process - both precursors of a "spoils system".

Chapter 3, Section 11A:3-3 provides that a Senior Executive Service shall be established in State government and include those positions having substantial managerial, policy influencing, or policy executing responsibilities as determined by the board. We endorse this concept and would like the Bill to extend this provision to local government and include the position of division head in local government.

Chapter 3, Section 11A:3-5, page 12 provides that the position of "Principal Executive Officer" shall be included in the political subdivision unclassified service and shall not be subject to the provisions of this title unless otherwise specified. The Bill does not define the term "Principal Executive Officer."

Chapter 4, Section 11A:4-1(d), page 13, stipulates that the Commissioner shall provide for "the selection of special examiners to act as subject matter specialists or to provide other assistance" and that "employees of the State or political subdivisions may be so engaged as part of their official duties during normal working hours with the approval of their appointing authority." Apart from our general objection to the delegation of the examination function to the appointing authority, we believe that the

responsibility of providing special examiners and subject matter specialists cannot be adequately fulfilled at the local level and that it invites abuse. Further, the Bill does not cite the source of the "extra compensation" which may be provided for such service outside normal working hours.

Chapter 4, Section 11A:4-5, page 14, provides that "if the Commissioner permits an appointing authority to leave a position vacant in the face of a complete list, the Commissioner may order the appointing authority to reimburse the department for the costs of the selection process." We point out that, aside from the fact that under the Bill the appointing authority will perform the bulk of the selection process (classification and examination) and thus will itself incur the costs, there are frequently extenuating circumstances which legitimately preclude filling a vacancy, such as severe budgetary constraints, which should excuse the jurisdiction from such a penalty.

Chapter 4, Section 11A:4-8, provides that "if more than one eligible has the same score, the tie shall not be broken and they shall have the same rank". We endorse this provision and urge that it be maintained in the Bill.

Chapter 6, Article 1, Section 11A:6-3, specifies the number of vacation days to be awarded full-time political subdivision employees. We submit that the vacation schedule has traditionally been a subject of collective bargaining and should remain so. It is our understanding that it is a declared intention of the advocates of the Bill to leave undisturbed the existing collective bargaining relationships. Section 11A:6-3 conflicts with that intention.

Chapter 6, Article 1, Section 11A:6-7 provides that part-time employees shall receive proportionate vacation, sick and administrative leave. We believe that the Bill should define a "part-time" employee in terms of the minimum number of hours per week which need to be worked to qualify an employee for proportionate vacation leave.

Chapter 6, Article 2, Section 11A:6-26 provides that the Commissioner may, at the request of a political subdivision, provide technical assistance to improve the efficiency and effectiveness of career development programs of such a subdivision. We endorse this provision as constituting a significant form of assistance to local jurisdictions.

May 23, 1986

Chapter 6, Article 2, Section 11A:6-27 provides that, while political subdivisions may adopt employee performance evaluation systems for their employees, the board "shall adopt and enforce rules with respect to the utilization of performance ratings in promotion, layoff or other matters." The City of Trenton has an operative employee performance evaluation system in place. This system, and the use to which evaluations may be put, have been negotiated with our local unions. We believe that the power of the board to adopt and enforce rules regarding the use of performance ratings should be confined narrowly to safeguarding employee rights which are presently embedded in Civil Service regulations. If the intent of the proposed provision is to expand the scope of the principle of merit in personnel matters we are in agreement. If, on the other hand, the intent of the proposed provision is to restrict the local appointing authority in the implementation and use of performance evaluation, we are opposed.

Chapter 8, Section 11A:8-3 provides that the Commissioner, in consultation with the advisory committee, may recommend rules on voluntary reduced worktime or other alternatives to layoffs. We believe that this provision should not apply to local jurisdictions since this is a traditional subject of collective bargaining and/or consultation with employee unions.

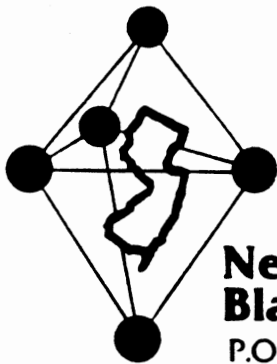
In conclusion, we submit that the Bill appears to expand the role and powers of the Department of Personnel (nee Department of Civil Service) while at the same time relieving them of much of the burdensome/costly detail of classification and test administration. We do not believe that shifting these responsibilities to the appointing authorities will bring about a better system and may, in fact, open the door to abuse.

Sincerely,

*Philip M. McHugh*  
Philip M. McHugh  
Personnel Officer

PMM:kmz

cc: Mr. Guhl  
Mr. Porth



## New Jersey Black Administrators Network

P.O. Box 1939 Trenton, NJ 08607 (609) 771-8357

May 22, 1986

Mr. Leslie O. Summiel, President  
Florence Bishop, Vice President Public Sector  
Ernestine Council, Secretary Pro Tem  
George Hannah, Treasurer  
Pinese Harris, Corresponding Secretary  
LuEva Lewis, Financial Secretary

### Board of Directors

Lillian E. Bryant	Honorable Wynona M. Lipman ✓
Franklyn Jenifer	Honorable Gerald R. Stockman
Edward E. Johnson	Honorable Richard J. Codey
Wynona M. Lipman	Honorable Gerald Cardinale
Wilhelmina E. Perry	Honorable C. William Haines
Leonard W. Miller	
J. Harry Smith	
Richard W. Roper	
David Williams	

Dear Senators:

### Board Attorney

Blackburn & Blackburn

On behalf of the New Jersey Black Administrators Network, permit me to comment on our review of the several bills pertaining to Civil Service Reform. Namely, we would like to comment on S 1567; S 1829; and A 2194 respectively.

As a preface, let me state as emphatically as I can that we believe overall Civil Service, as a system vis-a-vis, a law, is comprehensive and requires no major legislative amendments. As an organization concerned with the economic, professional, and civic growth and development of its membership, we are concerned with the several pieces of legislation that would disrupt if not, decimate the small gains that Blacks have made in State government.

You may recall that prior to 1970 there were few blacks in the principal departments of State government that shared some level of management responsibility. By and large, Blacks were relegated to the clerical and custodial positions in most State departments.

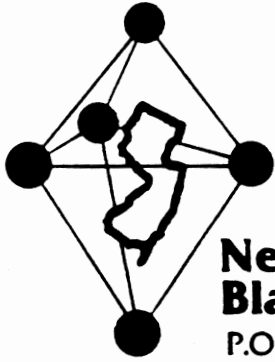
With the Civil Rights movements and an enlightened society, Blacks were finally recognized as citizens with the same inalienable rights as our White counterparts and were, in greater instances, given the opportunity to compete for those higher level jobs.

Now, today, our legislature is considering changing the law to give management greater prerogatives over matters, that we believe, belong left entrusted to the citizens of this state. Our constitution states clearly that jobs in government are to be competitive and that the civil servant is entitled to fair employment practices.

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COPY



**New Jersey  
Black Administrators Network**  
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Richard W. Roper  
David Williams

Honorable; Lipman, Stockman, Codey, Cardinale, & Haines.

Re: Civil Service Reform; S 1567; S 1829; A 2194.

**Board Attorney**

Blackburn & Blackburn

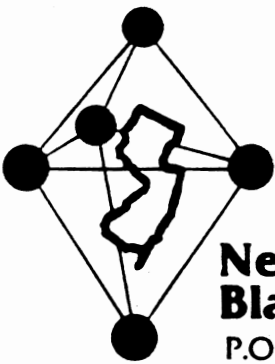
The original concept behind reforming the Civil Service law, i. e. Title 11, was to remove the inconsistencies that had inadvertently occurred over the years since Title 11 was amended. Some of the provisions of this statute were so inconsistent as to make it laughable.

The consultant, Lutz, studied the statute and the system and developed a proposal for reforming Civil Service. The proposal interjected concept that were meant to "modernize" our system. The several highlights of this study were the veteran preference laws, the bifurcation of the Commission and the operating department, (Here he talked about the creation of a Commissioner to run the department of Civil Service (or Personnel) and a Merit Board to review complaints and appeals against the administrator(s) (who ultimately would be the Commissioner of Personnel) of the system, and finally the Senior Executive Service, wherein employees of the system could compete for higher level appointments based upon their industry and performance. The issue that Lutz showed concerned over was the politicizing of the system. We were cautioned about the potential for abuses of the system and that is when some of your colleagues introduced "whistle-blowing" and other measures to ward off such abuse(s).

Senate Bill Number 1567 seems to show promise to the extent that it continues the concept of bifurcating the Merit Board and the Commissioner of Personnel. However it seems to fall short on outlining the administrative detail of the Board. Either the Chairman is an Executive who has a staff or the Board must have an Executive Director and staff to ensure its viability as a functioning unit. We applaud the proposal that the Commissioner be persons with "knowledge and experience in labor relations and/or personnel management." To us that makes greater sense than a Board of lay persons who would act on their whims or follow the direction of their chairman. A rubber stamping Board would be deplorable.

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## New Jersey Black Administrators Network

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### Board of Directors

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David Williams

### Board Attorney

Blackburn & Blackburn

Honorable; Lipman, Stockman, Codey, Cardinale, & Haines.

Re: Civil Service Reform; S 1567; S 1829; A 2194.

Also on Senate Bill Number 1567:

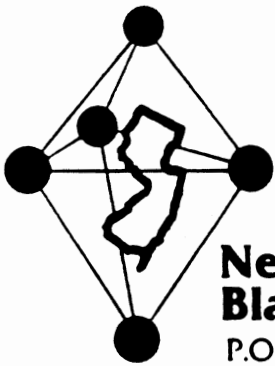
We find Chapter 7 on Equal Employment Opportunity deficient. It seems that this section of the bill would relegate the responsibility and authority for ensuring equal employment opportunity at all levels of the public sector to the Cabinet officer of each department without any regard for monitoring and enforcement. We believe that the present law N.J.S.A. 11:2D et al is more comprehensive and effective in ensuring employment opportunities. To do less than what is presently effective is unacceptable. Moreover, we earnestly believe that the present laws need strengthening if we are truly committed to a fully integrated society. Only until Blacks and other minorities can achieve a better balance in the work force will our society ever become "great" in its truest sense.

On Senate Bill Number 1829 we find the gravest disparity to be in its Chapter 3 (codified as 11A:3-3) Senior Executive Service. This provision places the dagger at the heart of a merit system. Here we find that "employees who opt not to join...or who do not receive approval to join" must demote to a level "directly under the senior executive service. Demonstrable a permanent employee of the Civil Service system who has twenty years service would be required to vacate his/her position to a lesser qualified person and concomitantly have his/her salary reduced considerably. We deplore this kind of unilateral decision making and especially when "career service employees who join the senior executive service SHALL have a right of reinstatement to the career service to a level held prior to entry in the senior executive service." This provision shows an inherent inequity in favor of the employee selected to the service while the employee "rejected" is given no consideration whatsoever. Furthermore, earlier measures provided employees whose title were to be allocated to this service the option of retaining their title and position until it was voluntarily vacated. If there is to be a Senior executive service, this latter provision is far more equitable than the provision in S1829.

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## New Jersey Black Administrators Network

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- Page 4 -

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### Board Attorney

Blackburn & Blackburn

Honorable; Lipman, Stockman, Codey, Cardinale, & Haines.

Re: Civil Service Reform; S 1567; S 1829; A 2194.

On Assembly Bill Number 2194:

We disagree with the Article 2 on the membership into the Merit System Board that would allow all of its membership to be from the same political affiliation. We also believe that there is an inherent conflict in the Chairman of this body to be the same as the Commissioner of Personnel. Moreover this bill proposes the appointee to be lay and without the necessary experience and qualifications as did S1567. We therefore find no distinguishable feature in this proposal from the present constitution of the Civil Service Commission under Title 11.

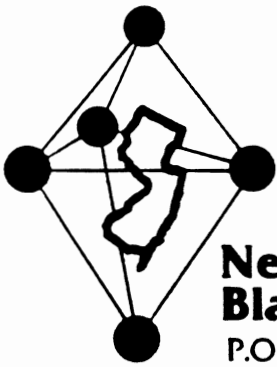
We offer the same criticism as we did on S 1829 regarding the Senior Executive Service. Career employees of State government are not given any consideration for their commitment to joining State government as a career employee. As all of you know, those of us employed by State government made a conscious decision to work for the State. Money wasn't a persuading factor. In fact, many who work for the State consider their election to do so tantamount to a sacrifice. Now the State wants to view itself as a private sector employer on its personnel practices but not on parity with private sector pay. State employees deserve better. Many of us work in deplorable conditions and with obsolete equipment and limited upward mobility. With the introduction of the SES, upward mobility may arguable be enhanced, but without hard parameters to gauge who will qualify and who will be sacrificed by arbitrary non-selection the benefits are diminished considerably and the gamble is not worth one's participation.

We believe Chapter 7, Equal Employment Opportunity can be strengthened and made to work better.

In all, Civil Service reform, will only be reform if it is for the better.

-more-

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## New Jersey Black Administrators Network

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### Board of Directors

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David Williams

### Board Attorney

Blackburn & Blackburn

Honorable: Lipman, Stockman, Codey, Cardinale, & Haines.

Re: Civil Service Reform; S 1567; S 1829; A 2194.


### SUMMARY:

The reason people select jobs as a career is to be able to have some control and structure over their lives. Those of us that have selected State government are no different. To have one elect a career under the notion that he or she may pursue this option throughout his or her career is reasonable. To interfere with one's selection by changing the rules dramatically, is inherently unfair. When we, as civil servants joined State government we believed that we would be able to pursue our careers without legislative restrictions. No one told us that entering this system we would only be able to compete for a job up to a senior level professional. No one said that we would lose the ability to compete for mid- and upper management level appointments based upon merit. We were not advised that political considerations would creep into the picture and that the higher paying jobs would be reserved for the politicians.

As citizens of this State, I believe we should have a say about where the line of patronage should be drawn. If we politicize our State government and as a complimentary gesture permit the County and municipal governments the same option, I believe we will be making an abhorrent error.

We implore you to remove the potential for political intrusion into the instrument that provides the necessary services to our citizens of this State. Make Civil Service work by producing a measure that would be real reform for the citizens of New Jersey.

Sincerely,

  
Leslie O. Summiel  
President

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