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"McGreevey signs bill for same-sex couples," 1-13-2004 Philadelphia Inquirer, p.B7

"Senate oks benefits for same-sex couples," 1-9-2004 The Press, p.1

"Law gives gays little things that will mean a lot," 1-9-2004 Star-Ledger, p.12

"Gay couples to get new rights in NJ," 1-9-2004 The Record, p.A1

"Law grants benefits to same-sex partners," 1-13-2004 Courier News, p.A3

"Gay couple gain legal status," 1-13-2004 Star Ledger, p.23

"Rights for same-sex couples becomes law," 1-13-2004 The Record, p.A3

§§1-10 -
C.26:8A-1
to 26:8A-10
§13 - C.26:2H-12.22
§47 - C.17:48-6bb
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13-35, 47-
52,55,56,53,54
§60 - Note to all §§

P.L. 2003, CHAPTER 246, *approved January 12, 2004*
Assembly, No. 3743 (*Second Reprint*)

1 **AN ACT** establishing the rights and responsibilities of domestic
2 partners, and revising parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the
8 ¹**["Family Equality"] "Domestic Partnership"**¹ Act."

9

10 2. (New section) The Legislature finds and declares that:

11 a. There are a significant number of individuals in this State who
12 choose to live together in important personal, emotional and economic
13 committed relationships with another individual;

14 b. These familial relationships, which are known as domestic
15 partnerships, assist the State by their establishment of a private
16 network of support for the financial, physical and emotional health of
17 their participants;

18 c. Because of the material and other support that these familial
19 relationships provide to their participants, the Legislature believes that

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHH committee amendments adopted December 11, 2003.

² Assembly AAP committee amendments adopted December 11, 2003.

1 these mutually supportive relationships should be formally recognized
2 by statute, and that certain rights and benefits should be made
3 available to individuals participating in them²;

4 d. The rights of domestic partners with regard to], including:
5 statutory protection against various forms of discrimination against
6 domestic partners; certain visitation and decision-making rights in a
7 health care setting; and certain tax-related benefits; and, in some
8 cases,² health and pension benefits ²[should be] that are provided in²
9 the same ²manner² as ²for² spouses²;

10 d. All persons in domestic partnerships should be entitled to certain
11 rights and benefits that are accorded to married couples under the
12 laws of New Jersey, including: statutory protection through the "Law
13 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) against
14 various forms of discrimination based on domestic partnership status,
15 such as employment, housing and credit discrimination; visitation
16 rights for a hospitalized domestic partner and the right to make
17 medical or legal decisions for an incapacitated partner; and an
18 additional exemption from the personal income tax and the transfer
19 inheritance tax on the same basis as a spouse. The need for all persons
20 who are in domestic partnerships, regardless of their sex, to have
21 access to these rights and benefits is paramount in view of their
22 essential relationship to any reasonable conception of basic human
23 dignity and autonomy, and the extent to which they will play an
24 integral role in enabling these persons to enjoy their familial
25 relationships as domestic partners and to cope with adversity when a
26 medical emergency arises that affects a domestic partnership, as was
27 painfully but graphically illustrated on a large scale in the aftermath of
28 the tragic events that befell the people of our State and region on
29 September 11, 2001;

30 e. The Legislature, however, discerns a clear and rational basis for
31 making certain health and pension benefits available to dependent
32 domestic partners only in the case of domestic partnerships in which
33 both persons are of the same sex and are therefore unable to enter into
34 a marriage with each other that is recognized by New Jersey law,
35 unlike persons of the opposite sex who are in a domestic partnership
36 but have the right to enter into a marriage that is recognized by State
37 law and thereby have access to these health and pension benefits²; and

38 ²[e.] f.² Therefore, it is the public policy of this State to hereby
39 establish and define the rights and responsibilities of domestic partners.

40
41 3. (New section) As used in sections 1 through 9 of P.L. , c.
42 (C.)(pending before the Legislature as this bill) and in R.S.26:8-1 et
43 seq.:

44 "Affidavit of Domestic Partnership" means an affidavit that sets
45 forth each party's name and age, the parties' common mailing address,
46 and a statement that, at the time the affidavit is signed, both parties

1 meet the requirements of this act for entering into a domestic
2 partnership and wish to enter into a domestic partnership with each
3 other.

4 "Basic living expenses" means the cost of basic food and shelter,
5 and any other cost, including, but not limited to, the cost of health
6 care, if some or all of the cost is paid as a benefit because a person is
7 another person's domestic partner.

8 "Certificate of Domestic Partnership" means a certificate that
9 includes: the full names of the domestic partners, a statement that the
10 two individuals are members of a registered domestic partnership
11 recognized by the State of New Jersey, the date that the domestic
12 partnership was entered into, and a statement that the partners are
13 entitled to all the rights, privileges and responsibilities accorded to
14 domestic partners under the law. The certificate shall bear the seal of
15 the State of New Jersey.

16 "Commissioner" means the Commissioner of Health and Senior
17 Services.

18 "Domestic partner" or "partner" means a person who is in a
19 relationship that satisfies the definition of a domestic partnership as set
20 forth in this act.

21 "Have a common residence" means that two persons share the same
22 place to live in this State, or share the same place to live in another
23 jurisdiction when at least one of the persons is a member of a State-
24 administered retirement system, regardless of whether or not: the
25 legal right to possess the place is in both of their names; one or both
26 persons have additional places to live; or one person temporarily
27 leaves the shared place of residence to reside elsewhere, on either a
28 short-term or long-term basis, for reasons that include, but are not
29 limited to, medical care, incarceration, education, a sabbatical or
30 employment, but intends to return to the shared place of residence.

31 "Jointly responsible" means that each domestic partner agrees to
32 provide for the other partner's basic living expenses if the other partner
33 is unable to provide for himself.

34 "Notice of Rights and Obligations of Domestic Partners" means a
35 form that advises domestic partners, or persons seeking to become
36 domestic partners, of the procedural requirements for establishing,
37 maintaining, and terminating a domestic partnership, and includes
38 information about the rights and responsibilities of the partners.
39

40 4. (New section) a. Two persons who desire to become domestic
41 partners and meet the requirements of subsection b. of this section may
42 execute and file an Affidavit of Domestic Partnership with the local
43 registrar upon payment of a fee, in an amount to be determined by the
44 commissioner, which shall be deposited in the General Fund. Each
45 person shall receive a copy of the affidavit marked "filed."

46 b. A domestic partnership shall be established when all of the

1 following requirements are met:

2 (1) Both persons have a common residence ¹and are otherwise
3 jointly responsible for each other's common welfare as evidenced by
4 joint financial arrangements or joint ownership of real or personal
5 property, which shall be demonstrated by at least one of the following:

6 (a) a joint deed, mortgage agreement or lease;

7 (b) a joint bank account;

8 (c) designation of one of the persons as a primary beneficiary in the
9 other person's will;

10 (d) designation of one of the persons as a primary beneficiary in the
11 other person's life insurance policy or retirement plan; or

12 (e) joint ownership of a motor vehicle¹;

13 (2) Both persons agree to be jointly responsible for each other's
14 basic living expenses during the domestic partnership;

15 (3) Neither person is ¹[married]¹ in a marriage recognized by New
16 Jersey law or a member of another domestic partnership;

17 (4) ¹Neither person is related to the other by blood or affinity up
18 to and including the fourth degree of consanguinity;

19 (5) Both persons are of the same sex and therefore unable to enter
20 into a marriage with each other that is recognized by New Jersey law
21 ², except that two persons who are each 62 years of age or older and
22 not of the same sex may establish a domestic partnership if they meet
23 the requirements set forth in this section²;

24 (6)¹ Both persons have chosen to share each other's lives in a
25 committed relationship of mutual caring;

26 ¹[(5)](7)¹ Both persons are at least 18 years of age;

27 ¹[(6)] (8)¹ Both persons file jointly an Affidavit of Domestic
28 Partnership; and

29 ¹[(7)] (9)¹ Neither person has been a partner in a domestic
30 partnership that was terminated less than 180 days prior to the filing
31 of the current Affidavit of Domestic Partnership, except that this
32 prohibition shall not apply if one of the partners died; and, in all cases
33 in which a person registered a prior domestic partnership, the domestic
34 partnership shall have been terminated in accordance with the
35 provisions of section 10 of P.L. , c. (C.)(pending before the
36 Legislature as this bill).

37 c. A person who executes an Affidavit of Domestic Partnership in
38 violation of the provisions of subsection b. of this section shall be
39 liable to a civil penalty in an amount not to exceed \$1,000. The
40 penalty shall be sued for and collected pursuant to the ¹["Penalty
41 Enforcement Law of 1999"] "Penalty Enforcement Law of 1999,"
42 P.L.1999, c.274¹ (C.2A:58-10 et seq.).

43

44 5. (New section) a. A former domestic partner who has given a
45 copy of the Certificate of Domestic Partnership to any third party to
46 qualify for any benefit or right and whose receipt of that benefit or

1 enjoyment of that right has not otherwise terminated, shall, upon
2 termination of the domestic partnership, give or send to the third
3 party, at the last known address of the third party, written notification
4 that the domestic partnership has been terminated. A third party that
5 suffers a loss as a result of failure by a domestic partner to provide
6 this notice shall be entitled to seek recovery from the partner who was
7 obligated to send the notice for any actual loss resulting thereby.

8 b. Failure to provide notice to a third party, as required pursuant
9 to this section, shall not delay or prevent the termination of the
10 domestic partnership.

11
12 6. (New section) a. The obligations that two people have to each
13 other as a result of creating a domestic partnership shall be limited to
14 the provisions of this act, and those provisions shall not diminish any
15 right granted under any other provision of law.

16 b. Upon the termination of a domestic partnership, the domestic
17 partners, from that time forward, shall incur none of the obligations to
18 each other as domestic partners that are created by this or any other
19 act.

20 c. A domestic partnership, civil union or reciprocal beneficiary
21 relationship entered into outside of this State, which is valid under the
22 laws of the jurisdiction under which the partnership was created, shall
23 be valid in this State.

24 d. Any health care or social services provider, employer, operator
25 of a place of public accommodation, property owner or administrator,
26 or other individual or entity may treat a person as a member of a
27 domestic partnership, notwithstanding the absence of an Affidavit of
28 Domestic Partnership filed pursuant to this act.

29 e. Domestic partners may modify the rights and obligations to each
30 other that are granted by this act in any valid contract between
31 themselves, except for the requirements for a domestic partnership as
32 set forth in section 4 of ¹[this act] P.L. , c. (C.)(pending before
33 the Legislature as this bill)¹.

34 f. Two adults who have not filed an Affidavit of Domestic
35 Partnership shall be treated as domestic partners in an emergency
36 medical situation ¹for the purposes of allowing one adult to
37 accompany the other adult who is ill or injured while the latter is being
38 transported to a hospital, or to visit the other adult who is a hospital
39 patient, on the same basis as a member of the latter's immediate
40 family,¹ if both persons, or one of the persons in the event that the
41 other person is legally or medically incapacitated, advise the
42 emergency care provider that the two persons have met the other
43 requirements for establishing a domestic partnership as set forth in
44 section 4 of ¹[this act] P.L. , c. (C.)(pending before the
45 Legislature as this bill); however, the provisions of this section shall
46 not be construed to permit the two adults to be treated as domestic
47 partners for any other purpose as provided in P.L. , c. (C.)(pending

1 before the Legislature as this bill) prior to their having filed an
2 Affidavit of Domestic Partnership¹.

3 g. A domestic partner shall not be liable for the debts of the other
4 partner contracted before establishment of the domestic partnership,
5 or contracted by the other partner in his own name during the
6 domestic partnership. The partner who contracts for the debt in his
7 own name shall be liable to be sued separately in his own name, and
8 any property belonging to that partner shall be liable to satisfy that
9 debt in the same manner as if the partner had not entered into a
10 domestic partnership.

11

12 7. (New section) a. The commissioner shall cause to be prepared,
13 in such a manner as the commissioner determines appropriate:

14 (1) blank forms, in quadruplicate, of Affidavits of Domestic
15 Partnership and Certificates of Domestic Partnership corresponding to
16 the requirements of this act; and

17 (2) copies of the Notice of the Rights and Obligations of Domestic
18 Partners.

19 b. The commissioner shall ensure that these forms and notices,
20 along with such sections of the laws concerning domestic partnership
21 and explanations thereof as the commissioner may deem useful to
22 persons having duties to recognize domestic partners under those
23 laws, are printed and supplied to each local registrar, and made
24 available to the public upon request.

25

26 8. (New section) a. The local registrar shall:

27 (1) stamp each completed Affidavit of Domestic Partnership
28 received with the date of its receipt and the name of the registration
29 district in which it is filed; and

30 (2) immediately provide two copies of the stamped Affidavit of
31 Domestic Partnership to the person who files that document.

32 b. Upon the filing of an Affidavit of Domestic Partnership and
33 payment of the appropriate filing fee, the local registrar shall
34 immediately complete a Certificate of Domestic Partnership with the
35 domestic partners' relevant information and the date that the domestic
36 partnership was established. The local registrar shall then issue to the
37 domestic partners two copies of the certificate and two copies of the
38 Notice of the Rights and Obligations of Domestic Partners. Copies of
39 the Certificate of Domestic Partnership shall be prepared and recorded
40 in the local registrar's records and with the State registrar.

41 c. Each local registrar shall, on or before the 10th day of each
42 calendar month, or sooner if requested by the Department of Health
43 and Senior Services, transmit to the State registrar the original of all
44 the Affidavits of Domestic Partnership and Certificates of Domestic
45 Partnership received or prepared by the local registrar for the
46 preceding month.

1 9. (New section) The State registrar shall cause all Affidavits of
2 Domestic Partnership and Certificates of Domestic Partnership
3 received to be alphabetically indexed by the surname of one of the
4 partners, and shall establish a cross-referencing system to allow the
5 records to be identified by the surname of the second partner. The
6 State registrar shall also cause to be transcribed or otherwise recorded
7 from the certificates any of the vital facts appearing thereon as the
8 commissioner may deem necessary or useful.

9
10 10. (New section) ¹a. (1)¹ The Superior Court shall have
11 jurisdiction over all proceedings relating to the termination of a
12 domestic partnership established pursuant to section 4 of P.L. , c.
13 (C.) (pending before the Legislature as this bill), including the
14 division and distribution of jointly held property. ¹[The termination
15 shall follow the same procedures, and the parties shall be subject to the
16 same substantive rights and obligations, as are involved in an action
17 for divorce pursuant to N.J.S.2A:34-1 et seq.] The fees for filing an
18 action or proceeding for the termination of a domestic partnership
19 shall be the same as those for filing an action or proceeding for divorce
20 pursuant to N.J.S.22A:2-12.

21 (2) The termination of a domestic partnership may be adjudged for
22 the following causes:

23 (a) voluntary sexual intercourse between a person who is in a
24 domestic partnership and an individual other than the person's
25 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
26 before the Legislature as this bill);

27 (b) willful and continued desertion for a period of 12 or more
28 consecutive months, which may be established by satisfactory proof
29 that the parties have ceased to cohabit as domestic partners;

30 (c) extreme cruelty, which is defined as including any physical or
31 mental cruelty that endangers the safety or health of the plaintiff or
32 makes it improper or unreasonable to expect the plaintiff to continue
33 to cohabit with the defendant; except that no complaint for termination
34 shall be filed until after three months from the date of the last act of
35 cruelty complained of in the complaint, but this provision shall not be
36 held to apply to any counterclaim;

37 (d) separation, provided that the domestic partners have lived
38 separate and apart in different habitations for a period of at least 18 or
39 more consecutive months and there is no reasonable prospect of
40 reconciliation; and provided further that, after the 18-month period,
41 there shall be a presumption that there is no reasonable prospect of
42 reconciliation;

43 (e) voluntarily induced addiction or habituation to any narcotic
44 drug, as defined in the "New Jersey Controlled Dangerous Substances
45 Act," P.L.1970, c. 226 (C. 24:21-2) or the "Comprehensive Drug
46 Reform Act of 1987," N.J.S.2C:35-1 et al., or habitual drunkenness

1 for a period of 12 or more consecutive months subsequent to
2 establishment of the domestic partnership and next preceding the filing
3 of the complaint;

4 (f) institutionalization for mental illness for a period of 24 or more
5 consecutive months subsequent to establishment of the domestic
6 partnership and next preceding the filing of the complaint; or

7 (g) imprisonment of the defendant for 18 or more consecutive
8 months after establishment of the domestic partnership, provided that
9 where the action is not commenced until after the defendant's release,
10 the parties have not resumed cohabitation following the imprisonment.

11 (3) In all such proceedings, the court shall in no event be required
12 to effect an equitable distribution of property, either real or personal,
13 which was legally and beneficially acquired by both domestic partners
14 or either domestic partner during the domestic partnership.

15 (4) The court shall notify the State registrar of the termination of
16 a domestic partnership pursuant to this subsection.

17 b. ²In the case of two persons who are each 62 years of age or
18 older and not of the same sex and have established a domestic
19 partnership pursuant to section 4 of P.L. , c. (C.)(pending before
20 the Legislature as this bill), the domestic partnership shall be deemed
21 terminated if the two persons enter into a marriage with each other
22 that is recognized by New Jersey law .

23 c.² The State registrar shall revise the records of domestic
24 partnership provided for in section 9 of P.L. , c. (C.)(pending before
25 the Legislature as this bill) to reflect the termination of a domestic
26 partnership pursuant to this section.¹

27
28 ¹[11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
29 as follows:

30 5. As used in this act, unless a different meaning clearly appears
31 from the context:

32 a. "Person" includes one or more individuals, partnerships,
33 associations, organizations, labor organizations, corporations, legal
34 representatives, trustees, trustees in bankruptcy, receivers, and
35 fiduciaries.

36 b. "Employment agency" includes any person undertaking to
37 procure employees or opportunities for others to work.

38 c. "Labor organization" includes any organization which exists and
39 is constituted for the purpose, in whole or in part, of collective
40 bargaining, or of dealing with employers concerning grievances, terms
41 or conditions of employment, or of other mutual aid or protection in
42 connection with employment.

43 d. "Unlawful employment practice" and "unlawful discrimination"
44 include only those unlawful practices and acts specified in section 11
45 of this act.

46 e. "Employer" includes all persons as defined in subsection a. of

1 this section unless otherwise specifically exempt under another section
2 of this act, and includes the State, any political or civil subdivision
3 thereof, and all public officers, agencies, boards or bodies.

4 f. "Employee" does not include any individual employed in the
5 domestic service of any person.

6 g. "Liability for service in the Armed Forces of the United States"
7 means subject to being ordered as an individual or member of an
8 organized unit into active service in the Armed Forces of the United
9 States by reason of membership in the National Guard, naval militia or
10 a reserve component of the Armed Forces of the United States, or
11 subject to being inducted into such armed forces through a system of
12 national selective service.

13 h. "Division" means the "Division on Civil Rights" created by this
14 act.

15 i. "Attorney General" means the Attorney General of the State of
16 New Jersey or his representative or designee.

17 j. "Commission" means the Commission on Civil Rights created by
18 this act.

19 k. "Director" means the Director of the Division on Civil Rights.

20 l. "A place of public accommodation" shall include, but not be
21 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
22 camp, day camp, or resort camp, whether for entertainment of
23 transient guests or accommodation of those seeking health, recreation
24 or rest; any producer, manufacturer, wholesaler, distributor, retail
25 shop, store, establishment, or concession dealing with goods or
26 services of any kind; any restaurant, eating house, or place where food
27 is sold for consumption on the premises; any place maintained for the
28 sale of ice cream, ice and fruit preparations or their derivatives, soda
29 water or confections, or where any beverages of any kind are retailed
30 for consumption on the premises; any garage, any public conveyance
31 operated on land or water, or in the air, any stations and terminals
32 thereof; any bathhouse, boardwalk, or seashore accommodation; any
33 auditorium, meeting place, or hall; any theatre, motion-picture house,
34 music hall, roof garden, skating rink, swimming pool, amusement and
35 recreation park, fair, bowling alley, gymnasium, shooting gallery,
36 billiard and pool parlor, or other place of amusement; any comfort
37 station; any dispensary, clinic or hospital; any public library; any
38 kindergarten, primary and secondary school, trade or business school,
39 high school, academy, college and university, or any educational
40 institution under the supervision of the State Board of Education, or
41 the Commissioner of Education of the State of New Jersey. Nothing
42 herein contained shall be construed to include or to apply to any
43 institution, bona fide club, or place of accommodation, which is in its
44 nature distinctly private; nor shall anything herein contained apply to
45 any educational facility operated or maintained by a bona fide religious
46 or sectarian institution, and the right of a natural parent or one in loco

1 parentis to direct the education and upbringing of a child under his
2 control is hereby affirmed; nor shall anything herein contained be
3 construed to bar any private secondary or post secondary school from
4 using in good faith criteria other than race, creed, color, national
5 origin, ancestry or affectional or sexual orientation in the admission of
6 students.

7 m. "A publicly assisted housing accommodation" shall include all
8 housing built with public funds or public assistance pursuant to
9 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
10 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
11 and all housing financed in whole or in part by a loan, whether or not
12 secured by a mortgage, the repayment of which is guaranteed or
13 insured by the federal government or any agency thereof.

14 n. The term "real property" includes real estate, lands, tenements
15 and hereditaments, corporeal and incorporeal, and leaseholds,
16 provided, however, that, except as to publicly assisted housing
17 accommodations, the provisions of this act shall not apply to the
18 rental: (1) of a single apartment or flat in a two-family dwelling, the
19 other occupancy unit of which is occupied by the owner as a residence
20 or the household of the owner's family at the time of such rental; or (2)
21 of a room or rooms to another person or persons by the owner or
22 occupant of a one-family dwelling occupied by the owner or occupant
23 as a residence or the household of the owner's or occupant's family at
24 the time of such rental. Nothing herein contained shall be construed
25 to bar any religious or denominational institution or organization, or
26 any organization operated for charitable or educational purposes,
27 which is operated, supervised or controlled by or in connection with
28 a religious organization, in the sale, lease or rental of real property,
29 from limiting admission to or giving preference to persons of the same
30 religion or denomination or from making such selection as is
31 calculated by such organization to promote the religious principles for
32 which it is established or maintained. Nor does any provision under
33 this act regarding discrimination on the basis of familial status apply
34 with respect to housing for older persons.

35 o. "Real estate broker" includes a person, firm or corporation who,
36 for a fee, commission or other valuable consideration, or by reason of
37 promise or reasonable expectation thereof, lists for sale, sells,
38 exchanges, buys or rents, or offers or attempts to negotiate a sale,
39 exchange, purchase, or rental of real estate or an interest therein, or
40 collects or offers or attempts to collect rent for the use of real estate,
41 or solicits for prospective purchasers or assists or directs in the
42 procuring of prospects or the negotiation or closing of any transaction
43 which does or is contemplated to result in the sale, exchange, leasing,
44 renting or auctioning of any real estate, or negotiates, or offers or
45 attempts or agrees to negotiate a loan secured or to be secured by
46 mortgage or other encumbrance upon or transfer of any real estate for

1 others; or any person who, for pecuniary gain or expectation of
2 pecuniary gain conducts a public or private competitive sale of lands
3 or any interest in lands. In the sale of lots, the term "real estate
4 broker" shall also include any person, partnership, association or
5 corporation employed by or on behalf of the owner or owners of lots
6 or other parcels of real estate, at a stated salary, or upon a
7 commission, or upon a salary and commission or otherwise, to sell
8 such real estate, or any parts thereof, in lots or other parcels, and who
9 shall sell or exchange, or offer or attempt or agree to negotiate the
10 sale or exchange, of any such lot or parcel of real estate.

11 p. "Real estate salesperson" includes any person who, for
12 compensation, valuable consideration or commission, or other thing of
13 value, or by reason of a promise or reasonable expectation thereof, is
14 employed by and operates under the supervision of a licensed real
15 estate broker to sell or offer to sell, buy or offer to buy or negotiate
16 the purchase, sale or exchange of real estate, or offers or attempts to
17 negotiate a loan secured or to be secured by a mortgage or other
18 encumbrance upon or transfer of real estate, or to lease or rent, or
19 offer to lease or rent any real estate for others, or to collect rents for
20 the use of real estate, or to solicit for prospective purchasers or lessees
21 of real estate, or who is employed by a licensed real estate broker to
22 sell or offer to sell lots or other parcels of real estate, at a stated
23 salary, or upon a commission, or upon a salary and commission, or
24 otherwise to sell real estate, or any parts thereof, in lots or other
25 parcels.

26 q. "Handicapped" means suffering from physical disability,
27 infirmity, malformation or disfigurement which is caused by bodily
28 injury, birth defect or illness including epilepsy, and which shall
29 include, but not be limited to, any degree of paralysis, amputation, lack
30 of physical coordination, blindness or visual impediment, deafness or
31 hearing impediment, muteness or speech impediment or physical
32 reliance on a service or guide dog, wheelchair, or other remedial
33 appliance or device, or from any mental, psychological or
34 developmental disability resulting from anatomical, psychological,
35 physiological or neurological conditions which prevents the normal
36 exercise of any bodily or mental functions or is demonstrable,
37 medically or psychologically, by accepted clinical or laboratory
38 diagnostic techniques. Handicapped shall also mean suffering from
39 AIDS or HIV infection.

40 r. "Blind person" means any individual whose central visual acuity
41 does not exceed 20/200 in the better eye with correcting lens or whose
42 visual acuity is better than 20/200 if accompanied by a limit to the field
43 of vision in the better eye to such a degree that its widest diameter
44 subtends an angle of no greater than 20 degrees.

45 s. "Guide dog" means a dog used to assist deaf persons or which
46 is fitted with a special harness so as to be suitable as an aid to the

1 mobility of a blind person, and is used by a blind person who has
2 satisfactorily completed a specific course of training in the use of such
3 a dog, and has been trained by an organization generally recognized by
4 agencies involved in the rehabilitation of the blind or deaf as reputable
5 and competent to provide dogs with training of this type.

6 t. "Guide or service dog trainer" means any person who is
7 employed by an organization generally recognized by agencies
8 involved in the rehabilitation of the blind, handicapped or deaf as
9 reputable and competent to provide dogs with training, and who is
10 actually involved in the training process.

11 u. "Housing accommodation" means any publicly assisted housing
12 accommodation or any real property, or portion thereof, which is used
13 or occupied, or is intended, arranged, or designed to be used or
14 occupied, as the home, residence or sleeping place of one or more
15 persons, but shall not include any single family residence the occupants
16 of which rent, lease, or furnish for compensation not more than one
17 room therein.

18 v. "Public facility" means any place of public accommodation and
19 any street, highway, sidewalk, walkway, public building, and any other
20 place or structure to which the general public is regularly, normally or
21 customarily permitted or invited.

22 w. "Deaf person" means any person whose hearing is so severely
23 impaired that the person is unable to hear and understand normal
24 conversational speech through the unaided ear alone, and who must
25 depend primarily on a supportive device or visual communication such
26 as writing, lip reading, sign language, and gestures.

27 x. "Atypical hereditary cellular or blood trait" means sickle cell
28 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
29 fibrosis trait.

30 y. "Sickle cell trait" means the condition wherein the major natural
31 hemoglobin components present in the blood of the individual are
32 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
33 defined by standard chemical and physical analytic techniques,
34 including electrophoresis; and the proportion of hemoglobin A is
35 greater than the proportion of hemoglobin S or one natural parent of
36 the individual is shown to have only normal hemoglobin components
37 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
38 proportions by standard chemical and physical analytic tests.

39 z. "Hemoglobin C trait" means the condition wherein the major
40 natural hemoglobin components present in the blood of the individual
41 are hemoglobin A (normal) and hemoglobin C as defined by standard
42 chemical and physical analytic techniques, including electrophoresis;
43 and the proportion of hemoglobin A is greater than the proportion of
44 hemoglobin C or one natural parent of the individual is shown to have
45 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
46 hemoglobin F) in normal proportions by standard chemical and

- 1 physical analytic tests.
- 2 aa. "Thalassemia trait" means the presence of the thalassemia gene
3 which in combination with another similar gene results in the chronic
4 hereditary disease Cooley's anemia.
- 5 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
6 which in combination with another similar gene results in the chronic
7 hereditary disease Tay-Sachs.
- 8 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
9 gene which in combination with another similar gene results in the
10 chronic hereditary disease cystic fibrosis.
- 11 dd. "Service dog" means any dog individually trained to a
12 handicapped person's requirements including, but not limited to
13 minimal protection work, rescue work, pulling a wheelchair or
14 retrieving dropped items.
- 15 ee. "Qualified Medicaid applicant" means an individual who is a
16 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 17 ff. "AIDS" means acquired immune deficiency syndrome as defined
18 by the Centers for Disease Control of the United States Public Health
19 Service.
- 20 gg. "HIV infection" means infection with the human
21 immunodeficiency virus or any other related virus identified as a
22 probable causative agent of AIDS.
- 23 hh. "Affectional or sexual orientation" means male or female
24 heterosexuality, homosexuality or bisexuality by inclination, practice,
25 identity or expression, having a history thereof or being perceived,
26 presumed or identified by others as having such an orientation.
- 27 ii. "Heterosexuality" means affectional, emotional or physical
28 attraction or behavior which is primarily directed towards persons of
29 the other gender.
- 30 jj. "Homosexuality" means affectional, emotional or physical
31 attraction or behavior which is primarily directed towards persons of
32 the same gender.
- 33 kk. "Bisexuality" means affectional, emotional or physical
34 attraction or behavior which is directed towards persons of either
35 gender.
- 36 ll. "Familial status" means being the natural parent of a child, the
37 adoptive parent of a child, the foster parent of a child, having a "parent
38 and child relationship" with a child as defined by State law, or having
39 sole or joint legal or physical custody, care, guardianship, or visitation
40 with a child, or any person who is pregnant or is in the process of
41 securing legal custody of any individual who has not attained the age
42 of 18 years.
- 43 mm. "Housing for older persons" means housing:
- 44 (1) provided under any State or federal program that the Attorney
45 General determines is specifically designed and operated to assist
46 elderly persons (as defined in the State or federal program); or

1 (2) intended for, and solely occupied by persons 62 years of age or
2 older; or

3 (3) intended and operated for occupancy by at least one person 55
4 years of age or older per unit. In determining whether housing
5 qualifies as housing for older persons under this subsection, the
6 Attorney General shall adopt regulations which require at least the
7 following factors:

8 (a) the existence of significant facilities and services specifically
9 designed to meet the physical or social needs of older persons, or if the
10 provision of such facilities and services is not practicable, that such
11 housing is necessary to provide important housing opportunities for
12 older persons; and

13 (b) that at least 80 percent of the units are occupied by at least one
14 person 55 years of age or older per unit; and

15 (c) the publication of, and adherence to, policies and procedures
16 which demonstrate an intent by the owner or manager to provide
17 housing for persons 55 years of age or older.

18 Housing shall not fail to meet the requirements for housing for
19 older persons by reason of: persons residing in such housing as of
20 March 12, 1989 not meeting the age requirements of this subsection,
21 provided that new occupants of such housing meet the age
22 requirements of this subsection; or unoccupied units, provided that
23 such units are reserved for occupancy by persons who meet the age
24 requirements of this subsection.

25 nn. "Genetic characteristic" means any inherited gene or
26 chromosome, or alteration thereof, that is scientifically or medically
27 believed to predispose an individual to a disease, disorder or
28 syndrome, or to be associated with a statistically significant increased
29 risk of development of a disease, disorder or syndrome.

30 oo. "Genetic information" means the information about genes, gene
31 products or inherited characteristics that may derive from an individual
32 or family member.

33 pp. "Genetic test" means a test for determining the presence or
34 absence of an inherited genetic characteristic in an individual, including
35 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
36 chromosomes or proteins in order to identify a predisposing genetic
37 characteristic.

38 qq. "Domestic partnership" means a domestic partnership
39 established pursuant to section 4 of P.L. , c. (C.)(pending before
40 the Legislature as this bill).

41 (cf: P.L.1996, c.126, s.4)]¹

1 ¹[12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
2 read as follows:

3 11. It shall be an unlawful employment practice, or, as the case
4 may be, an unlawful discrimination:

5 a. For an employer, because of the race, creed, color, national
6 origin, ancestry, age, marital status, domestic partnership status,
7 affectional or sexual orientation, genetic information, sex or atypical
8 hereditary cellular or blood trait of any individual, or because of the
9 liability for service in the Armed Forces of the United States or the
10 nationality of any individual, or because of the refusal to submit to a
11 genetic test or make available the results of a genetic test to an
12 employer, to refuse to hire or employ or to bar or to discharge or
13 require to retire, unless justified by lawful considerations other than
14 age, from employment such individual or to discriminate against such
15 individual in compensation or in terms, conditions or privileges of
16 employment; provided, however, it shall not be an unlawful
17 employment practice to refuse to accept for employment an applicant
18 who has received a notice of induction or orders to report for active
19 duty in the armed forces; provided further that nothing herein
20 contained shall be construed to bar an employer from refusing to
21 accept for employment any person on the basis of sex in those certain
22 circumstances where sex is a bona fide occupational qualification,
23 reasonably necessary to the normal operation of the particular business
24 or enterprise; provided further that nothing herein contained shall be
25 construed to bar an employer from refusing to accept for employment
26 or to promote any person over 70 years of age; provided further that
27 it shall not be an unlawful employment practice for a club exclusively
28 social or fraternal to use club membership as a uniform qualification
29 for employment, or for a religious association or organization to utilize
30 religious affiliation as a uniform qualification in the employment of
31 clergy, religious teachers or other employees engaged in the religious
32 activities of the association or organization, or in following the tenets
33 of its religion in establishing and utilizing criteria for employment of
34 an employee; provided further, that it shall not be an unlawful
35 employment practice to require the retirement of any employee who,
36 for the two-year period immediately before retirement, is employed in
37 a bona fide executive or a high policy-making position, if that
38 employee is entitled to an immediate non-forfeitable annual retirement
39 benefit from a pension, profit sharing, savings or deferred retirement
40 plan, or any combination of those plans, of the employer of that
41 employee which equals in the aggregate at least \$27,000.00; and
42 provided further that an employer may restrict employment to citizens
43 of the United States where such restriction is required by federal law
44 or is otherwise necessary to protect the national interest.

45 For the purposes of this subsection, a "bona fide executive" is a top
46 level employee who exercises substantial executive authority over a

1 significant number of employees and a large volume of business. A
2 "high policy-making position" is a position in which a person plays a
3 significant role in developing policy and in recommending the
4 implementation thereof.

5 b. For a labor organization, because of the race, creed, color,
6 national origin, ancestry, age, marital status, domestic partnership
7 status, affectional or sexual orientation or sex of any individual, or
8 because of the liability for service in the Armed Forces of the United
9 States or nationality of any individual, to exclude or to expel from its
10 membership such individual or to discriminate in any way against any
11 of its members, against any applicant for, or individual included in, any
12 apprentice or other training program or against any employer or any
13 individual employed by an employer; provided, however, that nothing
14 herein contained shall be construed to bar a labor organization from
15 excluding from its apprentice or other training programs any person on
16 the basis of sex in those certain circumstances where sex is a bona fide
17 occupational qualification reasonably necessary to the normal
18 operation of the particular apprentice or other training program.

19 c. For any employer or employment agency to print or circulate or
20 cause to be printed or circulated any statement, advertisement or
21 publication, or to use any form of application for employment, or to
22 make an inquiry in connection with prospective employment, which
23 expresses, directly or indirectly, any limitation, specification or
24 discrimination as to race, creed, color, national origin, ancestry, age,
25 marital status, domestic partnership status, affectional or sexual
26 orientation or sex or liability of any applicant for employment for
27 service in the Armed Forces of the United States, or any intent to
28 make any such limitation, specification or discrimination, unless based
29 upon a bona fide occupational qualification.

30 d. For any person to take reprisals against any person because that
31 person has opposed any practices or acts forbidden under this act or
32 because that person has filed a complaint, testified or assisted in any
33 proceeding under this act or to coerce, intimidate, threaten or interfere
34 with any person in the exercise or enjoyment of, or on account of that
35 person having aided or encouraged any other person in the exercise or
36 enjoyment of, any right granted or protected by this act.

37 e. For any person, whether an employer or an employee or not, to
38 aid, abet, incite, compel or coerce the doing of any of the acts
39 forbidden under this act, or to attempt to do so.

40 f. (1) For any owner, lessee, proprietor, manager, superintendent,
41 agent, or employee of any place of public accommodation directly or
42 indirectly to refuse, withhold from or deny to any person any of the
43 accommodations, advantages, facilities or privileges thereof, or to
44 discriminate against any person in the furnishing thereof, or directly or
45 indirectly to publish, circulate, issue, display, post or mail any written
46 or printed communication, notice, or advertisement to the effect that

1 any of the accommodations, advantages, facilities, or privileges of any
2 such place will be refused, withheld from, or denied to any person on
3 account of the race, creed, color, national origin, ancestry, marital
4 status, domestic partnership status, sex, affectional or sexual
5 orientation or nationality of such person, or that the patronage or
6 custom thereof of any person of any particular race, creed, color,
7 national origin, ancestry, marital status, domestic partnership status,
8 sex, affectional or sexual orientation or nationality is unwelcome,
9 objectionable or not acceptable, desired or solicited, and the
10 production of any such written or printed communication, notice or
11 advertisement, purporting to relate to any such place and to be made
12 by any owner, lessee, proprietor, superintendent or manager thereof,
13 shall be presumptive evidence in any action that the same was
14 authorized by such person; provided, however, that nothing contained
15 herein shall be construed to bar any place of public accommodation
16 which is in its nature reasonably restricted exclusively to individuals of
17 one sex, and which shall include but not be limited to any summer
18 camp, day camp, or resort camp, bathhouse, dressing room, swimming
19 pool, gymnasium, comfort station, dispensary, clinic or hospital, or
20 school or educational institution which is restricted exclusively to
21 individuals of one sex, from refusing, withholding from or denying to
22 any individual of the opposite sex any of the accommodations,
23 advantages, facilities or privileges thereof on the basis of sex; provided
24 further, that the foregoing limitation shall not apply to any restaurant
25 as defined in R.S.33:1-1 or place where alcoholic beverages are
26 served.

27 (2) Notwithstanding the definition of "public accommodation " as
28 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
29 for any owner, lessee, proprietor, manager, superintendent, agent, or
30 employee of any private club or association to directly or indirectly
31 refuse, withhold from or deny to any individual who has been accepted
32 as a club member and has contracted for or is otherwise entitled to full
33 club membership any of the accommodations, advantages, facilities or
34 privileges thereof, or to discriminate against any member in the
35 furnishing thereof on account of the race, creed, color, national origin,
36 ancestry, marital status, domestic partnership status, sex, affectional
37 or sexual orientation or nationality of such person.

38 In addition to the penalties otherwise provided for a violation of
39 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
40 subsection f. of this section is the holder of an alcoholic beverage
41 license issued under the provisions of R.S.33:1-12 for that private club
42 or association, the matter shall be referred to the Director of the
43 Division of Alcoholic Beverage Control who shall impose an
44 appropriate penalty in accordance with the procedures set forth in
45 R.S.33:1-31.

46 g. For the owner, lessee, sublessee, assignee or managing agent of,

1 or other person having the right of ownership or possession of or the
2 right to sell, rent, lease, assign, or sublease any real property or part
3 or portion thereof, or any agent or employee of any of these:

4 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
5 to deny to or withhold from any person or group of persons any real
6 property or part or portion thereof because of the race, creed, color,
7 national origin, ancestry, marital status, domestic partnership status,
8 affectional or sexual orientation, familial status, nationality, or source
9 of lawful income used for rental or mortgage payments of such person
10 or group of persons;

11 (2) To discriminate against any person or group of persons because
12 of the race, creed, color, national origin, marital status, domestic
13 partnership status, sex, affectional or sexual orientation, familial
14 status, or source of lawful income used for rental or mortgage
15 payments of such person or group of persons in the terms, conditions
16 or privileges of the sale, rental or lease of any real property or part or
17 portion thereof or in the furnishing of facilities or services in
18 connection therewith;

19 (3) To print, publish, circulate, issue, display, post or mail, or
20 cause to be printed, published, circulated, issued, displayed, posted or
21 mailed any statement, advertisement, publication or sign, or to use any
22 form of application for the purchase, rental, lease, assignment or
23 sublease of any real property or part or portion thereof, or to make
24 any record or inquiry in connection with the prospective purchase,
25 rental, lease, assignment, or sublease of any real property, or part or
26 portion thereof which expresses, directly or indirectly, any limitation,
27 specification or discrimination as to race, creed, color, national origin,
28 ancestry, marital status, domestic partnership status, sex, affectional
29 or sexual orientation, familial status, nationality, or source of lawful
30 income used for rental or mortgage payments, or any intent to make
31 any such limitation, specification or discrimination, and the production
32 of any such statement, advertisement, publicity, sign, form of
33 application, record, or inquiry purporting to be made by any such
34 person shall be presumptive evidence in any action that the same was
35 authorized by such person; provided, however, that nothing contained
36 in this subsection shall be construed to bar any person from refusing
37 to sell, rent, lease, assign or sublease or from advertising or recording
38 a qualification as to sex for any room, apartment, flat in a dwelling or
39 residential facility which is planned exclusively for and occupied by
40 individuals of one sex to any individual of the exclusively opposite sex
41 on the basis of sex;

42 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
43 to deny to or withhold from any person or group of persons any real
44 property or part or portion thereof because of the source of any lawful
45 income received by the person or the source of any lawful rent
46 payment to be paid for the real property; or

1 (5) To refuse to rent or lease any real property to another person
2 because that person's family includes children under 18 years of age,
3 or to make an agreement, rental or lease of any real property which
4 provides that the agreement, rental or lease shall be rendered null and
5 void upon the birth of a child. This paragraph shall not apply to any
6 county, State or Federally financed or assisted housing project
7 constructed for occupancy by senior citizens or to any property
8 located in a retirement subdivision as defined in the "Retirement
9 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
10 seq.), to any housing for older persons or to any unit in a planned real
11 estate development that is age-restricted and subject to the provisions
12 of the "Planned Real Estate Development Full Disclosure Act,"
13 P.L.1977, c.419 (C.45:22A-21 et seq.).

14 h. For any person, including but not limited to, any real estate
15 broker, real estate salesperson, or employee or agent thereof:

16 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
17 sale, rental, lease, assignment, or sublease any real property or part or
18 portion thereof to any person or group of persons or to refuse to
19 negotiate for the sale, rental, lease, assignment, or sublease of any real
20 property or part or portion thereof to any person or group of persons
21 because of the race, creed, color, national origin, ancestry, marital
22 status, domestic partnership status, familial status, sex, affectional or
23 sexual orientation, nationality, or source of lawful income used for
24 rental or mortgage payments of such person or group of persons, or
25 to represent that any real property or portion thereof is not available
26 for inspection, sale, rental, lease, assignment, or sublease when in fact
27 it is so available, or otherwise to deny or withhold any real property
28 or any part or portion of facilities thereof to or from any person or
29 group of persons because of the race, creed, color, national origin,
30 ancestry, marital status, domestic partnership status, familial status,
31 sex, affectional or sexual orientation or nationality of such person or
32 group of persons;

33 (2) To discriminate against any person because of his race, creed,
34 color, national origin, ancestry, marital status, domestic partnership
35 status, familial status, sex, affectional or sexual orientation,
36 nationality, or source of lawful income used for rental or mortgage
37 payments in the terms, conditions or privileges of the sale, rental,
38 lease, assignment or sublease of any real property or part or portion
39 thereof or in the furnishing of facilities or services in connection
40 therewith;

41 (3) To print, publish, circulate, issue, display, post, or mail, or
42 cause to be printed, published, circulated, issued, displayed, posted or
43 mailed any statement, advertisement, publication or sign, or to use any
44 form of application for the purchase, rental, lease, assignment, or
45 sublease of any real property or part or portion thereof or to make any
46 record or inquiry in connection with the prospective purchase, rental,

1 lease, assignment, or sublease of any real property or part or portion
2 thereof which expresses, directly or indirectly, any limitation,
3 specification or discrimination as to race, creed, color, national origin,
4 ancestry, marital status, domestic partnership status, familial status,
5 sex, affectional or sexual orientation, nationality, or source of lawful
6 income used for rental or mortgage payments or any intent to make
7 any such limitation, specification or discrimination, and the production
8 of any such statement, advertisement, publicity, sign, form of
9 application, record, or inquiry purporting to be made by any such
10 person shall be presumptive evidence in any action that the same was
11 authorized by such person; provided, however, that nothing contained
12 in this subsection h., shall be construed to bar any person from
13 refusing to sell, rent, lease, assign or sublease or from advertising or
14 recording a qualification as to sex for any room, apartment, flat in a
15 dwelling or residential facility which is planned exclusively for and
16 occupied exclusively by individuals of one sex to any individual of the
17 opposite sex on the basis of sex;

18 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
19 to deny to or withhold from any person or group of persons any real
20 property or part or portion thereof because of the source of any lawful
21 income received by the person or the source of any lawful rent
22 payment to be paid for the real property; or

23 (5) To refuse to rent or lease any real property to another person
24 because that person's family includes children under 18 years of age,
25 or to make an agreement, rental or lease of any real property which
26 provides that the agreement, rental or lease shall be rendered null and
27 void upon the birth of a child. This paragraph shall not apply to any
28 county, State or Federally financed or assisted housing project
29 constructed for occupancy by senior citizens or to any property
30 located in a retirement subdivision as defined in the "Retirement
31 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
32 seq.), to housing for older persons or to any unit in a planned real
33 estate development that is age-restricted and subject to the provisions
34 of the "Planned Real Estate Development Full Disclosure Act,"
35 P.L.1977, c.419 (C.45:22A-21 et seq.).

36 i. For any person, bank, banking organization, mortgage company,
37 insurance company or other financial institution, lender or credit
38 institution to whom application is made for any loan or extension of
39 credit including but not limited to an application for financial
40 assistance for the purchase, acquisition, construction, rehabilitation,
41 repair or maintenance of any real property or part or portion thereof
42 or any agent or employee thereof:

43 (1) To discriminate against any person or group of persons because
44 of the race, creed, color, national origin, ancestry, marital status,
45 domestic partnership status, sex, affectional or sexual orientation or
46 nationality of such person or group of persons or of the prospective

1 occupants or tenants of such real property or part or portion thereof,
2 in the granting, withholding, extending, modifying or renewing, or in
3 the fixing of the rates, terms, conditions or provisions of any such
4 loan, extension of credit or financial assistance or in the extension of
5 services in connection therewith;

6 (2) To use any form of application for such loan, extension of
7 credit or financial assistance or to make record or inquiry in
8 connection with applications for any such loan, extension of credit or
9 financial assistance which expresses, directly or indirectly, any
10 limitation, specification or discrimination as to race, creed, color,
11 national origin, ancestry, marital status, domestic partnership status,
12 sex, affectional or sexual orientation or nationality or any intent to
13 make any such limitation, specification or discrimination; unless
14 otherwise required by law or regulation to retain or use such
15 information;

16 (3) To discriminate on the basis of familial status in any manner
17 described in paragraph (1) or (2) of this subsection with respect to any
18 real property;

19 (4) To discriminate against any person or group of persons because
20 of the source of any lawful income received by the person or the
21 source of any lawful rent payment to be paid for the real property; or

22 (5) To discriminate against any person or group of persons because
23 that person's family includes children under 18 years of age, or to
24 make an agreement or mortgage which provides that the agreement or
25 mortgage shall be rendered null and void upon the birth of a child. This
26 paragraph shall not apply to any county, State or Federally financed or
27 assisted housing project constructed for occupancy by senior citizens
28 or to any property located in a retirement subdivision as defined in the
29 "Retirement Community Full Disclosure Act," P.L.1969, c.215
30 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a
31 planned real estate development that is age-restricted and subject to
32 the provisions of the "Planned Real Estate Development Full
33 Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

34 j. For any person whose activities are included within the scope of
35 this act to refuse to post or display such notices concerning the rights
36 or responsibilities of persons affected by this act as the Attorney
37 General may by regulation require.

38 k. For any real estate broker, real estate salesperson or employee
39 or agent thereof or any other individual, corporation, partnership, or
40 organization, for the purpose of inducing a transaction for the sale or
41 rental of real property from which transaction such person or any of
42 its members may benefit financially, to represent that a change has
43 occurred or will or may occur in the composition with respect to race,
44 creed, color, national origin, ancestry, marital status, domestic
45 partnership status, familial status, sex, affectional or sexual
46 orientation, nationality, or source of lawful income used for rental or

1 mortgage payments of the owners or occupants in the block,
2 neighborhood or area in which the real property is located, and to
3 represent, directly or indirectly, that this change will or may result in
4 undesirable consequences in the block, neighborhood or area in which
5 the real property is located, including, but not limited to the lowering
6 of property values, an increase in criminal or anti-social behavior, or
7 a decline in the quality of schools or other facilities.

8 1. For any person to refuse to buy from, sell to, lease from or to,
9 license, contract with, or trade with, provide goods, services or
10 information to, or otherwise do business with any other person on the
11 basis of the race, creed, color, national origin, ancestry, age, sex,
12 affectional or sexual orientation, marital status, domestic partnership
13 status, liability for service in the Armed Forces of the United States,
14 nationality, or source of lawful income used for rental or mortgage
15 payments of such other person or of such other person's spouse,
16 partners, members, stockholders, directors, officers, managers,
17 superintendents, agents, employees, business associates, suppliers, or
18 customers. This subsection shall not prohibit refusals or other actions
19 (1) pertaining to employee-employer collective bargaining, labor
20 disputes, or unfair labor practices, or (2) made or taken in connection
21 with a protest of unlawful discrimination or unlawful employment
22 practices.

23 m. For any person to:

24 (1) Grant or accept any letter of credit or other document which
25 evidences the transfer of funds or credit, or enter into any contract for
26 the exchange of goods or services, where the letter of credit, contract,
27 or other document contains any provisions requiring any person to
28 discriminate against or to certify that he, she or it has not dealt with
29 any other person on the basis of the race, creed, color, national origin,
30 ancestry, age, sex, affectional or sexual orientation, marital status,
31 domestic partnership status, liability for service in the Armed Forces
32 of the United States, or nationality of such other person or of such
33 other person's spouse, partners, members, stockholders, directors,
34 officers, managers, superintendents, agents, employees, business
35 associates, suppliers, or customers.

36 (2) Refuse to grant or accept any letter of credit or other document
37 which evidences the transfer of funds or credit, or refuse to enter into
38 any contract for the exchange of goods or services, on the ground that
39 it does not contain such a discriminatory provision or certification.

40 The provisions of this subsection shall not apply to any letter of
41 credit, contract, or other document which contains any provision
42 pertaining to employee-employer collective bargaining, a labor dispute
43 or an unfair labor practice, or made in connection with the protest of
44 unlawful discrimination or an unlawful employment practice, if the
45 other provisions of such letter of credit, contract, or other document
46 do not otherwise violate the provisions of this subsection.

1 n. For any person to aid, abet, incite, compel, coerce, or induce the
2 doing of any act forbidden by subsections l. and m. of section 11 of
3 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.
4 Such prohibited conduct shall include, but not be limited to:

5 (1) Buying from, selling to, leasing from or to, licensing,
6 contracting with, trading with, providing goods, services, or
7 information to, or otherwise doing business with any person because
8 that person does, or agrees or attempts to do, any such act or any act
9 prohibited by this subsection n.; or

10 (2) Boycotting, commercially blacklisting or refusing to buy from,
11 sell to, lease from or to, license, contract with, provide goods, services
12 or information to, or otherwise do business with any person because
13 that person has not done or refuses to do any such act or any act
14 prohibited by this subsection n.; provided that this subsection n. shall
15 not prohibit refusals or other actions either pertaining to
16 employee-employer collective bargaining, labor disputes, or unfair
17 labor practices, or made or taken in connection with a protest of
18 unlawful discrimination or unlawful employment practices.

19 (cf: P.L.2002, c.82, s.3)]¹

20
21 ¹11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
22 as follows:

23 As used in this act, unless a different meaning clearly appears from
24 the context:

25 a. "Person" includes one or more individuals, partnerships,
26 associations, organizations, labor organizations, corporations, legal
27 representatives, trustees, trustees in bankruptcy, receivers, and
28 fiduciaries.

29 b. "Employment agency" includes any person undertaking to
30 procure employees or opportunities for others to work.

31 c. "Labor organization" includes any organization which exists and
32 is constituted for the purpose, in whole or in part, of collective
33 bargaining, or of dealing with employers concerning grievances, terms
34 or conditions of employment, or of other mutual aid or protection in
35 connection with employment.

36 d. "Unlawful employment practice" and "unlawful discrimination"
37 include only those unlawful practices and acts specified in section 11
38 of this act.

39 e. "Employer" includes all persons as defined in subsection a. of
40 this section unless otherwise specifically exempt under another section
41 of this act, and includes the State, any political or civil subdivision
42 thereof, and all public officers, agencies, boards or bodies.

43 f. "Employee" does not include any individual employed in the
44 domestic service of any person.

45 g. "Liability for service in the Armed Forces of the United States"
46 means subject to being ordered as an individual or member of an

1 organized unit into active service in the Armed Forces of the United
2 States by reason of membership in the National Guard, naval militia or
3 a reserve component of the Armed Forces of the United States, or
4 subject to being inducted into such armed forces through a system of
5 national selective service.

6 h. "Division" means the "Division on Civil Rights" created by this
7 act.

8 i. "Attorney General" means the Attorney General of the State of
9 New Jersey or his representative or designee.

10 j. "Commission" means the Commission on Civil Rights created by
11 this act.

12 k. "Director" means the Director of the Division on Civil Rights.

13 l. "A place of public accommodation" shall include, but not be
14 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
15 camp, day camp, or resort camp, whether for entertainment of
16 transient guests or accommodation of those seeking health, recreation
17 or rest; any producer, manufacturer, wholesaler, distributor, retail
18 shop, store, establishment, or concession dealing with goods or
19 services of any kind; any restaurant, eating house, or place where food
20 is sold for consumption on the premises; any place maintained for the
21 sale of ice cream, ice and fruit preparations or their derivatives, soda
22 water or confections, or where any beverages of any kind are retailed
23 for consumption on the premises; any garage, any public conveyance
24 operated on land or water, or in the air, any stations and terminals
25 thereof; any bathhouse, boardwalk, or seashore accommodation; any
26 auditorium, meeting place, or hall; any theatre, motion-picture house,
27 music hall, roof garden, skating rink, swimming pool, amusement and
28 recreation park, fair, bowling alley, gymnasium, shooting gallery,
29 billiard and pool parlor, or other place of amusement; any comfort
30 station; any dispensary, clinic or hospital; any public library; any
31 kindergarten, primary and secondary school, trade or business school,
32 high school, academy, college and university, or any educational
33 institution under the supervision of the State Board of Education, or
34 the Commissioner of Education of the State of New Jersey. Nothing
35 herein contained shall be construed to include or to apply to any
36 institution, bona fide club, or place of accommodation, which is in its
37 nature distinctly private; nor shall anything herein contained apply to
38 any educational facility operated or maintained by a bona fide religious
39 or sectarian institution, and the right of a natural parent or one in loco
40 parentis to direct the education and upbringing of a child under his
41 control is hereby affirmed; nor shall anything herein contained be
42 construed to bar any private secondary or post secondary school from
43 using in good faith criteria other than race, creed, color, national
44 origin, ancestry or affectional or sexual orientation in the admission of
45 students.

46 m. "A publicly assisted housing accommodation" shall include all

1 housing built with public funds or public assistance pursuant to
2 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
3 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
4 and all housing financed in whole or in part by a loan, whether or not
5 secured by a mortgage, the repayment of which is guaranteed or
6 insured by the federal government or any agency thereof.

7 n. The term "real property" includes real estate, lands, tenements
8 and hereditaments, corporeal and incorporeal, and leaseholds,
9 provided, however, that, except as to publicly assisted housing
10 accommodations, the provisions of this act shall not apply to the
11 rental: (1) of a single apartment or flat in a two-family dwelling, the
12 other occupancy unit of which is occupied by the owner as a residence;
13 or (2) of a room or rooms to another person or persons by the owner
14 or occupant of a one-family dwelling occupied by the owner or
15 occupant as a residence at the time of such rental. Nothing herein
16 contained shall be construed to bar any religious or denominational
17 institution or organization, or any organization operated for charitable
18 or educational purposes, which is operated, supervised or controlled
19 by or in connection with a religious organization, in the sale, lease or
20 rental of real property, from limiting admission to or giving preference
21 to persons of the same religion or denomination or from making such
22 selection as is calculated by such organization to promote the religious
23 principles for which it is established or maintained. Nor does any
24 provision under this act regarding discrimination on the basis of
25 familial status apply with respect to housing for older persons.

26 o. "Real estate broker" includes a person, firm or corporation who,
27 for a fee, commission or other valuable consideration, or by reason of
28 promise or reasonable expectation thereof, lists for sale, sells,
29 exchanges, buys or rents, or offers or attempts to negotiate a sale,
30 exchange, purchase, or rental of real estate or an interest therein, or
31 collects or offers or attempts to collect rent for the use of real estate,
32 or solicits for prospective purchasers or assists or directs in the
33 procuring of prospects or the negotiation or closing of any transaction
34 which does or is contemplated to result in the sale, exchange, leasing,
35 renting or auctioning of any real estate, or negotiates, or offers or
36 attempts or agrees to negotiate a loan secured or to be secured by
37 mortgage or other encumbrance upon or transfer of any real estate for
38 others; or any person who, for pecuniary gain or expectation of
39 pecuniary gain conducts a public or private competitive sale of lands
40 or any interest in lands. In the sale of lots, the term "real estate
41 broker" shall also include any person, partnership, association or
42 corporation employed by or on behalf of the owner or owners of lots
43 or other parcels of real estate, at a stated salary, or upon a
44 commission, or upon a salary and commission or otherwise, to sell
45 such real estate, or any parts thereof, in lots or other parcels, and who
46 shall sell or exchange, or offer or attempt or agree to negotiate the

1 sale or exchange, of any such lot or parcel of real estate.

2 p. "Real estate salesperson" includes any person who, for
3 compensation, valuable consideration or commission, or other thing of
4 value, or by reason of a promise or reasonable expectation thereof, is
5 employed by and operates under the supervision of a licensed real
6 estate broker to sell or offer to sell, buy or offer to buy or negotiate
7 the purchase, sale or exchange of real estate, or offers or attempts to
8 negotiate a loan secured or to be secured by a mortgage or other
9 encumbrance upon or transfer of real estate, or to lease or rent, or
10 offer to lease or rent any real estate for others, or to collect rents for
11 the use of real estate, or to solicit for prospective purchasers or lessees
12 of real estate, or who is employed by a licensed real estate broker to
13 sell or offer to sell lots or other parcels of real estate, at a stated
14 salary, or upon a commission, or upon a salary and commission, or
15 otherwise to sell real estate, or any parts thereof, in lots or other
16 parcels.

17 q. "Disability" means physical disability, infirmity, malformation or
18 disfigurement which is caused by bodily injury, birth defect or illness
19 including epilepsy, and which shall include, but not be limited to, any
20 degree of paralysis, amputation, lack of physical coordination,
21 blindness or visual impediment, deafness or hearing impediment,
22 muteness or speech impediment or physical reliance on a service or
23 guide dog, wheelchair, or other remedial appliance or device, or any
24 mental, psychological or developmental disability resulting from
25 anatomical, psychological, physiological or neurological conditions
26 which prevents the normal exercise of any bodily or mental functions
27 or is demonstrable, medically or psychologically, by accepted clinical
28 or laboratory diagnostic techniques. Disability shall also mean AIDS
29 or HIV infection.

30 r. "Blind person" means any individual whose central visual acuity
31 does not exceed 20/200 in the better eye with correcting lens or whose
32 visual acuity is better than 20/200 if accompanied by a limit to the field
33 of vision in the better eye to such a degree that its widest diameter
34 subtends an angle of no greater than 20 degrees.

35 s. "Guide dog" means a dog used to assist deaf persons or which
36 is fitted with a special harness so as to be suitable as an aid to the
37 mobility of a blind person, and is used by a blind person who has
38 satisfactorily completed a specific course of training in the use of such
39 a dog, and has been trained by an organization generally recognized by
40 agencies involved in the rehabilitation of the blind or deaf as reputable
41 and competent to provide dogs with training of this type.

42 t. "Guide or service dog trainer" means any person who is
43 employed by an organization generally recognized by agencies
44 involved in the rehabilitation of persons with disabilities as reputable
45 and competent to provide dogs with training, and who is actually
46 involved in the training process.

- 1 u. "Housing accommodation" means any publicly assisted housing
2 accommodation or any real property, or portion thereof, which is used
3 or occupied, or is intended, arranged, or designed to be used or
4 occupied, as the home, residence or sleeping place of one or more
5 persons, but shall not include any single family residence the occupants
6 of which rent, lease, or furnish for compensation not more than one
7 room therein.
- 8 v. "Public facility" means any place of public accommodation and
9 any street, highway, sidewalk, walkway, public building, and any other
10 place or structure to which the general public is regularly, normally or
11 customarily permitted or invited.
- 12 w. "Deaf person" means any person whose hearing is so severely
13 impaired that the person is unable to hear and understand normal
14 conversational speech through the unaided ear alone, and who must
15 depend primarily on a supportive device or visual communication such
16 as writing, lip reading, sign language, and gestures.
- 17 x. "Atypical hereditary cellular or blood trait" means sickle cell
18 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
19 fibrosis trait.
- 20 y. "Sickle cell trait" means the condition wherein the major natural
21 hemoglobin components present in the blood of the individual are
22 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
23 defined by standard chemical and physical analytic techniques,
24 including electrophoresis; and the proportion of hemoglobin A is
25 greater than the proportion of hemoglobin S or one natural parent of
26 the individual is shown to have only normal hemoglobin components
27 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
28 proportions by standard chemical and physical analytic tests.
- 29 z. "Hemoglobin C trait" means the condition wherein the major
30 natural hemoglobin components present in the blood of the individual
31 are hemoglobin A (normal) and hemoglobin C as defined by standard
32 chemical and physical analytic techniques, including electrophoresis;
33 and the proportion of hemoglobin A is greater than the proportion of
34 hemoglobin C or one natural parent of the individual is shown to have
35 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
36 hemoglobin F) in normal proportions by standard chemical and
37 physical analytic tests.
- 38 aa. "Thalassemia trait" means the presence of the thalassemia gene
39 which in combination with another similar gene results in the chronic
40 hereditary disease Cooley's anemia.
- 41 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
42 which in combination with another similar gene results in the chronic
43 hereditary disease Tay-Sachs.
- 44 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
45 gene which in combination with another similar gene results in the
46 chronic hereditary disease cystic fibrosis.

1 dd. "Service dog" means any dog individually trained to the
2 requirements of a person with a disability including, but not limited to
3 minimal protection work, rescue work, pulling a wheelchair or
4 retrieving dropped items.

5 ee. "Qualified Medicaid applicant" means an individual who is a
6 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

7 ff. "AIDS" means acquired immune deficiency syndrome as defined
8 by the Centers for Disease Control of the United States Public Health
9 Service.

10 gg. "HIV infection" means infection with the human
11 immunodeficiency virus or any other related virus identified as a
12 probable causative agent of AIDS.

13 hh. "Affectional or sexual orientation" means male or female
14 heterosexuality, homosexuality or bisexuality by inclination, practice,
15 identity or expression, having a history thereof or being perceived,
16 presumed or identified by others as having such an orientation.

17 ii. "Heterosexuality" means affectional, emotional or physical
18 attraction or behavior which is primarily directed towards persons of
19 the other gender.

20 jj. "Homosexuality" means affectional, emotional or physical
21 attraction or behavior which is primarily directed towards persons of
22 the same gender.

23 kk. "Bisexuality" means affectional, emotional or physical attraction
24 or behavior which is directed towards persons of either gender.

25 ll. "Familial status" means being the natural parent of a child, the
26 adoptive parent of a child, the foster parent of a child, having a "parent
27 and child relationship" with a child as defined by State law, or having
28 sole or joint legal or physical custody, care, guardianship, or visitation
29 with a child, or any person who is pregnant or is in the process of
30 securing legal custody of any individual who has not attained the age
31 of 18 years.

32 mm. "Housing for older persons" means housing:

33 (1) provided under any State program that the Attorney General
34 determines is specifically designed and operated to assist elderly
35 persons (as defined in the State program); or provided under any
36 federal program that the United States Department of Housing and
37 Urban Development determines is specifically designed and operated
38 to assist elderly persons (as defined in the federal program); or

39 (2) intended for, and solely occupied by persons 62 years of age or
40 older; or

41 (3) intended and operated for occupancy by at least one person 55
42 years of age or older per unit. In determining whether housing
43 qualifies as housing for older persons under this subsection, the
44 Attorney General shall adopt regulations which require at least the
45 following factors:

46 (a) the existence of significant facilities and services specifically

1 designed to meet the physical or social needs of older persons, or if the
2 provision of such facilities and services is not practicable, that such
3 housing is necessary to provide important housing opportunities for
4 older persons; and

5 (b) that at least 80 percent of the units are occupied by at least one
6 person 55 years of age or older per unit; and

7 (c) the publication of, and adherence to, policies and procedures
8 which demonstrate an intent by the owner or manager to provide
9 housing for persons 55 years of age or older.

10 Housing shall not fail to meet the requirements for housing for
11 older persons by reason of: persons residing in such housing as of
12 September 13, 1988 not meeting the age requirements of this
13 subsection, provided that new occupants of such housing meet the age
14 requirements of this subsection; or unoccupied units, provided that
15 such units are reserved for occupancy by persons who meet the age
16 requirements of this subsection.

17 nn. "Genetic characteristic" means any inherited gene or
18 chromosome, or alteration thereof, that is scientifically or medically
19 believed to predispose an individual to a disease, disorder or
20 syndrome, or to be associated with a statistically significant increased
21 risk of development of a disease, disorder or syndrome.

22 oo. "Genetic information" means the information about genes, gene
23 products or inherited characteristics that may derive from an individual
24 or family member.

25 pp. "Genetic test" means a test for determining the presence or
26 absence of an inherited genetic characteristic in an individual, including
27 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
28 chromosomes or proteins in order to identify a predisposing genetic
29 characteristic.

30 qq. "Domestic partnership" means a domestic partnership
31 established pursuant to section 4 of P.L. , c. (C.)(pending before
32 the Legislature as this bill).¹

33 (cf: P.L.2003, c.180, s.6)

34

35 12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read
36 as follows:

37 11. It shall be an unlawful employment practice, or, as the case may
38 be, an unlawful discrimination:

39 a. For an employer, because of the race, creed, color, national
40 origin, ancestry, age, marital status, domestic partnership status,
41 affectional or sexual orientation, genetic information, sex, disability or
42 atypical hereditary cellular or blood trait of any individual, or because
43 of the liability for service in the Armed Forces of the United States or
44 the nationality of any individual, or because of the refusal to submit to
45 a genetic test or make available the results of a genetic test to an
46 employer, to refuse to hire or employ or to bar or to discharge or

1 require to retire, unless justified by lawful considerations other than
2 age, from employment such individual or to discriminate against such
3 individual in compensation or in terms, conditions or privileges of
4 employment; provided, however, it shall not be an unlawful
5 employment practice to refuse to accept for employment an applicant
6 who has received a notice of induction or orders to report for active
7 duty in the armed forces; provided further that nothing herein
8 contained shall be construed to bar an employer from refusing to
9 accept for employment any person on the basis of sex in those certain
10 circumstances where sex is a bona fide occupational qualification,
11 reasonably necessary to the normal operation of the particular business
12 or enterprise; provided further that nothing herein contained shall be
13 construed to bar an employer from refusing to accept for employment
14 or to promote any person over 70 years of age; provided further that
15 it shall not be an unlawful employment practice for a club exclusively
16 social or fraternal to use club membership as a uniform qualification
17 for employment, or for a religious association or organization to utilize
18 religious affiliation as a uniform qualification in the employment of
19 clergy, religious teachers or other employees engaged in the religious
20 activities of the association or organization, or in following the tenets
21 of its religion in establishing and utilizing criteria for employment of
22 an employee; provided further, that it shall not be an unlawful
23 employment practice to require the retirement of any employee who,
24 for the two-year period immediately before retirement, is employed in
25 a bona fide executive or a high policy-making position, if that
26 employee is entitled to an immediate non-forfeitable annual retirement
27 benefit from a pension, profit sharing, savings or deferred retirement
28 plan, or any combination of those plans, of the employer of that
29 employee which equals in the aggregate at least \$27,000.00; and
30 provided further that an employer may restrict employment to citizens
31 of the United States where such restriction is required by federal law
32 or is otherwise necessary to protect the national interest.

33 ¹The provisions of subsections a. and b. of section 57 of P.L. , c.
34 (C.)(pending before the Legislature as this bill)², and the provisions
35 of section 58 of P.L. , c. (C.)(pending before the Legislature as
36 this bill),² shall not be deemed to be an unlawful discrimination under
37 P.L.1945, c.169 (C.10:5-1 et seq.).¹

38 For the purposes of this subsection, a "bona fide executive" is a top
39 level employee who exercises substantial executive authority over a
40 significant number of employees and a large volume of business. A
41 "high policy-making position" is a position in which a person plays a
42 significant role in developing policy and in recommending the
43 implementation thereof.

44 b. For a labor organization, because of the race, creed, color,
45 national origin, ancestry, age, marital status, domestic partnership
46 status, affectional or sexual orientation, disability or sex of any

1 individual, or because of the liability for service in the Armed Forces
2 of the United States or nationality of any individual, to exclude or to
3 expel from its membership such individual or to discriminate in any
4 way against any of its members, against any applicant for, or individual
5 included in, any apprentice or other training program or against any
6 employer or any individual employed by an employer; provided,
7 however, that nothing herein contained shall be construed to bar a
8 labor organization from excluding from its apprentice or other training
9 programs any person on the basis of sex in those certain circumstances
10 where sex is a bona fide occupational qualification reasonably
11 necessary to the normal operation of the particular apprentice or other
12 training program.

13 c. For any employer or employment agency to print or circulate
14 or cause to be printed or circulated any statement, advertisement or
15 publication, or to use any form of application for employment, or to
16 make an inquiry in connection with prospective employment, which
17 expresses, directly or indirectly, any limitation, specification or
18 discrimination as to race, creed, color, national origin, ancestry, age,
19 marital status, domestic partnership status, affectional or sexual
20 orientation, disability, nationality or sex or liability of any applicant for
21 employment for service in the Armed Forces of the United States, or
22 any intent to make any such limitation, specification or discrimination,
23 unless based upon a bona fide occupational qualification.

24 d. For any person to take reprisals against any person because that
25 person has opposed any practices or acts forbidden under this act or
26 because that person has filed a complaint, testified or assisted in any
27 proceeding under this act or to coerce, intimidate, threaten or interfere
28 with any person in the exercise or enjoyment of, or on account of that
29 person having aided or encouraged any other person in the exercise or
30 enjoyment of, any right granted or protected by this act.

31 e. For any person, whether an employer or an employee or not,
32 to aid, abet, incite, compel or coerce the doing of any of the acts
33 forbidden under this act, or to attempt to do so.

34 f. (1) For any owner, lessee, proprietor, manager, superintendent,
35 agent, or employee of any place of public accommodation directly or
36 indirectly to refuse, withhold from or deny to any person any of the
37 accommodations, advantages, facilities or privileges thereof, or to
38 discriminate against any person in the furnishing thereof, or directly or
39 indirectly to publish, circulate, issue, display, post or mail any written
40 or printed communication, notice, or advertisement to the effect that
41 any of the accommodations, advantages, facilities, or privileges of any
42 such place will be refused, withheld from, or denied to any person on
43 account of the race, creed, color, national origin, ancestry, marital
44 status, domestic partnership status, sex, affectional or sexual
45 orientation, disability or nationality of such person, or that the
46 patronage or custom thereof of any person of any particular race,

1 creed, color, national origin, ancestry, marital status, domestic
2 partnership status, sex, affectional or sexual orientation, disability or
3 nationality is unwelcome, objectionable or not acceptable, desired or
4 solicited, and the production of any such written or printed
5 communication, notice or advertisement, purporting to relate to any
6 such place and to be made by any owner, lessee, proprietor,
7 superintendent or manager thereof, shall be presumptive evidence in
8 any action that the same was authorized by such person; provided,
9 however, that nothing contained herein shall be construed to bar any
10 place of public accommodation which is in its nature reasonably
11 restricted exclusively to individuals of one sex, and which shall include
12 but not be limited to any summer camp, day camp, or resort camp,
13 bathhouse, dressing room, swimming pool, gymnasium, comfort
14 station, dispensary, clinic or hospital, or school or educational
15 institution which is restricted exclusively to individuals of one sex,
16 from refusing, withholding from or denying to any individual of the
17 opposite sex any of the accommodations, advantages, facilities or
18 privileges thereof on the basis of sex; provided further, that the
19 foregoing limitation shall not apply to any restaurant as defined in
20 R.S.33:1-1 or place where alcoholic beverages are served.

21 (2) Notwithstanding the definition of "public accommodation " as
22 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
23 for any owner, lessee, proprietor, manager, superintendent, agent, or
24 employee of any private club or association to directly or indirectly
25 refuse, withhold from or deny to any individual who has been accepted
26 as a club member and has contracted for or is otherwise entitled to full
27 club membership any of the accommodations, advantages, facilities or
28 privileges thereof, or to discriminate against any member in the
29 furnishing thereof on account of the race, creed, color, national origin,
30 ancestry, marital status, domestic partnership status, sex, affectional
31 or sexual orientation, disability or nationality of such person.

32 In addition to the penalties otherwise provided for a violation of
33 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
34 subsection f. of this section is the holder of an alcoholic beverage
35 license issued under the provisions of R.S.33:1-12 for that private club
36 or association, the matter shall be referred to the Director of the
37 Division of Alcoholic Beverage Control who shall impose an
38 appropriate penalty in accordance with the procedures set forth in
39 R.S.33:1-31.

40 g. For any person, including but not limited to, any owner, lessee,
41 sublessee, assignee or managing agent of, or other person having the
42 right of ownership or possession of or the right to sell, rent, lease,
43 assign, or sublease any real property or part or portion thereof, or any
44 agent or employee of any of these:

45 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
46 to deny to or withhold from any person or group of persons any real

1 property or part or portion thereof because of race, creed, color,
2 national origin, ancestry, marital status, domestic partnership status,
3 sex, affectional or sexual orientation, familial status, disability,
4 nationality, or source of lawful income used for rental or mortgage
5 payments;

6 (2) To discriminate against any person or group of persons because
7 of race, creed, color, national origin, ancestry, marital status,
8 domestic partnership status, sex, affectional or sexual orientation,
9 familial status, disability, nationality or source of lawful income used
10 for rental or mortgage payments in the terms, conditions or privileges
11 of the sale, rental or lease of any real property or part or portion
12 thereof or in the furnishing of facilities or services in connection
13 therewith;

14 (3) To print, publish, circulate, issue, display, post or mail, or
15 cause to be printed, published, circulated, issued, displayed, posted or
16 mailed any statement, advertisement, publication or sign, or to use any
17 form of application for the purchase, rental, lease, assignment or
18 sublease of any real property or part or portion thereof, or to make
19 any record or inquiry in connection with the prospective purchase,
20 rental, lease, assignment, or sublease of any real property, or part or
21 portion thereof which expresses, directly or indirectly, any limitation,
22 specification or discrimination as to race, creed, color, national origin,
23 ancestry, marital status, domestic partnership status, sex, affectional
24 or sexual orientation, familial status, disability, nationality, or source
25 of lawful income used for rental or mortgage payments, or any intent
26 to make any such limitation, specification or discrimination, and the
27 production of any such statement, advertisement, publicity, sign, form
28 of application, record, or inquiry purporting to be made by any such
29 person shall be presumptive evidence in any action that the same was
30 authorized by such person; provided, however, that nothing contained
31 in this subsection shall be construed to bar any person from refusing
32 to sell, rent, lease, assign or sublease or from advertising or recording
33 a qualification as to sex for any room, apartment, flat in a dwelling or
34 residential facility which is planned exclusively for and occupied by
35 individuals of one sex to any individual of the exclusively opposite sex
36 on the basis of sex;

37 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
38 to deny to or withhold from any person or group of persons any real
39 property or part or portion thereof because of the source of any lawful
40 income received by the person or the source of any lawful rent
41 payment to be paid for the real property; or

42 (5) To refuse to rent or lease any real property to another person
43 because that person's family includes children under 18 years of age,
44 or to make an agreement, rental or lease of any real property which
45 provides that the agreement, rental or lease shall be rendered null and
46 void upon the birth of a child. This paragraph shall not apply to

1 housing for older persons as defined in subsection mm. of section 5 of
2 P.L.1945, c.169 (C.10:5-5).

3 h. For any person, including but not limited to, any real estate
4 broker, real estate salesperson, or employee or agent thereof:

5 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
6 sale, rental, lease, assignment, or sublease any real property or part or
7 portion thereof to any person or group of persons or to refuse to
8 negotiate for the sale, rental, lease, assignment, or sublease of any real
9 property or part or portion thereof to any person or group of persons
10 because of race, creed, color, national origin, ancestry, marital status,
11 domestic partnership status, familial status, sex, affectional or sexual
12 orientation, disability, nationality, or source of lawful income used for
13 rental or mortgage payments, or to represent that any real property or
14 portion thereof is not available for inspection, sale, rental, lease,
15 assignment, or sublease when in fact it is so available, or otherwise to
16 deny or withhold any real property or any part or portion of facilities
17 thereof to or from any person or group of persons because of race,
18 creed, color, national origin, ancestry, marital status, domestic
19 partnership status, familial status, sex, affectional or sexual
20 orientation, disability or nationality;

21 (2) To discriminate against any person because of race, creed,
22 color, national origin, ancestry, marital status, domestic partnership
23 status, familial status, sex, affectional or sexual orientation, disability,
24 nationality, or source of lawful income used for rental or mortgage
25 payments in the terms, conditions or privileges of the sale, rental,
26 lease, assignment or sublease of any real property or part or portion
27 thereof or in the furnishing of facilities or services in connection
28 therewith;

29 (3) To print, publish, circulate, issue, display, post, or mail, or
30 cause to be printed, published, circulated, issued, displayed, posted or
31 mailed any statement, advertisement, publication or sign, or to use any
32 form of application for the purchase, rental, lease, assignment, or
33 sublease of any real property or part or portion thereof or to make any
34 record or inquiry in connection with the prospective purchase, rental,
35 lease, assignment, or sublease of any real property or part or portion
36 thereof which expresses, directly or indirectly, any limitation,
37 specification or discrimination as to race, creed, color, national origin,
38 ancestry, marital status, domestic partnership status, familial status,
39 sex, affectional or sexual orientation, disability, nationality, or source
40 of lawful income used for rental or mortgage payments or any intent
41 to make any such limitation, specification or discrimination, and the
42 production of any such statement, advertisement, publicity, sign, form
43 of application, record, or inquiry purporting to be made by any such
44 person shall be presumptive evidence in any action that the same was
45 authorized by such person; provided, however, that nothing contained
46 in this subsection h., shall be construed to bar any person from

1 refusing to sell, rent, lease, assign or sublease or from advertising or
2 recording a qualification as to sex for any room, apartment, flat in a
3 dwelling or residential facility which is planned exclusively for and
4 occupied exclusively by individuals of one sex to any individual of the
5 opposite sex on the basis of sex;

6 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
7 to deny to or withhold from any person or group of persons any real
8 property or part or portion thereof because of the source of any lawful
9 income received by the person or the source of any lawful rent
10 payment to be paid for the real property; or

11 (5) To refuse to rent or lease any real property to another person
12 because that person's family includes children under 18 years of age,
13 or to make an agreement, rental or lease of any real property which
14 provides that the agreement, rental or lease shall be rendered null and
15 void upon the birth of a child. This paragraph shall not apply to
16 housing for older persons as defined in subsection mm. of section 5 of
17 P.L.1945, c.169 (C.10:5-5).

18 i. For any person, bank, banking organization, mortgage
19 company, insurance company or other financial institution, lender or
20 credit institution involved in the making or purchasing of any loan or
21 extension of credit, for whatever purpose, whether secured by
22 residential real estate or not, including but not limited to financial
23 assistance for the purchase, acquisition, construction, rehabilitation,
24 repair or maintenance of any real property or part or portion thereof
25 or any agent or employee thereof:

26 (1) To discriminate against any person or group of persons because
27 of race, creed, color, national origin, ancestry, marital status, domestic
28 partnership status, sex, affectional or sexual orientation, disability,
29 familial status or nationality, in the granting, withholding, extending,
30 modifying, renewing, or purchasing, or in the fixing of the rates, terms,
31 conditions or provisions of any such loan, extension of credit or
32 financial assistance or purchase thereof or in the extension of services
33 in connection therewith;

34 (2) To use any form of application for such loan, extension of
35 credit or financial assistance or to make record or inquiry in
36 connection with applications for any such loan, extension of credit or
37 financial assistance which expresses, directly or indirectly, any
38 limitation, specification or discrimination as to race, creed, color,
39 national origin, ancestry, marital status, domestic partnership status,
40 sex, affectional or sexual orientation, disability, familial status or
41 nationality or any intent to make any such limitation, specification or
42 discrimination; unless otherwise required by law or regulation to retain
43 or use such information;

44 (3) (Deleted by amendment, P.L.2003, c.180).

45 (4) To discriminate against any person or group of persons because
46 of the source of any lawful income received by the person or the

1 source of any lawful rent payment to be paid for the real property; or
2 (5) To discriminate against any person or group of persons because
3 that person's family includes children under 18 years of age, or to
4 make an agreement or mortgage which provides that the agreement or
5 mortgage shall be rendered null and void upon the birth of a child.
6 This paragraph shall not apply to housing for older persons as defined
7 in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

8 j. For any person whose activities are included within the scope
9 of this act to refuse to post or display such notices concerning the
10 rights or responsibilities of persons affected by this act as the Attorney
11 General may by regulation require.

12 k. For any real estate broker, real estate salesperson or employee
13 or agent thereof or any other individual, corporation, partnership, or
14 organization, for the purpose of inducing a transaction for the sale or
15 rental of real property from which transaction such person or any of
16 its members may benefit financially, to represent that a change has
17 occurred or will or may occur in the composition with respect to race,
18 creed, color, national origin, ancestry, marital status, domestic
19 partnership status, familial status, sex, affectional or sexual
20 orientation, disability, nationality, or source of lawful income used for
21 rental or mortgage payments of the owners or occupants in the block,
22 neighborhood or area in which the real property is located, and to
23 represent, directly or indirectly, that this change will or may result in
24 undesirable consequences in the block, neighborhood or area in which
25 the real property is located, including, but not limited to the lowering
26 of property values, an increase in criminal or anti-social behavior, or
27 a decline in the quality of schools or other facilities.

28 l. For any person to refuse to buy from, sell to, lease from or to,
29 license, contract with, or trade with, provide goods, services or
30 information to, or otherwise do business with any other person on the
31 basis of the race, creed, color, national origin, ancestry, age, sex,
32 affectional or sexual orientation, marital status, domestic partnership
33 status, liability for service in the Armed Forces of the United States,
34 disability, nationality, or source of lawful income used for rental or
35 mortgage payments of such other person or of such other person's
36 spouse, partners, members, stockholders, directors, officers, managers,
37 superintendents, agents, employees, business associates, suppliers, or
38 customers. This subsection shall not prohibit refusals or other actions
39 (1) pertaining to employee-employer collective bargaining, labor
40 disputes, or unfair labor practices, or (2) made or taken in connection
41 with a protest of unlawful discrimination or unlawful employment
42 practices.

43 m. For any person to:

44 (1) Grant or accept any letter of credit or other document which
45 evidences the transfer of funds or credit, or enter into any contract for
46 the exchange of goods or services, where the letter of credit, contract,

1 or other document contains any provisions requiring any person to
2 discriminate against or to certify that he, she or it has not dealt with
3 any other person on the basis of the race, creed, color, national origin,
4 ancestry, age, sex, affectional or sexual orientation, marital status,
5 domestic partnership status, disability, liability for service in the
6 Armed Forces of the United States, or nationality of such other person
7 or of such other person's spouse, partners, members, stockholders,
8 directors, officers, managers, superintendents, agents, employees,
9 business associates, suppliers, or customers.

10 (2) Refuse to grant or accept any letter of credit or other document
11 which evidences the transfer of funds or credit, or refuse to enter into
12 any contract for the exchange of goods or services, on the ground that
13 it does not contain such a discriminatory provision or certification.

14 The provisions of this subsection shall not apply to any letter of
15 credit, contract, or other document which contains any provision
16 pertaining to employee-employer collective bargaining, a labor dispute
17 or an unfair labor practice, or made in connection with the protest of
18 unlawful discrimination or an unlawful employment practice, if the
19 other provisions of such letter of credit, contract, or other document
20 do not otherwise violate the provisions of this subsection.

21 n. For any person to aid, abet, incite, compel, coerce, or induce
22 the doing of any act forbidden by subsections l. and m. of section 11
23 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.
24 Such prohibited conduct shall include, but not be limited to:

25 (1) Buying from, selling to, leasing from or to, licensing,
26 contracting with, trading with, providing goods, services, or
27 information to, or otherwise doing business with any person because
28 that person does, or agrees or attempts to do, any such act or any act
29 prohibited by this subsection; or

30 (2) Boycotting, commercially blacklisting or refusing to buy from,
31 sell to, lease from or to, license, contract with, provide goods, services
32 or information to, or otherwise do business with any person because
33 that person has not done or refuses to do any such act or any act
34 prohibited by this subsection; provided that this subsection shall not
35 prohibit refusals or other actions either pertaining to
36 employee-employer collective bargaining, labor disputes, or unfair
37 labor practices, or made or taken in connection with a protest of
38 unlawful discrimination or unlawful employment practices.

39 o. For any multiple listing service, real estate brokers'
40 organization or other service, organization or facility related to the
41 business of selling or renting dwellings to deny any person access to
42 or membership or participation in such organization, or to discriminate
43 against such person in the terms or conditions of such access,
44 membership, or participation, on account of race, creed, color,
45 national origin, ancestry, age, marital status, domestic partnership
46 status, familial status, sex, affectional or sexual orientation, disability

1 or nationality.¹

2 (cf: P.L.2003, c.180, s.12)

3

4 13. (New section) a. A health care facility licensed pursuant to
5 P.L.1971, c.136 (C.26:2H-1 et seq.) shall allow a patient's domestic
6 partner as defined in section 3 of P.L. , c. (C.)(pending before the
7 Legislature as this bill), the children of the patient's domestic partner,
8 and the domestic partner of the patient's parent or child to visit, unless
9 one of the following conditions is met:

10 (1) No visitors are allowed;

11 (2) The health care facility reasonably determines that the presence
12 of a particular visitor would endanger the health or safety of a patient,
13 a member of the staff of the facility, or another visitor to the facility,
14 or would significantly disrupt the operations of the facility; or

15 (3) The patient has indicated to health care facility staff that the
16 patient does not want the person to visit.

17 b. The provisions of subsection a. of this section shall not be
18 construed as prohibiting a health care facility from otherwise
19 establishing reasonable restrictions upon visitations, including
20 restrictions upon the hours of visitation and number of visitors.

21

22 14. R.S.26:8-1 is amended to read as follows:

23 26:8-1. As used in this chapter:

24 "Vital statistics" means statistics concerning **[birth] births**, deaths,
25 fetal deaths **[and]**, marriages and domestic partnerships established
26 pursuant to P.L. , c. (C.)(pending before the Legislature as this
27 bill).

28 "Vital records" means the birth, death, fetal death **[and]**, marriage
29 and domestic partnership records from which vital statistics are
30 produced.

31 "State registrar" means the State registrar of vital statistics; "Local
32 registrar" or "registrar" means the local registrar of vital statistics of
33 any district; and "registration district" or "district" means a registration
34 district as constituted by this article.

35 "Live birth" or "birth" means the complete expulsion or extraction
36 from its mother of a product of conception, irrespective of the
37 duration of pregnancy, which, after such separation, breathes or shows
38 any other evidence of life such as beating of the heart, pulsation of the
39 umbilical cord, or definite movement of voluntary muscles, whether or
40 not the umbilical cord has been cut or the placenta attached.

41 (cf: P.L.1965, c.78, s.32)

42

43 15. R.S.26:8-4 is amended to read as follows:

44 26:8-4. Upon demand of the State registrar in person, by mail, or
45 through the local registrar, every physician, midwife, informant,
46 funeral director, or other person having knowledge of the facts relative

1 to any birth, death, fetal death, [or] marriage or domestic partnership,
2 shall supply such information as he may possess, upon a form
3 provided by the State registrar or upon the original birth, death, fetal
4 death, [or] marriage or domestic partnership certificate.

5 (cf: P.L.1965, c.78, s.33)

6

7 16. R.S.26:8-17 is amended to read as follows:

8 26:8-17. The local registrar, immediately upon acceptance of the
9 appointment, shall appoint a deputy to assist in the normal, day-to-day
10 operation of the office and whose duty shall be to act in the registrar's
11 stead in case of absence, disability or death of the registrar. In case of
12 death of the local registrar the deputy shall act as local registrar until
13 a new local registrar has been appointed and qualified.

14 In addition to a deputy registrar, the local registrar may appoint one
15 or two alternate deputy registrars if the local registrar deems such an
16 appointment to be necessary for the office to function efficiently and
17 to provide quality service to the public. The deputy registrar and
18 alternate deputy registrar shall have the authority to receive birth
19 certificates and death certificates; to issue burial permits, and copies
20 of birth, death, [and] marriage and domestic partnership certificates;
21 to take the oath on marriage license applications; and to issue marriage
22 licenses and register domestic partnerships. The deputy registrar and
23 alternate deputy registrar shall receive instructions from and perform
24 their duties under the direct supervision of the registrar, who shall be
25 the final authority with the responsibility of fulfilling the duties of the
26 local registrar outlined in R.S.26:8-25. The deputy registrar and any
27 alternate deputy registrar shall serve at the pleasure of the local
28 registrar.

29 (cf: P.L.1995, c.87, s.1)

30

31 17. R.S.26:8-23 is amended to read as follows:

32 26:8-23. The [State department] Department of Health and Senior
33 Services shall have charge of the registration of births, deaths, fetal
34 deaths [and], marriages and domestic partnerships and shall procure
35 the prompt and accurate registration of the same in each registration
36 district and in the department. The department may promulgate any
37 rule or regulation which it deems necessary for the uniform and
38 thorough enforcement of this section.

39 The department may decline permission to examine any record
40 except in the presence of an officer or employee of the department.

41 (cf: P.L.1965, c.78, s.45)

42

43 18. R.S.26:8-24 is amended to read as follows:

44 R.S.26:8-24. The State registrar shall:

45 a. Have general supervision throughout the State of the registration
46 of vital records;

47 b. Have supervisory power over local registrars, deputy local

- 1 registrars, and subregistrars, in the enforcement of the law relative to
2 the disposal of dead bodies and the registration of vital records;
- 3 c. Prepare, print, and supply to all registrars, upon request
4 therefor, all blanks and forms used in registering the records required
5 by said law. No other blanks shall be used than those supplied or
6 approved by the State registrar;
- 7 d. Carefully examine the certificates received monthly from the
8 local registrars, and if any such are incomplete or unsatisfactory he
9 shall require such further information to be supplied as may be
10 necessary to make the record complete and satisfactory;
- 11 e. Arrange, bind, and permanently preserve the certificates of vital
12 records in a systematic manner;
- 13 f. Prepare and maintain a comprehensive and continuous index of
14 all vital records registered, the index to be arranged alphabetically;
- 15 1. In the case of deaths, by the name of the decedent;
- 16 2. In the case of births, by the name of child, if given, and if not,
17 then by the name of father or mother;
- 18 3. In the case of marriages, by the surname of the husband and also
19 by the maiden name of the wife;
- 20 4. In the case of domestic partnerships, by the surname of each of
21 the partners; and
- 22 g. Mark the birth certificate of a missing child when notified by the
23 Missing Persons Unit in the Department of Law and Public Safety
24 pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c).
25 (cf: P.L.1995, c.395, s.5)
26
- 27 19. R.S.26:8-25 is amended to read as follows:
28 26:8-25. The local registrar, under the supervision and direction of
29 the State registrar, shall:
- 30 a. Strictly and thoroughly enforce the law relative to the disposal
31 of dead bodies and the registration of vital records in his registration
32 district;
- 33 b. Supply blank forms of certificates to such persons as require
34 them;
- 35 c. Supply to every physician, midwife, and funeral director a copy
36 of the law relative to the registration of vital records and the disposal
37 of dead bodies, together with such rules and regulations as may be
38 prepared by the State registrar relative to their enforcement;
- 39 d. Sign his name and insert the date of filing on each certificate of
40 birth, marriage, domestic partnership and death;
- 41 e. Examine each certificate of birth, marriage, domestic partnership
42 or death when presented for record in order to ascertain whether or
43 not it has been made in accordance with law and the instructions of the
44 State registrar; and if [such certificate is] incomplete and
45 unsatisfactory, [he shall] have the same corrected;
- 46 f. At the expense of the municipality make a complete and accurate

1 copy of each birth, marriage, domestic partnership and death
2 certificate registered by him on a form or in a manner prescribed by the
3 State registrar, to be preserved in his office as the local record;

4 g. On the tenth day of each month or sooner if requested by the
5 department, transmit to the State registrar all original birth, marriage,
6 domestic partnership and death certificates received by him for the
7 preceding month. If no births, marriages, domestic partnerships or
8 deaths occurred in any month, he shall, on or before the tenth day of
9 the following month, report that fact to the State registrar on a card
10 provided for such purpose;

11 h. Make an immediate report to the State registrar of any violation
12 of [this chapter or chapter 6 of this Title (R.S.26:6-1 et seq.), as well
13 as chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq.,
14 R.S.26:8-1 et seq., or R.S.37:1-1 et seq. coming to his knowledge;

15 i. In the case of any birth in his registration district to parents who
16 are residents of another registration district or of the marriage in his
17 registration district of any couple who obtained the marriage license
18 in another registration district, or of the death in his registration
19 district of any person who at the time of such death was a resident of
20 another registration district notify the registrar of the other registration
21 district, within five days of such birth, marriage, or death, on forms
22 prescribed by the State registrar. All entries relating to cause of death
23 on the original certificate must be entered on the death form sent to
24 the registrar of the other registration district; and

25 j. Mark the birth certificate of a missing child born in his
26 registration district when notified by the State registrar pursuant to
27 section 3 of P.L.1995, c.395 (C.52:17B-9.8c).

28 (cf: P.L.1995, c.395, s.6)

29

30 20. R.S.26:8-48 is amended to read as follows:

31 26:8-48. A certificate of birth, fetal death, marriage, domestic
32 partnership or death heretofore or hereafter filed with the State
33 registrar shall not be altered or changed otherwise than by amendments
34 properly signed, dated and witnessed.

35 (cf: P.L.1965, c.78, s.65)

36

37 21. R.S.26:8-51 is amended to read as follows:

38 26:8-51. Corrections to marriage or domestic partnership
39 certificates shall be signed by the person who signed the [marriage]
40 certificate or by any other person having personal knowledge of the
41 matters sought to be corrected which other person shall state such
42 matters on his oath.

43 (cf: P.L.1938, c.174, s.2)

44

45 22. R.S.26:8-55 is amended to read as follows:

46 26:8-55. Any person knowingly submitting a certificate pursuant

1 to this article containing incorrect particulars relating to any birth,
2 marriage, domestic partnership or death shall be subject to a penalty
3 of not more than [five hundred dollars] \$500, which shall be
4 recovered with costs in a summary proceeding in the name of the
5 [state] department.

6 (cf: R.S.26:8-55)

7

8 23. R.S.26:8-60 is amended to read as follows:

9 26:8-60. Each local registrar shall be entitled to receive from the
10 proper disbursing officer of the municipality or county the sum of
11 [\$1.00] \$1 for each marriage or domestic partnership certificate
12 properly transmitted to the State Registrar.

13 In any registration district, the body appointing local registrars may,
14 in lieu of fees, provide that officers performing the above service shall
15 receive a fixed compensation to be determined by such body.

16 (cf: P.L.1983, c.275, s.15)

17

18 24. R.S.26:8-62 is amended to read as follows:

19 26:8-62. a. The State registrar shall, upon request, supply to any
20 applicant a certification or certified copy of the record of any birth,
21 death, fetal death or marriage[,] registered under the [provision of
22 this chapter] provisions of R.S.26:8-1 et seq., or any domestic
23 partnership registered under the provisions of P.L. , c. (C.)(pending
24 before the Legislature as this bill), for [either] any of which, except
25 as provided by [section 26:8-63 of the Revised Statutes] R.S.26:8-63,
26 [he] the State registrar shall be entitled to [such] a search fee, if any,
27 as is provided by [section 26:8-64 of the Revised Statutes] R.S.26:8-
28 64, to be paid by the applicant.

29 b. The State registrar shall, upon request, supply to any applicant
30 a certified transcript of any entry contained in the records of the New
31 Jersey State census for which, except as provided by [section 26:8-63
32 of the Revised Statutes] R.S.26:8-63, he shall be entitled to [such] a
33 search fee as is provided by [section 26:8-64 of the Revised Statutes]
34 R.S.26:8-64, to be paid by the applicant.

35 (cf: P.L.1965, c.78, s.72)

36

37 25. R.S.26:8-63 is amended to read as follows:

38 26:8-63. The State registrar shall:

39 a. Furnish a certification or certified copy of a birth, marriage,
40 domestic partnership, fetal death or death certificate without fee in the
41 prosecution of any claim for public pension or for military or naval
42 enlistment purposes; and

43 b. Furnish the United States Public Health Service without expense
44 to the State, microfilm or photocopy images of birth, marriage,
45 domestic partnership, fetal death and death certificates without

1 payment of the fees prescribed in this article; and

2 c. Furnish a certified transcript of any entry in the records of the
3 New Jersey State census without fee for certification in the
4 prosecution of any claim for public pension, for military or naval
5 enlistment purposes; and

6 d. Furnish without fee upon request for administrative use by any
7 city, State or Federal agency a certified transcript of any New Jersey
8 State census entry, or a certification or certified copy of a birth, death,
9 fetal death [or], marriage or domestic partnership certificate.

10 (cf: P.L.1965, c.78, s.73)

11

12 26. R.S.26:8-64 is amended to read as follows:

13 26:8-64. a. For any search of the files and records of births,
14 deaths, [or] marriages or domestic partnerships when the correct year
15 only is supplied by the applicant, whether or not a certification or a
16 certified copy is made, the State Registrar shall be entitled to a
17 minimum fee of [~~\$4.00~~] \$4, plus a fee of [~~\$1.00~~] \$1 for each
18 additional year searched, [said fee to] which fee shall be paid by the
19 applicant, except as provided by [section 26:8-63 of the Revised
20 Statutes] R.S.26:8-63. [Each] The fee for each additional copy [is
21 ~~\$2.00~~] shall be \$2.

22 b. For all searches of the New Jersey State census records, except
23 as otherwise provided herein, the State Registrar shall be entitled to
24 a fee of [~~\$2.00~~] \$2 for each address searched in any census year.

25 c. Conduct without fee upon request for administrative use by any
26 city, state, or federal agency, a search for any New Jersey State census
27 entry.

28 (cf: P.L.1983, c.275, s.17)

29

30 27. Section 1 of P.L.1977, c.237 (C.26:2H-32) is amended to read
31 as follows:

32 1. The following words or phrases, as used in this act, shall have
33 the following meanings, unless the context otherwise requires:

34 a. "Nursing home" means a facility providing therein nursing care
35 to sick, invalid, infirm, disabled or convalescent persons in addition to
36 lodging and board or health-related service, or any combination of the
37 foregoing and in addition thereto, providing nursing care and
38 health-related service, or either of them, to persons who are not
39 occupants of the facility.

40 b. "Affiliate" means (1) with respect to a partnership, each partner
41 thereof; (2) with respect to a corporation, each officer, director,
42 principal stockholder or controlling person thereof; (3) with respect
43 to a natural person (a) each member of said person's immediate family,
44 (b) each partnership and each partner thereof of which said person or
45 any affiliate of said person is a partner, and (c) each corporation in
46 which said person or any affiliate of said person is an officer, director,

1 principal stockholder or controlling person.

2 c. "Controlling person" of any corporation, partnership or other
3 entity means any person who has the ability, directly or indirectly, to
4 direct or cause the direction of the management or policies of said
5 corporation, partnership or other entity.

6 d. "Immediate family" of any person includes each parent, child,
7 spouse, brother, sister, first cousin, aunt and uncle of such person,
8 whether such relationship arises by birth, marriage or adoption, as
9 well as the domestic partner of that person as defined in section 3 of
10 P.L. , c. (C.)(pending before the Legislature as this bill) and the
11 domestic partner's parent and adult child.

12 e. "Principal stockholder" of a corporation means any person who
13 beneficially owns, holds or has the power to vote, 10% or more of any
14 class of securities issued by said corporation.

15 (cf: P.L.1977, c.237, s.1)

16

17 28. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to read
18 as follows:

19 5. a. A declarant may reaffirm or modify either a proxy directive,
20 or an instruction directive, or both. The reaffirmation or modification
21 shall be made in accordance with the requirements for execution of an
22 advance directive pursuant to section 4 of this act.

23 b. A declarant may revoke an advance directive, including a proxy
24 directive, or an instruction directive, or both, by the following means:

25 (1) Notification, orally or in writing, to the health care
26 representative, physician, nurse or other health care professional, or
27 other reliable witness, or by any other act evidencing an intent to
28 revoke the document; or

29 (2) Execution of a subsequent proxy directive or instruction
30 directive, or both, in accordance with section 4 of this act.

31 c. Designation of the declarant's spouse as health care
32 representative shall be revoked upon divorce or legal separation, and
33 designation of the declarant's domestic partner as defined in section 3
34 of P.L. , c. (C.)(pending before the Legislature as this bill) as
35 health care representative shall be revoked upon termination of the
36 declarant's domestic partnership, unless otherwise specified in the
37 advance directive.

38 d. An incompetent patient may suspend an advance directive,
39 including a proxy directive, an instruction directive, or both, by any of
40 the means stated in paragraph (1) of subsection b. of this section. An
41 incompetent patient who has suspended an advance directive may
42 reinstate that advance directive by oral or written notification to the
43 health care representative, physician, nurse or other health care
44 professional of an intent to reinstate the advance directive.

45 e. Reaffirmation, modification, revocation or suspension of an
46 advance directive is effective upon communication to any person

1 capable of transmitting the information including the health care
2 representative, the attending physician, nurse or other health care
3 professional responsible for the patient's care.

4 (cf: P.L.1991, c.201, s.5)

5
6 29. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to read
7 as follows:

8 6. a. A declarant may execute a proxy directive, pursuant to the
9 requirements of section 4 of this act, designating a competent adult to
10 act as his health care representative.

11 (1) A competent adult, including, but not limited to, a declarant's
12 spouse, domestic partner as defined in section 3 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), adult child, parent or other
14 family member, friend, religious or spiritual advisor, or other person
15 of the declarant's choosing, may be designated as a health care
16 representative.

17 (2) An operator, administrator or employee of a health care
18 institution in which the declarant is a patient or resident shall not serve
19 as the declarant's health care representative unless the operator,
20 administrator or employee is related to the declarant by blood,
21 marriage, domestic partnership or adoption.

22 This restriction does not apply to a physician, if the physician does
23 not serve as the patient's attending physician and the patient's health
24 care representative at the same time.

25 (3) A declarant may designate one or more alternate health care
26 representatives, listed in order of priority. In the event the primary
27 designee is unavailable, unable or unwilling to serve as health care
28 representative, or is disqualified from such service pursuant to this
29 section or any other law, the next designated alternate shall serve as
30 health care representative. In the event the primary designee
31 subsequently becomes available and able to serve as health care
32 representative, the primary designee may, insofar as then practicable,
33 serve as health care representative.

34 (4) A declarant may direct the health care representative to consult
35 with specified individuals, including alternate designees, family
36 members and friends, in the course of the decision making process.

37 (5) A declarant shall state the limitations, if any, to be placed upon
38 the authority of the health care representative including the limitations,
39 if any, which may be applicable if the declarant is pregnant.

40 b. A declarant may execute an instruction directive, pursuant to
41 the requirements of section 4 of this act, stating the declarant's general
42 treatment philosophy and objectives; or the declarant's specific wishes
43 regarding the provision, withholding or withdrawal of any form of
44 health care, including life-sustaining treatment; or both. An instruction
45 directive may, but need not, be executed contemporaneously with, or
46 be attached to, a proxy directive.

1 (cf: P.L.1991, c.201, s.6)

2

3 30. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to read
4 as follows:

5 8. When consent is required for disclosure of the record of a
6 deceased or legally incompetent person who has or is suspected of
7 having AIDS or HIV infection, consent may be obtained:

8 a. From an executor, administrator of the estate, or authorized
9 representative of the legally incompetent or deceased person;

10 b. From the person's spouse [or], domestic partner as defined in
11 section 3 of P.L. , c. (C.)(pending before the Legislature as this
12 bill), primary caretaking partner or, if none, by another member of the
13 person's family; and

14 c. From the commissioner in the event that a deceased person has
15 neither an authorized representative or next-of-kin.

16 (cf: P.L.1989, c.303, s.8)

17

18 31. Section 1 of P.L.1954, c.113 (C.26:6-50) is amended to read
19 as follows:

20 1. Any physician licensed to practice medicine and surgery in this
21 State may conduct a post-mortem and necroscopic examination upon
22 the body of a deceased person if he first obtains the consent in writing
23 of any of the following persons who shall have assumed responsibility
24 and custody of the body for purposes of the burial: surviving spouse,
25 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
26 before the Legislature as this bill), adult child, parent, or other next of
27 kin, of the deceased person. In the absence of any of the foregoing
28 named persons any other person charged by law with and who shall
29 have assumed responsibility and custody of the body for the burial may
30 give such consent. Where 2 or more of the abovementioned have
31 assumed such responsibility and custody of the body for purposes of
32 burial, the consent of 1 of such persons shall be sufficient.

33 (cf: P.L.1954, c.113, s.1)

34

35 32. Section 1 of P.L.1969, c.161 (C.26:6-57) is amended to read
36 as follows:

37 1. As used in this act:

38 (a) "Bank or storage facility" means a facility licensed, accredited,
39 or approved under the laws of any State for storage of human bodies
40 or parts thereof.

41 (b) "Decedent" means a deceased individual and includes a stillborn
42 infant or fetus.

43 (c) "Donor" means an individual who makes a gift of all or part of
44 his body.

45 (d) "Hospital" means a hospital licensed, accredited, or approved
46 under the laws of any State; includes a hospital operated by the United

1 States Government, a State, or a subdivision thereof, although not
2 required to be licensed under State laws.

3 (e) "Part" means organs, tissues, eyes, bones, arteries, blood, other
4 fluids and any other portions of a human body.

5 (f) "Person" means an individual, corporation, government or
6 governmental subdivision or agency, business trust, estate, trust,
7 partnership or association, or any other legal entity.

8 (g) "Physician" or "surgeon" means a physician or surgeon licensed
9 or authorized to practice under the laws of any State.

10 (h) "State" includes any State, district, commonwealth, territory,
11 insular possession, and any other area subject to the legislative
12 authority of the United States of America.

13 (i) "Transplant recovery specialist" means a medical professional
14 licensed by this or another State or technician trained by an organ
15 procurement organization in accordance with federal standards
16 pursuant to 42 U.S.C.274(b) and nationally accredited standards for
17 human body part removal.

18 (j) "Organ procurement organization" means an organization which
19 is qualified by the Secretary of Health and Human Services pursuant
20 to 42 U.S.C.273(b).

21 (k) "Domestic partner" means a domestic partner as defined in
22 section 3 of P.L. , c. (C.)(pending before the Legislature as this
23 bill).

24 (cf: P.L.1995, c.257, s.2)

25

26 33. Section 2 of P.L.1969, c.161 (C.26:6-58) is amended to read
27 as follows:

28 2. (a) Any individual of sound mind and 18 years of age or more
29 may give all or any part of his body for any purpose specified in
30 section 3, the gift to take effect upon death.

31 (b) Any of the following persons, in order of priority stated, when
32 persons in prior classes are not available at the time of death, and in
33 the absence of actual notice of contrary indications by the decedent
34 or actual notice of opposition by a member of the same or a prior
35 class, may give all or any part of the decedent's body for any purpose
36 specified in section 3:

37 (1) The spouse or domestic partner,

38 (2) An adult son or daughter,

39 (3) Either parent,

40 (4) An adult brother or sister,

41 (5) A guardian of the person of the decedent at the time of his
42 death,

43 (6) Any other person authorized or under obligation to dispose of
44 the body.

45 (c) If the donee has actual notice of contrary indications by the
46 decedent or that a gift by a member of a class is opposed by a member

1 of the same or a prior class, the donee shall not accept the gift. The
2 persons authorized by subsection (b) may make the gift after or
3 immediately before death.

4 (d) A gift of all or part of a body authorizes any examination
5 necessary to assure medical acceptability of the gift for the purposes
6 intended.

7 (e) The rights of the donee created by the gift are paramount to the
8 rights of others except as provided by section 7(d).
9 (cf: P.L.1969, c.161, s.2)

10

11 34. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
12 as follows:

13 1. a. At or around the time of death of a patient in a hospital
14 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital
15 shall notify its designated organ procurement organization of the
16 patient's death. If the patient has a validly executed donor card, donor
17 designation on a driver's license, advance directive pursuant to
18 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
19 registration with a Statewide organ and tissue donor registry, the
20 organ procurement organization representative or the hospital's
21 designated requestor shall attempt to notify a person listed in this
22 subsection of the gift. If no document of gift is known to the organ
23 procurement organization representative or the designated requestor,
24 one of those two individuals shall ask the persons listed in this
25 subsection whether the decedent had a validly executed document of
26 gift. If there is no evidence of an anatomical gift or actual notice of
27 contrary indications by the decedent, the organ procurement
28 organization representative or the designated requestor shall attempt
29 to notify a person listed in this subsection of the option to donate
30 organs or tissues. Consent need only be obtained from an available
31 person in the highest priority class applicable, but an anatomical gift
32 shall be barred by actual notice of opposition by a member of the same
33 or a prior class. If no available member of a class will make a
34 decision, the organ procurement organization representative or the
35 designated requestor shall approach a member of the next class.

36 The classes in order of priority are:

37 (1) the spouse or domestic partner,

38 (2) an adult son or daughter,

39 (3) either parent,

40 (4) an adult brother or sister,

41 (5) a guardian of the person of the decedent at the time of the
42 decedent's death, or

43 (6) any other person authorized or under the obligation to dispose
44 of the body.

45 For the purposes of this section, a person is available if that person
46 can be approached within a time period compatible with effecting an

1 anatomical gift.

2 b. The person in charge of the hospital or that person's designated
3 representative shall indicate in the medical record of the decedent
4 whether or not consent was granted, the name of the person granting
5 or refusing the consent, and that person's relationship to the decedent.

6 c. A gift made pursuant to the request required by this act shall be
7 executed pursuant to the applicable provisions of P.L.1969, c.161
8 (C.26:6-57 et seq.).

9 d. A person who acts in good faith in accordance with the
10 provisions of this act is not liable for any damages in any civil action
11 or subject to prosecution in any criminal proceeding for any act or
12 omission of the person.

13 e. If the decedent is deemed an unsuitable candidate for donation,
14 an explanatory notation shall be made part of the medical record of the
15 decedent.

16 (cf: P.L.2001, c.87, s.1)

17

18 35. Section 7 of P.L.1969, c.161 (C.26:6-63) is amended to read
19 as follows:

20 7. (a) The donee may accept or reject the gift. If the donee
21 accepts a gift of the entire body, he may, subject to the terms of the
22 gift, authorize embalming and the use of the body in funeral services,
23 and after it has served its scientific purposes, provide for its disposal
24 by burial or cremation. If the gift is of a part of the body, the donee,
25 upon the death of the donor and prior to embalming, shall cause the
26 part to be removed without unnecessary mutilation. After removal of
27 the part, custody of the remainder of the body vests in the surviving
28 spouse or domestic partner, next of kin, or other persons under
29 obligation to dispose of the body.

30 (b) The time of death shall be determined by a physician who
31 attends the donor at his death, or, if none, the physician who certifies
32 the death. The physician shall not participate in the procedures for
33 removing or transplanting a part.

34 (c) A person who acts in good faith in accord with the terms of this
35 act or the anatomical gift laws of another State or foreign country is
36 not liable for damages in any civil action or subject to prosecution in
37 any criminal proceeding for his act.

38 (d) The provisions of this act are subject to the laws of this State
39 prescribing powers and duties with respect to autopsies.

40 (cf: P.L.1969, c.161, s.7)

41

42 36. R.S.54:34-1 is amended to read as follows:

43 54:34-1. Except as provided in section 54:34-4 of this Title, a tax
44 shall be and is hereby imposed at the rates set forth in section 54:34-2
45 of this Title upon the transfer of property, real or personal, of the
46 value of \$500.00 or over, or of any interest therein or income

1 therefrom, in trust or otherwise, to or for the use of any transferee,
2 distributee or beneficiary in the following cases:

3 a. Where real or tangible personal property situated in this State or
4 intangible personal property wherever situated is transferred by will or
5 by the intestate laws of this State from a resident of this State dying
6 seized or possessed thereof.

7 b. Where real or tangible personal property within this State of a
8 decedent not a resident of this State at the time of his death is
9 transferred by will or intestate law.

10 c. Where real or tangible personal property within this State of a
11 resident of this State or intangible personal property wherever situate
12 of a resident of this State or real or tangible personal property within
13 this State of a nonresident, is transferred by deed, grant, bargain, sale
14 or gift made in contemplation of the death of the grantor, vendor or
15 donor, or intended to take effect in possession or enjoyment at or after
16 such death.

17 A transfer by deed, grant, bargain, sale or gift made without
18 adequate valuable consideration and within three years prior to the
19 death of the grantor, vendor or donor of a material part of his estate
20 or in the nature of a final disposition or distribution thereof, shall, in
21 the absence of proof to the contrary, be deemed to have been made in
22 contemplation of death within the meaning of subsection c. of this
23 section; but no such transfer made prior to such three-year period shall
24 be deemed or held to have been made in contemplation of death.

25 d. Where by transfer of a resident decedent of real or tangible
26 personal property within this State or intangible property wherever
27 situate, or by transfer of a nonresident decedent of real or tangible
28 personal property within this State, a transferee, distributee or
29 beneficiary comes into the possession or enjoyment therein of:

30 (1) An estate in expectancy of any kind or character which is
31 contingent or defeasible, transferred by an instrument taking effect on
32 or after July 4, 1909; or

33 (2) Property transferred pursuant to a power of appointment
34 contained in an instrument taking effect on or after July 4, 1909.

35 e. When a decedent appoints or names one or more executors or
36 trustees and bequeaths or devises property to him or them in lieu of
37 commissions or allowances, the transfer of which property would
38 otherwise be taxable, or appoints him or them his residuary legatee or
39 legatees, and the bequest, devise or residuary legacy exceeds what
40 would be reasonable compensation for his or their services, such
41 excess shall be deemed a transfer liable to tax. The Superior Court
42 having jurisdiction in the case, shall determine what is a reasonable
43 compensation.

44 f. The right of the surviving joint tenant or joint tenants, person or
45 persons, to the immediate ownership or possession and enjoyment of
46 real or personal property held in the joint names of two or more

1 persons, or deposited in banks or other institutions or depositories in
 2 the joint names of two or more persons and payable to either or the
 3 survivor, excluding, however, the right of a spouse, as a surviving
 4 joint tenant with his or her deceased spouse, or the right of a domestic
 5 partner as defined in section 3 of P.L. , c. (C.)(pending before the
 6 Legislature as this bill), as a surviving joint tenant with that person's
 7 deceased domestic partner, to the immediate ownership or possession
 8 and enjoyment of a membership certificate or stock in a cooperative
 9 housing corporation, the ownership of which entitles such member or
 10 stockholder to occupy real estate for dwelling purposes as the
 11 principal residence of the decedent and spouse or domestic partner, as
 12 applicable, shall upon the death of one of such persons, be deemed a
 13 transfer taxable in the same manner as though such property had
 14 belonged absolutely to the deceased joint tenant or joint depositor and
 15 had been devised or bequeathed by his will to the surviving joint tenant
 16 or joint tenants, person or persons, excepting therefrom such part of
 17 the property as such survivor or survivors may prove to the
 18 satisfaction of the Director of the Division of Taxation to have
 19 originally belonged to him or them and never to have belonged to the
 20 decedent.

21 In the case of a nonresident decedent, subsection f. of this section
 22 shall apply only to real or tangible personal property within this State.
 23 (cf: P.L.1991, c.91, s.510)

24

25 37. R.S.54:34-2 is amended to read as follows:

26 54:34-2. a. (1) The transfer of property to a husband or wife, or
 27 a domestic partner as defined in section 3 of P.L. , c. (C.)(pending
 28 before the Legislature as this bill), of a decedent shall be taxed at the
 29 following rates:

30 For transfers made through December 31, 1984:

31	On any amount in excess of \$15,000.00, up to \$50,000.00	2%
32	On any amount in excess of \$50,000.00, up to \$100,000.00	3%
33	On any amount in excess of \$100,000.00, up to \$150,000.00	%
34	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
35	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
36	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
37	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
38	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
39	On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
40	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	11%
41	On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
42	On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
43	On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ...	14%
44	On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
45	On any amount in excess of \$3,200,000.00	16%

46 For transfers made on or after January 1, 1985 there shall be no tax

1 imposed under this paragraph.

2 (2) The transfer of property to a father, mother, grandparent, child
3 or children of a decedent, or to any child or children adopted by the
4 decedent in conformity with the laws of this State, or of any of the
5 United States or of a foreign country, or the issue of any child or
6 legally adopted child of a decedent, shall be taxed at the following
7 rates:

8 For transfers through June 30, 1985:

9	On any amount in excess of \$15,000.00, up to \$50,000.00	2%
10	On any amount in excess of \$50,000.00, up to \$100,000.00	3%
11	On any amount in excess of \$100,000.00, up to \$150,000.00	4%
12	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
13	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
14	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
15	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
16	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
17	On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
18	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%
19	On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 .	12%
20	On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
21	On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
22	On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
23	On any amount in excess of \$3,200,000.00	16%

24	For transfers made from July 1, 1985 through June 30, 1986: On	
25	any amount in excess of \$50,000.00, up to \$100,000.00	3%
26	On any amount in excess of \$100,000.00, up to \$150,000.00	4%
27	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
28	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
29	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
30	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
31	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
32	On any amount in excess of \$900,000.00, up to \$1,100,000.00	10%
33	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	11%
34	On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
35	On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
36	On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
37	On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
38	On any amount in excess of \$3,200,000.00	16%

39	For transfers made from July 1, 1986 through June 30, 1987: On	
40	any amount in excess of \$150,000.00, up to \$200,000.00	5%
41	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
42	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
43	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
44	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
45	On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
46	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%

- 1 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 2 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 3 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 4 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 5 On any amount in excess of \$3,200,000.00 16%
- 6 For transfers made from July 1, 1987 through June 30, 1988: On
- 7 any amount in excess of \$250,000.00, up to \$300,000.00 6%
- 8 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 9 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 10 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 11 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 12 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 13 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 . 12%
- 14 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 15 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 16 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 17 On any amount in excess of \$3,200,000.00 16%
- 18 For transfers made on or after July 1, 1988 there shall be no tax
- 19 imposed under this subsection.
- 20 b. (Deleted by amendment.)
- 21 c. The transfer of property to a brother or sister of a decedent,
- 22 wife or widow of a son of a decedent, or husband or widower of a
- 23 daughter of a decedent shall be taxed at the following rates:
- 24 (1) For transfers through June 30, 1988:
- 25 On any amount up to \$1,100,000.00 11%
- 26 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
- 27 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
- 28 On any amount in excess of \$1,700,000.0016%
- 29 (2) For transfers made on or after July 1, 1988:
- 30 On any amount in excess of \$25,000.00, up to \$1,100,000.0011%
- 31 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
- 32 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
- 33 On any amount in excess of \$1,700,000.00 16%
- 34 d. The transfer of property to every other transferee, distributee
- 35 or beneficiary not hereinbefore classified shall be taxed at the
- 36 following rates:
- 37 On any amount up to \$700,000.00 15%
- 38 On any amount in excess of \$700,000.00 16%
- 39 For every purpose of this subtitle all persons, including the
- 40 decedent, shall be deemed to have been born in lawful wedlock and
- 41 this provision shall apply to the estate of every decedent whether said
- 42 decedent died before March 25, 1935, or shall die thereafter, but it
- 43 shall not entitle any person to a refund of any tax paid before the
- 44 aforementioned date.
- 45 (cf: P.L.1985, c.57, s.1)
- 46

1 38. R.S.54:34-4 is amended to read as follows:

2 54:34-4. The following transfers of property shall be exempt from
3 taxation:

4 a. Property passing to or for the use of the State of New Jersey, or
5 to or for the use of a municipal corporation within the State or other
6 political subdivision thereof, for exclusively public purposes.

7 b. Property passing to a beneficiary or beneficiaries having any
8 present or future, vested, contingent or defeasible interest under any
9 trust deed or agreement heretofore or hereafter executed by a resident
10 or nonresident decedent, to the extent that the trust fund results from
11 the proceeds of contracts of insurance heretofore or hereafter in force,
12 insuring the life of such decedent, and paid or payable, at or after the
13 death of such decedent, to the trustee or trustees under such trust deed
14 or agreement.

15 c. Property passing to (i) a trustee or trustees of any trust deed or
16 agreement heretofore or hereafter executed or (ii) to a trustee or
17 trustees of a trust created by the will of a decedent, by virtue of any
18 contract of insurance heretofore or hereafter in force insuring the life
19 of a resident or nonresident decedent and the proceeds of which are
20 paid or payable at or after the death of such decedent to such trustee
21 or trustees for the benefit of a beneficiary or beneficiaries having any
22 present or future, vested, contingent or defeasible interest under such
23 trust deed, agreement or will.

24 d. That part of the estate of any decedent which passes to, for the
25 use of or in trust for any educational institution, church, hospital,
26 orphan asylum, public library or Bible and tract society or to, for the
27 use of or in trust for any institution or organization organized and
28 operated exclusively for religious, charitable, benevolent, scientific,
29 literary or educational purposes, including any institution instructing
30 the blind in the use of dogs as guides, no part of the net earnings of
31 which inures to the benefit of any private stockholder or other
32 individual or corporation; provided, that this exemption shall not
33 extend to transfers of property to such educational institutions and
34 organizations of other states, the District of Columbia, territories and
35 foreign countries which do not grant an equal, and like exemption of
36 transfers of property for the benefit of such institutions and
37 organizations of this State.

38 e. That part of the estate of any decedent who has heretofore died,
39 or may hereafter die, received, either heretofore or hereafter, by the
40 legal representatives of such decedent, whether directly from the
41 United States, or through any intervening estate or estates, by reason
42 of any war risk insurance certificate or policy, either term or
43 converted, or any adjusted service certificate, issued by the United
44 States. Nothing contained in this subsection e. shall entitle any person
45 to a refund of any tax heretofore paid on the transfer of property of
46 the nature aforementioned; and provided further, that the exemption

1 provided for in this subsection e. shall not extend to that part of the
2 estate of any decedent composed of property of the nature
3 aforementioned, when such property was received by the decedent
4 before death.

5 f. The proceeds of any contract of insurance heretofore or
6 hereafter in force insuring the life of a resident or nonresident decedent
7 paid or payable at or after the death of such decedent to any
8 beneficiary or beneficiaries other than the estate or the executor or
9 administrator of such decedent.

10 g. Any transfer, relinquishment, surrender or exercise at any time
11 or times by a resident or nonresident of any right to nominate or
12 change the beneficiary or beneficiaries of any contract of insurance
13 heretofore or hereafter in force insuring the life of such resident or
14 nonresident irrespective of whether such transfer, relinquishment,
15 surrender or exercise of such right took place or whether the proceeds
16 of such policy were paid or payable, before or after the taking effect
17 of this act.

18 h. The value of any pension, annuity, retirement allowance, return
19 of contributions, or benefit payable by the Government of the United
20 States pursuant to the Civil Service Retirement Act to a beneficiary or
21 beneficiaries other than the estate or the executor or administrator of
22 a decedent.

23 i. The value of any annuity payable by the Government of the
24 United States pursuant to the Retired Serviceman's Family Protection
25 Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other
26 than the estate or the executor or administrator of a decedent.

27 j. The value of any pension, annuity, retirement allowance or return
28 of contributions, regardless of the source, which is a direct result of
29 the decedent's employment under a qualified plan as defined by section
30 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, payable
31 to a surviving spouse, or a domestic partner as defined in section 3 of
32 P.L. , c. (C.)(pending before the Legislature as this bill), and not
33 otherwise exempted pursuant to this section or other law of the State
34 of New Jersey.

35 (cf: P.L.1981, c.152, s.1)

36

37 39. N.J.S.54A:1-2 is amended to read as follows:

38 54A:1-2. As used in this act, unless the context clearly indicates
39 otherwise, the following words and phrases shall have the following
40 meaning:

41 a. "Director" means the Director of the Division of Taxation in the
42 Department of the Treasury.

43 b. "Fiduciary" means a guardian, trustee, executor, administrator,
44 receiver, conservator, or any person acting in any fiduciary capacity
45 for any person.

46 c. "Excludable income" shall be limited to those payments set forth

- 1 in chapter 6 hereunder.
- 2 d. "Gross income" shall include that set forth in chapter 5
3 hereunder.
- 4 e. "Dependent" means a spouse or child, or a domestic partner as
5 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
6 as this bill), or any individual related to the taxpayer and who is a
7 dependent pursuant to the provisions of the Internal Revenue Code
8 during a taxable year.
- 9 f. "Disabled" means total and permanent inability to engage in any
10 substantial gainful activity by reason of any medically determinable
11 physical or mental impairment, including blindness. For purposes of
12 this subsection, "blindness" means central visual acuity of 20/200 or
13 less in the better eye with the use of a correcting lens. An eye which
14 is accompanied by a limitation in the fields of vision such that the
15 widest diameter of the visual field subtends an angle no greater than
16 20 degrees shall be considered as having a central visual acuity of
17 20/200 or less.
- 18 g. "Medical expenses" means nonreimbursed payments for
19 physicians, dental and other medical fees, hospital care, nursing care,
20 medicines and drugs, prosthetic devices, X-rays and other diagnostic
21 services conducted by or directed by a physician or dentist. In
22 addition, medical expenses may also include amounts paid for
23 transportation primarily for and essential to medical care and
24 insurance (including amounts paid as premiums under part B of Title
25 XVIII of the Social Security Act, relating to supplementary medical
26 insurance for the aged) covering medical care.
- 27 h. Partnership and partner. The term "partnership" includes a
28 syndicate, group, pool, joint venture, or other unincorporated
29 organization, through or by means of which any business, financial
30 operation, or venture is carried on, and which is not, within the
31 meaning of this act, a trust or estate or a corporation; and the term
32 "partner" includes a member in such a syndicate, group, pool, joint
33 venture, or organization.
- 34 i. Blank.
- 35 j. Blank.
- 36 k. "Taxable year" means the calendar or fiscal accounting period
37 for which a tax is payable under this act.
- 38 l. "Taxpayer" means any individual, estate or trust required to
39 report or to pay taxes, interest and penalties under this act, or whose
40 income in whole or in part is subject to the tax imposed by this act.
- 41 m. "Resident taxpayer" means an individual:
- 42 1. Who is domiciled in this State, unless he maintains no permanent
43 place of abode in this State, maintains a permanent place of abode
44 elsewhere, and spends in the aggregate no more than 30 days of the
45 taxable year in this State; or
- 46 2. Who is not domiciled in this State but maintains a permanent

1 place of abode in this State and spends in the aggregate more than 183
2 days of the taxable year in this State, unless such individual is in the
3 Armed Forces of the United States.

4 n. "Nonresident taxpayer" means a taxpayer who is not a resident.

5 o. Resident estate or trust. A resident estate or trust means:

6 (1) The estate of a decedent who at his death was domiciled in this
7 State,

8 (2) A trust, or a portion of a trust, consisting of property
9 transferred by will of a decedent who at his death was domiciled in
10 this State, or

11 (3) A trust, or portion of a trust, consisting of the property of:

12 (a) A person domiciled in this State at the time such property was
13 transferred to the trust, if such trust or portion of a trust was then
14 irrevocable, or if it was then revocable and has not subsequently
15 become irrevocable; or

16 (b) A person domiciled in this State at the time such trust, or
17 portion of a trust, became irrevocable, if it was revocable when such
18 property was transferred to the trust but has subsequently become
19 irrevocable.

20 For the purposes of the foregoing, a trust or portion of a trust is
21 revocable if it is subject to a power, exercisable immediately or at any
22 future time, to revest title in the person whose property constitutes
23 such trust or portion of a trust, and a trust or portion of a trust
24 becomes irrevocable when the possibility that such power may be
25 exercised has been terminated.

26 p. Nonresident estate or trust. A nonresident estate or trust means
27 an estate or trust which is not a resident.

28 q. Unless the context in which it occurs requires otherwise, the
29 term "act" or "this act" shall mean the New Jersey Gross Income Tax
30 Act, Title 54A of the New Jersey Statutes.

31 (cf: N.J.S.54A:1-2)

1 40. N.J.S.54A:3-1 is amended to read as follows:

2 54A:3-1. Personal exemptions and deductions. Each taxpayer shall
3 be allowed personal exemptions and deductions against his gross
4 income as follows:

5 (a) Taxpayer. Each taxpayer shall be allowed a personal exemption
6 of \$1,000.00 which may be taken as a deduction from his New Jersey
7 gross income.

8 (b) Additional exemptions. In addition to the personal exemptions
9 allowed in (a), the following additional personal exemptions shall be
10 allowed as a deduction from gross income:

11 1. For the taxpayer's spouse, or domestic partner as defined in
12 section 3 of P.L. , c. (C.)(pending before the Legislature as this
13 bill), who does not file separately - \$1,000.00.

14 2. For each dependent who qualifies as a dependent of the taxpayer
15 during the taxable year for federal income tax purposes - \$1,500.00.

16 3. Taxpayer 65 years of age or over at the close of the taxable year
17 - \$1,000.00.

18 4. Taxpayer's spouse 65 years of age or over at the close of the
19 taxable year - \$1,000.00.

20 5. Blind or disabled taxpayer - \$1,000.00.

21 6. Blind or disabled spouse - \$1,000.00.

22 (c) Special Rule. The personal exemptions allowed under this
23 section shall be limited to that percentage which the total number of
24 months within a taxpayer's taxable year under this act bears to 12. For
25 this purpose 15 days or more shall constitute a month.

26 (d) (Deleted by amendment, P.L.1993, c.178).

27 (e) Nonresidents. For taxable years to which a certification
28 pursuant to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a
29 nonresident taxpayer shall be allowed the same deduction for personal
30 exemptions as a resident taxpayer. However, if (1) the nonresident
31 taxpayer's gross income which is subject to tax under this act is
32 exceeded by (2) the gross income which the nonresident taxpayer
33 would be required to report under this act if the taxpayer were a
34 resident by more than \$100.00, the taxpayer's deduction for personal
35 exemptions shall be limited by the percentage which (1) is to (2).

36 (cf: P.L.1993, c.320, s.1)

37

38 41. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
39 read as follows:

40 2. As used in this act:

41 (a) The term "State" means the State of New Jersey.

42 (b) The term "commission" means the State Health Benefits
43 Commission, created by section 3 of this act.

44 (c) The term "employee" means an appointive or elective officer or
45 full-time employee of the State of New Jersey. For the purposes of
46 this act an employee of Rutgers, The State University of New Jersey,

1 shall be deemed to be an employee of the State, and an employee of
2 the New Jersey Institute of Technology shall be considered to be an
3 employee of the State during such time as the Trustees of the Institute
4 are party to a contractual agreement with the State Treasurer for the
5 provision of educational services. The term "employee" shall further
6 mean, for purposes of this act, a former employee of the South Jersey
7 Port Corporation, who is employed by a subsidiary corporation or
8 other corporation, which has been established by the Delaware River
9 Port Authority pursuant to subdivision (m) of Article I of the compact
10 creating the Delaware River Port Authority (R.S.32:3-2), as defined
11 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
12 continued membership in the Public Employees' Retirement System
13 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

14 For the purposes of this act the term "employee" shall not include
15 persons employed on a short-term, seasonal, intermittent or emergency
16 basis, persons compensated on a fee basis, persons having less than
17 two months of continuous service or persons whose compensation
18 from the State is limited to reimbursement of necessary expenses
19 actually incurred in the discharge of their official duties. An employee
20 paid on a 10-month basis, pursuant to an annual contract, will be
21 deemed to have satisfied the two-month waiting period if the employee
22 begins employment at the beginning of the contract year. The term
23 "employee" shall also not include retired persons who are otherwise
24 eligible for benefits under this act but who, although they meet the age
25 eligibility requirement of Medicare, are not covered by the complete
26 federal program. A determination by the commission that a person is
27 an eligible employee within the meaning of this act shall be final and
28 shall be binding on all parties.

29 (d) (1) The term "dependents" means an employee's spouse, or an
30 employee's domestic partner as defined in section 3 of P.L. , c.
31 (C.)(pending before the Legislature as this bill), and the employee's
32 unmarried children under the age of 23 years who live with the
33 employee in a regular parent-child relationship. "Children" shall
34 include stepchildren, legally adopted children and foster children
35 provided they are reported for coverage and are wholly dependent
36 upon the employee for support and maintenance. A spouse, domestic
37 partner or child enlisting or inducted into military service shall not be
38 considered a dependent during the military service. The term
39 "dependents" shall not include spouses or domestic partners of retired
40 persons who are otherwise eligible for the benefits under this act but
41 who, although they meet the age eligibility requirement of Medicare,
42 are not covered by the complete federal program.

43 (2) Notwithstanding the provisions of paragraph (1) of this
44 subsection to the contrary and subject to the provisions of paragraph
45 (3) of this subsection, for the purposes of an employer other than the
46 State that is participating in the State Health Benefits Program

1 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
2 "dependents" means an employee's spouse and the employee's
3 unmarried children under the age of 23 years who live with the
4 employee in a regular parent-child relationship. "Children" shall
5 include stepchildren, legally adopted children and foster children
6 provided they are reported for coverage and are wholly dependent
7 upon the employee for support and maintenance. A spouse or child
8 enlisting or inducted into military service shall not be considered a
9 dependent during the military service. The term "dependents" shall not
10 include spouses of retired persons who are otherwise eligible for
11 benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who,
12 although they meet the age eligibility requirement of Medicare, are not
13 covered by the complete federal program.

14 (3) An employer other than the State that is participating in the
15 State Health Benefits Program pursuant to section 3 of P.L.1964,
16 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
17 "dependents" as defined in paragraph (2) of this subsection shall
18 include domestic partners as provided in paragraph (1) of this
19 subsection.

20 (e) The term "carrier" means a voluntary association, corporation
21 or other organization, including a health maintenance organization as
22 defined in section 2 of the "Health Maintenance Organizations Act,"
23 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
24 or paying for or reimbursing the cost of, personal health services,
25 including hospitalization, medical and surgical services, under
26 insurance policies or contracts, membership or subscription contracts,
27 or the like, in consideration of premiums or other periodic charges
28 payable to the carrier.

29 (f) The term "hospital" means (1) an institution operated pursuant
30 to law which is primarily engaged in providing on its own premises,
31 for compensation from its patients, medical diagnostic and major
32 surgical facilities for the care and treatment of sick and injured persons
33 on an inpatient basis, and which provides such facilities under the
34 supervision of a staff of physicians and with 24 hour a day nursing
35 service by registered graduate nurses, or (2) an institution not meeting
36 all of the requirements of (1) but which is accredited as a hospital by
37 the Joint Commission on Accreditation of Hospitals. In no event shall
38 the term "hospital" include a convalescent nursing home or any
39 institution or part thereof which is used principally as a convalescent
40 facility, residential center for the treatment and education of children
41 with mental disorders, rest facility, nursing facility or facility for the
42 aged or for the care of drug addicts or alcoholics.

43 (g) The term "State managed care plan" means a health care plan
44 under which comprehensive health care services and supplies are
45 provided to eligible employees, retirees, and dependents: (1) through
46 a group of doctors and other providers employed by the plan; or (2)

1 through an individual practice association, preferred provider
2 organization, or point of service plan under which services and
3 supplies are furnished to plan participants through a network of
4 doctors and other providers under contracts or agreements with the
5 plan on a prepayment or reimbursement basis and which may provide
6 for payment or reimbursement for services and supplies obtained
7 outside the network. The plan may be provided on an insured basis
8 through contracts with carriers or on a self-insured basis, and may be
9 operated and administered by the State or by carriers under contracts
10 with the State.

11 (h) The term "Medicare" means the program established by the
12 "Health Insurance for the Aged Act," Title XVIII of the "Social
13 Security Act," Pub.L. 89-97 (42 U.S.C. s.1395 et seq.), as amended,
14 or its successor plan or plans.

15 (i) The term "traditional plan" means a health care plan which
16 provides basic benefits, extended basic benefits and major medical
17 expense benefits as set forth in section 5 of P.L.1961, c.49
18 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
19 dependents for expenses for covered health care services and supplies
20 through payments to providers or reimbursements to participants.
21 (cf: P.L.1997, c.150, s.25)

22

23 42. Section 6 of L.1954, c.84 (C.43:15A-6) is amended to read as
24 follows:

25 6. As used in this act:

26 a. "Accumulated deductions" means the sum of all the amounts,
27 deducted from the compensation of a member or contributed by or on
28 behalf of the member, standing to the credit of the member's individual
29 account in the annuity savings fund.

30 b. "Annuity" means payments for life derived from the accumulated
31 deductions of a member as provided in this act.

32 c. "Annuity reserve" means the present value of all payments to be
33 made on account of any annuity or benefit in lieu of an annuity,
34 granted under the provisions of this act, computed on the basis of such
35 mortality tables recommended by the actuary as the board of trustees
36 adopts, with regular interest.

37 d. "Beneficiary" means any person receiving a retirement allowance
38 or other benefit as provided in this act.

39 e. "Child" means a deceased member's unmarried child either (1)
40 under the age of 18 or (2) of any age who, at the time of the member's
41 death, is disabled because of mental retardation or physical incapacity,
42 is unable to do any substantial, gainful work because of the impairment
43 and the impairment has lasted or can be expected to last for a
44 continuous period of not less than 12 months, as affirmed by the
45 medical board.

46 f. "Parent" shall mean the parent of a member who was receiving

1 at least 1/2 of the parent's support from the member in the 12-month
2 period immediately preceding the member's death or the accident
3 which was the direct cause of the member's death. The dependency of
4 such a parent will be considered terminated by marriage of the parent
5 subsequent to the death of the member.

6 g. ["Widower" means] (1) "Widower," for employees of the
7 State, means the man to whom a member was married, or a domestic
8 partner as defined in section 3 of P.L. , c. (C.)(pending before the
9 Legislature as this bill), at least five years before the date of her death
10 and to whom she continued to be married or a domestic partner until
11 the date of her death and who was receiving at least 1/2 of his support
12 from the member in the 12-month period immediately preceding the
13 member's death or the accident which was the direct cause of the
14 member's death. The dependency of such a widower will be
15 considered terminated by marriage of, or establishment of a domestic
16 partnership by, the widower subsequent to the death of the member.
17 In the event of the payment of an accidental death benefit, the
18 five-year qualification shall be waived.

19 (2) Subject to the provisions of paragraph (3) of this subsection,
20 "widower," for employees of public employers other than the State,
21 means the man to whom a member was married at least five years
22 before the date of her death and to whom she continued to be married
23 until the date of her death and who was receiving at least 1/2 of his
24 support from the member in the 12-month period immediately
25 preceding the member's death or the accident which was the direct
26 cause of the member's death. The dependency of such a widower shall
27 be considered terminated by marriage of the widower subsequent to
28 the death of the member. In the event of the payment of an accidental
29 death benefit, the five-year qualification shall be waived.

30 (3) A public employer other than the State may adopt a resolution
31 providing that the term "widower" as defined in paragraph (2) of this
32 subsection shall include domestic partners as provided in paragraph (1)
33 of this subsection.

34 h. "Final compensation" means the average annual compensation
35 for which contributions are made for the three years of creditable
36 service in New Jersey immediately preceding the member's retirement
37 or death, or it shall mean the average annual compensation for New
38 Jersey service for which contributions are made during any three fiscal
39 years of his or her membership providing the largest possible benefit
40 to the member or the member's beneficiary.

41 i. "Fiscal year" means any year commencing with July 1 and ending
42 with June 30 next following.

43 j. "Medical board" shall mean the board of physicians provided for
44 in section 17 (C.43:15A-17).

45 k. "Pension" means payments for life derived from appropriations
46 made by the employer as provided in this act.

1 l. "Pension reserve" means the present value of all payments to be
2 made on account of any pension or benefit in lieu of a pension granted
3 under the provisions of this act, computed on the basis of such
4 mortality tables recommended by the actuary as the board of trustees
5 adopts, with regular interest.

6 m. "Public Employees' Retirement System of New Jersey,"
7 hereinafter referred to as the "retirement system" or "system," is the
8 corporate name of the arrangement for the payment of retirement
9 allowances and other benefits under the provisions of this act including
10 the several funds placed under said system. By that name all of its
11 business shall be transacted, its funds invested, warrants for money
12 drawn, and payments made and all of its cash and securities and other
13 property held.

14 n. "Regular interest" shall mean interest as determined by the State
15 Treasurer, after consultation with the Directors of the Divisions of
16 Investment and Pensions, the board of trustees and the actuary. It
17 shall bear a reasonable relationship to the percentage rate of earnings
18 on investments based on the market value of the assets but shall not
19 exceed the assumed percentage rate of increase applied to salaries plus
20 3%, provided however that the board of trustees shall not set the
21 average percentage rate of increase applied to salaries below 6%.

22 o. "Retirement allowance" means the pension plus the annuity.

23 p. "Veteran" means any honorably discharged officer, soldier,
24 sailor, airman, marine or nurse who served in any Army, Air Force or
25 Navy of the Allies of the United States in World War I, between July
26 14, 1914, and November 11, 1918, or who served in any Army, Air
27 Force or Navy of the Allies of the United States in World War II,
28 between September 1, 1939, and September 2, 1945, and who was
29 inducted into such service through voluntary enlistment, and was a
30 citizen of the United States at the time of such enlistment, and who did
31 not, during or by reason of such service, renounce or lose United
32 States citizenship, and any officer, soldier, sailor, marine, airman,
33 nurse or army field clerk, who has served in the active military or naval
34 service of the United States and has or shall be discharged or released
35 therefrom under conditions other than dishonorable, in any of the
36 following wars, uprisings, insurrections, expeditions, or emergencies,
37 and who has presented to the retirement system evidence of such
38 record of service in form and content satisfactory to said retirement
39 system:

40 (1) The Indian wars and uprisings during any of the periods
41 recognized by the War Department of the United States as periods of
42 active hostility;

43 (2) The Spanish-American War between April 20, 1898, and April
44 11, 1899;

45 (3) The Philippine insurrections and expeditions during the periods
46 recognized by the War Department of the United States as of active

- 1 hostility from February 4, 1899, to the end of 1913;
- 2 (4) The Peking relief expedition between June 20, 1900, and May
3 27, 1902;
- 4 (5) The army of Cuban occupation between July 18, 1898, and
5 May 20, 1902;
- 6 (6) The army of Cuban pacification between October 6, 1906, and
7 April 1, 1909;
- 8 (7) The Mexican punitive expedition between March 14, 1916, and
9 February 7, 1917;
- 10 (8) The Mexican border patrol, having actually participated in
11 engagements against Mexicans between April 12, 1911, and June 16,
12 1919;
- 13 (9) World War I, between April 6, 1917, and November 11, 1918;
- 14 (10) World War II, between September 16, 1940, and December
15 31, 1946, who shall have served at least 90 days in such active service,
16 exclusive of any period of assignment (1) for a course of education or
17 training under the Army Specialized Training Program or the Navy
18 College Training Program which course was a continuation of a
19 civilian course and was pursued to completion, or (2) as a cadet or
20 midshipman at one of the service academies any part of which 90 days
21 was served between said dates; provided, that any person receiving an
22 actual service-incurred injury or disability shall be classed as a veteran
23 whether or not that person has completed the 90-day service as herein
24 provided;
- 25 (11) Korean conflict on or after June 23, 1950, and on or prior to
26 January 31, 1955, who shall have served at least 90 days in such active
27 service, exclusive of any period of assignment (1) for a course of
28 education or training under the Army Specialized Training Program or
29 the Navy College Training Program which course was a continuation
30 of a civilian course and was pursued to completion, or (2) as a cadet
31 or midshipman at one of the service academies, any part of which 90
32 days was served between said dates; provided, that any person
33 receiving an actual service-incurred injury or disability shall be classed
34 as a veteran whether or not that person has completed the 90-day
35 service as herein provided; and provided further, that any member
36 classed as a veteran pursuant to this paragraph prior to August 1,
37 1966, shall continue to be classed as a veteran whether or not that
38 person completed the 90-day service between said dates as herein
39 provided;
- 40 (12) Lebanon crisis, on or after July 1, 1958, who has served in
41 Lebanon or on board any ship actively engaged in patrolling the
42 territorial waters of that nation for a period, continuous or in the
43 aggregate, of at least 14 days commencing on or before November 1,
44 1958 or the date of termination of that conflict, as proclaimed by the
45 President of the United States or Congress, whichever date of
46 termination is the latest, in such active service; provided, that any

1 person receiving an actual service-incurred injury or disability shall be
2 classed as a veteran whether or not that person has completed the 14
3 days' service as herein provided;

4 (13) Vietnam conflict on or after December 31, 1960, and on or
5 prior to May 7, 1975, who shall have served at least 90 days in such
6 active service, exclusive of any period of assignment (1) for a course
7 of education or training under the Army Specialized Training Program
8 or the Navy College Training Program which course was a
9 continuation of a civilian course and was pursued to completion, or (2)
10 as a cadet or midshipman at one of the service academies, any part of
11 which 90 days was served between said dates; and exclusive of any
12 service performed pursuant to the provisions of section 511(d) of Title
13 10, United States Code, pursuant to an enlistment in the Army
14 National Guard or as a reserve for service in the Army Reserve, Naval
15 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
16 Reserve; provided, that any person receiving an actual service-incurred
17 injury or disability shall be classed as a veteran whether or not that
18 person has completed the 90 days' service as herein provided;

19 (14) Lebanon peacekeeping mission, on or after September 26,
20 1982, who has served in Lebanon or on board any ship actively
21 engaged in patrolling the territorial waters of that nation for a period,
22 continuous or in the aggregate, of at least 14 days commencing on or
23 before December 1, 1987 or the date of termination of that mission, as
24 proclaimed by the President of the United States or Congress,
25 whichever date of termination is the latest, in such active service;
26 provided, that any person receiving an actual service-incurred injury
27 or disability shall be classed as a veteran whether or not that person
28 has completed the 14 days' service as herein provided;

29 (15) Grenada peacekeeping mission, on or after October 23, 1983,
30 who has served in Grenada or on board any ship actively engaged in
31 patrolling the territorial waters of that nation for a period, continuous
32 or in the aggregate, of at least 14 days commencing on or before
33 November 21, 1983 or the date of termination of that mission, as
34 proclaimed by the President of the United States or Congress,
35 whichever date of termination is the latest, in such active service;
36 provided, that any person receiving an actual service-incurred injury
37 or disability shall be classed as a veteran whether or not that person
38 has completed the 14 days' service as herein provided;

39 (16) Panama peacekeeping mission, on or after December 20, 1989
40 or the date of inception of that mission, as proclaimed by the President
41 of the United States or Congress, whichever date of inception is
42 earliest, who has served in Panama or on board any ship actively
43 engaged in patrolling the territorial waters of that nation for a period,
44 continuous or in the aggregate, of at least 14 days commencing on or
45 before January 31, 1990 or the date of termination of that mission, as
46 proclaimed by the President of the United States or Congress,

1 whichever date of termination is the latest, in such active service;
2 provided, that any person receiving an actual service-incurred injury
3 or disability shall be classed as a veteran whether or not that person
4 has completed the 14 days' service as herein provided;

5 (17) Operation "Desert Shield/Desert Storm" mission in the
6 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
7 the date of inception of that operation, as proclaimed by the President
8 of the United States, Congress or the Governor, whichever date of
9 inception is earliest, who has served in the Arabian peninsula or on
10 board any ship actively engaged in patrolling the Persian Gulf for a
11 period, continuous or in the aggregate, of at least 14 days commencing
12 on or before the date of termination of that mission, as proclaimed by
13 the President of the United States or Congress, whichever date of
14 termination is the latest, in such active service; provided, that any
15 person receiving an actual service-incurred injury or disability shall be
16 classed as a veteran whether or not that person has completed the 14
17 days' service as herein provided;

18 (18) Operation "Restore Hope" in Somalia, commencing on or
19 after December 5, 1992, or the date of inception of that operation as
20 proclaimed by the President of the United States or the Congress,
21 whichever date is earliest, and terminating on March 31, 1994, or the
22 date of termination as proclaimed by the President of the United States
23 or the Congress, whichever date is latest, who served for at least 14
24 days, continuously or in the aggregate, in Somalia or on board any
25 ship actively engaged in patrolling the territorial waters of that nation
26 during the specified period; provided that any person receiving an
27 actual service-incurred injury or disability shall be classed as a veteran
28 whether or not that person has completed the 14-day service as herein
29 provided;

30 (19) Operations "Joint Endeavor" and "Joint Guard" in the
31 Republic of Bosnia and Herzegovina, commencing on or after
32 November 20, 1995 or December 20, 1996, as the case may be, and
33 terminating on December 20, 1996 or on such date as the United
34 States Secretary of Defense may designate, as the case may be, who
35 served in direct support of one or both of the operations for at least 14
36 days, continuously or in the aggregate, and (1) was deployed in that
37 nation or in another area in the region, or (2) was on board a United
38 States naval vessel operating in the Adriatic Sea, or (3) operated in
39 airspace above the Republic of Bosnia and Herzegovina; provided that
40 any person receiving an actual service-incurred injury or disability shall
41 be classed as a veteran whether or not that person completed the
42 14-day service requirement.

43 "Veteran" also means any honorably discharged member of the
44 American Merchant Marine who served during World War II and is
45 declared by the United States Department of Defense to be eligible for
46 federal veterans' benefits.

1 q. ["Widow" means] (1) "Widow," for employees of the State,
2 means the woman to whom a member was married, or a domestic
3 partner as defined in section 3 of P.L. , c. (C.)(pending before the
4 Legislature as this bill), at least five years before the date of his death
5 and to whom he continued to be married or a domestic partner until
6 the date of his death and who was receiving at least 1/2 of her support
7 from the member in the 12-month period immediately preceding the
8 member's death or the accident which was the direct cause of the
9 member's death. The dependency of such a widow will be considered
10 terminated by the marriage of, or establishment of a domestic
11 partnership by, the widow subsequent to the member's death. In the
12 event of the payment of an accidental death benefit, the five-year
13 qualification shall be waived.

14 (2) Subject to the provisions of paragraph (3) of this subsection,
15 "widow," for employees of public employers other than the State,
16 means the woman to whom a member was married at least five years
17 before the date of his death and to whom he continued to be married
18 until the date of his death and who was receiving at least 1/2 of her
19 support from the member in the 12-month period immediately
20 preceding the member's death or the accident which was the direct
21 cause of the member's death. The dependency of such a widow shall
22 be considered terminated by the marriage of the widow subsequent to
23 the member's death. In the event of the payment of an accidental death
24 benefit, the five-year qualification shall be waived.

25 (3) A public employer other than the State may adopt a resolution
26 providing that the term "widow" as defined in paragraph (2) of this
27 subsection shall include domestic partners as provided in paragraph (1)
28 of this subsection.

29 r. "Compensation" means the base or contractual salary, for
30 services as an employee, which is in accordance with established salary
31 policies of the member's employer for all employees in the same
32 position but shall not include individual salary adjustments which are
33 granted primarily in anticipation of the member's retirement or
34 additional remuneration for performing temporary or extracurricular
35 duties beyond the regular workday or the regular work year. In cases
36 where salary includes maintenance, the retirement system shall fix the
37 value of that part of the salary not paid in money which shall be
38 considered under this act.

39 (cf: P.L.2001, c.128, s.2)

40

41 ¹[43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to
42 read as follows:

43 1. As used in this act:

44 (1) "Retirement system" or "system" shall mean the Police and
45 Firemen's Retirement System of New Jersey as defined in section 2 of
46 this act.

1 (2) (a) "Policeman" shall mean a permanent, full-time employee of
2 a law enforcement unit as defined in section 2 of P.L.1961, c.56
3 (C.52:17B-67) or the State, other than an officer or trooper of the
4 Division of State Police whose position is covered by the State Police
5 Retirement System, whose primary duties include the investigation,
6 apprehension or detention of persons suspected or convicted of
7 violating the criminal laws of the State and who:

8 (i) is authorized to carry a firearm while engaged in the actual
9 performance of his official duties;

10 (ii) has police powers;

11 (iii) is required to complete successfully the training requirements
12 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable
13 training requirements as determined by the board of trustees; and

14 (iv) is subject to the physical and mental fitness requirements
15 applicable to the position of municipal police officer established by an
16 agency authorized to establish these requirements on a Statewide
17 basis, or comparable physical and mental fitness requirements as
18 determined by the board of trustees.

19 The term shall also include an administrative or supervisory
20 employee of a law enforcement unit or the State whose duties include
21 general or direct supervision of employees engaged in investigation,
22 apprehension or detention activities or training responsibility for these
23 employees and a requirement for engagement in investigation,
24 apprehension or detention activities if necessary, and who is
25 authorized to carry a firearm while in the actual performance of his
26 official duties and has police powers.

27 (b) "Fireman" shall mean a permanent, full-time employee of a
28 firefighting unit whose primary duties include the control and
29 extinguishment of fires and who is subject to the training and physical
30 and mental fitness requirements applicable to the position of municipal
31 firefighter established by an agency authorized to establish these
32 requirements on a Statewide basis, or comparable training and physical
33 and mental fitness requirements as determined by the board of trustees.

34 The term shall also include an administrative or supervisory employee
35 of a firefighting unit whose duties include general or direct supervision
36 of employees engaged in fire control and extinguishment activities or
37 training responsibility for these employees and a requirement for
38 engagement in fire control and extinguishment activities if necessary.

39 As used in this paragraph, "firefighting unit" shall mean a municipal
40 fire department, a fire district, or an agency of a county or the State
41 which is responsible for control and extinguishment of fires.

42 (3) "Member" shall mean any policeman or fireman included in the
43 membership of the retirement system pursuant to this amendatory and
44 supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

45 (4) "Board of trustees" or "board" shall mean the board provided
46 for in section 13 of this act.

- 1 (5) "Medical board" shall mean the board of physicians provided
2 for in section 13 of this act.
- 3 (6) "Employer" shall mean the State of New Jersey, the county,
4 municipality or political subdivision thereof which pays the particular
5 policeman or fireman.
- 6 (7) "Service" shall mean service as a policeman or fireman paid for
7 by an employer.
- 8 (8) "Creditable service" shall mean service rendered for which
9 credit is allowed as provided under section 4 of this act.
- 10 (9) "Regular interest" shall mean interest as determined by the
11 State Treasurer, after consultation with the Directors of the Divisions
12 of Investment and Pensions, the board of trustees and the actuary. It
13 shall bear a reasonable relationship to the percentage rate of earnings
14 on investments based on the market value of assets but shall not
15 exceed the assumed percentage rate of increase applied to salaries plus
16 3%, provided however that the board of trustees shall not set the
17 average percentage rate of increase applied to salaries below 6%.
- 18 (10) "Aggregate contributions" shall mean the sum of all the
19 amounts, deducted from the compensation of a member or contributed
20 by him or on his behalf, standing to the credit of his individual account
21 in the annuity savings fund.
- 22 (11) "Annuity" shall mean payments for life derived from the
23 aggregate contributions of a member.
- 24 (12) "Pension" shall mean payments for life derived from
25 contributions by the employer.
- 26 (13) "Retirement allowance" shall mean the pension plus the
27 annuity.
- 28 (14) "Earnable compensation" shall mean the full rate of the salary
29 that would be payable to an employee if he worked the full normal
30 working time for his position. In cases where salary includes
31 maintenance, the retirement system shall fix the value of that part of
32 the salary not paid in money which shall be considered under this act.
- 33 (15) "Average final compensation" shall mean the average annual
34 salary upon which contributions are made for the three years of
35 creditable service immediately preceding his retirement or death, or it
36 shall mean the average annual salary for which contributions are made
37 during any three fiscal years of his or her membership providing the
38 largest possible benefit to the member or his beneficiary.
- 39 (16) "Retirement" shall mean the termination of the member's
40 active service with a retirement allowance granted and paid under the
41 provisions of this act.
- 42 (17) "Annuity reserve" shall mean the present value of all payments
43 to be made on account of any annuity or benefit in lieu of any annuity
44 computed upon the basis of such mortality tables recommended by the
45 actuary as shall be adopted by the board of trustees, and regular
46 interest.

1 (18) "Pension reserve" shall mean the present value of all payments
2 to be made on account of any pension or benefit in lieu of any pension
3 computed upon the basis of such mortality tables recommended by the
4 actuary as shall be adopted by the board of trustees, and regular
5 interest.

6 (19) "Actuarial equivalent" shall mean a benefit of equal value
7 when computed upon the basis of such mortality tables recommended
8 by the actuary as shall be adopted by the board of trustees, and regular
9 interest.

10 (20) "Beneficiary" shall mean any person receiving a retirement
11 allowance or other benefit as provided by this act.

12 (21) "Child" shall mean a deceased member's or retirant's
13 unmarried child (a) under the age of 18, or (b) 18 years of age or older
14 and enrolled in a secondary school, or (c) under the age of 24 and
15 enrolled in a degree program in an institution of higher education for
16 at least 12 credit hours in each semester, provided that the member
17 died in active service as a result of an accident met in the actual
18 performance of duty at some definite time and place, and the death
19 was not the result of the member's willful misconduct, or (d) of any
20 age who, at the time of the member's or retirant's death, is disabled
21 because of mental retardation or physical incapacity, is unable to do
22 any substantial, gainful work because of the impairment and his
23 impairment has lasted or can be expected to last for a continuous
24 period of not less than 12 months, as affirmed by the medical board.

25 (22) "Parent" shall mean the parent of a member who was receiving
26 at least one-half of his support from the member in the 12-month
27 period immediately preceding the member's death or the accident
28 which was the direct cause of the member's death. The dependency of
29 such a parent will be considered terminated by marriage of the parent
30 subsequent to the death of the member.

31 (23) **["Widower" shall mean]** (a) "Widower," for employees of
32 the State, means the man to whom a member or retirant was married,
33 or a domestic partner as defined in section 3 of P.L. , c. (C.)
34 (pending before the Legislature as this bill), on the date of her death
35 and who has not since remarried or established a domestic partnership.

36 (b) Subject to the provisions of paragraph (c) of this subsection,
37 "widower," for employees of public employers other than the State,
38 means the man to whom a member or retirant was married on the date
39 of her death and who has not remarried.

40 (c) A public employer other than the State may adopt a resolution
41 providing that the term "widower" as defined in paragraph (b) of this
42 subsection shall include domestic partners as provided in paragraph (a)
43 of this subsection.

44 (24) **["Widow" shall mean]** (a) "Widow," for employees of the
45 State, means the woman to whom a member or retirant was married,
46 or a domestic partner as defined in section 3 of P.L. , c. (C.)

1 (pending before the Legislature as this bill), on the date of his death
 2 and who has not since remarried or established a domestic partnership.

3 (b) Subject to the provisions of paragraph (c) of this subsection,
 4 "widow," for employees of public employers other than the State,
 5 means the woman to whom a member or retirant was married on the
 6 date of his death and who has not remarried.

7 (c) A public employer other than the State may adopt a resolution
 8 providing that the term "widow" as defined in paragraph (b) of this
 9 subsection shall include domestic partners as provided in paragraph (a)
 10 of this subsection.

11 (25) "Fiscal year" shall mean any year commencing with July 1, and
 12 ending with June 30, next following.

13 (26) "Compensation" shall mean the base salary, for services as a
 14 member as defined in this act, which is in accordance with established
 15 salary policies of the member's employer for all employees in the same
 16 position but shall not include individual salary adjustments which are
 17 granted primarily in anticipation of the member's retirement or
 18 additional remuneration for performing temporary duties beyond the
 19 regular workday.

20 (27) "Department" shall mean any police or fire department of a
 21 municipality or a fire department of a fire district located in a township
 22 or a county police or park police department or the appropriate
 23 department of the State or instrumentality thereof.

24 (28) "Final compensation" means the compensation received by the
 25 member in the last 12 months of creditable service preceding his
 26 retirement or death.

27 (29) (Deleted by amendment, P.L.1992, c.78).

28 (30) (Deleted by amendment, P.L.1992, c.78).

29 (31) (a) "Spouse," for employees of the State, means the husband
 30 or wife, or domestic partner as defined in section 3 of P.L. , c.
 31 (C.) (pending before the Legislature as this bill), of a member.

32 (b) Subject to the provisions of paragraph (c) of this subsection,
 33 "spouse," for employees of public employers other than the State,
 34 means the husband or wife of a member.

35 (c) A public employer other than the State may adopt a resolution
 36 providing that the term "spouse" as defined in paragraph (b) of this
 37 subsection shall include domestic partners as provided in paragraph (a)
 38 of this subsection.

39 (cf: P.L.1999, c.428, s.1)]¹

40

41 ¹43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read
 42 as follows:

43 1. As used in this act:

44 (1) "Retirement system" or "system" shall mean the Police and
 45 Firemen's Retirement System of New Jersey as defined in section 2 of
 46 this act.

1 (2) (a) "Policeman" shall mean a permanent, full-time employee of
2 a law enforcement unit as defined in section 2 of P.L.1961, c.56
3 (C.52:17B-67) or the State, other than an officer or trooper of the
4 Division of State Police whose position is covered by the State Police
5 Retirement System, whose primary duties include the investigation,
6 apprehension or detention of persons suspected or convicted of
7 violating the criminal laws of the State and who:

8 (i) is authorized to carry a firearm while engaged in the actual
9 performance of his official duties;

10 (ii) has police powers;

11 (iii) is required to complete successfully the training requirements
12 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable
13 training requirements as determined by the board of trustees; and

14 (iv) is subject to the physical and mental fitness requirements
15 applicable to the position of municipal police officer established by an
16 agency authorized to establish these requirements on a Statewide
17 basis, or comparable physical and mental fitness requirements as
18 determined by the board of trustees.

19 The term shall also include an administrative or supervisory
20 employee of a law enforcement unit or the State whose duties include
21 general or direct supervision of employees engaged in investigation,
22 apprehension or detention activities or training responsibility for these
23 employees and a requirement for engagement in investigation,
24 apprehension or detention activities if necessary, and who is
25 authorized to carry a firearm while in the actual performance of his
26 official duties and has police powers.

27 (b) "Fireman" shall mean a permanent, full-time employee of a
28 firefighting unit whose primary duties include the control and
29 extinguishment of fires and who is subject to the training and physical
30 and mental fitness requirements applicable to the position of municipal
31 firefighter established by an agency authorized to establish these
32 requirements on a Statewide basis, or comparable training and physical
33 and mental fitness requirements as determined by the board of trustees.

34 The term shall also include an administrative or supervisory employee
35 of a firefighting unit whose duties include general or direct supervision
36 of employees engaged in fire control and extinguishment activities or
37 training responsibility for these employees and a requirement for
38 engagement in fire control and extinguishment activities if necessary.

39 As used in this paragraph, "firefighting unit" shall mean a municipal
40 fire department, a fire district, or an agency of a county or the State
41 which is responsible for control and extinguishment of fires.

42 (3) "Member" shall mean any policeman or fireman included in the
43 membership of the retirement system pursuant to this amendatory and
44 supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

45 (4) "Board of trustees" or "board" shall mean the board provided
46 for in section 13 of this act.

- 1 (5) "Medical board" shall mean the board of physicians provided
2 for in section 13 of this act.
- 3 (6) "Employer" shall mean the State of New Jersey, the county,
4 municipality or political subdivision thereof which pays the particular
5 policeman or fireman.
- 6 (7) "Service" shall mean service as a policeman or fireman paid for
7 by an employer.
- 8 (8) "Creditable service" shall mean service rendered for which
9 credit is allowed as provided under section 4 of this act.
- 10 (9) "Regular interest" shall mean interest as determined by the
11 State Treasurer, after consultation with the Directors of the Divisions
12 of Investment and Pensions, the board of trustees and the actuary. It
13 shall bear a reasonable relationship to the percentage rate of earnings
14 on investments based on the market value of assets but shall not
15 exceed the assumed percentage rate of increase applied to salaries plus
16 3%, provided however that the board of trustees shall not set the
17 average percentage rate of increase applied to salaries below 6%.
- 18 (10) "Aggregate contributions" shall mean the sum of all the
19 amounts, deducted from the compensation of a member or contributed
20 by him or on his behalf, standing to the credit of his individual account
21 in the annuity savings fund.
- 22 (11) "Annuity" shall mean payments for life derived from the
23 aggregate contributions of a member.
- 24 (12) "Pension" shall mean payments for life derived from
25 contributions by the employer.
- 26 (13) "Retirement allowance" shall mean the pension plus the
27 annuity.
- 28 (14) "Earnable compensation" shall mean the full rate of the salary
29 that would be payable to an employee if he worked the full normal
30 working time for his position. In cases where salary includes
31 maintenance, the retirement system shall fix the value of that part of
32 the salary not paid in money which shall be considered under this act.
- 33 (15) "Average final compensation" shall mean the average annual
34 salary upon which contributions are made for the three years of
35 creditable service immediately preceding his retirement or death, or it
36 shall mean the average annual salary for which contributions are made
37 during any three fiscal years of his or her membership providing the
38 largest possible benefit to the member or his beneficiary.
- 39 (16) "Retirement" shall mean the termination of the member's
40 active service with a retirement allowance granted and paid under the
41 provisions of this act.
- 42 (17) "Annuity reserve" shall mean the present value of all payments
43 to be made on account of any annuity or benefit in lieu of any annuity
44 computed upon the basis of such mortality tables recommended by the
45 actuary as shall be adopted by the board of trustees, and regular
46 interest.

1 (18) "Pension reserve" shall mean the present value of all payments
2 to be made on account of any pension or benefit in lieu of any pension
3 computed upon the basis of such mortality tables recommended by the
4 actuary as shall be adopted by the board of trustees, and regular
5 interest.

6 (19) "Actuarial equivalent" shall mean a benefit of equal value
7 when computed upon the basis of such mortality tables recommended
8 by the actuary as shall be adopted by the board of trustees, and regular
9 interest.

10 (20) "Beneficiary" shall mean any person receiving a retirement
11 allowance or other benefit as provided by this act.

12 (21) "Child" shall mean a deceased member's or retirant's
13 unmarried child (a) under the age of 18, or (b) 18 years of age or older
14 and enrolled in a secondary school, or (c) under the age of 24 and
15 enrolled in a degree program in an institution of higher education for
16 at least 12 credit hours in each semester, provided that the member
17 died in active service as a result of an accident met in the actual
18 performance of duty at some definite time and place, and the death
19 was not the result of the member's willful misconduct, or (d) of any
20 age who, at the time of the member's or retirant's death, is disabled
21 because of mental retardation or physical incapacity, is unable to do
22 any substantial, gainful work because of the impairment and his
23 impairment has lasted or can be expected to last for a continuous
24 period of not less than 12 months, as affirmed by the medical board.

25 (22) "Parent" shall mean the parent of a member who was receiving
26 at least one-half of his support from the member in the 12-month
27 period immediately preceding the member's death or the accident
28 which was the direct cause of the member's death. The dependency of
29 such a parent will be considered terminated by marriage of the parent
30 subsequent to the death of the member.

31 (23) **["Widower" shall mean]** (a) "Widower," for employees of
32 the State, means the man to whom a member or retirant was married,
33 or a domestic partner as defined in section 3 of P.L. , c. (C.)
34 (pending before the Legislature as this bill), on the date of her death
35 and who has not since remarried or established a domestic partnership.
36 In the event of the payment of accidental death benefits, pursuant to
37 section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction
38 concerning remarriage or establishment of a domestic partnership shall
39 be waived.

40 (b) Subject to the provisions of paragraph (c) of this subsection,
41 "widower," for employees of public employers other than the State,
42 means the man to whom a member or retirant was married on the date
43 of her death and who has not remarried.

44 (c) A public employer other than the State may adopt a resolution
45 providing that the term "widower" as defined in paragraph (b) of this
46 subsection shall include domestic partners as provided in paragraph (a)

1 of this subsection.

2 (24) ["Widow" shall mean] (a) "Widow," for employees of the
3 State, means the woman to whom a member or retirant was married,
4 or a domestic partner as defined in section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), on the date of his death
6 and who has not since remarried or established a domestic partnership.
7 In the event of the payment of accidental death benefits, pursuant to
8 section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction
9 concerning remarriage or establishment of a domestic partnership shall
10 be waived.

11 (b) Subject to the provisions of paragraph (c) of this subsection,
12 "widow," for employees of public employers other than the State,
13 means the woman to whom a member or retirant was married on the
14 date of his death and who has not remarried.

15 (c) A public employer other than the State may adopt a resolution
16 providing that the term "widow" as defined in paragraph (b) of this
17 subsection shall include domestic partners as provided in paragraph (a)
18 of this subsection.

19 (25) "Fiscal year" shall mean any year commencing with July 1, and
20 ending with June 30, next following.

21 (26) "Compensation" shall mean the base salary, for services as a
22 member as defined in this act, which is in accordance with established
23 salary policies of the member's employer for all employees in the same
24 position but shall not include individual salary adjustments which are
25 granted primarily in anticipation of the member's retirement or
26 additional remuneration for performing temporary duties beyond the
27 regular workday.

28 (27) "Department" shall mean any police or fire department of a
29 municipality or a fire department of a fire district located in a township
30 or a county police or park police department or the appropriate
31 department of the State or instrumentality thereof.

32 (28) "Final compensation" means the compensation received by the
33 member in the last 12 months of creditable service preceding his
34 retirement or death.

35 (29) (Deleted by amendment, P.L.1992, c.78).

36 (30) (Deleted by amendment, P.L.1992, c.78).

37 (31) (a) "Spouse," for employees of the State, means the husband
38 or wife, or domestic partner as defined in section 3 of P.L. , c.
39 (C.) (pending before the Legislature as this bill), of a member.

40 (b) Subject to the provisions of paragraph (c) of this subsection,
41 "spouse," for employees of public employers other than the State,
42 means the husband or wife of a member.

43 (c) A public employer other than the State may adopt a resolution
44 providing that the term "spouse" as defined in paragraph (b) of this
45 subsection shall include domestic partners as provided in paragraph (a)
46 of this subsection.¹

1 (cf: P.L.2003, c.181, s.1)

2

3 44. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read
4 as follows:

5 3. As used in this act:

6 a. "Accumulated deductions" means the sum of all amounts,
7 deducted from the compensation of a member or contributed by him
8 or on his behalf, standing to the credit of his individual account in the
9 annuity saving fund.

10 b. "Annuity" means payments for life derived from the accumulated
11 deductions of a member as provided in this amendatory and
12 supplementary act.

13 c. "Annuity reserve" means the present value of all payments to be
14 made on account of any annuity or benefit in lieu of an annuity
15 computed on the basis of such mortality tables recommended by the
16 actuary as the State House Commission adopts with regular interest.

17 d. "Beneficiary" means any person entitled to receive any benefit
18 pursuant to the provisions of this act by reason of the death of a
19 member or retirant.

20 e. "Child" means a deceased member's or retirant's unmarried child
21 who is either (a) under the age of 18; (b) of any age who, at the time
22 of the member's or retirant's death, is disabled because of mental
23 retardation or physical incapacity, is unable to do any substantial,
24 gainful work because of the impairment and his impairment has lasted
25 or can be expected to last for a continuous period of not less than 12
26 months, as affirmed by the medical board; or (c) under the age of 21
27 and is attending school full time.

28 f. "Compensation" means the base salary, for services as a member
29 as defined in this act, which is in accordance with established salary
30 policies of the State for all employees in the same position but shall
31 not include individual salary adjustments which are granted primarily
32 in anticipation of the member's retirement or additional remuneration
33 for performing temporary duties beyond the regular work schedule.

34 g. "Final salary" means the annual salary received by the member
35 at the time of his retirement or death.

36 h. "Fiscal year" means any year commencing with July 1 and ending
37 with June 30 next following.

38 i. "Medical board" means the board of physicians provided for in
39 section 29 of this act.

40 j. "Member" means the Chief Justice and associate justices of the
41 Supreme Court, judges of the Superior Court and tax court of the
42 State of New Jersey required to be enrolled in the retirement system
43 established by this act.

44 For purposes of this act, the person holding the office of standing
45 master by appointment pursuant to N.J.S.2A:1-7 shall have the same
46 privileges and obligations under this act as a judge of a Superior

1 Court.

2 k. "Parent" means the parent of a member who was receiving at
3 least one-half of his support from the member in the 12-month period
4 immediately preceding the member's death or the accident which was
5 the direct cause of the member's death. The dependency of such a
6 parent will be considered terminated by marriage of the parent
7 subsequent to the death of the member.

8 l. "Pension" means payment for life derived from contributions by
9 the State.

10 m. "Pension reserve" means the present value of all payments to be
11 made on account of any pension or benefit in lieu of a pension
12 computed on the basis of such mortality tables recommended by the
13 actuary as shall be adopted by the State House Commission with
14 regular interest.

15 n. "Regular interest" means interest as determined by the State
16 Treasurer, after consultation with the Directors of the Divisions of
17 Investment and Pensions, the State House Commission and the
18 actuary. It shall bear a reasonable relationship to the percentage rate
19 of earnings on investments based on the market value of assets but
20 shall not exceed the assumed percentage rate of increase applied to
21 salaries plus 3%, provided however that the commission shall not set
22 the average percentage rate of increase applied to salaries below 6%.

23 o. "Retirant" means any former member receiving a pension or
24 retirement allowance as provided by this act.

25 p. "Retirement allowance" means the pension plus the annuity.

26 q. "Retirement system" or "system" herein refers to the "Judicial
27 Retirement System of New Jersey," which is the corporate name of the
28 arrangement for the payment of pensions, retirement allowances and
29 other benefits under the provisions of this act including the several
30 funds placed under said system. By that name, all of its business shall
31 be transacted, its funds invested, warrants for money drawn, and
32 payments made and all of its cash and securities and other property
33 held.

34 r. "Service" means public service rendered for which credit is
35 allowed on the basis of contributions made by the State.

36 s. "Several courts" means the Supreme, Superior, and tax courts.

37 t. "Widow" means the woman to whom a member or a retirant was
38 married, or a domestic partner as defined in section 3 of P.L. , c.
39 (C.)(pending before the Legislature as this bill), at least four years
40 before the date of his death and to whom he continued to be married
41 or a domestic partner until the date of his death. The eligibility of such
42 a widow to receive a survivor's benefit will be considered terminated
43 by the marriage of, or establishment of a domestic partnership by, the
44 widow subsequent to the member's or the retirant's death. In the event
45 of accidental death the four-year qualification shall be waived. When
46 used in this act, the term "widow" shall mean and include "widower"

1 as may be necessary and appropriate to the particular situation.

2 u. "Widower" means the man to whom a member or a retirant was
3 married, or a domestic partner as defined in section 3 of P.L. , c.
4 (C.)(pending before the Legislature as this bill), at least four years
5 before the date of her death and to whom she continued to be married
6 or a domestic partner until the date of her death. The eligibility of such
7 a widower to receive a survivor's benefit will be considered terminated
8 by the marriage of, or establishment of a domestic partnership by, the
9 widower subsequent to the member's or retirant's death. In the event
10 of accidental death the four-year qualification shall be waived.

11 v. "Spouse" means the husband or wife, or domestic partner as
12 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
13 as this bill), of a member or retirant.

14 (cf: P.L.1992, c.125, s.4)

15

16 45. N.J.S.18A:66-2 is amended to read as follows:

17 18A:66-2. As used in this article:

18 a. "Accumulated deductions" means the sum of all the amounts,
19 deducted from the compensation of a member or contributed by or in
20 behalf of the member, including interest credited to January 1, 1956,
21 standing to the credit of the member's individual account in the annuity
22 savings fund.

23 b. "Annuity" means payments for life derived from the accumulated
24 deductions of a member as provided in this article.

25 c. "Beneficiary" means any person receiving a retirement allowance
26 or other benefit as provided in this article.

27 d. "Compensation" means the contractual salary, for services as a
28 teacher as defined in this article, which is in accordance with
29 established salary policies of the member's employer for all employees
30 in the same position but shall not include individual salary adjustments
31 which are granted primarily in anticipation of the member's retirement
32 or additional remuneration for performing temporary or extracurricular
33 duties beyond the regular school day or the regular school year.

34 e. "Employer" means the State, the board of education or any
35 educational institution or agency of or within the State by which a
36 teacher is paid.

37 f. "Final compensation" means the average annual compensation
38 for which contributions are made for the three years of creditable
39 service in New Jersey immediately preceding the member's retirement
40 or death, or it shall mean the average annual compensation for New
41 Jersey service for which contributions are made during any three fiscal
42 years of his or her membership providing the largest possible benefit
43 to the member or the member's beneficiary.

44 g. "Fiscal year" means any year commencing with July 1, and
45 ending with June 30, next following.

46 h. "Pension" means payments for life derived from appropriations

1 made by the State or employers to the Teachers' Pension and Annuity
2 Fund.

3 i. "Annuity reserve" means the present value of all payments to be
4 made on account of any annuity or benefit in lieu of an annuity,
5 granted under the provisions of this article, computed on the basis of
6 such mortality tables recommended by the actuary as the board of
7 trustees adopts, with regular interest.

8 j. "Pension reserve" means the present value of all payments to be
9 made on account of any pension or benefit in lieu of a pension granted
10 to a member from the Teachers' Pension and Annuity Fund, computed
11 on the basis of such mortality tables recommended by the actuary as
12 the board of trustees adopts, with regular interest.

13 k. "Present-entrant" means any member of the Teachers' Pension
14 and Annuity Fund who had established status as a "present-entrant
15 member" of said fund prior to January 1, 1956.

16 l. "Rate of contribution initially certified" means the rate of
17 contribution certified by the retirement system in accordance with
18 N.J.S.18A:66-29.

19 m. "Regular interest" shall mean interest as determined by the State
20 Treasurer, after consultation with the Directors of the Divisions of
21 Investment and Pensions, the board of trustees and the actuary. It
22 shall bear a reasonable relationship to the percentage rate of earnings
23 on investments based on the market value of assets but shall not
24 exceed the assumed percentage rate of increase applied to salaries plus
25 3%, provided however that the board of trustees shall not set the
26 average percentage rate of increase applied to salaries below 6%.

27 n. "Retirement allowance" means the pension plus the annuity.

28 o. "School service" means any service as a "teacher" as defined in
29 this section.

30 p. "Teacher" means any regular teacher, special teacher, helping
31 teacher, teacher clerk, principal, vice-principal, supervisor, supervising
32 principal, director, superintendent, city superintendent, assistant city
33 superintendent, county superintendent, State Commissioner or
34 Assistant Commissioner of Education, members of the State
35 Department of Education who are certificated, unclassified
36 professional staff and other members of the teaching or professional
37 staff of any class, public school, high school, normal school, model
38 school, training school, vocational school, truant reformatory school,
39 or parental school, and of any and all classes or schools within the
40 State conducted under the order and superintendence, and wholly or
41 partly at the expense of the State Board of Education, of a duly
42 elected or appointed board of education, board of school directors, or
43 board of trustees of the State or of any school district or normal
44 school district thereof, and any persons under contract or engagement
45 to perform one or more of these functions. It shall also mean any
46 person who serves, while on an approved leave of absence from

1 regular duties as a teacher, as an officer of a local, county or State
2 labor organization which represents, or is affiliated with an
3 organization which represents, teachers as defined in this subsection.
4 No person shall be deemed a teacher within the meaning of this article
5 who is a substitute teacher. In all cases of doubt the board of trustees
6 shall determine whether any person is a teacher as defined in this
7 article.

8 q. "Teachers' Pension and Annuity Fund," hereinafter referred to
9 as the "retirement system" or "system," is the corporate name of the
10 arrangement for the payment of retirement allowances and other
11 benefits under the provisions of this article, including the several funds
12 placed under said system. By that name all its business shall be
13 transacted, its funds invested, warrants for money drawn, and
14 payments made and all of its cash and securities and other property
15 held.

16 r. "Veteran" means any honorably discharged officer, soldier,
17 sailor, airman, marine or nurse who served in any Army, Air Force or
18 Navy of the Allies of the United States in World War I between July
19 14, 1914, and November 11, 1918, or who served in any Army, Air
20 Force or Navy of the Allies of the United States in World War II,
21 between September 1, 1939, and September 2, 1945, and who was
22 inducted into such service through voluntary enlistment, and was a
23 citizen of the United States at the time of such enlistment, and who did
24 not, during or by reason of such service, renounce or lose United
25 States citizenship, and any officer, soldier, sailor, marine, airman,
26 nurse or army field clerk who has served in the active military or naval
27 service of the United States and has or shall be discharged or released
28 therefrom under conditions other than dishonorable, in any of the
29 following wars, uprisings, insurrections, expeditions or emergencies,
30 and who has presented to the retirement system evidence of such
31 record of service in form and content satisfactory to said retirement
32 system:

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

36 (2) The Spanish-American War between April 20, 1898, and April
37 11, 1899;

38 (3) The Philippine insurrections and expeditions during the periods
39 recognized by the War Department of the United States as of active
40 hostility from February 4, 1899, to the end of 1913;

41 (4) The Peking relief expedition between June 20, 1900, and May
42 27, 1902;

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

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

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

3 (8) The Mexican border patrol, having actually participated in
4 engagements against Mexicans between April 12, 1911, and June 16,
5 1919;

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

7 (10) World War II, between September 16, 1940, and December
8 31, 1946, who shall have served at least 90 days in such active service,
9 exclusive of any period of assignment (1) for a course of education or
10 training under the Army Specialized Training Program or the Navy
11 College Training Program, which course was a continuation of a
12 civilian course and was pursued to completion, or (2) as a cadet or
13 midshipman at one of the service academies, any part of which 90 days
14 was served between said dates; provided that any person receiving an
15 actual service-incurred injury or disability shall be classed as a veteran,
16 whether or not that person has completed the 90-day service as herein
17 provided;

18 (11) Korean conflict on or after June 23, 1950, and on or prior to
19 January 31, 1955, who shall have served at least 90 days in such active
20 service, exclusive of any period of assignment (1) for a course of
21 education or training under the Army Specialized Training Program or
22 the Navy College Training Program, which course was a continuation
23 of a civilian course and was pursued to completion, or (2) as a cadet
24 or midshipman at one of the service academies, any part of which 90
25 days was served between said dates; provided that any person
26 receiving an actual service-incurred injury or disability shall be classed
27 as a veteran, whether or not that person has completed the 90-day
28 service as herein provided; and provided further that any member
29 classed as a veteran pursuant to this subsection prior to August 1,
30 1966, shall continue to be classed as a veteran, whether or not that
31 person completed the 90-day service between said dates as herein
32 provided;

33 (12) Lebanon crisis, on or after July 1, 1958, who has served in
34 Lebanon or on board any ship actively engaged in patrolling the
35 territorial waters of that nation for a period, continuous or in the
36 aggregate, of at least 14 days commencing on or before November 1,
37 1958 or the date of termination of that conflict, as proclaimed by the
38 President of the United States or Congress, whichever date of
39 termination is the latest, in such active service; provided, that any
40 person receiving an actual service-incurred injury or disability shall be
41 classed as a veteran whether or not that person has completed the 14
42 days' service as herein provided;

43 (13) Vietnam conflict, on or after December 31, 1960, and on or
44 prior to May 7, 1975, who shall have served at least 90 days in such
45 active service, exclusive of any period of assignment (1) for a course
46 of education or training under the Army Specialized Training Program

1 or the Navy College Training Program, which course was a
2 continuation of a civilian course and was pursued to completion, or (2)
3 as a cadet or midshipman at one of the service academies, any part of
4 which 90 days was served between said dates; and exclusive of any
5 service performed pursuant to the provisions of section 511(d) of Title
6 10, United States Code, pursuant to an enlistment in the Army
7 National Guard or as a reserve for service in the Army Reserve, Naval
8 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
9 Reserve; provided that any person receiving an actual service-incurred
10 injury or disability shall be classed as a veteran, whether or not that
11 person has completed the 90-day service as herein provided;

12 (14) Lebanon peacekeeping mission, on or after September 26,
13 1982, who has served in Lebanon or on board any ship actively
14 engaged in patrolling the territorial waters of that nation for a period,
15 continuous or in the aggregate, of at least 14 days commencing on or
16 before December 1, 1987 or the date of termination of that mission, as
17 proclaimed by the President of the United States or Congress,
18 whichever date of termination is the latest, in such active service;
19 provided, that any person receiving an actual service-incurred injury
20 or disability shall be classed as a veteran whether or not that person
21 has completed the 14 days' service as herein provided;

22 (15) Grenada peacekeeping mission, on or after October 23, 1983,
23 who has served in Grenada or on board any ship actively engaged in
24 patrolling the territorial waters of that nation for a period, continuous
25 or in the aggregate, of at least 14 days commencing on or before
26 November 21, 1983 or the date of termination of that mission, as
27 proclaimed by the President of the United States or Congress,
28 whichever date of termination is the latest, in such active service;
29 provided, that any person receiving an actual service-incurred injury
30 or disability shall be classed as a veteran whether or not that person
31 has completed the 14 days' service as herein provided;

32 (16) Panama peacekeeping mission, on or after December 20, 1989
33 or the date of inception of that mission, as proclaimed by the President
34 of the United States or Congress, whichever date of inception is
35 earliest, who has served in Panama or on board any ship actively
36 engaged in patrolling the territorial waters of that nation for a period,
37 continuous or in the aggregate, of at least 14 days commencing on or
38 before January 31, 1990 or the date of termination of that mission, as
39 proclaimed by the President of the United States or Congress,
40 whichever date of termination is the latest, in such active service;
41 provided, that any person receiving an actual service-incurred injury
42 or disability shall be classed as a veteran whether or not that person
43 has completed the 14 days' service as herein provided;

44 (17) Operation "Desert Shield/Desert Storm" mission in the
45 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
46 the date of inception of that operation, as proclaimed by the President

1 of the United States or Congress, whichever date of inception is
2 earliest, who has served in the Arabian peninsula or on board any ship
3 actively engaged in patrolling the Persian Gulf for a period, continuous
4 or in the aggregate, of at least 14 days commencing on or before the
5 date of termination of that mission, as proclaimed by the President of
6 the United States or Congress, whichever date of termination is the
7 latest, in such active service; provided, that any person receiving an
8 actual service-incurred injury or disability shall be classed as a veteran
9 whether or not that person has completed the 14 days' service as
10 herein provided;

11 (18) Operation "Restore Hope" in Somalia, commencing on or
12 after December 5, 1992, or the date of inception of that operation as
13 proclaimed by the President of the United States or the Congress,
14 whichever date is earliest, and terminating on March 31, 1994, or the
15 date of termination as proclaimed by the President of the United States
16 or the Congress, whichever date is latest, who served for at least 14
17 days, continuously or in the aggregate, in Somalia or on board any
18 ship actively engaged in patrolling the territorial waters of that nation
19 during the specified period; provided that any person receiving an
20 actual service-incurred injury or disability shall be classed as a veteran
21 whether or not that person has completed the 14-day service as herein
22 provided;

23 (19) Operations "Joint Endeavor" and "Joint Guard" in the
24 Republic of Bosnia and Herzegovina, commencing on or after
25 November 20, 1995 or December 20, 1996, as the case may be, and
26 terminating on December 20, 1996 or on such date as the United
27 States Secretary of Defense may designate, as the case may be, who
28 served in direct support of one or both of the operations for at least 14
29 days, continuously or in the aggregate, and (1) was deployed in that
30 nation or in another area in the region, or (2) was on board a United
31 States naval vessel operating in the Adriatic Sea, or (3) operated in
32 airspace above the Republic of Bosnia and Herzegovina; provided that
33 any person receiving an actual service-incurred injury or disability shall
34 be classed as a veteran whether or not that person completed the
35 14-day service requirement.

36 "Veteran" also means any honorably discharged member of the
37 American Merchant Marine who served during World War II and is
38 declared by the United States Department of Defense to be eligible for
39 federal veterans' benefits.

40 s. "Child" means a deceased member's unmarried child either (a)
41 under the age of 18 or (b) of any age who, at the time of the member's
42 death, is disabled because of mental retardation or physical incapacity,
43 is unable to do any substantial, gainful work because of the impairment
44 and the impairment has lasted or can be expected to last for a
45 continuous period of not less than 12 months, as affirmed by the
46 medical board.

1 t. ["Widower" means] (1) "Widower," for employees of the State,
2 means the man to whom a member was married, or a domestic partner
3 as defined in section 3 of P.L. , c. (C.)(pending before the
4 Legislature as this bill), at least five years before the date of her death
5 and to whom she continued to be married or a domestic partner until
6 the date of her death and who was receiving at least one-half of his
7 support from the member in the 12-month period immediately
8 preceding the member's death or the accident which was the direct
9 cause of the member's death. The dependency of such a widower will
10 be considered terminated by marriage of, or establishment of a
11 domestic partnership by, the widower subsequent to the death of the
12 member. In the event of the payment of an accidental death benefit,
13 the five-year qualification shall be waived.

14 (2) Subject to the provisions of paragraph (3) of this subsection,
15 "widower," for employees of public employers other than the State,
16 means the man to whom a member was married at least five years
17 before the date of her death and to whom she continued to be married
18 until the date of her death and who was receiving at least one-half of
19 his support from the member in the 12-month period immediately
20 preceding the member's death or the accident which was the direct
21 cause of the member's death. The dependency of such a widower shall
22 be considered terminated by marriage of the widower subsequent to
23 the death of the member. In the event of the payment of an accidental
24 death benefit, the five-year qualification shall be waived.

25 (3) A public employer other than the State may adopt a resolution
26 providing that the term "widower" as defined in paragraph (2) of this
27 subsection shall include domestic partners as provided in paragraph (1)
28 of this subsection.

29 u. ["Widow" means] (1) "Widow," for employees of the State,
30 means the woman to whom a member was married, or a domestic
31 partner as defined in section 3 of P.L. , c. (C.)(pending before the
32 Legislature as this bill), at least five years before the date of his death
33 and to whom he continued to be married or a domestic partner until
34 the date of his death and who was receiving at least one-half of her
35 support from the member in the 12-month period immediately
36 preceding the member's death or the accident which was the direct
37 cause of the member's death. The dependency of such a widow will be
38 considered terminated by the marriage of, or establishment of a
39 domestic partnership by, the widow subsequent to the member's death.
40 In the event of the payment of an accidental death benefit, the
41 five-year qualification shall be waived.

42 (2) Subject to the provisions of paragraph (3) of this subsection,
43 "widow," for employees of public employers other than the State,
44 means the woman to whom a member was married at least five years
45 before the date of his death and to whom he continued to be married
46 until the date of his death and who was receiving at least one-half of

1 her support from the member in the 12-month period immediately
2 preceding the member's death or the accident which was the direct
3 cause of the member's death. The dependency of such a widow shall
4 be considered terminated by the marriage of the widow subsequent to
5 the member's death. In the event of the payment of an accidental death
6 benefit, the five-year qualification shall be waived.

7 (3) A public employer other than the State may adopt a resolution
8 providing that the term "widower" as defined in paragraph (2) of this
9 subsection shall include domestic partners as provided in paragraph (1)
10 of this subsection.

11 v. "Parent" means the parent of a member who was receiving at
12 least one-half of the parent's support from the member in the 12-month
13 period immediately preceding the member's death or the accident
14 which was the direct cause of the member's death. The dependency of
15 such a parent will be considered terminated by marriage of the parent
16 subsequent to the death of the member.

17 w. "Medical board" means the board of physicians provided for in
18 N.J.S.18A:66-56.

19 x. (1) "Spouse," for employees of the State, means the husband or
20 wife, or domestic partner as defined in section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), of a member.

22 (2) Subject to the provisions of paragraph (1) of this subsection,
23 "spouse," for employees of public employers other than the State,
24 means the husband or wife of a member.

25 (3) A public employer other than the State may adopt a resolution
26 providing that the term "spouse" as defined in paragraph (2) of this
27 subsection shall include domestic partners as provided in paragraph (1)
28 of this subsection.

29 (cf: P.L.2001, c.128, s.1)

30
31 ¹[46. Section 3 of P.L.1989, c.65 (C.53:5A-3) is amended to read
32 as follows:

33 3. As used in this act:

34 a. "Aggregate contributions" means the sum of all the amounts,
35 deducted from the salary of a member or contributed by him or on his
36 behalf, standing to the credit of his individual account in the Annuity
37 Savings Fund. Interest credited on contributions to the former "State
38 Police Retirement and Benevolent Fund" shall be included in a
39 member's aggregate contributions.

40 b. "Annuity" means payments for life derived from the aggregate
41 contributions of a member.

42 c. "Annuity reserve" means the present value of all payments to be
43 made on account of any annuity or benefit in lieu of an annuity,
44 computed upon the basis of such mortality tables recommended by the
45 actuary as the board of trustees adopts and regular interest.

46 d. "Beneficiary" means any person entitled to receive any benefit

- 1 pursuant to the provisions of this act by reason of the death of a
2 member or retirant.
- 3 e. "Board of trustees" or "board" means the board provided for in
4 section 30 of this act.
- 5 f. "Child" means a deceased member's or retirant's unmarried child
6 either (a) under the age of 18 or (b) of any age who, at the time of the
7 member's or retirant's death, is disabled because of mental retardation
8 or physical incapacity, is unable to do any substantial, gainful work
9 because of the impairment and his impairment has lasted or can be
10 expected to last for a continuous period of not less than 12 months, as
11 affirmed by the medical board.
- 12 g. "Creditable service" means service rendered for which credit is
13 allowed on the basis of contributions made by the member or the
14 State.
- 15 h. "Parent" means the parent of a member who was receiving at
16 least one-half of his support from the member in the 12-month period
17 immediately preceding the member's death or the accident which was
18 the direct cause of the member's death. The dependency of such a
19 parent will be considered terminated by marriage of the parent
20 subsequent to the death of the member.
- 21 i. "Final compensation" means the average compensation received
22 by the member in the last 12 months of creditable service preceding his
23 retirement or death. Such term includes the value of the member's
24 maintenance allowance for this same period.
- 25 j. "Final salary" means the average salary received by the member
26 in the last 12 months of creditable service preceding his retirement or
27 death. Such term shall not include the value of the member's
28 maintenance allowance.
- 29 k. "Fiscal year" means any year commencing with July 1 and ending
30 with June 30 next following.
- 31 l. "Medical board" means the board of physicians provided for in
32 section 30 of this act.
- 33 m. "Member" means any full-time, commissioned officer,
34 non-commissioned officer or trooper of the Division of State Police of
35 the Department of Law and Public Safety of the State of New Jersey
36 enrolled in the retirement system established by this act.
- 37 n. "Pension" means payment for life derived from contributions by
38 the State.
- 39 o. "Pension reserve" means the present value of all payments to be
40 made on account of any pension or benefit in lieu of any pension
41 computed on the basis of such mortality tables recommended by the
42 actuary as shall be adopted by the board of trustees and regular
43 interest.
- 44 p. "Regular interest" means interest as determined by the State
45 Treasurer, after consultation with the Directors of the Divisions of
46 Investment and Pensions, the board of trustees and the actuary. It

1 shall bear a reasonable relationship to the percentage rate of earnings
2 on investments based on the market value of the assets but shall not
3 exceed the assumed percentage rate of increase applied to salaries plus
4 3%, provided however that the board of trustees shall not set the
5 average percentage rate of increase applied to salaries below 6%.

6 q. "Retirant" means any former member receiving a retirement
7 allowance as provided by this act.

8 r. "Retirement allowance" means the pension plus the annuity.

9 s. "State Police Retirement System of New Jersey," herein also
10 referred to as the "retirement system" or "system," is the corporate
11 name of the arrangement for the payment of retirement allowances and
12 of the benefits under the provisions of this act including the several
13 funds placed under said system. By that name, all of its business shall
14 be transacted, its funds invested, warrants for moneys drawn, and
15 payments made and all of its cash and securities and other property
16 held. All assets held in the name of the former "State Police
17 Retirement and Benevolent Fund" shall be transferred to the retirement
18 system established by this act.

19 t. "Surviving spouse" means the person to whom a member or a
20 retirant was married, or a domestic partner as defined in section 3 of
21 P.L. , c. (C.)(pending before the Legislature as this bill), on the date
22 of the death of the member or retirant. The dependency of such a
23 surviving spouse will be considered terminated by the marriage of, or
24 establishment of a domestic partnership by, the surviving spouse
25 subsequent to the member's or the retirant's death.

26 u. "Compensation" for purposes of computing pension contributions
27 means the base salary, for services as a member as defined in this act,
28 which is in accordance with established salary policies of the State for
29 all employees in the same position but shall not include individual
30 salary adjustments which are granted primarily in anticipation of the
31 member's retirement or additional remuneration for performing
32 temporary duties beyond the regular workday or shift.

33 (cf: P.L.1992, c.125, s.16)]¹

34

35 ¹46. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read
36 as follows:

37 3. As used in this act:

38 a. "Aggregate contributions" means the sum of all the amounts,
39 deducted from the salary of a member or contributed by him or on his
40 behalf, standing to the credit of his individual account in the Annuity
41 Savings Fund. Interest credited on contributions to the former "State
42 Police Retirement and Benevolent Fund" shall be included in a
43 member's aggregate contributions.

44 b. "Annuity" means payments for life derived from the aggregate
45 contributions of a member.

46 c. "Annuity reserve" means the present value of all payments to be

1 made on account of any annuity or benefit in lieu of an annuity,
2 computed upon the basis of such mortality tables recommended by the
3 actuary as the board of trustees adopts and regular interest.

4 d. "Beneficiary" means any person entitled to receive any benefit
5 pursuant to the provisions of this act by reason of the death of a
6 member or retirant.

7 e. "Board of trustees" or "board" means the board provided for in
8 section 30 of this act.

9 f. "Child" means a deceased member's or retirant's unmarried child
10 either (a) under the age of 18 or (b) of any age who, at the time of the
11 member's or retirant's death, is disabled because of mental retardation
12 or physical incapacity, is unable to do any substantial, gainful work
13 because of the impairment and his impairment has lasted or can be
14 expected to last for a continuous period of not less than 12 months, as
15 affirmed by the medical board.

16 g. "Creditable service" means service rendered for which credit is
17 allowed on the basis of contributions made by the member or the
18 State.

19 h. "Parent" means the parent of a member who was receiving at
20 least one-half of his support from the member in the 12-month period
21 immediately preceding the member's death or the accident which was
22 the direct cause of the member's death. The dependency of such a
23 parent will be considered terminated by marriage of the parent
24 subsequent to the death of the member.

25 i. "Final compensation" means the average compensation received
26 by the member in the last 12 months of creditable service preceding his
27 retirement or death. Such term includes the value of the member's
28 maintenance allowance for this same period.

29 j. "Final salary" means the average salary received by the member
30 in the last 12 months of creditable service preceding his retirement or
31 death. Such term shall not include the value of the member's
32 maintenance allowance.

33 k. "Fiscal year" means any year commencing with July 1 and ending
34 with June 30 next following.

35 l. "Medical board" means the board of physicians provided for in
36 section 30 of this act.

37 m. "Member" means any full-time, commissioned officer,
38 non-commissioned officer or trooper of the Division of State Police of
39 the Department of Law and Public Safety of the State of New Jersey
40 enrolled in the retirement system established by this act.

41 n. "Pension" means payment for life derived from contributions by
42 the State.

43 o. "Pension reserve" means the present value of all payments to be
44 made on account of any pension or benefit in lieu of any pension
45 computed on the basis of such mortality tables recommended by the
46 actuary as shall be adopted by the board of trustees and regular

1 interest.

2 p. "Regular interest" means interest as determined by the State
3 Treasurer, after consultation with the Directors of the Divisions of
4 Investment and Pensions, the board of trustees and the actuary. It
5 shall bear a reasonable relationship to the percentage rate of earnings
6 on investments based on the market value of the assets but shall not
7 exceed the assumed percentage rate of increase applied to salaries plus
8 3%, provided however that the board of trustees shall not set the
9 average percentage rate of increase applied to salaries below 6%.

10 q. "Retirant" means any former member receiving a retirement
11 allowance as provided by this act.

12 r. "Retirement allowance" means the pension plus the annuity.

13 s. "State Police Retirement System of New Jersey," herein also
14 referred to as the "retirement system" or "system," is the corporate
15 name of the arrangement for the payment of retirement allowances and
16 of the benefits under the provisions of this act including the several
17 funds placed under said system. By that name, all of its business shall
18 be transacted, its funds invested, warrants for moneys drawn, and
19 payments made and all of its cash and securities and other property
20 held. All assets held in the name of the former "State Police
21 Retirement and Benevolent Fund" shall be transferred to the retirement
22 system established by this act.

23 t. "Surviving spouse" means the person to whom a member or a
24 retirant was married, or a domestic partner as defined in section 3 of
25 P.L. , c. (C.)(pending before the Legislature as this bill), on the date
26 of the death of the member or retirant. The dependency of such a
27 surviving spouse will be considered terminated by the marriage of, or
28 establishment of a domestic partnership by, the surviving spouse
29 subsequent to the member's or the retirant's death, except that in the
30 event of the payment of accidental death benefits, pursuant to section
31 14 of P.L.1965, c.89 (C.53:5A-14), the dependency of such a
32 surviving spouse or domestic partner will not be considered terminated
33 by the marriage of, or establishment of a domestic partnership by, the
34 surviving spouse subsequent to the member's death.

35 u. "Compensation" for purposes of computing pension
36 contributions means the base salary, for services as a member as
37 defined in this act, which is in accordance with established salary
38 policies of the State for all employees in the same position but shall
39 not include individual salary adjustments which are granted primarily
40 in anticipation of the member's retirement or additional remuneration
41 for performing temporary duties beyond the regular workday or shift.¹
42 (cf: P.L.2003, c.181, s.3)

43

44 47. (New section) A hospital service corporation that provides
45 hospital or medical expense benefits under a contract that is delivered,
46 issued, executed or renewed in this State or approved for issuance or

1 renewal in this State by the Commissioner of Banking and Insurance,
2 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
3 before the Legislature as this bill)¹, under which dependent coverage
4 is available, shall offer dependent coverage to a covered person for a
5 covered person's domestic partner. For the purposes of this section,
6 "domestic partner" means a domestic partner as defined in section 3 of
7 P.L. , c. (C.)(pending before the Legislature as this bill).

8 This section shall apply to those contracts in which the hospital
9 service corporation has reserved the right to change the premium.
10

11 48. (New section) A medical service corporation that provides
12 hospital or medical expense benefits under a contract that is delivered,
13 issued, executed or renewed in this State or approved for issuance or
14 renewal in this State by the Commissioner of Banking and Insurance,
15 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
16 before the Legislature as this bill)¹, under which dependent coverage
17 is available, shall offer dependent coverage to a covered person for a
18 covered person's domestic partner. For the purposes of this section,
19 "domestic partner" means a domestic partner as defined in section 3 of
20 P.L. , c. (C.)(pending before the Legislature as this bill).

21 This section shall apply to those contracts in which the medical
22 service corporation has reserved the right to change the premium.
23

24 49. (New section) A health service corporation that provides
25 hospital or medical expense benefits under a contract that is delivered,
26 issued, executed or renewed in this State or approved for issuance or
27 renewal in this State by the Commissioner of Banking and Insurance,
28 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
29 before the Legislature as this bill)¹, under which dependent coverage
30 is available, shall offer dependent coverage to a covered person for a
31 covered person's domestic partner. For the purposes of this section,
32 "domestic partner" means a domestic partner as defined in section 3 of
33 P.L. , c. (C.)(pending before the Legislature as this bill).

34 This section shall apply to those contracts in which the health
35 service corporation has reserved the right to change the premium.

1 50. (New section) An individual health insurer that provides
2 hospital or medical expense benefits under a policy that is delivered,
3 issued, executed or renewed in this State or approved for issuance or
4 renewal in this State by the Commissioner of Banking and Insurance,
5 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
6 before the Legislature as this bill)¹, under which dependent coverage
7 is available, shall offer dependent coverage to a covered person for a
8 covered person's domestic partner. For the purposes of this section,
9 "domestic partner" means a domestic partner as defined in section 3 of
10 P.L. , c. (C.)(pending before the Legislature as this bill).

11 This section shall apply to those policies in which the insurer has
12 reserved the right to change the premium.

13

14 51. (New section) A group health insurer that provides hospital or
15 medical expense benefits under a policy that is delivered, issued,
16 executed or renewed in this State or approved for issuance or renewal
17 in this State by the Commissioner of Banking and Insurance, on or
18 after the effective date of ¹[this act] P.L. , c. (C.)(pending before
19 the Legislature as this bill)¹, under which dependent coverage is
20 available, shall offer dependent coverage to a covered person for a
21 covered person's domestic partner. For the purposes of this section,
22 "domestic partner" means a domestic partner as defined in section 3 of
23 P.L. , c. (C.)(pending before the Legislature as this bill).

24 This section shall apply to those policies in which the insurer has
25 reserved the right to change the premium.

26

27 52. (New section) Every health maintenance organization contract
28 that is delivered, issued, executed or renewed in this State pursuant to
29 P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or
30 renewal in this State by the Commissioner of Banking and Insurance,
31 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
32 before the Legislature as this bill)¹, under which dependent coverage
33 is available, shall offer dependent coverage to an enrollee for an
34 enrollee's domestic partner. For the purposes of this section,
35 "domestic partner" means a domestic partner as defined in section 3 of
36 P.L. , c. (C.)(pending before the Legislature as this bill).

37 The provisions of this section shall apply to contracts in which the
38 health maintenance organization has reserved the right to change the
39 schedule of charges.

40

41 53. (New section) Every individual health benefits plan that
42 provides hospital or medical expense benefits and is delivered, issued,
43 executed or renewed in this State pursuant to P.L.1992, c.161
44 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this
45 State on or after the effective date of ¹[this act] P.L. , c. (C.)
46 (pending before the Legislature as this bill)¹, under which dependent

1 coverage is available, shall offer dependent coverage to a covered
2 person for a covered person's domestic partner. For the purposes of
3 this section, "domestic partner" means a domestic partner as defined
4 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
5 bill).

6 The provisions of this section shall apply to all policies or contracts
7 in which the carrier has reserved the right to change the premium.

8
9 54. (New section) Every small employer health benefits plan that
10 provides hospital or medical expense benefits and is delivered, issued,
11 executed or renewed in this State pursuant to P.L.1992, c.162
12 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this
13 State on or after the effective date of ¹[this act] P.L. , c. (C.)
14 (pending before the Legislature as this bill)¹, under which dependent
15 coverage is available, shall offer dependent coverage to a covered
16 person for a covered person's domestic partner. For the purposes of
17 this section, "domestic partner" means a domestic partner as defined
18 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
19 bill).

20 The provisions of this section shall apply to all policies or contracts
21 in which the carrier has reserved the right to change the premium.

22
23 55. (New section) Every dental service corporation contract that
24 is delivered, issued, executed or renewed in this State pursuant to
25 P.L.1968, c.305 (C.17:48C-1 et seq.) or approved for issuance or
26 renewal in this State by the Commissioner of Banking and Insurance,
27 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
28 before the Legislature as this bill)¹, under which dependent coverage
29 is available, shall offer dependent coverage to a covered person for a
30 covered person's domestic partner. For the purposes of this section,
31 "domestic partner" means a domestic partner as defined in section 3 of
32 P.L. , c. (C.)(pending before the Legislature as this bill).

33 This section shall apply to all contracts in which the dental service
34 corporation has reserved the right to change the premium.

35
36 56. (New section) Every dental plan organization contract that is
37 delivered, issued, executed or renewed in this State pursuant to
38 P.L.1979, c.478 (C.17:48D-1 et seq.) or approved for issuance or
39 renewal in this State by the Commissioner of Banking and Insurance,
40 on or after the effective date of ¹[this act] P.L. , c. (C.)(pending
41 before the Legislature as this bill)¹, under which dependent coverage
42 is available, shall offer dependent coverage to an enrollee for an
43 enrollee's domestic partner. For the purposes of this section,
44 "domestic partner" means a domestic partner as defined in section 3 of
45 P.L. , c. (C.)(pending before the Legislature as this bill).

46 This section shall apply to all contracts in which the dental plan

1 organization has reserved the right to change the premium.

2

3 57. (New section) ¹a.¹ An employer that provides a health benefits
4 plan as defined in section 2 of P.L.1997, c.192 (C.26:2S-2) to its
5 employees and their dependents in this State may require that an
6 employee contribute a portion or the full amount of the cost of
7 dependent coverage under the plan for the employee's domestic
8 partner as defined in section 3 of P.L. , c. (C.)(pending before the
9 Legislature as this bill).

10 ¹b. Nothing in P.L. , c. (C.)(pending before the Legislature as
11 this bill) shall be construed to require an employer to provide
12 dependent coverage for an employee's domestic partner.

13 c. Notwithstanding any other provisions of law to the contrary, the
14 provisions of subsections a. and b. of this section shall not be deemed
15 to be an unlawful discrimination under the "Law Against
16 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).¹

17

18 ²58. (New section). a. The provisions of sections 41 through 56,
19 inclusive, of P.L. , c. (pending before the Legislature as this bill)
20 shall only apply in the case of two persons who are of the same sex
21 and have established a domestic partnership pursuant to section 4 of
22 P.L. , c. (C.)(pending before the Legislature as this bill).

23 b. Notwithstanding any other provisions of law to the contrary, the
24 provisions of subsection a. of this section shall not be deemed to be an
25 unlawful discrimination under the "Law Against Discrimination,"
26 P.L.1945, c.169 (C.10:5-1 et seq.).²

27

28 ²[58.] 59.² a. The Commissioner of Health and Senior Services,
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
31 the purposes of sections 1 through 10 and 13 through 35 of this act.

32 b. The Commissioner of Banking and Insurance, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), shall adopt rules and regulations to effectuate the purposes of
35 sections 47 through 52, 55 and 56 of this act.

36 c. The New Jersey Individual Health Coverage Program Board,
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
39 the purposes of section 53 of this act.

40 d. The New Jersey Small Employer Health Benefits Program
41 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
43 effectuate the purposes of section 54 of this act.

44

45 ²[59.] 60.² This act shall take effect on the 180th day after
46 enactment, except that the Commissioners of Health and Senior

1 Services and Banking and Insurance may take such anticipatory
2 administrative action in advance as shall be necessary for the
3 implementation of the act; and the provisions of sections 47 through
4 56 shall apply to policies or contracts issued or renewed on or after
5 the effective date.

6

7

8

9

10 "Domestic Partnership Act"; establishes domestic partnerships.

ASSEMBLY, No. 3743

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 5, 2003

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblymen Green and Hackett

SYNOPSIS

"Family Equality Act"; establishes domestic partnerships.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT establishing the rights and responsibilities of domestic
2 partners, and revising parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the
8 "Family Equality Act."

9

10 2. (New section) The Legislature finds and declares that:

11 a. There are a significant number of individuals in this State who
12 choose to live together in important personal, emotional and economic
13 committed relationships with another individual;

14 b. These familial relationships, which are known as domestic
15 partnerships, assist the State by their establishment of a private
16 network of support for the financial, physical and emotional health of
17 their participants;

18 c. Because of the material and other support that these familial
19 relationships provide to their participants, the Legislature believes that
20 these mutually supportive relationships should be formally recognized
21 by statute, and that certain rights and benefits should be made
22 available to individuals participating in them;

23 d. The rights of domestic partners with regard to health and
24 pension benefits should be the same as spouses; and

25 e. Therefore, it is the public policy of this State to hereby establish
26 and define the rights and responsibilities of domestic partners.

27

28 3. (New section) As used in sections 1 through 9 of P.L. , c.
29 (C.)(pending before the Legislature as this bill) and in R.S.26:8-1 et
30 seq.:

31 "Affidavit of Domestic Partnership" means an affidavit that sets
32 forth each party's name and age, the parties' common mailing address,
33 and a statement that, at the time the affidavit is signed, both parties
34 meet the requirements of this act for entering into a domestic
35 partnership and wish to enter into a domestic partnership with each
36 other.

37 "Basic living expenses" means the cost of basic food and shelter,
38 and any other cost, including, but not limited to, the cost of health
39 care, if some or all of the cost is paid as a benefit because a person is
40 another person's domestic partner.

41 "Certificate of Domestic Partnership" means a certificate that
42 includes: the full names of the domestic partners, a statement that the
43 two individuals are members of a registered domestic partnership

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

Matter underlined thus is new matter.

1 recognized by the State of New Jersey, the date that the domestic
2 partnership was entered into, and a statement that the partners are
3 entitled to all the rights, privileges and responsibilities accorded to
4 domestic partners under the law. The certificate shall bear the seal of
5 the State of New Jersey.

6 "Commissioner" means the Commissioner of Health and Senior
7 Services.

8 "Domestic partner" or "partner" means a person who is in a
9 relationship that satisfies the definition of a domestic partnership as set
10 forth in this act.

11 "Have a common residence" means that two persons share the same
12 place to live in this State, or share the same place to live in another
13 jurisdiction when at least one of the persons is a member of a State-
14 administered retirement system, regardless of whether or not: the
15 legal right to possess the place is in both of their names; one or both
16 persons have additional places to live; or one person temporarily
17 leaves the shared place of residence to reside elsewhere, on either a
18 short-term or long-term basis, for reasons that include, but are not
19 limited to, medical care, incarceration, education, a sabbatical or
20 employment, but intends to return to the shared place of residence.

21 "Jointly responsible" means that each domestic partner agrees to
22 provide for the other partner's basic living expenses if the other partner
23 is unable to provide for himself.

24 "Notice of Rights and Obligations of Domestic Partners" means a
25 form that advises domestic partners, or persons seeking to become
26 domestic partners, of the procedural requirements for establishing,
27 maintaining, and terminating a domestic partnership, and includes
28 information about the rights and responsibilities of the partners.

29

30 4. (New section) a. Two persons who desire to become domestic
31 partners and meet the requirements of subsection b. of this section may
32 execute and file an Affidavit of Domestic Partnership with the local
33 registrar upon payment of a fee, in an amount to be determined by the
34 commissioner, which shall be deposited in the General Fund. Each
35 person shall receive a copy of the affidavit marked "filed."

36 b. A domestic partnership shall be established when all of the
37 following requirements are met:

38 (1) Both persons have a common residence;

39 (2) Both persons agree to be jointly responsible for each other's
40 basic living expenses during the domestic partnership;

41 (3) Neither person is married in a marriage recognized by New
42 Jersey law or a member of another domestic partnership;

43 (4) Both persons have chosen to share each other's lives in a
44 committed relationship of mutual caring;

45 (5) Both persons are at least 18 years of age;

46 (6) Both persons file jointly an Affidavit of Domestic Partnership;

1 and

2 (7) Neither person has been a partner in a domestic partnership that
3 was terminated less than 180 days prior to the filing of the current
4 Affidavit of Domestic Partnership, except that this prohibition shall not
5 apply if one of the partners died; and, in all cases in which a person
6 registered a prior domestic partnership, the domestic partnership shall
7 have been terminated in accordance with the provisions of section 10
8 of P.L. , c. (C.)(pending before the Legislature as this bill).

9 c. A person who executes an Affidavit of Domestic Partnership in
10 violation of the provisions of subsection b. of this section shall be
11 liable to a civil penalty in an amount not to exceed \$1,000. The
12 penalty shall be sued for and collected pursuant to the "Penalty
13 Enforcement Law of 1999" (C.2A:58-10 et seq.).

14

15 5. (New section) a. A former domestic partner who has given a
16 copy of the Certificate of Domestic Partnership to any third party to
17 qualify for any benefit or right and whose receipt of that benefit or
18 enjoyment of that right has not otherwise terminated, shall, upon
19 termination of the domestic partnership, give or send to the third
20 party, at the last known address of the third party, written notification
21 that the domestic partnership has been terminated. A third party that
22 suffers a loss as a result of failure by a domestic partner to provide
23 this notice shall be entitled to seek recovery from the partner who was
24 obligated to send the notice for any actual loss resulting thereby.

25 b. Failure to provide notice to a third party, as required pursuant
26 to this section, shall not delay or prevent the termination of the
27 domestic partnership.

28

29 6. (New section) a. The obligations that two people have to each
30 other as a result of creating a domestic partnership shall be limited to
31 the provisions of this act, and those provisions shall not diminish any
32 right granted under any other provision of law.

33 b. Upon the termination of a domestic partnership, the domestic
34 partners, from that time forward, shall incur none of the obligations to
35 each other as domestic partners that are created by this or any other
36 act.

37 c. A domestic partnership, civil union or reciprocal beneficiary
38 relationship entered into outside of this State, which is valid under the
39 laws of the jurisdiction under which the partnership was created, shall
40 be valid in this State.

41 d. Any health care or social services provider, employer, operator
42 of a place of public accommodation, property owner or administrator,
43 or other individual or entity may treat a person as a member of a
44 domestic partnership, notwithstanding the absence of an Affidavit of
45 Domestic Partnership filed pursuant to this act.

46 e. Domestic partners may modify the rights and obligations to each

1 other that are granted by this act in any valid contract between
2 themselves, except for the requirements for a domestic partnership as
3 set forth in section 4 of this act.

4 f. Two adults who have not filed an Affidavit of Domestic
5 Partnership shall be treated as domestic partners in an emergency
6 medical situation if both persons, or one of the persons in the event
7 that the other person is legally or medically incapacitated, advise the
8 emergency care provider that the two persons have met the other
9 requirements for establishing a domestic partnership as set forth in
10 section 4 of this act.

11 g. A domestic partner shall not be liable for the debts of the other
12 partner contracted before establishment of the domestic partnership,
13 or contracted by the other partner in his own name during the
14 domestic partnership. The partner who contracts for the debt in his
15 own name shall be liable to be sued separately in his own name, and
16 any property belonging to that partner shall be liable to satisfy that
17 debt in the same manner as if the partner had not entered into a
18 domestic partnership.

19

20 7. (New section) a. The commissioner shall cause to be prepared,
21 in such a manner as the commissioner determines appropriate:

22 (1) blank forms, in quadruplicate, of Affidavits of Domestic
23 Partnership and Certificates of Domestic Partnership corresponding to
24 the requirements of this act; and

25 (2) copies of the Notice of the Rights and Obligations of Domestic
26 Partners.

27 b. The commissioner shall ensure that these forms and notices,
28 along with such sections of the laws concerning domestic partnership
29 and explanations thereof as the commissioner may deem useful to
30 persons having duties to recognize domestic partners under those
31 laws, are printed and supplied to each local registrar, and made
32 available to the public upon request.

33

34 8. (New section) a. The local registrar shall:

35 (1) stamp each completed Affidavit of Domestic Partnership
36 received with the date of its receipt and the name of the registration
37 district in which it is filed; and

38 (2) immediately provide two copies of the stamped Affidavit of
39 Domestic Partnership to the person who files that document.

40 b. Upon the filing of an Affidavit of Domestic Partnership and
41 payment of the appropriate filing fee, the local registrar shall
42 immediately complete a Certificate of Domestic Partnership with the
43 domestic partners' relevant information and the date that the domestic
44 partnership was established. The local registrar shall then issue to the
45 domestic partners two copies of the certificate and two copies of the
46 Notice of the Rights and Obligations of Domestic Partners. Copies of

1 the Certificate of Domestic Partnership shall be prepared and recorded
2 in the local registrar's records and with the State registrar.

3 c. Each local registrar shall, on or before the 10th day of each
4 calendar month, or sooner if requested by the Department of Health
5 and Senior Services, transmit to the State registrar the original of all
6 the Affidavits of Domestic Partnership and Certificates of Domestic
7 Partnership received or prepared by the local registrar for the
8 preceding month.

9

10 9. (New section) The State registrar shall cause all Affidavits of
11 Domestic Partnership and Certificates of Domestic Partnership
12 received to be alphabetically indexed by the surname of one of the
13 partners, and shall establish a cross-referencing system to allow the
14 records to be identified by the surname of the second partner. The
15 State registrar shall also cause to be transcribed or otherwise recorded
16 from the certificates any of the vital facts appearing thereon as the
17 commissioner may deem necessary or useful.

18

19 10. (New section) The Superior Court shall have jurisdiction over
20 all proceedings relating to the termination of a domestic partnership
21 established pursuant to section 4 of P.L. , c. (C.)(pending before
22 the Legislature as this bill), including the division and distribution of
23 jointly held property. The termination shall follow the same
24 procedures, and the parties shall be subject to the same substantive
25 rights and obligations, as are involved in an action for divorce
26 pursuant to N.J.S.2A:34-1 et seq.

27

28 11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
29 follows:

30 5. As used in this act, unless a different meaning clearly appears
31 from the context:

32 a. "Person" includes one or more individuals, partnerships,
33 associations, organizations, labor organizations, corporations, legal
34 representatives, trustees, trustees in bankruptcy, receivers, and
35 fiduciaries.

36 b. "Employment agency" includes any person undertaking to
37 procure employees or opportunities for others to work.

38 c. "Labor organization" includes any organization which exists and
39 is constituted for the purpose, in whole or in part, of collective
40 bargaining, or of dealing with employers concerning grievances, terms
41 or conditions of employment, or of other mutual aid or protection in
42 connection with employment.

43 d. "Unlawful employment practice" and "unlawful discrimination"
44 include only those unlawful practices and acts specified in section 11
45 of this act.

46 e. "Employer" includes all persons as defined in subsection a. of

1 this section unless otherwise specifically exempt under another section
2 of this act, and includes the State, any political or civil subdivision
3 thereof, and all public officers, agencies, boards or bodies.

4 f. "Employee" does not include any individual employed in the
5 domestic service of any person.

6 g. "Liability for service in the Armed Forces of the United States"
7 means subject to being ordered as an individual or member of an
8 organized unit into active service in the Armed Forces of the United
9 States by reason of membership in the National Guard, naval militia or
10 a reserve component of the Armed Forces of the United States, or
11 subject to being inducted into such armed forces through a system of
12 national selective service.

13 h. "Division" means the "Division on Civil Rights" created by this
14 act.

15 i. "Attorney General" means the Attorney General of the State of
16 New Jersey or his representative or designee.

17 j. "Commission" means the Commission on Civil Rights created by
18 this act.

19 k. "Director" means the Director of the Division on Civil Rights.

20 l. "A place of public accommodation" shall include, but not be
21 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
22 camp, day camp, or resort camp, whether for entertainment of
23 transient guests or accommodation of those seeking health, recreation
24 or rest; any producer, manufacturer, wholesaler, distributor, retail
25 shop, store, establishment, or concession dealing with goods or
26 services of any kind; any restaurant, eating house, or place where food
27 is sold for consumption on the premises; any place maintained for the
28 sale of ice cream, ice and fruit preparations or their derivatives, soda
29 water or confections, or where any beverages of any kind are retailed
30 for consumption on the premises; any garage, any public conveyance
31 operated on land or water, or in the air, any stations and terminals
32 thereof; any bathhouse, boardwalk, or seashore accommodation; any
33 auditorium, meeting place, or hall; any theatre, motion-picture house,
34 music hall, roof garden, skating rink, swimming pool, amusement and
35 recreation park, fair, bowling alley, gymnasium, shooting gallery,
36 billiard and pool parlor, or other place of amusement; any comfort
37 station; any dispensary, clinic or hospital; any public library; any
38 kindergarten, primary and secondary school, trade or business school,
39 high school, academy, college and university, or any educational
40 institution under the supervision of the State Board of Education, or
41 the Commissioner of Education of the State of New Jersey. Nothing
42 herein contained shall be construed to include or to apply to any
43 institution, bona fide club, or place of accommodation, which is in its
44 nature distinctly private; nor shall anything herein contained apply to
45 any educational facility operated or maintained by a bona fide religious
46 or sectarian institution, and the right of a natural parent or one in loco

1 parentis to direct the education and upbringing of a child under his
2 control is hereby affirmed; nor shall anything herein contained be
3 construed to bar any private secondary or post secondary school from
4 using in good faith criteria other than race, creed, color, national
5 origin, ancestry or affectional or sexual orientation in the admission of
6 students.

7 m. "A publicly assisted housing accommodation" shall include all
8 housing built with public funds or public assistance pursuant to
9 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
10 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
11 and all housing financed in whole or in part by a loan, whether or not
12 secured by a mortgage, the repayment of which is guaranteed or
13 insured by the federal government or any agency thereof.

14 n. The term "real property" includes real estate, lands, tenements
15 and hereditaments, corporeal and incorporeal, and leaseholds,
16 provided, however, that, except as to publicly assisted housing
17 accommodations, the provisions of this act shall not apply to the
18 rental: (1) of a single apartment or flat in a two-family dwelling, the
19 other occupancy unit of which is occupied by the owner as a residence
20 or the household of the owner's family at the time of such rental; or (2)
21 of a room or rooms to another person or persons by the owner or
22 occupant of a one-family dwelling occupied by the owner or occupant
23 as a residence or the household of the owner's or occupant's family at
24 the time of such rental. Nothing herein contained shall be construed
25 to bar any religious or denominational institution or organization, or
26 any organization operated for charitable or educational purposes,
27 which is operated, supervised or controlled by or in connection with
28 a religious organization, in the sale, lease or rental of real property,
29 from limiting admission to or giving preference to persons of the same
30 religion or denomination or from making such selection as is
31 calculated by such organization to promote the religious principles for
32 which it is established or maintained. Nor does any provision under
33 this act regarding discrimination on the basis of familial status apply
34 with respect to housing for older persons.

35 o. "Real estate broker" includes a person, firm or corporation who,
36 for a fee, commission or other valuable consideration, or by reason of
37 promise or reasonable expectation thereof, lists for sale, sells,
38 exchanges, buys or rents, or offers or attempts to negotiate a sale,
39 exchange, purchase, or rental of real estate or an interest therein, or
40 collects or offers or attempts to collect rent for the use of real estate,
41 or solicits for prospective purchasers or assists or directs in the
42 procuring of prospects or the negotiation or closing of any transaction
43 which does or is contemplated to result in the sale, exchange, leasing,
44 renting or auctioning of any real estate, or negotiates, or offers or
45 attempts or agrees to negotiate a loan secured or to be secured by
46 mortgage or other encumbrance upon or transfer of any real estate for

1 others; or any person who, for pecuniary gain or expectation of
2 pecuniary gain conducts a public or private competitive sale of lands
3 or any interest in lands. In the sale of lots, the term "real estate
4 broker" shall also include any person, partnership, association or
5 corporation employed by or on behalf of the owner or owners of lots
6 or other parcels of real estate, at a stated salary, or upon a
7 commission, or upon a salary and commission or otherwise, to sell
8 such real estate, or any parts thereof, in lots or other parcels, and who
9 shall sell or exchange, or offer or attempt or agree to negotiate the
10 sale or exchange, of any such lot or parcel of real estate.

11 p. "Real estate salesperson" includes any person who, for
12 compensation, valuable consideration or commission, or other thing of
13 value, or by reason of a promise or reasonable expectation thereof, is
14 employed by and operates under the supervision of a licensed real
15 estate broker to sell or offer to sell, buy or offer to buy or negotiate
16 the purchase, sale or exchange of real estate, or offers or attempts to
17 negotiate a loan secured or to be secured by a mortgage or other
18 encumbrance upon or transfer of real estate, or to lease or rent, or
19 offer to lease or rent any real estate for others, or to collect rents for
20 the use of real estate, or to solicit for prospective purchasers or lessees
21 of real estate, or who is employed by a licensed real estate broker to
22 sell or offer to sell lots or other parcels of real estate, at a stated
23 salary, or upon a commission, or upon a salary and commission, or
24 otherwise to sell real estate, or any parts thereof, in lots or other
25 parcels.

26 q. "Handicapped" means suffering from physical disability,
27 infirmity, malformation or disfigurement which is caused by bodily
28 injury, birth defect or illness including epilepsy, and which shall
29 include, but not be limited to, any degree of paralysis, amputation, lack
30 of physical coordination, blindness or visual impediment, deafness or
31 hearing impediment, muteness or speech impediment or physical
32 reliance on a service or guide dog, wheelchair, or other remedial
33 appliance or device, or from any mental, psychological or
34 developmental disability resulting from anatomical, psychological,
35 physiological or neurological conditions which prevents the normal
36 exercise of any bodily or mental functions or is demonstrable,
37 medically or psychologically, by accepted clinical or laboratory
38 diagnostic techniques. Handicapped shall also mean suffering from
39 AIDS or HIV infection.

40 r. "Blind person" means any individual whose central visual acuity
41 does not exceed 20/200 in the better eye with correcting lens or whose
42 visual acuity is better than 20/200 if accompanied by a limit to the field
43 of vision in the better eye to such a degree that its widest diameter
44 subtends an angle of no greater than 20 degrees.

45 s. "Guide dog" means a dog used to assist deaf persons or which
46 is fitted with a special harness so as to be suitable as an aid to the

1 mobility of a blind person, and is used by a blind person who has
2 satisfactorily completed a specific course of training in the use of such
3 a dog, and has been trained by an organization generally recognized by
4 agencies involved in the rehabilitation of the blind or deaf as reputable
5 and competent to provide dogs with training of this type.

6 t. "Guide or service dog trainer" means any person who is
7 employed by an organization generally recognized by agencies
8 involved in the rehabilitation of the blind, handicapped or deaf as
9 reputable and competent to provide dogs with training, and who is
10 actually involved in the training process.

11 u. "Housing accommodation" means any publicly assisted housing
12 accommodation or any real property, or portion thereof, which is used
13 or occupied, or is intended, arranged, or designed to be used or
14 occupied, as the home, residence or sleeping place of one or more
15 persons, but shall not include any single family residence the occupants
16 of which rent, lease, or furnish for compensation not more than one
17 room therein.

18 v. "Public facility" means any place of public accommodation and
19 any street, highway, sidewalk, walkway, public building, and any other
20 place or structure to which the general public is regularly, normally or
21 customarily permitted or invited.

22 w. "Deaf person" means any person whose hearing is so severely
23 impaired that the person is unable to hear and understand normal
24 conversational speech through the unaided ear alone, and who must
25 depend primarily on a supportive device or visual communication such
26 as writing, lip reading, sign language, and gestures.

27 x. "Atypical hereditary cellular or blood trait" means sickle cell
28 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
29 fibrosis trait.

30 y. "Sickle cell trait" means the condition wherein the major natural
31 hemoglobin components present in the blood of the individual are
32 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
33 defined by standard chemical and physical analytic techniques,
34 including electrophoresis; and the proportion of hemoglobin A is
35 greater than the proportion of hemoglobin S or one natural parent of
36 the individual is shown to have only normal hemoglobin components
37 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
38 proportions by standard chemical and physical analytic tests.

39 z. "Hemoglobin C trait" means the condition wherein the major
40 natural hemoglobin components present in the blood of the individual
41 are hemoglobin A (normal) and hemoglobin C as defined by standard
42 chemical and physical analytic techniques, including electrophoresis;
43 and the proportion of hemoglobin A is greater than the proportion of
44 hemoglobin C or one natural parent of the individual is shown to have
45 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
46 hemoglobin F) in normal proportions by standard chemical and

- 1 physical analytic tests.
- 2 aa. "Thalassemia trait" means the presence of the thalassemia gene
3 which in combination with another similar gene results in the chronic
4 hereditary disease Cooley's anemia.
- 5 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
6 which in combination with another similar gene results in the chronic
7 hereditary disease Tay-Sachs.
- 8 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
9 gene which in combination with another similar gene results in the
10 chronic hereditary disease cystic fibrosis.
- 11 dd. "Service dog" means any dog individually trained to a
12 handicapped person's requirements including, but not limited to
13 minimal protection work, rescue work, pulling a wheelchair or
14 retrieving dropped items.
- 15 ee. "Qualified Medicaid applicant" means an individual who is a
16 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 17 ff. "AIDS" means acquired immune deficiency syndrome as defined
18 by the Centers for Disease Control of the United States Public Health
19 Service.
- 20 gg. "HIV infection" means infection with the human
21 immunodeficiency virus or any other related virus identified as a
22 probable causative agent of AIDS.
- 23 hh. "Affectional or sexual orientation" means male or female
24 heterosexuality, homosexuality or bisexuality by inclination, practice,
25 identity or expression, having a history thereof or being perceived,
26 presumed or identified by others as having such an orientation.
- 27 ii. "Heterosexuality" means affectional, emotional or physical
28 attraction or behavior which is primarily directed towards persons of
29 the other gender.
- 30 jj. "Homosexuality" means affectional, emotional or physical
31 attraction or behavior which is primarily directed towards persons of
32 the same gender.
- 33 kk. "Bisexuality" means affectional, emotional or physical
34 attraction or behavior which is directed towards persons of either
35 gender.
- 36 ll. "Familial status" means being the natural parent of a child, the
37 adoptive parent of a child, the foster parent of a child, having a "parent
38 and child relationship" with a child as defined by State law, or having
39 sole or joint legal or physical custody, care, guardianship, or visitation
40 with a child, or any person who is pregnant or is in the process of
41 securing legal custody of any individual who has not attained the age
42 of 18 years.
- 43 mm. "Housing for older persons" means housing:
- 44 (1) provided under any State or federal program that the Attorney
45 General determines is specifically designed and operated to assist
46 elderly persons (as defined in the State or federal program); or

1 (2) intended for, and solely occupied by persons 62 years of age or
2 older; or

3 (3) intended and operated for occupancy by at least one person 55
4 years of age or older per unit. In determining whether housing
5 qualifies as housing for older persons under this subsection, the
6 Attorney General shall adopt regulations which require at least the
7 following factors:

8 (a) the existence of significant facilities and services specifically
9 designed to meet the physical or social needs of older persons, or if the
10 provision of such facilities and services is not practicable, that such
11 housing is necessary to provide important housing opportunities for
12 older persons; and

13 (b) that at least 80 percent of the units are occupied by at least one
14 person 55 years of age or older per unit; and

15 (c) the publication of, and adherence to, policies and procedures
16 which demonstrate an intent by the owner or manager to provide
17 housing for persons 55 years of age or older.

18 Housing shall not fail to meet the requirements for housing for
19 older persons by reason of: persons residing in such housing as of
20 March 12, 1989 not meeting the age requirements of this subsection,
21 provided that new occupants of such housing meet the age
22 requirements of this subsection; or unoccupied units, provided that
23 such units are reserved for occupancy by persons who meet the age
24 requirements of this subsection.

25 nn. "Genetic characteristic" means any inherited gene or
26 chromosome, or alteration thereof, that is scientifically or medically
27 believed to predispose an individual to a disease, disorder or
28 syndrome, or to be associated with a statistically significant increased
29 risk of development of a disease, disorder or syndrome.

30 oo. "Genetic information" means the information about genes, gene
31 products or inherited characteristics that may derive from an individual
32 or family member.

33 pp. "Genetic test" means a test for determining the presence or
34 absence of an inherited genetic characteristic in an individual, including
35 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
36 chromosomes or proteins in order to identify a predisposing genetic
37 characteristic.

38 qq. "Domestic partnership" means a domestic partnership
39 established pursuant to section 4 of P.L. , c. (C.)(pending before
40 the Legislature as this bill).

41 (cf: P.L.1996, c.126, s.4)

42

43 12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read
44 as follows:

45 11. It shall be an unlawful employment practice, or, as the case
46 may be, an unlawful discrimination:

1 a. For an employer, because of the race, creed, color, national
2 origin, ancestry, age, marital status, domestic partnership status,
3 affectional or sexual orientation, genetic information, sex or atypical
4 hereditary cellular or blood trait of any individual, or because of the
5 liability for service in the Armed Forces of the United States or the
6 nationality of any individual, or because of the refusal to submit to a
7 genetic test or make available the results of a genetic test to an
8 employer, to refuse to hire or employ or to bar or to discharge or
9 require to retire, unless justified by lawful considerations other than
10 age, from employment such individual or to discriminate against such
11 individual in compensation or in terms, conditions or privileges of
12 employment; provided, however, it shall not be an unlawful
13 employment practice to refuse to accept for employment an applicant
14 who has received a notice of induction or orders to report for active
15 duty in the armed forces; provided further that nothing herein
16 contained shall be construed to bar an employer from refusing to
17 accept for employment any person on the basis of sex in those certain
18 circumstances where sex is a bona fide occupational qualification,
19 reasonably necessary to the normal operation of the particular business
20 or enterprise; provided further that nothing herein contained shall be
21 construed to bar an employer from refusing to accept for employment
22 or to promote any person over 70 years of age; provided further that
23 it shall not be an unlawful employment practice for a club exclusively
24 social or fraternal to use club membership as a uniform qualification
25 for employment, or for a religious association or organization to utilize
26 religious affiliation as a uniform qualification in the employment of
27 clergy, religious teachers or other employees engaged in the religious
28 activities of the association or organization, or in following the tenets
29 of its religion in establishing and utilizing criteria for employment of
30 an employee; provided further, that it shall not be an unlawful
31 employment practice to require the retirement of any employee who,
32 for the two-year period immediately before retirement, is employed in
33 a bona fide executive or a high policy-making position, if that
34 employee is entitled to an immediate non-forfeitable annual retirement
35 benefit from a pension, profit sharing, savings or deferred retirement
36 plan, or any combination of those plans, of the employer of that
37 employee which equals in the aggregate at least \$27,000.00; and
38 provided further that an employer may restrict employment to citizens
39 of the United States where such restriction is required by federal law
40 or is otherwise necessary to protect the national interest.

41 For the purposes of this subsection, a "bona fide executive" is a top
42 level employee who exercises substantial executive authority over a
43 significant number of employees and a large volume of business. A
44 "high policy-making position" is a position in which a person plays a
45 significant role in developing policy and in recommending the
46 implementation thereof.

1 b. For a labor organization, because of the race, creed, color,
2 national origin, ancestry, age, marital status, domestic partnership
3 status, affectional or sexual orientation or sex of any individual, or
4 because of the liability for service in the Armed Forces of the United
5 States or nationality of any individual, to exclude or to expel from its
6 membership such individual or to discriminate in any way against any
7 of its members, against any applicant for, or individual included in, any
8 apprentice or other training program or against any employer or any
9 individual employed by an employer; provided, however, that nothing
10 herein contained shall be construed to bar a labor organization from
11 excluding from its apprentice or other training programs any person on
12 the basis of sex in those certain circumstances where sex is a bona fide
13 occupational qualification reasonably necessary to the normal
14 operation of the particular apprentice or other training program.

15 c. For any employer or employment agency to print or circulate or
16 cause to be printed or circulated any statement, advertisement or
17 publication, or to use any form of application for employment, or to
18 make an inquiry in connection with prospective employment, which
19 expresses, directly or indirectly, any limitation, specification or
20 discrimination as to race, creed, color, national origin, ancestry, age,
21 marital status, domestic partnership status, affectional or sexual
22 orientation or sex or liability of any applicant for employment for
23 service in the Armed Forces of the United States, or any intent to
24 make any such limitation, specification or discrimination, unless based
25 upon a bona fide occupational qualification.

26 d. For any person to take reprisals against any person because that
27 person has opposed any practices or acts forbidden under this act or
28 because that person has filed a complaint, testified or assisted in any
29 proceeding under this act or to coerce, intimidate, threaten or interfere
30 with any person in the exercise or enjoyment of, or on account of that
31 person having aided or encouraged any other person in the exercise or
32 enjoyment of, any right granted or protected by this act.

33 e. For any person, whether an employer or an employee or not, to
34 aid, abet, incite, compel or coerce the doing of any of the acts
35 forbidden under this act, or to attempt to do so.

36 f. (1) For any owner, lessee, proprietor, manager, superintendent,
37 agent, or employee of any place of public accommodation directly or
38 indirectly to refuse, withhold from or deny to any person any of the
39 accommodations, advantages, facilities or privileges thereof, or to
40 discriminate against any person in the furnishing thereof, or directly or
41 indirectly to publish, circulate, issue, display, post or mail any written
42 or printed communication, notice, or advertisement to the effect that
43 any of the accommodations, advantages, facilities, or privileges of any
44 such place will be refused, withheld from, or denied to any person on
45 account of the race, creed, color, national origin, ancestry, marital
46 status, domestic partnership status, sex, affectional or sexual

1 orientation or nationality of such person, or that the patronage or
2 custom thereat of any person of any particular race, creed, color,
3 national origin, ancestry, marital status, domestic partnership status,
4 sex, affectional or sexual orientation or nationality is unwelcome,
5 objectionable or not acceptable, desired or solicited, and the
6 production of any such written or printed communication, notice or
7 advertisement, purporting to relate to any such place and to be made
8 by any owner, lessee, proprietor, superintendent or manager thereof,
9 shall be presumptive evidence in any action that the same was
10 authorized by such person; provided, however, that nothing contained
11 herein shall be construed to bar any place of public accommodation
12 which is in its nature reasonably restricted exclusively to individuals of
13 one sex, and which shall include but not be limited to any summer
14 camp, day camp, or resort camp, bathhouse, dressing room, swimming
15 pool, gymnasium, comfort station, dispensary, clinic or hospital, or
16 school or educational institution which is restricted exclusively to
17 individuals of one sex, from refusing, withholding from or denying to
18 any individual of the opposite sex any of the accommodations,
19 advantages, facilities or privileges thereof on the basis of sex; provided
20 further, that the foregoing limitation shall not apply to any restaurant
21 as defined in R.S.33:1-1 or place where alcoholic beverages are
22 served.

23 (2) Notwithstanding the definition of "public accommodation " as
24 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
25 for any owner, lessee, proprietor, manager, superintendent, agent, or
26 employee of any private club or association to directly or indirectly
27 refuse, withhold from or deny to any individual who has been accepted
28 as a club member and has contracted for or is otherwise entitled to full
29 club membership any of the accommodations, advantages, facilities or
30 privileges thereof, or to discriminate against any member in the
31 furnishing thereof on account of the race, creed, color, national origin,
32 ancestry, marital status, domestic partnership status, sex, affectional
33 or sexual orientation or nationality of such person.

34 In addition to the penalties otherwise provided for a violation of
35 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
36 subsection f. of this section is the holder of an alcoholic beverage
37 license issued under the provisions of R.S.33:1-12 for that private club
38 or association, the matter shall be referred to the Director of the
39 Division of Alcoholic Beverage Control who shall impose an
40 appropriate penalty in accordance with the procedures set forth in
41 R.S.33:1-31.

42 g. For the owner, lessee, sublessee, assignee or managing agent of,
43 or other person having the right of ownership or possession of or the
44 right to sell, rent, lease, assign, or sublease any real property or part
45 or portion thereof, or any agent or employee of any of these:

46 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise

1 to deny to or withhold from any person or group of persons any real
2 property or part or portion thereof because of the race, creed, color,
3 national origin, ancestry, marital status, domestic partnership status,
4 affectional or sexual orientation, familial status, nationality, or source
5 of lawful income used for rental or mortgage payments of such person
6 or group of persons;

7 (2) To discriminate against any person or group of persons because
8 of the race, creed, color, national origin, marital status, domestic
9 partnership status, sex, affectional or sexual orientation, familial
10 status, or source of lawful income used for rental or mortgage
11 payments of such person or group of persons in the terms, conditions
12 or privileges of the sale, rental or lease of any real property or part or
13 portion thereof or in the furnishing of facilities or services in
14 connection therewith;

15 (3) To print, publish, circulate, issue, display, post or mail, or
16 cause to be printed, published, circulated, issued, displayed, posted or
17 mailed any statement, advertisement, publication or sign, or to use any
18 form of application for the purchase, rental, lease, assignment or
19 sublease of any real property or part or portion thereof, or to make
20 any record or inquiry in connection with the prospective purchase,
21 rental, lease, assignment, or sublease of any real property, or part or
22 portion thereof which expresses, directly or indirectly, any limitation,
23 specification or discrimination as to race, creed, color, national origin,
24 ancestry, marital status, domestic partnership status, sex, affectional
25 or sexual orientation, familial status, nationality, or source of lawful
26 income used for rental or mortgage payments, or any intent to make
27 any such limitation, specification or discrimination, and the production
28 of any such statement, advertisement, publicity, sign, form of
29 application, record, or inquiry purporting to be made by any such
30 person shall be presumptive evidence in any action that the same was
31 authorized by such person; provided, however, that nothing contained
32 in this subsection shall be construed to bar any person from refusing
33 to sell, rent, lease, assign or sublease or from advertising or recording
34 a qualification as to sex for any room, apartment, flat in a dwelling or
35 residential facility which is planned exclusively for and occupied by
36 individuals of one sex to any individual of the exclusively opposite sex
37 on the basis of sex;

38 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
39 to deny to or withhold from any person or group of persons any real
40 property or part or portion thereof because of the source of any lawful
41 income received by the person or the source of any lawful rent
42 payment to be paid for the real property; or

43 (5) To refuse to rent or lease any real property to another person
44 because that person's family includes children under 18 years of age,
45 or to make an agreement, rental or lease of any real property which
46 provides that the agreement, rental or lease shall be rendered null and

1 void upon the birth of a child. This paragraph shall not apply to any
2 county, State or Federally financed or assisted housing project
3 constructed for occupancy by senior citizens or to any property
4 located in a retirement subdivision as defined in the "Retirement
5 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
6 seq.), to any housing for older persons or to any unit in a planned real
7 estate development that is age-restricted and subject to the provisions
8 of the "Planned Real Estate Development Full Disclosure Act,"
9 P.L.1977, c.419 (C.45:22A-21 et seq.).

10 h. For any person, including but not limited to, any real estate
11 broker, real estate salesperson, or employee or agent thereof:

12 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
13 sale, rental, lease, assignment, or sublease any real property or part or
14 portion thereof to any person or group of persons or to refuse to
15 negotiate for the sale, rental, lease, assignment, or sublease of any real
16 property or part or portion thereof to any person or group of persons
17 because of the race, creed, color, national origin, ancestry, marital
18 status, domestic partnership status, familial status, sex, affectional or
19 sexual orientation, nationality, or source of lawful income used for
20 rental or mortgage payments of such person or group of persons, or
21 to represent that any real property or portion thereof is not available
22 for inspection, sale, rental, lease, assignment, or sublease when in fact
23 it is so available, or otherwise to deny or withhold any real property
24 or any part or portion of facilities thereof to or from any person or
25 group of persons because of the race, creed, color, national origin,
26 ancestry, marital status, domestic partnership status, familial status,
27 sex, affectional or sexual orientation or nationality of such person or
28 group of persons;

29 (2) To discriminate against any person because of his race, creed,
30 color, national origin, ancestry, marital status, domestic partnership
31 status, familial status, sex, affectional or sexual orientation,
32 nationality, or source of lawful income used for rental or mortgage
33 payments in the terms, conditions or privileges of the sale, rental,
34 lease, assignment or sublease of any real property or part or portion
35 thereof or in the furnishing of facilities or services in connection
36 therewith;

37 (3) To print, publish, circulate, issue, display, post, or mail, or
38 cause to be printed, published, circulated, issued, displayed, posted or
39 mailed any statement, advertisement, publication or sign, or to use any
40 form of application for the purchase, rental, lease, assignment, or
41 sublease of any real property or part or portion thereof or to make any
42 record or inquiry in connection with the prospective purchase, rental,
43 lease, assignment, or sublease of any real property or part or portion
44 thereof which expresses, directly or indirectly, any limitation,
45 specification or discrimination as to race, creed, color, national origin,
46 ancestry, marital status, domestic partnership status, familial status,

1 sex, affectional or sexual orientation, nationality, or source of lawful
2 income used for rental or mortgage payments or any intent to make
3 any such limitation, specification or discrimination, and the production
4 of any such statement, advertisement, publicity, sign, form of
5 application, record, or inquiry purporting to be made by any such
6 person shall be presumptive evidence in any action that the same was
7 authorized by such person; provided, however, that nothing contained
8 in this subsection h., shall be construed to bar any person from
9 refusing to sell, rent, lease, assign or sublease or from advertising or
10 recording a qualification as to sex for any room, apartment, flat in a
11 dwelling or residential facility which is planned exclusively for and
12 occupied exclusively by individuals of one sex to any individual of the
13 opposite sex on the basis of sex;

14 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
15 to deny to or withhold from any person or group of persons any real
16 property or part or portion thereof because of the source of any lawful
17 income received by the person or the source of any lawful rent
18 payment to be paid for the real property; or

19 (5) To refuse to rent or lease any real property to another person
20 because that person's family includes children under 18 years of age,
21 or to make an agreement, rental or lease of any real property which
22 provides that the agreement, rental or lease shall be rendered null and
23 void upon the birth of a child. This paragraph shall not apply to any
24 county, State or Federally financed or assisted housing project
25 constructed for occupancy by senior citizens or to any property
26 located in a retirement subdivision as defined in the "Retirement
27 Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et
28 seq.), to housing for older persons or to any unit in a planned real
29 estate development that is age-restricted and subject to the provisions
30 of the "Planned Real Estate Development Full Disclosure Act,"
31 P.L.1977, c.419 (C.45:22A-21 et seq.).

32 i. For any person, bank, banking organization, mortgage company,
33 insurance company or other financial institution, lender or credit
34 institution to whom application is made for any loan or extension of
35 credit including but not limited to an application for financial
36 assistance for the purchase, acquisition, construction, rehabilitation,
37 repair or maintenance of any real property or part or portion thereof
38 or any agent or employee thereof:

39 (1) To discriminate against any person or group of persons because
40 of the race, creed, color, national origin, ancestry, marital status,
41 domestic partnership status, sex, affectional or sexual orientation or
42 nationality of such person or group of persons or of the prospective
43 occupants or tenants of such real property or part or portion thereof,
44 in the granting, withholding, extending, modifying or renewing, or in
45 the fixing of the rates, terms, conditions or provisions of any such
46 loan, extension of credit or financial assistance or in the extension of

1 services in connection therewith;

2 (2) To use any form of application for such loan, extension of
3 credit or financial assistance or to make record or inquiry in
4 connection with applications for any such loan, extension of credit or
5 financial assistance which expresses, directly or indirectly, any
6 limitation, specification or discrimination as to race, creed, color,
7 national origin, ancestry, marital status, domestic partnership status,
8 sex, affectional or sexual orientation or nationality or any intent to
9 make any such limitation, specification or discrimination; unless
10 otherwise required by law or regulation to retain or use such
11 information;

12 (3) To discriminate on the basis of familial status in any manner
13 described in paragraph (1) or (2) of this subsection with respect to any
14 real property;

15 (4) To discriminate against any person or group of persons because
16 of the source of any lawful income received by the person or the
17 source of any lawful rent payment to be paid for the real property; or

18 (5) To discriminate against any person or group of persons because
19 that person's family includes children under 18 years of age, or to
20 make an agreement or mortgage which provides that the agreement or
21 mortgage shall be rendered null and void upon the birth of a child. This
22 paragraph shall not apply to any county, State or Federally financed or
23 assisted housing project constructed for occupancy by senior citizens
24 or to any property located in a retirement subdivision as defined in the
25 "Retirement Community Full Disclosure Act," P.L.1969, c.215
26 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a
27 planned real estate development that is age-restricted and subject to
28 the provisions of the "Planned Real Estate Development Full
29 Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

30 j. For any person whose activities are included within the scope of
31 this act to refuse to post or display such notices concerning the rights
32 or responsibilities of persons affected by this act as the Attorney
33 General may by regulation require.

34 k. For any real estate broker, real estate salesperson or employee
35 or agent thereof or any other individual, corporation, partnership, or
36 organization, for the purpose of inducing a transaction for the sale or
37 rental of real property from which transaction such person or any of
38 its members may benefit financially, to represent that a change has
39 occurred or will or may occur in the composition with respect to race,
40 creed, color, national origin, ancestry, marital status, domestic
41 partnership status, familial status, sex, affectional or sexual
42 orientation, nationality, or source of lawful income used for rental or
43 mortgage payments of the owners or occupants in the block,
44 neighborhood or area in which the real property is located, and to
45 represent, directly or indirectly, that this change will or may result in
46 undesirable consequences in the block, neighborhood or area in which

1 the real property is located, including, but not limited to the lowering
2 of property values, an increase in criminal or anti-social behavior, or
3 a decline in the quality of schools or other facilities.

4 1. For any person to refuse to buy from, sell to, lease from or to,
5 license, contract with, or trade with, provide goods, services or
6 information to, or otherwise do business with any other person on the
7 basis of the race, creed, color, national origin, ancestry, age, sex,
8 affectional or sexual orientation, marital status, domestic partnership
9 status, liability for service in the Armed Forces of the United States,
10 nationality, or source of lawful income used for rental or mortgage
11 payments of such other person or of such other person's spouse,
12 partners, members, stockholders, directors, officers, managers,
13 superintendents, agents, employees, business associates, suppliers, or
14 customers. This subsection shall not prohibit refusals or other actions
15 (1) pertaining to employee-employer collective bargaining, labor
16 disputes, or unfair labor practices, or (2) made or taken in connection
17 with a protest of unlawful discrimination or unlawful employment
18 practices.

19 m. For any person to:

20 (1) Grant or accept any letter of credit or other document which
21 evidences the transfer of funds or credit, or enter into any contract for
22 the exchange of goods or services, where the letter of credit, contract,
23 or other document contains any provisions requiring any person to
24 discriminate against or to certify that he, she or it has not dealt with
25 any other person on the basis of the race, creed, color, national origin,
26 ancestry, age, sex, affectional or sexual orientation, marital status,
27 domestic partnership status, liability for service in the Armed Forces
28 of the United States, or nationality of such other person or of such
29 other person's spouse, partners, members, stockholders, directors,
30 officers, managers, superintendents, agents, employees, business
31 associates, suppliers, or customers.

32 (2) Refuse to grant or accept any letter of credit or other document
33 which evidences the transfer of funds or credit, or refuse to enter into
34 any contract for the exchange of goods or services, on the ground that
35 it does not contain such a discriminatory provision or certification.

36 The provisions of this subsection shall not apply to any letter of
37 credit, contract, or other document which contains any provision
38 pertaining to employee-employer collective bargaining, a labor dispute
39 or an unfair labor practice, or made in connection with the protest of
40 unlawful discrimination or an unlawful employment practice, if the
41 other provisions of such letter of credit, contract, or other document
42 do not otherwise violate the provisions of this subsection.

43 n. For any person to aid, abet, incite, compel, coerce, or induce the
44 doing of any act forbidden by subsections l. and m. of section 11 of
45 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.
46 Such prohibited conduct shall include, but not be limited to:

1 (1) Buying from, selling to, leasing from or to, licensing,
2 contracting with, trading with, providing goods, services, or
3 information to, or otherwise doing business with any person because
4 that person does, or agrees or attempts to do, any such act or any act
5 prohibited by this subsection n.; or

6 (2) Boycotting, commercially blacklisting or refusing to buy from,
7 sell to, lease from or to, license, contract with, provide goods, services
8 or information to, or otherwise do business with any person because
9 that person has not done or refuses to do any such act or any act
10 prohibited by this subsection n.; provided that this subsection n. shall
11 not prohibit refusals or other actions either pertaining to
12 employee-employer collective bargaining, labor disputes, or unfair
13 labor practices, or made or taken in connection with a protest of
14 unlawful discrimination or unlawful employment practices.

15 (cf: P.L.2002, c.82, s.3)

16
17 13. (New section) a. A health care facility licensed pursuant to
18 P.L.1971, c.136 (C.26:2H-1 et seq.) shall allow a patient's domestic
19 partner as defined in section 3 of P.L. , c. (C.)(pending before the
20 Legislature as this bill), the children of the patient's domestic partner,
21 and the domestic partner of the patient's parent or child to visit, unless
22 one of the following conditions is met:

23 (1) No visitors are allowed;

24 (2) The health care facility reasonably determines that the presence
25 of a particular visitor would endanger the health or safety of a patient,
26 a member of the staff of the facility, or another visitor to the facility,
27 or would significantly disrupt the operations of the facility; or

28 (3) The patient has indicated to health care facility staff that the
29 patient does not want the person to visit.

30 b. The provisions of subsection a. of this section shall not be
31 construed as prohibiting a health care facility from otherwise
32 establishing reasonable restrictions upon visitations, including
33 restrictions upon the hours of visitation and number of visitors.

34
35 14. R.S.26:8-1 is amended to read as follows:

36 26:8-1. As used in this chapter:

37 "Vital statistics" means statistics concerning [birth] births, deaths,
38 fetal deaths [and], marriages and domestic partnerships established
39 pursuant to P.L. , c. (C.)(pending before the Legislature as this
40 bill).

41 "Vital records" means the birth, death, fetal death [and], marriage
42 and domestic partnership records from which vital statistics are
43 produced.

44 "State registrar" means the State registrar of vital statistics; "Local
45 registrar" or "registrar" means the local registrar of vital statistics of
46 any district; and "registration district" or "district" means a registration

1 district as constituted by this article.

2 "Live birth" or "birth" means the complete expulsion or extraction
3 from its mother of a product of conception, irrespective of the
4 duration of pregnancy, which, after such separation, breathes or shows
5 any other evidence of life such as beating of the heart, pulsation of the
6 umbilical cord, or definite movement of voluntary muscles, whether or
7 not the umbilical cord has been cut or the placenta attached.

8 (cf: P.L.1965, c.78, s.32)

9

10 15. R.S.26:8-4 is amended to read as follows:

11 26:8-4. Upon demand of the State registrar in person, by mail, or
12 through the local registrar, every physician, midwife, informant,
13 funeral director, or other person having knowledge of the facts relative
14 to any birth, death, fetal death, [or] marriage or domestic partnership,
15 shall supply such information as he may possess, upon a form
16 provided by the State registrar or upon the original birth, death, fetal
17 death, [or] marriage or domestic partnership certificate.

18 (cf: P.L.1965, c.78, s.33)

19

20 16. R.S.26:8-17 is amended to read as follows:

21 26:8-17. The local registrar, immediately upon acceptance of the
22 appointment, shall appoint a deputy to assist in the normal, day-to-day
23 operation of the office and whose duty shall be to act in the registrar's
24 stead in case of absence, disability or death of the registrar. In case of
25 death of the local registrar the deputy shall act as local registrar until
26 a new local registrar has been appointed and qualified.

27 In addition to a deputy registrar, the local registrar may appoint one
28 or two alternate deputy registrars if the local registrar deems such an
29 appointment to be necessary for the office to function efficiently and
30 to provide quality service to the public. The deputy registrar and
31 alternate deputy registrar shall have the authority to receive birth
32 certificates and death certificates; to issue burial permits, and copies
33 of birth, death, [and] marriage and domestic partnership certificates;
34 to take the oath on marriage license applications; and to issue marriage
35 licenses and register domestic partnerships. The deputy registrar and
36 alternate deputy registrar shall receive instructions from and perform
37 their duties under the direct supervision of the registrar, who shall be
38 the final authority with the responsibility of fulfilling the duties of the
39 local registrar outlined in R.S.26:8-25. The deputy registrar and any
40 alternate deputy registrar shall serve at the pleasure of the local
41 registrar.

42 (cf: P.L.1995, c.87, s.1)

43

44 17. R.S.26:8-23 is amended to read as follows:

45 26:8-23. The [State department] Department of Health and Senior
46 Services shall have charge of the registration of births, deaths, fetal

1 deaths [and], marriages and domestic partnerships and shall procure
2 the prompt and accurate registration of the same in each registration
3 district and in the department. The department may promulgate any
4 rule or regulation which it deems necessary for the uniform and
5 thorough enforcement of this section.

6 The department may decline permission to examine any record
7 except in the presence of an officer or employee of the department.

8 (cf: P.L.1965, c.78, s.45)

9

10 18. R.S.26:8-24 is amended to read as follows:

11 R.S.26:8-24. The State registrar shall:

12 a. Have general supervision throughout the State of the registration
13 of vital records;

14 b. Have supervisory power over local registrars, deputy local
15 registrars, and subregistrars, in the enforcement of the law relative to
16 the disposal of dead bodies and the registration of vital records;

17 c. Prepare, print, and supply to all registrars, upon request
18 therefor, all blanks and forms used in registering the records required
19 by said law. No other blanks shall be used than those supplied or
20 approved by the State registrar;

21 d. Carefully examine the certificates received monthly from the
22 local registrars, and if any such are incomplete or unsatisfactory he
23 shall require such further information to be supplied as may be
24 necessary to make the record complete and satisfactory;

25 e. Arrange, bind, and permanently preserve the certificates of vital
26 records in a systematic manner;

27 f. Prepare and maintain a comprehensive and continuous index of
28 all vital records registered, the index to be arranged alphabetically;

29 1. In the case of deaths, by the name of the decedent;

30 2. In the case of births, by the name of child, if given, and if not,
31 then by the name of father or mother;

32 3. In the case of marriages, by the surname of the husband and also
33 by the maiden name of the wife;

34 4. In the case of domestic partnerships, by the surname of each of
35 the partners; and

36 g. Mark the birth certificate of a missing child when notified by the
37 Missing Persons Unit in the Department of Law and Public Safety
38 pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c).

39 (cf: P.L.1995, c.395, s.5)

40

41 19. R.S.26:8-25 is amended to read as follows:

42 26:8-25. The local registrar, under the supervision and direction of
43 the State registrar, shall:

44 a. Strictly and thoroughly enforce the law relative to the disposal
45 of dead bodies and the registration of vital records in his registration
46 district;

1 b. Supply blank forms of certificates to such persons as require
2 them;

3 c. Supply to every physician, midwife, and funeral director a copy
4 of the law relative to the registration of vital records and the disposal
5 of dead bodies, together with such rules and regulations as may be
6 prepared by the State registrar relative to their enforcement;

7 d. Sign his name and insert the date of filing on each certificate of
8 birth, marriage, domestic partnership and death;

9 e. Examine each certificate of birth, marriage, domestic partnership
10 or death when presented for record in order to ascertain whether or
11 not it has been made in accordance with law and the instructions of the
12 State registrar; and if [such certificate is] incomplete and
13 unsatisfactory, [he shall] have the same corrected;

14 f. At the expense of the municipality make a complete and accurate
15 copy of each birth, marriage, domestic partnership and death
16 certificate registered by him on a form or in a manner prescribed by the
17 State registrar, to be preserved in his office as the local record;

18 g. On the tenth day of each month or sooner if requested by the
19 department, transmit to the State registrar all original birth, marriage,
20 domestic partnership and death certificates received by him for the
21 preceding month. If no births, marriages, domestic partnerships or
22 deaths occurred in any month, he shall, on or before the tenth day of
23 the following month, report that fact to the State registrar on a card
24 provided for such purpose;

25 h. Make an immediate report to the State registrar of any violation
26 of [this chapter or chapter 6 of this Title (R.S.26:6-1 et seq.), as well
27 as chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq.,
28 R.S.26:8-1 et seq., or R.S.37:1-1 et seq. coming to his knowledge;

29 i. In the case of any birth in his registration district to parents who
30 are residents of another registration district or of the marriage in his
31 registration district of any couple who obtained the marriage license
32 in another registration district, or of the death in his registration
33 district of any person who at the time of such death was a resident of
34 another registration district notify the registrar of the other registration
35 district, within five days of such birth, marriage, or death, on forms
36 prescribed by the State registrar. All entries relating to cause of death
37 on the original certificate must be entered on the death form sent to
38 the registrar of the other registration district; and

39 j. Mark the birth certificate of a missing child born in his
40 registration district when notified by the State registrar pursuant to
41 section 3 of P.L.1995, c.395 (C.52:17B-9.8c).
42 (cf: P.L.1995, c.395, s.6)

43
44 20. R.S.26:8-48 is amended to read as follows:

45 26:8-48. A certificate of birth, fetal death, marriage, domestic
46 partnership or death heretofore or hereafter filed with the State

1 registrar shall not be altered or changed otherwise than by amendments
2 properly signed, dated and witnessed.

3 (cf: P.L.1965, c.78, s.65)

4

5 21. R.S.26:8-51 is amended to read as follows:

6 26:8-51. Corrections to marriage or domestic partnership
7 certificates shall be signed by the person who signed the [marriage]
8 certificate or by any other person having personal knowledge of the
9 matters sought to be corrected which other person shall state such
10 matters on his oath.

11 (cf: P.L.1938, c.174, s.2)

12

13 22. R.S.26:8-55 is amended to read as follows:

14 26:8-55. Any person knowingly submitting a certificate pursuant
15 to this article containing incorrect particulars relating to any birth,
16 marriage, domestic partnership or death shall be subject to a penalty
17 of not more than [five hundred dollars] \$500, which shall be
18 recovered with costs in a summary proceeding in the name of the
19 [state] department.

20 (cf: R.S.26:8-55)

21

22 23. R.S.26:8-60 is amended to read as follows:

23 26:8-60. Each local registrar shall be entitled to receive from the
24 proper disbursing officer of the municipality or county the sum of
25 [\$1.00] \$1 for each marriage or domestic partnership certificate
26 properly transmitted to the State Registrar.

27 In any registration district, the body appointing local registrars may,
28 in lieu of fees, provide that officers performing the above service shall
29 receive a fixed compensation to be determined by such body.

30 (cf: P.L.1983, c.275, s.15)

31

32 24. R.S.26:8-62 is amended to read as follows:

33 26:8-62. a. The State registrar shall, upon request, supply to any
34 applicant a certification or certified copy of the record of any birth,
35 death, fetal death or marriage[,] registered under the [provision of
36 this chapter] provisions of R.S.26:8-1 et seq., or any domestic
37 partnership registered under the provisions of P.L. , c. (C.)(pending
38 before the Legislature as this bill), for [either] any of which, except
39 as provided by [section 26:8-63 of the Revised Statutes] R.S.26:8-63,
40 [he] the State registrar shall be entitled to [such] a search fee, if any,
41 as is provided by [section 26:8-64 of the Revised Statutes] R.S.26:8-
42 64, to be paid by the applicant.

43 b. The State registrar shall, upon request, supply to any applicant
44 a certified transcript of any entry contained in the records of the New
45 Jersey State census for which, except as provided by [section 26:8-63

1 of the Revised Statutes] R.S.26:8-63, he shall be entitled to [such] a
2 search fee as is provided by [section 26:8-64 of the Revised Statutes]
3 R.S.26:8-64, to be paid by the applicant.

4 (cf: P.L.1965, c.78, s.72)

5

6 25. R.S.26:8-63 is amended to read as follows:

7 26:8-63. The State registrar shall:

8 a. Furnish a certification or certified copy of a birth, marriage,
9 domestic partnership, fetal death or death certificate without fee in the
10 prosecution of any claim for public pension or for military or naval
11 enlistment purposes; and

12 b. Furnish the United States Public Health Service without expense
13 to the State, microfilm or photocopy images of birth, marriage,
14 domestic partnership, fetal death and death certificates without
15 payment of the fees prescribed in this article; and

16 c. Furnish a certified transcript of any entry in the records of the
17 New Jersey State census without fee for certification in the
18 prosecution of any claim for public pension, for military or naval
19 enlistment purposes; and

20 d. Furnish without fee upon request for administrative use by any
21 city, State or Federal agency a certified transcript of any New Jersey
22 State census entry, or a certification or certified copy of a birth, death,
23 fetal death [or], marriage or domestic partnership certificate.

24 (cf: P.L.1965, c.78, s.73)

25

26 26. R.S.26:8-64 is amended to read as follows:

27 26:8-64. a. For any search of the files and records of births,
28 deaths, [or] marriages or domestic partnerships when the correct year
29 only is supplied by the applicant, whether or not a certification or a
30 certified copy is made, the State Registrar shall be entitled to a
31 minimum fee of [\$4.00] \$4, plus a fee of [\$1.00] \$1 for each
32 additional year searched, [said fee to] which fee shall be paid by the
33 applicant, except as provided by [section 26:8-63 of the Revised
34 Statutes] R.S.26:8-63. [Each] The fee for each additional copy [is
35 \$2.00] shall be \$2.

36 b. For all searches of the New Jersey State census records, except
37 as otherwise provided herein, the State Registrar shall be entitled to
38 a fee of [\$2.00] \$2 for each address searched in any census year.

39 c. Conduct without fee upon request for administrative use by any
40 city, state, or federal agency, a search for any New Jersey State census
41 entry.

42 (cf: P.L.1983, c.275, s.17)

43

44 27. Section 1 of P.L.1977, c.237 (C.26:2H-32) is amended to read
45 as follows:

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

3 a. "Nursing home" means a facility providing therein nursing care
4 to sick, invalid, infirm, disabled or convalescent persons in addition to
5 lodging and board or health-related service, or any combination of the
6 foregoing and in addition thereto, providing nursing care and
7 health-related service, or either of them, to persons who are not
8 occupants of the facility.

9 b. "Affiliate" means (1) with respect to a partnership, each partner
10 thereof; (2) with respect to a corporation, each officer, director,
11 principal stockholder or controlling person thereof; (3) with respect
12 to a natural person (a) each member of said person's immediate family,
13 (b) each partnership and each partner thereof of which said person or
14 any affiliate of said person is a partner, and (c) each corporation in
15 which said person or any affiliate of said person is an officer, director,
16 principal stockholder or controlling person.

17 c. "Controlling person" of any corporation, partnership or other
18 entity means any person who has the ability, directly or indirectly, to
19 direct or cause the direction of the management or policies of said
20 corporation, partnership or other entity.

21 d. "Immediate family" of any person includes each parent, child,
22 spouse, brother, sister, first cousin, aunt and uncle of such person,
23 whether such relationship arises by birth, marriage or adoption, as
24 well as the domestic partner of that person as defined in section 3 of
25 P.L. , c. (C.)(pending before the Legislature as this bill) and the
26 domestic partner's parent and adult child.

27 e. "Principal stockholder" of a corporation means any person who
28 beneficially owns, holds or has the power to vote, 10% or more of any
29 class of securities issued by said corporation.

30 (cf: P.L.1977, c.237, s.1)

31

32 28. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to read
33 as follows:

34 5. a. A declarant may reaffirm or modify either a proxy directive,
35 or an instruction directive, or both. The reaffirmation or modification
36 shall be made in accordance with the requirements for execution of an
37 advance directive pursuant to section 4 of this act.

38 b. A declarant may revoke an advance directive, including a proxy
39 directive, or an instruction directive, or both, by the following means:

40 (1) Notification, orally or in writing, to the health care
41 representative, physician, nurse or other health care professional, or
42 other reliable witness, or by any other act evidencing an intent to
43 revoke the document; or

44 (2) Execution of a subsequent proxy directive or instruction
45 directive, or both, in accordance with section 4 of this act.

46 c. Designation of the declarant's spouse as health care

1 representative shall be revoked upon divorce or legal separation, and
2 designation of the declarant's domestic partner as defined in section 3
3 of P.L. , c. (C.)(pending before the Legislature as this bill) as
4 health care representative shall be revoked upon termination of the
5 declarant's domestic partnership, unless otherwise specified in the
6 advance directive.

7 d. An incompetent patient may suspend an advance directive,
8 including a proxy directive, an instruction directive, or both, by any of
9 the means stated in paragraph (1) of subsection b. of this section. An
10 incompetent patient who has suspended an advance directive may
11 reinstate that advance directive by oral or written notification to the
12 health care representative, physician, nurse or other health care
13 professional of an intent to reinstate the advance directive.

14 e. Reaffirmation, modification, revocation or suspension of an
15 advance directive is effective upon communication to any person
16 capable of transmitting the information including the health care
17 representative, the attending physician, nurse or other health care
18 professional responsible for the patient's care.

19 (cf: P.L.1991, c.201, s.5)

20

21 29. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to read
22 as follows:

23 6. a. A declarant may execute a proxy directive, pursuant to the
24 requirements of section 4 of this act, designating a competent adult to
25 act as his health care representative.

26 (1) A competent adult, including, but not limited to, a declarant's
27 spouse, domestic partner as defined in section 3 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), adult child, parent or other
29 family member, friend, religious or spiritual advisor, or other person
30 of the declarant's choosing, may be designated as a health care
31 representative.

32 (2) An operator, administrator or employee of a health care
33 institution in which the declarant is a patient or resident shall not serve
34 as the declarant's health care representative unless the operator,
35 administrator or employee is related to the declarant by blood,
36 marriage, domestic partnership or adoption.

37 This restriction does not apply to a physician, if the physician does
38 not serve as the patient's attending physician and the patient's health
39 care representative at the same time.

40 (3) A declarant may designate one or more alternate health care
41 representatives, listed in order of priority. In the event the primary
42 designee is unavailable, unable or unwilling to serve as health care
43 representative, or is disqualified from such service pursuant to this
44 section or any other law, the next designated alternate shall serve as
45 health care representative. In the event the primary designee
46 subsequently becomes available and able to serve as health care

1 representative, the primary designee may, insofar as then practicable,
2 serve as health care representative.

3 (4) A declarant may direct the health care representative to consult
4 with specified individuals, including alternate designees, family
5 members and friends, in the course of the decision making process.

6 (5) A declarant shall state the limitations, if any, to be placed upon
7 the authority of the health care representative including the limitations,
8 if any, which may be applicable if the declarant is pregnant.

9 b. A declarant may execute an instruction directive, pursuant to
10 the requirements of section 4 of this act, stating the declarant's general
11 treatment philosophy and objectives; or the declarant's specific wishes
12 regarding the provision, withholding or withdrawal of any form of
13 health care, including life-sustaining treatment; or both. An instruction
14 directive may, but need not, be executed contemporaneously with, or
15 be attached to, a proxy directive.

16 (cf: P.L.1991, c.201, s.6)

17

18 30. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to read
19 as follows:

20 8. When consent is required for disclosure of the record of a
21 deceased or legally incompetent person who has or is suspected of
22 having AIDS or HIV infection, consent may be obtained:

23 a. From an executor, administrator of the estate, or authorized
24 representative of the legally incompetent or deceased person;

25 b. From the person's spouse [or], domestic partner as defined in
26 section 3 of P.L. , c. (C.)(pending before the Legislature as this
27 bill), primary caretaking partner or, if none, by another member of the
28 person's family; and

29 c. From the commissioner in the event that a deceased person has
30 neither an authorized representative or next-of-kin.

31 (cf: P.L.1989, c.303, s.8)

32

33 31. Section 1 of P.L.1954, c.113 (C.26:6-50) is amended to read
34 as follows:

35 1. Any physician licensed to practice medicine and surgery in this
36 State may conduct a post-mortem and necroscopic examination upon
37 the body of a deceased person if he first obtains the consent in writing
38 of any of the following persons who shall have assumed responsibility
39 and custody of the body for purposes of the burial: surviving spouse,
40 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
41 before the Legislature as this bill), adult child, parent, or other next of
42 kin, of the deceased person. In the absence of any of the foregoing
43 named persons any other person charged by law with and who shall
44 have assumed responsibility and custody of the body for the burial may
45 give such consent. Where 2 or more of the abovementioned have
46 assumed such responsibility and custody of the body for purposes of

1 burial, the consent of 1 of such persons shall be sufficient.

2 (cf: P.L.1954, c.113, s.1)

3

4 32. Section 1 of P.L.1969, c.161 (C.26:6-57) is amended to read
5 as follows:

6 1. As used in this act:

7 (a) "Bank or storage facility" means a facility licensed, accredited,
8 or approved under the laws of any State for storage of human bodies
9 or parts thereof.

10 (b) "Decedent" means a deceased individual and includes a stillborn
11 infant or fetus.

12 (c) "Donor" means an individual who makes a gift of all or part of
13 his body.

14 (d) "Hospital" means a hospital licensed, accredited, or approved
15 under the laws of any State; includes a hospital operated by the United
16 States Government, a State, or a subdivision thereof, although not
17 required to be licensed under State laws.

18 (e) "Part" means organs, tissues, eyes, bones, arteries, blood, other
19 fluids and any other portions of a human body.

20 (f) "Person" means an individual, corporation, government or
21 governmental subdivision or agency, business trust, estate, trust,
22 partnership or association, or any other legal entity.

23 (g) "Physician" or "surgeon" means a physician or surgeon licensed
24 or authorized to practice under the laws of any State.

25 (h) "State" includes any State, district, commonwealth, territory,
26 insular possession, and any other area subject to the legislative
27 authority of the United States of America.

28 (i) "Transplant recovery specialist" means a medical professional
29 licensed by this or another State or technician trained by an organ
30 procurement organization in accordance with federal standards
31 pursuant to 42 U.S.C.274(b) and nationally accredited standards for
32 human body part removal.

33 (j) "Organ procurement organization" means an organization which
34 is qualified by the Secretary of Health and Human Services pursuant
35 to 42 U.S.C.273(b).

36 (k) "Domestic partner" means a domestic partner as defined in
37 section 3 of P.L. , c. (C.)(pending before the Legislature as this
38 bill).

39 (cf: P.L.1995, c.257, s.2)

40

41 33. Section 2 of P.L.1969, c.161 (C.26:6-58) is amended to read
42 as follows:

43 2. (a) Any individual of sound mind and 18 years of age or more
44 may give all or any part of his body for any purpose specified in
45 section 3, the gift to take effect upon death.

46 (b) Any of the following persons, in order of priority stated, when

1 persons in prior classes are not available at the time of death, and in
2 the absence of actual notice of contrary indications by the decedent
3 or actual notice of opposition by a member of the same or a prior
4 class, may give all or any part of the decedent's body for any purpose
5 specified in section 3:

6 (1) The spouse or domestic partner,

7 (2) An adult son or daughter,

8 (3) Either parent,

9 (4) An adult brother or sister,

10 (5) A guardian of the person of the decedent at the time of his
11 death,

12 (6) Any other person authorized or under obligation to dispose of
13 the body.

14 (c) If the donee has actual notice of contrary indications by the
15 decedent or that a gift by a member of a class is opposed by a member
16 of the same or a prior class, the donee shall not accept the gift. The
17 persons authorized by subsection (b) may make the gift after or
18 immediately before death.

19 (d) A gift of all or part of a body authorizes any examination
20 necessary to assure medical acceptability of the gift for the purposes
21 intended.

22 (e) The rights of the donee created by the gift are paramount to the
23 rights of others except as provided by section 7(d).

24 (cf: P.L.1969, c.161, s.2)

25

26 34. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
27 as follows:

28 1. a. At or around the time of death of a patient in a hospital
29 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital
30 shall notify its designated organ procurement organization of the
31 patient's death. If the patient has a validly executed donor card, donor
32 designation on a driver's license, advance directive pursuant to
33 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
34 registration with a Statewide organ and tissue donor registry, the
35 organ procurement organization representative or the hospital's
36 designated requestor shall attempt to notify a person listed in this
37 subsection of the gift. If no document of gift is known to the organ
38 procurement organization representative or the designated requestor,
39 one of those two individuals shall ask the persons listed in this
40 subsection whether the decedent had a validly executed document of
41 gift. If there is no evidence of an anatomical gift or actual notice of
42 contrary indications by the decedent, the organ procurement
43 organization representative or the designated requestor shall attempt
44 to notify a person listed in this subsection of the option to donate
45 organs or tissues. Consent need only be obtained from an available
46 person in the highest priority class applicable, but an anatomical gift

1 shall be barred by actual notice of opposition by a member of the same
2 or a prior class. If no available member of a class will make a
3 decision, the organ procurement organization representative or the
4 designated requestor shall approach a member of the next class.

5 The classes in order of priority are:

6 (1) the spouse or domestic partner,

7 (2) an adult son or daughter,

8 (3) either parent,

9 (4) an adult brother or sister,

10 (5) a guardian of the person of the decedent at the time of the
11 decedent's death, or

12 (6) any other person authorized or under the obligation to dispose
13 of the body.

14 For the purposes of this section, a person is available if that person
15 can be approached within a time period compatible with effecting an
16 anatomical gift.

17 b. The person in charge of the hospital or that person's designated
18 representative shall indicate in the medical record of the decedent
19 whether or not consent was granted, the name of the person granting
20 or refusing the consent, and that person's relationship to the decedent.

21 c. A gift made pursuant to the request required by this act shall be
22 executed pursuant to the applicable provisions of P.L.1969, c.161
23 (C.26:6-57 et seq.).

24 d. A person who acts in good faith in accordance with the
25 provisions of this act is not liable for any damages in any civil action
26 or subject to prosecution in any criminal proceeding for any act or
27 omission of the person.

28 e. If the decedent is deemed an unsuitable candidate for donation,
29 an explanatory notation shall be made part of the medical record of the
30 decedent.

31 (cf: P.L.2001, c.87, s.1)

32
33 35. Section 7 of P.L.1969, c.161 (C.26:6-63) is amended to read
34 as follows:

35 7. (a) The donee may accept or reject the gift. If the donee
36 accepts a gift of the entire body, he may, subject to the terms of the
37 gift, authorize embalming and the use of the body in funeral services,
38 and after it has served its scientific purposes, provide for its disposal
39 by burial or cremation. If the gift is of a part of the body, the donee,
40 upon the death of the donor and prior to embalming, shall cause the
41 part to be removed without unnecessary mutilation. After removal of
42 the part, custody of the remainder of the body vests in the surviving
43 spouse or domestic partner, next of kin, or other persons under
44 obligation to dispose of the body.

45 (b) The time of death shall be determined by a physician who
46 attends the donor at his death, or, if none, the physician who certifies

1 the death. The physician shall not participate in the procedures for
2 removing or transplanting a part.

3 (c) A person who acts in good faith in accord with the terms of this
4 act or the anatomical gift laws of another State or foreign country is
5 not liable for damages in any civil action or subject to prosecution in
6 any criminal proceeding for his act.

7 (d) The provisions of this act are subject to the laws of this State
8 prescribing powers and duties with respect to autopsies.

9 (cf: P.L.1969, c.161, s.7)

10

11 36. R.S.54:34-1 is amended to read as follows:

12 54:34-1. Except as provided in section 54:34-4 of this Title, a tax
13 shall be and is hereby imposed at the rates set forth in section 54:34-2
14 of this Title upon the transfer of property, real or personal, of the
15 value of \$500.00 or over, or of any interest therein or income
16 therefrom, in trust or otherwise, to or for the use of any transferee,
17 distributee or beneficiary in the following cases:

18 a. Where real or tangible personal property situated in this State or
19 intangible personal property wherever situated is transferred by will or
20 by the intestate laws of this State from a resident of this State dying
21 seized or possessed thereof.

22 b. Where real or tangible personal property within this State of a
23 decedent not a resident of this State at the time of his death is
24 transferred by will or intestate law.

25 c. Where real or tangible personal property within this State of a
26 resident of this State or intangible personal property wherever situate
27 of a resident of this State or real or tangible personal property within
28 this State of a nonresident, is transferred by deed, grant, bargain, sale
29 or gift made in contemplation of the death of the grantor, vendor or
30 donor, or intended to take effect in possession or enjoyment at or after
31 such death.

32 A transfer by deed, grant, bargain, sale or gift made without
33 adequate valuable consideration and within three years prior to the
34 death of the grantor, vendor or donor of a material part of his estate
35 or in the nature of a final disposition or distribution thereof, shall, in
36 the absence of proof to the contrary, be deemed to have been made in
37 contemplation of death within the meaning of subsection c. of this
38 section; but no such transfer made prior to such three-year period shall
39 be deemed or held to have been made in contemplation of death.

40 d. Where by transfer of a resident decedent of real or tangible
41 personal property within this State or intangible property wherever
42 situate, or by transfer of a nonresident decedent of real or tangible
43 personal property within this State, a transferee, distributee or
44 beneficiary comes into the possession or enjoyment therein of:

45 (1) An estate in expectancy of any kind or character which is
46 contingent or defeasible, transferred by an instrument taking effect on

1 or after July 4, 1909; or

2 (2) Property transferred pursuant to a power of appointment
3 contained in an instrument taking effect on or after July 4, 1909.

4 e. When a decedent appoints or names one or more executors or
5 trustees and bequeaths or devises property to him or them in lieu of
6 commissions or allowances, the transfer of which property would
7 otherwise be taxable, or appoints him or them his residuary legatee or
8 legatees, and the bequest, devise or residuary legacy exceeds what
9 would be reasonable compensation for his or their services, such
10 excess shall be deemed a transfer liable to tax. The Superior Court
11 having jurisdiction in the case, shall determine what is a reasonable
12 compensation.

13 f. The right of the surviving joint tenant or joint tenants, person or
14 persons, to the immediate ownership or possession and enjoyment of
15 real or personal property held in the joint names of two or more
16 persons, or deposited in banks or other institutions or depositories in
17 the joint names of two or more persons and payable to either or the
18 survivor, excluding, however, the right of a spouse, as a surviving
19 joint tenant with his or her deceased spouse, or the right of a domestic
20 partner as defined in section 3 of P.L. , c. (C.)(pending before the
21 Legislature as this bill), as a surviving joint tenant with that person's
22 deceased domestic partner, to the immediate ownership or possession
23 and enjoyment of a membership certificate or stock in a cooperative
24 housing corporation, the ownership of which entitles such member or
25 stockholder to occupy real estate for dwelling purposes as the
26 principal residence of the decedent and spouse or domestic partner, as
27 applicable, shall upon the death of one of such persons, be deemed a
28 transfer taxable in the same manner as though such property had
29 belonged absolutely to the deceased joint tenant or joint depositor and
30 had been devised or bequeathed by his will to the surviving joint tenant
31 or joint tenants, person or persons, excepting therefrom such part of
32 the property as such survivor or survivors may prove to the
33 satisfaction of the Director of the Division of Taxation to have
34 originally belonged to him or them and never to have belonged to the
35 decedent.

36 In the case of a nonresident decedent, subsection f. of this section
37 shall apply only to real or tangible personal property within this State.
38 (cf: P.L.1991, c.91, s.510)

39
40 37. R.S.54:34-2 is amended to read as follows:

41 54:34-2. a. (1) The transfer of property to a husband or wife, or
42 a domestic partner as defined in section 3 of P.L. , c. (C.)(pending
43 before the Legislature as this bill), of a decedent shall be taxed at the
44 following rates:

45 For transfers made through December 31, 1984:

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1	On any amount in excess of \$15,000.00, up to \$50,000.00	2%
2	On any amount in excess of \$50,000.00, up to \$100,000.00	3%
3	On any amount in excess of \$100,000.00, up to \$150,000.00	%
4	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
5	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
6	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
7	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
8	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
9	On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
10	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	11%
11	On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
12	On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
13	On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ...	14%
14	On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
15	On any amount in excess of \$3,200,000.00	16%

16 For transfers made on or after January 1, 1985 there shall be no tax
17 imposed under this paragraph.

18 (2) The transfer of property to a father, mother, grandparent, child
19 or children of a decedent, or to any child or children adopted by the
20 decedent in conformity with the laws of this State, or of any of the
21 United States or of a foreign country, or the issue of any child or
22 legally adopted child of a decedent, shall be taxed at the following
23 rates:

24 For transfers through June 30, 1985:

25	On any amount in excess of \$15,000.00, up to \$50,000.00	2%
26	On any amount in excess of \$50,000.00, up to \$100,000.00	3%
27	On any amount in excess of \$100,000.00, up to \$150,000.00	4%
28	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
29	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
30	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
31	On any amount in excess of \$500,000.00, up to \$700,000.00	8%
32	On any amount in excess of \$700,000.00, up to \$900,000.00	9%
33	On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
34	On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%
35	On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 .	12%
36	On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
37	On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
38	On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
39	On any amount in excess of \$3,200,000.00	16%

40 For transfers made from July 1, 1985 through June 30, 1986: On

41	any amount in excess of \$50,000.00, up to \$100,000.00	3%
42	On any amount in excess of \$100,000.00, up to \$150,000.00	4%
43	On any amount in excess of \$150,000.00, up to \$200,000.00	5%
44	On any amount in excess of \$200,000.00, up to \$300,000.00	6%
45	On any amount in excess of \$300,000.00, up to \$500,000.00	7%
46	On any amount in excess of \$500,000.00, up to \$700,000.00	8%

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- 1 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 2 On any amount in excess of \$900,000.00, up to \$1,100,000.0010%
- 3 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..11%
- 4 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 5 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 6 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 7 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 8 On any amount in excess of \$3,200,000.00 16%
- 9 For transfers made from July 1, 1986 through June 30, 1987: On
- 10 any amount in excess of \$150,000.00, up to \$200,000.00 5%
- 11 On any amount in excess of \$200,000.00, up to \$300,000.00 6%
- 12 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 13 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 14 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 15 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 16 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 17 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 18 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 19 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 20 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 21 On any amount in excess of \$3,200,000.00 16%
- 22 For transfers made from July 1, 1987 through June 30, 1988: On
- 23 any amount in excess of \$250,000.00, up to \$300,000.00 6%
- 24 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 25 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 26 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 27 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 28 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 29 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 . 12%
- 30 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 31 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 32 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 33 On any amount in excess of \$3,200,000.00 16%
- 34 For transfers made on or after July 1, 1988 there shall be no tax
- 35 imposed under this subsection.
- 36 b. (Deleted by amendment.)
- 37 c. The transfer of property to a brother or sister of a decedent,
- 38 wife or widow of a son of a decedent, or husband or widower of a
- 39 daughter of a decedent shall be taxed at the following rates:
- 40 (1) For transfers through June 30, 1988:
- 41 On any amount up to \$1,100,000.00 11%
- 42 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
- 43 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
- 44 On any amount in excess of \$1,700,000.0016%
- 45 (2) For transfers made on or after July 1, 1988:
- 46 On any amount in excess of \$25,000.00, up to \$1,100,000.0011%

- 1 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
- 2 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
- 3 On any amount in excess of \$1,700,000.00 16%

4 d. The transfer of property to every other transferee, distributee
5 or beneficiary not hereinbefore classified shall be taxed at the
6 following rates:

- 7 On any amount up to \$700,000.00 15%
- 8 On any amount in excess of \$700,000.00 16%

9 For every purpose of this subtitle all persons, including the
10 decedent, shall be deemed to have been born in lawful wedlock and
11 this provision shall apply to the estate of every decedent whether said
12 decedent died before March 25, 1935, or shall die thereafter, but it
13 shall not entitle any person to a refund of any tax paid before the
14 aforementioned date.

15 (cf: P.L.1985, c.57, s.1)

16

17 38. R.S.54:34-4 is amended to read as follows:

18 54:34-4. The following transfers of property shall be exempt from
19 taxation:

20 a. Property passing to or for the use of the State of New Jersey, or
21 to or for the use of a municipal corporation within the State or other
22 political subdivision thereof, for exclusively public purposes.

23 b. Property passing to a beneficiary or beneficiaries having any
24 present or future, vested, contingent or defeasible interest under any
25 trust deed or agreement heretofore or hereafter executed by a resident
26 or nonresident decedent, to the extent that the trust fund results from
27 the proceeds of contracts of insurance heretofore or hereafter in force,
28 insuring the life of such decedent, and paid or payable, at or after the
29 death of such decedent, to the trustee or trustees under such trust deed
30 or agreement.

31 c. Property passing to (i) a trustee or trustees of any trust deed or
32 agreement heretofore or hereafter executed or (ii) to a trustee or
33 trustees of a trust created by the will of a decedent, by virtue of any
34 contract of insurance heretofore or hereafter in force insuring the life
35 of a resident or nonresident decedent and the proceeds of which are
36 paid or payable at or after the death of such decedent to such trustee
37 or trustees for the benefit of a beneficiary or beneficiaries having any
38 present or future, vested, contingent or defeasible interest under such
39 trust deed, agreement or will.

40 d. That part of the estate of any decedent which passes to, for the
41 use of or in trust for any educational institution, church, hospital,
42 orphan asylum, public library or Bible and tract society or to, for the
43 use of or in trust for any institution or organization organized and
44 operated exclusively for religious, charitable, benevolent, scientific,
45 literary or educational purposes, including any institution instructing
46 the blind in the use of dogs as guides, no part of the net earnings of

1 which inures to the benefit of any private stockholder or other
2 individual or corporation; provided, that this exemption shall not
3 extend to transfers of property to such educational institutions and
4 organizations of other states, the District of Columbia, territories and
5 foreign countries which do not grant an equal, and like exemption of
6 transfers of property for the benefit of such institutions and
7 organizations of this State.

8 e. That part of the estate of any decedent who has heretofore died,
9 or may hereafter die, received, either heretofore or hereafter, by the
10 legal representatives of such decedent, whether directly from the
11 United States, or through any intervening estate or estates, by reason
12 of any war risk insurance certificate or policy, either term or
13 converted, or any adjusted service certificate, issued by the United
14 States. Nothing contained in this subsection e. shall entitle any person
15 to a refund of any tax heretofore paid on the transfer of property of
16 the nature aforementioned; and provided further, that the exemption
17 provided for in this subsection e. shall not extend to that part of the
18 estate of any decedent composed of property of the nature
19 aforementioned, when such property was received by the decedent
20 before death.

21 f. The proceeds of any contract of insurance heretofore or
22 hereafter in force insuring the life of a resident or nonresident decedent
23 paid or payable at or after the death of such decedent to any
24 beneficiary or beneficiaries other than the estate or the executor or
25 administrator of such decedent.

26 g. Any transfer, relinquishment, surrender or exercise at any time
27 or times by a resident or nonresident of any right to nominate or
28 change the beneficiary or beneficiaries of any contract of insurance
29 heretofore or hereafter in force insuring the life of such resident or
30 nonresident irrespective of whether such transfer, relinquishment,
31 surrender or exercise of such right took place or whether the proceeds
32 of such policy were paid or payable, before or after the taking effect
33 of this act.

34 h. The value of any pension, annuity, retirement allowance, return
35 of contributions, or benefit payable by the Government of the United
36 States pursuant to the Civil Service Retirement Act to a beneficiary or
37 beneficiaries other than the estate or the executor or administrator of
38 a decedent.

39 i. The value of any annuity payable by the Government of the
40 United States pursuant to the Retired Serviceman's Family Protection
41 Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other
42 than the estate or the executor or administrator of a decedent.

43 j. The value of any pension, annuity, retirement allowance or return
44 of contributions, regardless of the source, which is a direct result of
45 the decedent's employment under a qualified plan as defined by section
46 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, payable

1 to a surviving spouse, or a domestic partner as defined in section 3 of
2 P.L. , c. (C.)(pending before the Legislature as this bill), and not
3 otherwise exempted pursuant to this section or other law of the State
4 of New Jersey.

5 (cf: P.L.1981, c.152, s.1)

6

7 39. N.J.S.54A:1-2 is amended to read as follows:

8 54A:1-2. As used in this act, unless the context clearly indicates
9 otherwise, the following words and phrases shall have the following
10 meaning:

11 a. "Director" means the Director of the Division of Taxation in
12 the Department of the Treasury.

13 b. "Fiduciary" means a guardian, trustee, executor, administrator,
14 receiver, conservator, or any person acting in any fiduciary capacity
15 for any person.

16 c. "Excludable income" shall be limited to those payments set forth
17 in chapter 6 hereunder.

18 d. "Gross income" shall include that set forth in chapter 5
19 hereunder.

20 e. "Dependent" means a spouse or child, or a domestic partner as
21 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
22 as this bill), or any individual related to the taxpayer and who is a
23 dependent pursuant to the provisions of the Internal Revenue Code
24 during a taxable year.

25 f. "Disabled" means total and permanent inability to engage in any
26 substantial gainful activity by reason of any medically determinable
27 physical or mental impairment, including blindness. For purposes of
28 this subsection, "blindness" means central visual acuity of 20/200 or
29 less in the better eye with the use of a correcting lens. An eye which
30 is accompanied by a limitation in the fields of vision such that the
31 widest diameter of the visual field subtends an angle no greater than
32 20 degrees shall be considered as having a central visual acuity of
33 20/200 or less.

34 g. "Medical expenses" means nonreimbursed payments for
35 physicians, dental and other medical fees, hospital care, nursing care,
36 medicines and drugs, prosthetic devices, X-rays and other diagnostic
37 services conducted by or directed by a physician or dentist. In
38 addition, medical expenses may also include amounts paid for
39 transportation primarily for and essential to medical care and
40 insurance (including amounts paid as premiums under part B of Title
41 XVIII of the Social Security Act, relating to supplementary medical
42 insurance for the aged) covering medical care.

43 h. Partnership and partner. The term "partnership" includes a
44 syndicate, group, pool, joint venture, or other unincorporated
45 organization, through or by means of which any business, financial
46 operation, or venture is carried on, and which is not, within the

1 meaning of this act, a trust or estate or a corporation; and the term
2 "partner" includes a member in such a syndicate, group, pool, joint
3 venture, or organization.

4 i. Blank.

5 j. Blank.

6 k. "Taxable year" means the calendar or fiscal accounting period
7 for which a tax is payable under this act.

8 l. "Taxpayer" means any individual, estate or trust required to
9 report or to pay taxes, interest and penalties under this act, or whose
10 income in whole or in part is subject to the tax imposed by this act.

11 m. "Resident taxpayer" means an individual:

12 1. Who is domiciled in this State, unless he maintains no permanent
13 place of abode in this State, maintains a permanent place of abode
14 elsewhere, and spends in the aggregate no more than 30 days of the
15 taxable year in this State; or

16 2. Who is not domiciled in this State but maintains a permanent
17 place of abode in this State and spends in the aggregate more than 183
18 days of the taxable year in this State, unless such individual is in the
19 Armed Forces of the United States.

20 n. "Nonresident taxpayer" means a taxpayer who is not a resident.

21 o. Resident estate or trust. A resident estate or trust means:

22 (1) The estate of a decedent who at his death was domiciled in this
23 State,

24 (2) A trust, or a portion of a trust, consisting of property
25 transferred by will of a decedent who at his death was domiciled in
26 this State, or

27 (3) A trust, or portion of a trust, consisting of the property of:

28 (a) A person domiciled in this State at the time such property was
29 transferred to the trust, if such trust or portion of a trust was then
30 irrevocable, or if it was then revocable and has not subsequently
31 become irrevocable; or

32 (b) A person domiciled in this State at the time such trust, or
33 portion of a trust, became irrevocable, if it was revocable when such
34 property was transferred to the trust but has subsequently become
35 irrevocable.

36 For the purposes of the foregoing, a trust or portion of a trust is
37 revocable if it is subject to a power, exercisable immediately or at any
38 future time, to revert title in the person whose property constitutes
39 such trust or portion of a trust, and a trust or portion of a trust
40 becomes irrevocable when the possibility that such power may be
41 exercised has been terminated.

42 p. Nonresident estate or trust. A nonresident estate or trust means
43 an estate or trust which is not a resident.

44 q. Unless the context in which it occurs requires otherwise, the
45 term "act" or "this act" shall mean the New Jersey Gross Income Tax
46 Act, Title 54A of the New Jersey Statutes.

1 (cf: N.J.S.54A:1-2)

2 40. N.J.S.54A:3-1 is amended to read as follows:

3 54A:3-1. Personal exemptions and deductions. Each taxpayer shall
4 be allowed personal exemptions and deductions against his gross
5 income as follows:

6 (a) Taxpayer. Each taxpayer shall be allowed a personal exemption
7 of \$1,000.00 which may be taken as a deduction from his New Jersey
8 gross income.

9 (b) Additional exemptions. In addition to the personal exemptions
10 allowed in (a), the following additional personal exemptions shall be
11 allowed as a deduction from gross income:

12 1. For the taxpayer's spouse, or domestic partner as defined in
13 section 3 of P.L. , c. (C.)(pending before the Legislature as this
14 bill), who does not file separately - \$1,000.00.

15 2. For each dependent who qualifies as a dependent of the taxpayer
16 during the taxable year for federal income tax purposes - \$1,500.00.

17 3. Taxpayer 65 years of age or over at the close of the taxable year
18 - \$1,000.00.

19 4. Taxpayer's spouse 65 years of age or over at the close of the
20 taxable year - \$1,000.00.

21 5. Blind or disabled taxpayer - \$1,000.00.

22 6. Blind or disabled spouse - \$1,000.00.

23 (c) Special Rule. The personal exemptions allowed under this
24 section shall be limited to that percentage which the total number of
25 months within a taxpayer's taxable year under this act bears to 12. For
26 this purpose 15 days or more shall constitute a month.

27 (d) (Deleted by amendment, P.L.1993, c.178).

28 (e) Nonresidents. For taxable years to which a certification
29 pursuant to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a
30 nonresident taxpayer shall be allowed the same deduction for personal
31 exemptions as a resident taxpayer. However, if (1) the nonresident
32 taxpayer's gross income which is subject to tax under this act is
33 exceeded by (2) the gross income which the nonresident taxpayer
34 would be required to report under this act if the taxpayer were a
35 resident by more than \$100.00, the taxpayer's deduction for personal
36 exemptions shall be limited by the percentage which (1) is to (2).

37 (cf: P.L.1993, c.320, s.1)

38

39 41. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
40 read as follows:

41 2. As used in this act:

42 (a) The term "State" means the State of New Jersey.

43 (b) The term "commission" means the State Health Benefits
44 Commission, created by section 3 of this act.

45 (c) The term "employee" means an appointive or elective officer or
46 full-time employee of the State of New Jersey. For the purposes of

1 this act an employee of Rutgers, The State University of New Jersey,
2 shall be deemed to be an employee of the State, and an employee of
3 the New Jersey Institute of Technology shall be considered to be an
4 employee of the State during such time as the Trustees of the Institute
5 are party to a contractual agreement with the State Treasurer for the
6 provision of educational services. The term "employee" shall further
7 mean, for purposes of this act, a former employee of the South Jersey
8 Port Corporation, who is employed by a subsidiary corporation or
9 other corporation, which has been established by the Delaware River
10 Port Authority pursuant to subdivision (m) of Article I of the compact
11 creating the Delaware River Port Authority (R.S.32:3-2), as defined
12 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
13 continued membership in the Public Employees' Retirement System
14 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

15 For the purposes of this act the term "employee" shall not include
16 persons employed on a short-term, seasonal, intermittent or emergency
17 basis, persons compensated on a fee basis, persons having less than
18 two months of continuous service or persons whose compensation
19 from the State is limited to reimbursement of necessary expenses
20 actually incurred in the discharge of their official duties. An employee
21 paid on a 10-month basis, pursuant to an annual contract, will be
22 deemed to have satisfied the two-month waiting period if the employee
23 begins employment at the beginning of the contract year. The term
24 "employee" shall also not include retired persons who are otherwise
25 eligible for benefits under this act but who, although they meet the age
26 eligibility requirement of Medicare, are not covered by the complete
27 federal program. A determination by the commission that a person is
28 an eligible employee within the meaning of this act shall be final and
29 shall be binding on all parties.

30 (d) (1) The term "dependents" means an employee's spouse, or an
31 employee's domestic partner as defined in section 3 of P.L. , c.
32 (C.)(pending before the Legislature as this bill), and the employee's
33 unmarried children under the age of 23 years who live with the
34 employee in a regular parent-child relationship. "Children" shall
35 include stepchildren, legally adopted children and foster children
36 provided they are reported for coverage and are wholly dependent
37 upon the employee for support and maintenance. A spouse, domestic
38 partner or child enlisting or inducted into military service shall not be
39 considered a dependent during the military service. The term
40 "dependents" shall not include spouses or domestic partners of retired
41 persons who are otherwise eligible for the benefits under this act but
42 who, although they meet the age eligibility requirement of Medicare,
43 are not covered by the complete federal program.

44 (2) Notwithstanding the provisions of paragraph (1) of this
45 subsection to the contrary and subject to the provisions of paragraph
46 (3) of this subsection, for the purposes of an employer other than the

1 State that is participating in the State Health Benefits Program
2 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
3 "dependents" means an employee's spouse and the employee's
4 unmarried children under the age of 23 years who live with the
5 employee in a regular parent-child relationship. "Children" shall
6 include stepchildren, legally adopted children and foster children
7 provided they are reported for coverage and are wholly dependent
8 upon the employee for support and maintenance. A spouse or child
9 enlisting or inducted into military service shall not be considered a
10 dependent during the military service. The term "dependents" shall not
11 include spouses of retired persons who are otherwise eligible for
12 benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who,
13 although they meet the age eligibility requirement of Medicare, are not
14 covered by the complete federal program.

15 (3) An employer other than the State that is participating in the
16 State Health Benefits Program pursuant to section 3 of P.L.1964,
17 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
18 "dependents" as defined in paragraph (2) of this subsection shall
19 include domestic partners as provided in paragraph (1) of this
20 subsection.

21 (e) The term "carrier" means a voluntary association, corporation
22 or other organization, including a health maintenance organization as
23 defined in section 2 of the "Health Maintenance Organizations Act,"
24 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
25 or paying for or reimbursing the cost of, personal health services,
26 including hospitalization, medical and surgical services, under
27 insurance policies or contracts, membership or subscription contracts,
28 or the like, in consideration of premiums or other periodic charges
29 payable to the carrier.

30 (f) The term "hospital" means (1) an institution operated pursuant
31 to law which is primarily engaged in providing on its own premises,
32 for compensation from its patients, medical diagnostic and major
33 surgical facilities for the care and treatment of sick and injured persons
34 on an inpatient basis, and which provides such facilities under the
35 supervision of a staff of physicians and with 24 hour a day nursing
36 service by registered graduate nurses, or (2) an institution not meeting
37 all of the requirements of (1) but which is accredited as a hospital by
38 the Joint Commission on Accreditation of Hospitals. In no event shall
39 the term "hospital" include a convalescent nursing home or any
40 institution or part thereof which is used principally as a convalescent
41 facility, residential center for the treatment and education of children
42 with mental disorders, rest facility, nursing facility or facility for the
43 aged or for the care of drug addicts or alcoholics.

44 (g) The term "State managed care plan" means a health care plan
45 under which comprehensive health care services and supplies are
46 provided to eligible employees, retirees, and dependents: (1) through

1 a group of doctors and other providers employed by the plan; or (2)
2 through an individual practice association, preferred provider
3 organization, or point of service plan under which services and
4 supplies are furnished to plan participants through a network of
5 doctors and other providers under contracts or agreements with the
6 plan on a prepayment or reimbursement basis and which may provide
7 for payment or reimbursement for services and supplies obtained
8 outside the network. The plan may be provided on an insured basis
9 through contracts with carriers or on a self-insured basis, and may be
10 operated and administered by the State or by carriers under contracts
11 with the State.

12 (h) The term "Medicare" means the program established by the
13 "Health Insurance for the Aged Act," Title XVIII of the "Social
14 Security Act," Pub.L. 89-97 (42 U.S.C. s.1395 et seq.), as amended,
15 or its successor plan or plans.

16 (i) The term "traditional plan" means a health care plan which
17 provides basic benefits, extended basic benefits and major medical
18 expense benefits as set forth in section 5 of P.L.1961, c.49
19 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
20 dependents for expenses for covered health care services and supplies
21 through payments to providers or reimbursements to participants.

22 (cf: P.L.1997, c.150, s.25)

23

24 42. Section 6 of L.1954, c.84 (C.43:15A-6) is amended to read as
25 follows:

26 6. As used in this act:

27 a. "Accumulated deductions" means the sum of all the amounts,
28 deducted from the compensation of a member or contributed by or on
29 behalf of the member, standing to the credit of the member's individual
30 account in the annuity savings fund.

31 b. "Annuity" means payments for life derived from the accumulated
32 deductions of a member as provided in this act.

33 c. "Annuity reserve" means the present value of all payments to be
34 made on account of any annuity or benefit in lieu of an annuity,
35 granted under the provisions of this act, computed on the basis of such
36 mortality tables recommended by the actuary as the board of trustees
37 adopts, with regular interest.

38 d. "Beneficiary" means any person receiving a retirement allowance
39 or other benefit as provided in this act.

40 e. "Child" means a deceased member's unmarried child either (1)
41 under the age of 18 or (2) of any age who, at the time of the member's
42 death, is disabled because of mental retardation or physical incapacity,
43 is unable to do any substantial, gainful work because of the impairment
44 and the impairment has lasted or can be expected to last for a
45 continuous period of not less than 12 months, as affirmed by the
46 medical board.

1 f. "Parent" shall mean the parent of a member who was receiving
2 at least 1/2 of the parent's support from the member in the 12-month
3 period immediately preceding the member's death or the accident
4 which was the direct cause of the member's death. The dependency of
5 such a parent will be considered terminated by marriage of the parent
6 subsequent to the death of the member.

7 g. ["Widower" means] (1) "Widower," for employees of the
8 State, means the man to whom a member was married, or a domestic
9 partner as defined in section 3 of P.L. , c. (C.)(pending before the
10 Legislature as this bill), at least five years before the date of her death
11 and to whom she continued to be married or a domestic partner until
12 the date of her death and who was receiving at least 1/2 of his support
13 from the member in the 12-month period immediately preceding the
14 member's death. The dependency of such a widower will be
15 considered terminated by marriage of, or establishment of a domestic
16 partnership by, the widower subsequent to the death of the member.
17 In the event of the payment of an accidental death benefit, the
18 five-year qualification shall be waived.

20 (2) Subject to the provisions of paragraph (3) of this subsection,
21 "widower," for employees of public employers other than the State,
22 means the man to whom a member was married at least five years
23 before the date of her death and to whom she continued to be married
24 until the date of her death and who was receiving at least 1/2 of his
25 support from the member in the 12-month period immediately
26 preceding the member's death or the accident which was the direct
27 cause of the member's death. The dependency of such a widower shall
28 be considered terminated by marriage of the widower subsequent to
29 the death of the member. In the event of the payment of an accidental
30 death benefit, the five-year qualification shall be waived.

31 (3) A public employer other than the State may adopt a resolution
32 providing that the term "widower" as defined in paragraph (2) of this
33 subsection shall include domestic partners as provided in paragraph (1)
34 of this subsection.

35 h. "Final compensation" means the average annual compensation
36 for which contributions are made for the three years of creditable
37 service in New Jersey immediately preceding the member's retirement
38 or death, or it shall mean the average annual compensation for New
39 Jersey service for which contributions are made during any three fiscal
40 years of his or her membership providing the largest possible benefit
41 to the member or the member's beneficiary.

42 i. "Fiscal year" means any year commencing with July 1 and ending
43 with June 30 next following.

44 j. "Medical board" shall mean the board of physicians provided for
45 in section 17 (C.43:15A-17).

46 k. "Pension" means payments for life derived from appropriations

1 made by the employer as provided in this act.

2 l. "Pension reserve" means the present value of all payments to be
3 made on account of any pension or benefit in lieu of a pension granted
4 under the provisions of this act, computed on the basis of such
5 mortality tables recommended by the actuary as the board of trustees
6 adopts, with regular interest.

7 m. "Public Employees' Retirement System of New Jersey,"
8 hereinafter referred to as the "retirement system" or "system," is the
9 corporate name of the arrangement for the payment of retirement
10 allowances and other benefits under the provisions of this act including
11 the several funds placed under said system. By that name all of its
12 business shall be transacted, its funds invested, warrants for money
13 drawn, and payments made and all of its cash and securities and other
14 property held.

15 n. "Regular interest" shall mean interest as determined by the State
16 Treasurer, after consultation with the Directors of the Divisions of
17 Investment and Pensions, the board of trustees and the actuary. It
18 shall bear a reasonable relationship to the percentage rate of earnings
19 on investments based on the market value of the assets but shall not
20 exceed the assumed percentage rate of increase applied to salaries plus
21 3%, provided however that the board of trustees shall not set the
22 average percentage rate of increase applied to salaries below 6%.

23 o. "Retirement allowance" means the pension plus the annuity.

24 p. "Veteran" means any honorably discharged officer, soldier,
25 sailor, airman, marine or nurse who served in any Army, Air Force or
26 Navy of the Allies of the United States in World War I, between July
27 14, 1914, and November 11, 1918, or who served in any Army, Air
28 Force or Navy of the Allies of the United States in World War II,
29 between September 1, 1939, and September 2, 1945, and who was
30 inducted into such service through voluntary enlistment, and was a
31 citizen of the United States at the time of such enlistment, and who did
32 not, during or by reason of such service, renounce or lose United
33 States citizenship, and any officer, soldier, sailor, marine, airman,
34 nurse or army field clerk, who has served in the active military or naval
35 service of the United States and has or shall be discharged or released
36 therefrom under conditions other than dishonorable, in any of the
37 following wars, uprisings, insurrections, expeditions, or emergencies,
38 and who has presented to the retirement system evidence of such
39 record of service in form and content satisfactory to said retirement
40 system:

41 (1) The Indian wars and uprisings during any of the periods
42 recognized by the War Department of the United States as periods of
43 active hostility;

44 (2) The Spanish-American War between April 20, 1898, and April
45 11, 1899;

46 (3) The Philippine insurrections and expeditions during the periods

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

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

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

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

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

11 (8) The Mexican border patrol, having actually participated in
12 engagements against Mexicans between April 12, 1911, and June 16,
13 1919;

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

15 (10) World War II, between September 16, 1940, and December
16 31, 1946, who shall have served at least 90 days in such active service,
17 exclusive of any period of assignment (1) for a course of education or
18 training under the Army Specialized Training Program or the Navy
19 College Training Program which course was a continuation of a
20 civilian course and was pursued to completion, or (2) as a cadet or
21 midshipman at one of the service academies any part of which 90 days
22 was served between said dates; provided, that any person receiving an
23 actual service-incurred injury or disability shall be classed as a veteran
24 whether or not that person has completed the 90-day service as herein
25 provided;

26 (11) Korean conflict on or after June 23, 1950, and on or prior to
27 January 31, 1955, who shall have served at least 90 days in such active
28 service, exclusive of any period of assignment (1) for a course of
29 education or training under the Army Specialized Training Program or
30 the Navy College Training Program which course was a continuation
31 of a civilian course and was pursued to completion, or (2) as a cadet
32 or midshipman at one of the service academies, any part of which 90
33 days was served between said dates; provided, that any person
34 receiving an actual service-incurred injury or disability shall be classed
35 as a veteran whether or not that person has completed the 90-day
36 service as herein provided; and provided further, that any member
37 classed as a veteran pursuant to this paragraph prior to August 1,
38 1966, shall continue to be classed as a veteran whether or not that
39 person completed the 90-day service between said dates as herein
40 provided;

41 (12) Lebanon crisis, on or after July 1, 1958, who has served in
42 Lebanon or on board any ship actively engaged in patrolling the
43 territorial waters of that nation for a period, continuous or in the
44 aggregate, of at least 14 days commencing on or before November 1,
45 1958 or the date of termination of that conflict, as proclaimed by the
46 President of the United States or Congress, whichever date of

1 termination is the latest, in such active service; provided, that any
2 person receiving an actual service-incurred injury or disability shall be
3 classed as a veteran whether or not that person has completed the 14
4 days' service as herein provided;

5 (13) Vietnam conflict on or after December 31, 1960, and on or
6 prior to May 7, 1975, who shall have served at least 90 days in such
7 active service, exclusive of any period of assignment (1) for a course
8 of education or training under the Army Specialized Training Program
9 or the Navy College Training Program which course was a
10 continuation of a civilian course and was pursued to completion, or (2)
11 as a cadet or midshipman at one of the service academies, any part of
12 which 90 days was served between said dates; and exclusive of any
13 service performed pursuant to the provisions of section 511(d) of Title
14 10, United States Code, pursuant to an enlistment in the Army
15 National Guard or as a reserve for service in the Army Reserve, Naval
16 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
17 Reserve; provided, that any person receiving an actual service-incurred
18 injury or disability shall be classed as a veteran whether or not that
19 person has completed the 90 days' service as herein provided;

20 (14) Lebanon peacekeeping mission, on or after September 26,
21 1982, who has served in Lebanon or on board any ship actively
22 engaged in patrolling the territorial waters of that nation for a period,
23 continuous or in the aggregate, of at least 14 days commencing on or
24 before December 1, 1987 or the date of termination of that mission, as
25 proclaimed by the President of the United States or Congress,
26 whichever date of termination is the latest, in such active service;
27 provided, that any person receiving an actual service-incurred injury
28 or disability shall be classed as a veteran whether or not that person
29 has completed the 14 days' service as herein provided;

30 (15) Grenada peacekeeping mission, on or after October 23, 1983,
31 who has served in Grenada or on board any ship actively engaged in
32 patrolling the territorial waters of that nation for a period, continuous
33 or in the aggregate, of at least 14 days commencing on or before
34 November 21, 1983 or the date of termination of that mission, as
35 proclaimed by the President of the United States or Congress,
36 whichever date of termination is the latest, in such active service;
37 provided, that any person receiving an actual service-incurred injury
38 or disability shall be classed as a veteran whether or not that person
39 has completed the 14 days' service as herein provided;

40 (16) Panama peacekeeping mission, on or after December 20, 1989
41 or the date of inception of that mission, as proclaimed by the President
42 of the United States or Congress, whichever date of inception is
43 earliest, who has served in Panama or on board any ship actively
44 engaged in patrolling the territorial waters of that nation for a period,
45 continuous or in the aggregate, of at least 14 days commencing on or
46 before January 31, 1990 or the date of termination of that mission, as

1 proclaimed by the President of the United States or Congress,
2 whichever date of termination is the latest, in such active service;
3 provided, that any person receiving an actual service-incurred injury
4 or disability shall be classed as a veteran whether or not that person
5 has completed the 14 days' service as herein provided;

6 (17) Operation "Desert Shield/Desert Storm" mission in the
7 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
8 the date of inception of that operation, as proclaimed by the President
9 of the United States, Congress or the Governor, whichever date of
10 inception is earliest, who has served in the Arabian peninsula or on
11 board any ship actively engaged in patrolling the Persian Gulf for a
12 period, continuous or in the aggregate, of at least 14 days commencing
13 on or before the date of termination of that mission, as proclaimed by
14 the President of the United States or Congress, whichever date of
15 termination is the latest, in such active service; provided, that any
16 person receiving an actual service-incurred injury or disability shall be
17 classed as a veteran whether or not that person has completed the 14
18 days' service as herein provided;

19 (18) Operation "Restore Hope" in Somalia, commencing on or
20 after December 5, 1992, or the date of inception of that operation as
21 proclaimed by the President of the United States or the Congress,
22 whichever date is earliest, and terminating on March 31, 1994, or the
23 date of termination as proclaimed by the President of the United States
24 or the Congress, whichever date is latest, who served for at least 14
25 days, continuously or in the aggregate, in Somalia or on board any
26 ship actively engaged in patrolling the territorial waters of that nation
27 during the specified period; provided that any person receiving an
28 actual service-incurred injury or disability shall be classed as a veteran
29 whether or not that person has completed the 14-day service as herein
30 provided;

31 (19) Operations "Joint Endeavor" and "Joint Guard" in the
32 Republic of Bosnia and Herzegovina, commencing on or after
33 November 20, 1995 or December 20, 1996, as the case may be, and
34 terminating on December 20, 1996 or on such date as the United
35 States Secretary of Defense may designate, as the case may be, who
36 served in direct support of one or both of the operations for at least 14
37 days, continuously or in the aggregate, and (1) was deployed in that
38 nation or in another area in the region, or (2) was on board a United
39 States naval vessel operating in the Adriatic Sea, or (3) operated in
40 airspace above the Republic of Bosnia and Herzegovina; provided that
41 any person receiving an actual service-incurred injury or disability shall
42 be classed as a veteran whether or not that person completed the
43 14-day service requirement.

44 "Veteran" also means any honorably discharged member of the
45 American Merchant Marine who served during World War II and is
46 declared by the United States Department of Defense to be eligible for

1 federal veterans' benefits.

2 q. ["Widow" means] (1) "Widow," for employees of the State,
3 means the woman to whom a member was married, or a domestic
4 partner as defined in section 3 of P.L. , c. (C.)(pending before the
5 Legislature as this bill), at least five years before the date of his death
6 and to whom he continued to be married or a domestic partner until
7 the date of his death and who was receiving at least 1/2 of her support
8 from the member in the 12-month period immediately preceding the
9 member's death or the accident which was the direct cause of the
10 member's death. The dependency of such a widow will be considered
11 terminated by the marriage of, or establishment of a domestic
12 partnership by, the widow subsequent to the member's death. In the
13 event of the payment of an accidental death benefit, the five-year
14 qualification shall be waived.

15 (2) Subject to the provisions of paragraph (3) of this subsection,
16 "widow," for employees of public employers other than the State,
17 means the woman to whom a member was married at least five years
18 before the date of his death and to whom he continued to be married
19 until the date of his death and who was receiving at least 1/2 of her
20 support from the member in the 12-month period immediately
21 preceding the member's death or the accident which was the direct
22 cause of the member's death. The dependency of such a widow shall
23 be considered terminated by the marriage of the widow subsequent to
24 the member's death. In the event of the payment of an accidental death
25 benefit, the five-year qualification shall be waived.

26 (3) A public employer other than the State may adopt a resolution
27 providing that the term "widow" as defined in paragraph (2) of this
28 subsection shall include domestic partners as provided in paragraph (1)
29 of this subsection.

30 r. "Compensation" means the base or contractual salary, for
31 services as an employee, which is in accordance with established salary
32 policies of the member's employer for all employees in the same
33 position but shall not include individual salary adjustments which are
34 granted primarily in anticipation of the member's retirement or
35 additional remuneration for performing temporary or extracurricular
36 duties beyond the regular workday or the regular work year. In cases
37 where salary includes maintenance, the retirement system shall fix the
38 value of that part of the salary not paid in money which shall be
39 considered under this act.

40 (cf: P.L.2001, c.128, s.2)

41

42 43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read
43 as follows:

44 1. As used in this act:

45 (1) "Retirement system" or "system" shall mean the Police and
46 Firemen's Retirement System of New Jersey as defined in section 2 of

1 this act.

2 (2) (a) "Policeman" shall mean a permanent, full-time employee of
3 a law enforcement unit as defined in section 2 of P.L.1961, c.56
4 (C.52:17B-67) or the State, other than an officer or trooper of the
5 Division of State Police whose position is covered by the State Police
6 Retirement System, whose primary duties include the investigation,
7 apprehension or detention of persons suspected or convicted of
8 violating the criminal laws of the State and who:

9 (i) is authorized to carry a firearm while engaged in the actual
10 performance of his official duties;

11 (ii) has police powers;

12 (iii) is required to complete successfully the training requirements
13 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable
14 training requirements as determined by the board of trustees; and

15 (iv) is subject to the physical and mental fitness requirements
16 applicable to the position of municipal police officer established by an
17 agency authorized to establish these requirements on a Statewide
18 basis, or comparable physical and mental fitness requirements as
19 determined by the board of trustees.

20 The term shall also include an administrative or supervisory
21 employee of a law enforcement unit or the State whose duties include
22 general or direct supervision of employees engaged in investigation,
23 apprehension or detention activities or training responsibility for these
24 employees and a requirement for engagement in investigation,
25 apprehension or detention activities if necessary, and who is
26 authorized to carry a firearm while in the actual performance of his
27 official duties and has police powers.

28 (b) "Fireman" shall mean a permanent, full-time employee of a
29 firefighting unit whose primary duties include the control and
30 extinguishment of fires and who is subject to the training and physical
31 and mental fitness requirements applicable to the position of municipal
32 firefighter established by an agency authorized to establish these
33 requirements on a Statewide basis, or comparable training and physical
34 and mental fitness requirements as determined by the board of trustees.

35 The term shall also include an administrative or supervisory employee
36 of a firefighting unit whose duties include general or direct supervision
37 of employees engaged in fire control and extinguishment activities or
38 training responsibility for these employees and a requirement for
39 engagement in fire control and extinguishment activities if necessary.
40 As used in this paragraph, "firefighting unit" shall mean a municipal
41 fire department, a fire district, or an agency of a county or the State
42 which is responsible for control and extinguishment of fires.

43 (3) "Member" shall mean any policeman or fireman included in the
44 membership of the retirement system pursuant to this amendatory and
45 supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

46 (4) "Board of trustees" or "board" shall mean the board provided

1 for in section 13 of this act.

2 (5) "Medical board" shall mean the board of physicians provided
3 for in section 13 of this act.

4 (6) "Employer" shall mean the State of New Jersey, the county,
5 municipality or political subdivision thereof which pays the particular
6 policeman or fireman.

7 (7) "Service" shall mean service as a policeman or fireman paid for
8 by an employer.

9 (8) "Creditable service" shall mean service rendered for which
10 credit is allowed as provided under section 4 of this act.

11 (9) "Regular interest" shall mean interest as determined by the
12 State Treasurer, after consultation with the Directors of the Divisions
13 of Investment and Pensions, the board of trustees and the actuary. It
14 shall bear a reasonable relationship to the percentage rate of earnings
15 on investments based on the market value of assets but shall not
16 exceed the assumed percentage rate of increase applied to salaries plus
17 3%, provided however that the board of trustees shall not set the
18 average percentage rate of increase applied to salaries below 6%.

19 (10) "Aggregate contributions" shall mean the sum of all the
20 amounts, deducted from the compensation of a member or contributed
21 by him or on his behalf, standing to the credit of his individual account
22 in the annuity savings fund.

23 (11) "Annuity" shall mean payments for life derived from the
24 aggregate contributions of a member.

25 (12) "Pension" shall mean payments for life derived from
26 contributions by the employer.

27 (13) "Retirement allowance" shall mean the pension plus the
28 annuity.

29 (14) "Earnable compensation" shall mean the full rate of the salary
30 that would be payable to an employee if he worked the full normal
31 working time for his position. In cases where salary includes
32 maintenance, the retirement system shall fix the value of that part of
33 the salary not paid in money which shall be considered under this act.

34 (15) "Average final compensation" shall mean the average annual
35 salary upon which contributions are made for the three years of
36 creditable service immediately preceding his retirement or death, or it
37 shall mean the average annual salary for which contributions are made
38 during any three fiscal years of his or her membership providing the
39 largest possible benefit to the member or his beneficiary.

40 (16) "Retirement" shall mean the termination of the member's
41 active service with a retirement allowance granted and paid under the
42 provisions of this act.

43 (17) "Annuity reserve" shall mean the present value of all payments
44 to be made on account of any annuity or benefit in lieu of any annuity
45 computed upon the basis of such mortality tables recommended by the
46 actuary as shall be adopted by the board of trustees, and regular

1 interest.

2 (18) "Pension reserve" shall mean the present value of all payments
3 to be made on account of any pension or benefit in lieu of any pension
4 computed upon the basis of such mortality tables recommended by the
5 actuary as shall be adopted by the board of trustees, and regular
6 interest.

7 (19) "Actuarial equivalent" shall mean a benefit of equal value
8 when computed upon the basis of such mortality tables recommended
9 by the actuary as shall be adopted by the board of trustees, and regular
10 interest.

11 (20) "Beneficiary" shall mean any person receiving a retirement
12 allowance or other benefit as provided by this act.

13 (21) "Child" shall mean a deceased member's or retirant's
14 unmarried child (a) under the age of 18, or (b) 18 years of age or older
15 and enrolled in a secondary school, or (c) under the age of 24 and
16 enrolled in a degree program in an institution of higher education for
17 at least 12 credit hours in each semester, provided that the member
18 died in active service as a result of an accident met in the actual
19 performance of duty at some definite time and place, and the death
20 was not the result of the member's willful misconduct, or (d) of any
21 age who, at the time of the member's or retirant's death, is disabled
22 because of mental retardation or physical incapacity, is unable to do
23 any substantial, gainful work because of the impairment and his
24 impairment has lasted or can be expected to last for a continuous
25 period of not less than 12 months, as affirmed by the medical board.

26 (22) "Parent" shall mean the parent of a member who was receiving
27 at least one-half of his support from the member in the 12-month
28 period immediately preceding the member's death or the accident
29 which was the direct cause of the member's death. The dependency of
30 such a parent will be considered terminated by marriage of the parent
31 subsequent to the death of the member.

32 (23) ["Widower" shall mean] (a) "Widower," for employees of
33 the State, means the man to whom a member or retirant was married,
34 or a domestic partner as defined in section 3 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), on the date of her death
36 and who has not since remarried or established a domestic partnership.

37 (b) Subject to the provisions of paragraph (c) of this subsection,
38 "widower," for employees of public employers other than the State,
39 means the man to whom a member or retirant was married on the date
40 of her death and who has not remarried.

41 (c) A public employer other than the State may adopt a resolution
42 providing that the term "widower" as defined in paragraph (b) of this
43 subsection shall include domestic partners as provided in paragraph (a)
44 of this subsection.

45 (24) ["Widow" shall mean] (a) "Widow," for employees of the
46 State, means the woman to whom a member or retirant was married,

1 or a domestic partner as defined in section 3 of P.L. , c. (C.)
2 (pending before the Legislature as this bill), on the date of his death
3 and who has not since remarried or established a domestic partnership.

4 (b) Subject to the provisions of paragraph (c) of this subsection,
5 "widow," for employees of public employers other than the State,
6 means the woman to whom a member or retirant was married on the
7 date of his death and who has not remarried.

8 (c) A public employer other than the State may adopt a resolution
9 providing that the term "widow" as defined in paragraph (b) of this
10 subsection shall include domestic partners as provided in paragraph (a)
11 of this subsection.

12 (25) "Fiscal year" shall mean any year commencing with July 1, and
13 ending with June 30, next following.

14 (26) "Compensation" shall mean the base salary, for services as a
15 member as defined in this act, which is in accordance with established
16 salary policies of the member's employer for all employees in the same
17 position but shall not include individual salary adjustments which are
18 granted primarily in anticipation of the member's retirement or
19 additional remuneration for performing temporary duties beyond the
20 regular workday.

21 (27) "Department" shall mean any police or fire department of a
22 municipality or a fire department of a fire district located in a township
23 or a county police or park police department or the appropriate
24 department of the State or instrumentality thereof.

25 (28) "Final compensation" means the compensation received by the
26 member in the last 12 months of creditable service preceding his
27 retirement or death.

28 (29) (Deleted by amendment, P.L.1992, c.78).

29 (30) (Deleted by amendment, P.L.1992, c.78).

30 (31) (a) "Spouse," for employees of the State, means the husband
31 or wife, or domestic partner as defined in section 3 of P.L. , c.
32 (C.) (pending before the Legislature as this bill), of a member.

33 (b) Subject to the provisions of paragraph (c) of this subsection,
34 "spouse," for employees of public employers other than the State,
35 means the husband or wife of a member.

36 (c) A public employer other than the State may adopt a resolution
37 providing that the term "spouse" as defined in paragraph (b) of this
38 subsection shall include domestic partners as provided in paragraph (a)
39 of this subsection.

40 (cf: P.L.1999, c.428, s.1)

41

42 44. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read
43 as follows:

44 3. As used in this act:

45 a. "Accumulated deductions" means the sum of all amounts,
46 deducted from the compensation of a member or contributed by him

1 or on his behalf, standing to the credit of his individual account in the
2 annuity saving fund.

3 b. "Annuity" means payments for life derived from the accumulated
4 deductions of a member as provided in this amendatory and
5 supplementary act.

6 c. "Annuity reserve" means the present value of all payments to be
7 made on account of any annuity or benefit in lieu of an annuity
8 computed on the basis of such mortality tables recommended by the
9 actuary as the State House Commission adopts with regular interest.

10 d. "Beneficiary" means any person entitled to receive any benefit
11 pursuant to the provisions of this act by reason of the death of a
12 member or retirant.

13 e. "Child" means a deceased member's or retirant's unmarried child
14 who is either (a) under the age of 18; (b) of any age who, at the time
15 of the member's or retirant's death, is disabled because of mental
16 retardation or physical incapacity, is unable to do any substantial,
17 gainful work because of the impairment and his impairment has lasted
18 or can be expected to last for a continuous period of not less than 12
19 months, as affirmed by the medical board; or (c) under the age of 21
20 and is attending school full time.

21 f. "Compensation" means the base salary, for services as a member
22 as defined in this act, which is in accordance with established salary
23 policies of the State for all employees in the same position but shall
24 not include individual salary adjustments which are granted primarily
25 in anticipation of the member's retirement or additional remuneration
26 for performing temporary duties beyond the regular work schedule.

27 g. "Final salary" means the annual salary received by the member
28 at the time of his retirement or death.

29 h. "Fiscal year" means any year commencing with July 1 and
30 ending with June 30 next following.

31 i. "Medical board" means the board of physicians provided for in
32 section 29 of this act.

33 j. "Member" means the Chief Justice and associate justices of the
34 Supreme Court, judges of the Superior Court and tax court of the
35 State of New Jersey required to be enrolled in the retirement system
36 established by this act.

37 For purposes of this act, the person holding the office of standing
38 master by appointment pursuant to N.J.S.2A:1-7 shall have the same
39 privileges and obligations under this act as a judge of a Superior
40 Court.

41 k. "Parent" means the parent of a member who was receiving at
42 least one-half of his support from the member in the 12-month period
43 immediately preceding the member's death or the accident which was
44 the direct cause of the member's death. The dependency of such a
45 parent will be considered terminated by marriage of the parent
46 subsequent to the death of the member.

- 1 l. "Pension" means payment for life derived from contributions by
2 the State.
- 3 m. "Pension reserve" means the present value of all payments to
4 be made on account of any pension or benefit in lieu of a pension
5 computed on the basis of such mortality tables recommended by the
6 actuary as shall be adopted by the State House Commission with
7 regular interest.
- 8 n. "Regular interest" means interest as determined by the State
9 Treasurer, after consultation with the Directors of the Divisions of
10 Investment and Pensions, the State House Commission and the
11 actuary. It shall bear a reasonable relationship to the percentage rate
12 of earnings on investments based on the market value of assets but
13 shall not exceed the assumed percentage rate of increase applied to
14 salaries plus 3%, provided however that the commission shall not set
15 the average percentage rate of increase applied to salaries below 6%.
- 16 o. "Retirant" means any former member receiving a pension or
17 retirement allowance as provided by this act.
- 18 p. "Retirement allowance" means the pension plus the annuity.
- 19 q. "Retirement system" or "system" herein refers to the "Judicial
20 Retirement System of New Jersey," which is the corporate name of the
21 arrangement for the payment of pensions, retirement allowances and
22 other benefits under the provisions of this act including the several
23 funds placed under said system. By that name, all of its business shall
24 be transacted, its funds invested, warrants for money drawn, and
25 payments made and all of its cash and securities and other property
26 held.
- 27 r. "Service" means public service rendered for which credit is
28 allowed on the basis of contributions made by the State.
- 29 s. "Several courts" means the Supreme, Superior, and tax courts.
- 30 t. "Widow" means the woman to whom a member or a retirant was
31 married, or a domestic partner as defined in section 3 of P.L. , c.
32 (C.)(pending before the Legislature as this bill), at least four years
33 before the date of his death and to whom he continued to be married
34 or a domestic partner until the date of his death. The eligibility of such
35 a widow to receive a survivor's benefit will be considered terminated
36 by the marriage of, or establishment of a domestic partnership by, the
37 widow subsequent to the member's or the retirant's death. In the event
38 of accidental death the four-year qualification shall be waived. When
39 used in this act, the term "widow" shall mean and include "widower"
40 as may be necessary and appropriate to the particular situation.
- 41 u. "Widower" means the man to whom a member or a retirant was
42 married, or a domestic partner as defined in section 3 of P.L. , c.
43 (C.)(pending before the Legislature as this bill), at least four years
44 before the date of her death and to whom she continued to be married
45 or a domestic partner until the date of her death. The eligibility of such
46 a widower to receive a survivor's benefit will be considered terminated

1 by the marriage of, or establishment of a domestic partnership by, the
2 widower subsequent to the member's or retirant's death. In the event
3 of accidental death the four-year qualification shall be waived.

4 v. "Spouse" means the husband or wife, or domestic partner as
5 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
6 as this bill), of a member or retirant.

7 (cf: P.L.1992, c.125, s.4)

8

9 45. N.J.S.18A:66-2 is amended to read as follows:

10 18A:66-2. As used in this article:

11 a. "Accumulated deductions" means the sum of all the amounts,
12 deducted from the compensation of a member or contributed by or in
13 behalf of the member, including interest credited to January 1, 1956,
14 standing to the credit of the member's individual account in the annuity
15 savings fund.

16 b. "Annuity" means payments for life derived from the accumulated
17 deductions of a member as provided in this article.

18 c. "Beneficiary" means any person receiving a retirement allowance
19 or other benefit as provided in this article.

20 d. "Compensation" means the contractual salary, for services as a
21 teacher as defined in this article, which is in accordance with
22 established salary policies of the member's employer for all employees
23 in the same position but shall not include individual salary adjustments
24 which are granted primarily in anticipation of the member's retirement
25 or additional remuneration for performing temporary or extracurricular
26 duties beyond the regular school day or the regular school year.

27 e. "Employer" means the State, the board of education or any
28 educational institution or agency of or within the State by which a
29 teacher is paid.

30 f. "Final compensation" means the average annual compensation
31 for which contributions are made for the three years of creditable
32 service in New Jersey immediately preceding the member's retirement
33 or death, or it shall mean the average annual compensation for New
34 Jersey service for which contributions are made during any three fiscal
35 years of his or her membership providing the largest possible benefit
36 to the member or the member's beneficiary.

37 g. "Fiscal year" means any year commencing with July 1, and
38 ending with June 30, next following.

39 h. "Pension" means payments for life derived from appropriations
40 made by the State or employers to the Teachers' Pension and Annuity
41 Fund.

42 i. "Annuity reserve" means the present value of all payments to be
43 made on account of any annuity or benefit in lieu of an annuity,
44 granted under the provisions of this article, computed on the basis of
45 such mortality tables recommended by the actuary as the board of
46 trustees adopts, with regular interest.

- 1 j. "Pension reserve" means the present value of all payments to be
2 made on account of any pension or benefit in lieu of a pension granted
3 to a member from the Teachers' Pension and Annuity Fund, computed
4 on the basis of such mortality tables recommended by the actuary as
5 the board of trustees adopts, with regular interest.
- 6 k. "Present-entrant" means any member of the Teachers' Pension
7 and Annuity Fund who had established status as a "present-entrant
8 member" of said fund prior to January 1, 1956.
- 9 l. "Rate of contribution initially certified" means the rate of
10 contribution certified by the retirement system in accordance with
11 N.J.S.18A:66-29.
- 12 m. "Regular interest" shall mean interest as determined by the State
13 Treasurer, after consultation with the Directors of the Divisions of
14 Investment and Pensions, the board of trustees and the actuary. It
15 shall bear a reasonable relationship to the percentage rate of earnings
16 on investments based on the market value of assets but shall not
17 exceed the assumed percentage rate of increase applied to salaries plus
18 3%, provided however that the board of trustees shall not set the
19 average percentage rate of increase applied to salaries below 6%.
- 20 n. "Retirement allowance" means the pension plus the annuity.
- 21 o. "School service" means any service as a "teacher" as defined in
22 this section.
- 23 p. "Teacher" means any regular teacher, special teacher, helping
24 teacher, teacher clerk, principal, vice-principal, supervisor, supervising
25 principal, director, superintendent, city superintendent, assistant city
26 superintendent, county superintendent, State Commissioner or
27 Assistant Commissioner of Education, members of the State
28 Department of Education who are certificated, unclassified
29 professional staff and other members of the teaching or professional
30 staff of any class, public school, high school, normal school, model
31 school, training school, vocational school, truant reformatory school,
32 or parental school, and of any and all classes or schools within the
33 State conducted under the order and superintendence, and wholly or
34 partly at the expense of the State Board of Education, of a duly
35 elected or appointed board of education, board of school directors, or
36 board of trustees of the State or of any school district or normal
37 school district thereof, and any persons under contract or engagement
38 to perform one or more of these functions. It shall also mean any
39 person who serves, while on an approved leave of absence from
40 regular duties as a teacher, as an officer of a local, county or State
41 labor organization which represents, or is affiliated with an
42 organization which represents, teachers as defined in this subsection.
43 No person shall be deemed a teacher within the meaning of this article
44 who is a substitute teacher. In all cases of doubt the board of trustees
45 shall determine whether any person is a teacher as defined in this
46 article.

1 q. "Teachers' Pension and Annuity Fund," hereinafter referred to
2 as the "retirement system" or "system," is the corporate name of the
3 arrangement for the payment of retirement allowances and other
4 benefits under the provisions of this article, including the several funds
5 placed under said system. By that name all its business shall be
6 transacted, its funds invested, warrants for money drawn, and
7 payments made and all of its cash and securities and other property
8 held.

9 r. "Veteran" means any honorably discharged officer, soldier,
10 sailor, airman, marine or nurse who served in any Army, Air Force or
11 Navy of the Allies of the United States in World War I between July
12 14, 1914, and November 11, 1918, or who served in any Army, Air
13 Force or Navy of the Allies of the United States in World War II,
14 between September 1, 1939, and September 2, 1945, and who was
15 inducted into such service through voluntary enlistment, and was a
16 citizen of the United States at the time of such enlistment, and who did
17 not, during or by reason of such service, renounce or lose United
18 States citizenship, and any officer, soldier, sailor, marine, airman,
19 nurse or army field clerk who has served in the active military or naval
20 service of the United States and has or shall be discharged or released
21 therefrom under conditions other than dishonorable, in any of the
22 following wars, uprisings, insurrections, expeditions or emergencies,
23 and who has presented to the retirement system evidence of such
24 record of service in form and content satisfactory to said retirement
25 system:

26 (1) The Indian wars and uprisings during any of the periods
27 recognized by the War Department of the United States as periods of
28 active hostility;

29 (2) The Spanish-American War between April 20, 1898, and April
30 11, 1899;

31 (3) The Philippine insurrections and expeditions during the periods
32 recognized by the War Department of the United States as of active
33 hostility from February 4, 1899, to the end of 1913;

34 (4) The Peking relief expedition between June 20, 1900, and May
35 27, 1902;

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

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

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

42 (8) The Mexican border patrol, having actually participated in
43 engagements against Mexicans between April 12, 1911, and June 16,
44 1919;

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

46 (10) World War II, between September 16, 1940, and December

1 31, 1946, who shall have served at least 90 days in such active service,
2 exclusive of any period of assignment (1) for a course of education or
3 training under the Army Specialized Training Program or the Navy
4 College Training Program, which course was a continuation of a
5 civilian course and was pursued to completion, or (2) as a cadet or
6 midshipman at one of the service academies, any part of which 90 days
7 was served between said dates; provided that any person receiving an
8 actual service-incurred injury or disability shall be classed as a veteran,
9 whether or not that person has completed the 90-day service as herein
10 provided;

11 (11) Korean conflict on or after June 23, 1950, and on or prior to
12 January 31, 1955, who shall have served at least 90 days in such active
13 service, exclusive of any period of assignment (1) for a course of
14 education or training under the Army Specialized Training Program or
15 the Navy College Training Program, which course was a continuation
16 of a civilian course and was pursued to completion, or (2) as a cadet
17 or midshipman at one of the service academies, any part of which 90
18 days was served between said dates; provided that any person
19 receiving an actual service-incurred injury or disability shall be classed
20 as a veteran, whether or not that person has completed the 90-day
21 service as herein provided; and provided further that any member
22 classed as a veteran pursuant to this subsection prior to August 1,
23 1966, shall continue to be classed as a veteran, whether or not that
24 person completed the 90-day service between said dates as herein
25 provided;

26 (12) Lebanon crisis, on or after July 1, 1958, who has served in
27 Lebanon or on board any ship actively engaged in patrolling the
28 territorial waters of that nation for a period, continuous or in the
29 aggregate, of at least 14 days commencing on or before November 1,
30 1958 or the date of termination of that conflict, as proclaimed by the
31 President of the United States or Congress, whichever date of
32 termination is the latest, in such active service; provided, that any
33 person receiving an actual service-incurred injury or disability shall be
34 classed as a veteran whether or not that person has completed the 14
35 days' service as herein provided;

36 (13) Vietnam conflict, on or after December 31, 1960, and on or
37 prior to May 7, 1975, who shall have served at least 90 days in such
38 active service, exclusive of any period of assignment (1) for a course
39 of education or training under the Army Specialized Training Program
40 or the Navy College Training Program, which course was a
41 continuation of a civilian course and was pursued to completion, or (2)
42 as a cadet or midshipman at one of the service academies, any part of
43 which 90 days was served between said dates; and exclusive of any
44 service performed pursuant to the provisions of section 511(d) of Title
45 10, United States Code, pursuant to an enlistment in the Army
46 National Guard or as a reserve for service in the Army Reserve, Naval

1 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
2 Reserve; provided that any person receiving an actual service-incurred
3 injury or disability shall be classed as a veteran, whether or not that
4 person has completed the 90-day service as herein provided;

5 (14) Lebanon peacekeeping mission, on or after September 26,
6 1982, who has served in Lebanon or on board any ship actively
7 engaged in patrolling the territorial waters of that nation for a period,
8 continuous or in the aggregate, of at least 14 days commencing on or
9 before December 1, 1987 or the date of termination of that mission, as
10 proclaimed by the President of the United States or Congress,
11 whichever date of termination is the latest, in such active service;
12 provided, that any person receiving an actual service-incurred injury
13 or disability shall be classed as a veteran whether or not that person
14 has completed the 14 days' service as herein provided;

15 (15) Grenada peacekeeping mission, on or after October 23, 1983,
16 who has served in Grenada or on board any ship actively engaged in
17 patrolling the territorial waters of that nation for a period, continuous
18 or in the aggregate, of at least 14 days commencing on or before
19 November 21, 1983 or the date of termination of that mission, as
20 proclaimed by the President of the United States or Congress,
21 whichever date of termination is the latest, in such active service;
22 provided, that any person receiving an actual service-incurred injury
23 or disability shall be classed as a veteran whether or not that person
24 has completed the 14 days' service as herein provided;

25 (16) Panama peacekeeping mission, on or after December 20, 1989
26 or the date of inception of that mission, as proclaimed by the President
27 of the United States or Congress, whichever date of inception is
28 earliest, who has served in Panama or on board any ship actively
29 engaged in patrolling the territorial waters of that nation for a period,
30 continuous or in the aggregate, of at least 14 days commencing on or
31 before January 31, 1990 or the date of termination of that mission, as
32 proclaimed by the President of the United States or Congress,
33 whichever date of termination is the latest, in such active service;
34 provided, that any person receiving an actual service-incurred injury
35 or disability shall be classed as a veteran whether or not that person
36 has completed the 14 days' service as herein provided;

37 (17) Operation "Desert Shield/Desert Storm" mission in the
38 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
39 the date of inception of that operation, as proclaimed by the President
40 of the United States or Congress, whichever date of inception is
41 earliest, who has served in the Arabian peninsula or on board any ship
42 actively engaged in patrolling the Persian Gulf for a period, continuous
43 or in the aggregate, of at least 14 days commencing on or before the
44 date of termination of that mission, as proclaimed by the President of
45 the United States or Congress, whichever date of termination is the
46 latest, in such active service; provided, that any person receiving an

1 actual service-incurred injury or disability shall be classed as a veteran
2 whether or not that person has completed the 14 days' service as
3 herein provided;

4 (18) Operation "Restore Hope" in Somalia, commencing on or
5 after December 5, 1992, or the date of inception of that operation as
6 proclaimed by the President of the United States or the Congress,
7 whichever date is earliest, and terminating on March 31, 1994, or the
8 date of termination as proclaimed by the President of the United States
9 or the Congress, whichever date is latest, who served for at least 14
10 days, continuously or in the aggregate, in Somalia or on board any
11 ship actively engaged in patrolling the territorial waters of that nation
12 during the specified period; provided that any person receiving an
13 actual service-incurred injury or disability shall be classed as a veteran
14 whether or not that person has completed the 14-day service as herein
15 provided;

16 (19) Operations "Joint Endeavor" and "Joint Guard" in the
17 Republic of Bosnia and Herzegovina, commencing on or after
18 November 20, 1995 or December 20, 1996, as the case may be, and
19 terminating on December 20, 1996 or on such date as the United
20 States Secretary of Defense may designate, as the case may be, who
21 served in direct support of one or both of the operations for at least 14
22 days, continuously or in the aggregate, and (1) was deployed in that
23 nation or in another area in the region, or (2) was on board a United
24 States naval vessel operating in the Adriatic Sea, or (3) operated in
25 airspace above the Republic of Bosnia and Herzegovina; provided that
26 any person receiving an actual service-incurred injury or disability shall
27 be classed as a veteran whether or not that person completed the
28 14-day service requirement.

29 "Veteran" also means any honorably discharged member of the
30 American Merchant Marine who served during World War II and is
31 declared by the United States Department of Defense to be eligible for
32 federal veterans' benefits.

33 s. "Child" means a deceased member's unmarried child either (a)
34 under the age of 18 or (b) of any age who, at the time of the member's
35 death, is disabled because of mental retardation or physical incapacity,
36 is unable to do any substantial, gainful work because of the impairment
37 and the impairment has lasted or can be expected to last for a
38 continuous period of not less than 12 months, as affirmed by the
39 medical board.

40 t. ["Widower" means] (1) "Widower," for employees of the State,
41 means the man to whom a member was married, or a domestic partner
42 as defined in section 3 of P.L. , c. (C.)(pending before the
43 Legislature as this bill), at least five years before the date of her death
44 and to whom she continued to be married or a domestic partner until
45 the date of her death and who was receiving at least one-half of his
46 support from the member in the 12-month period immediately

1 preceding the member's death or the accident which was the direct
2 cause of the member's death. The dependency of such a widower will
3 be considered terminated by marriage of, or establishment of a
4 domestic partnership by, the widower subsequent to the death of the
5 member. In the event of the payment of an accidental death benefit,
6 the five-year qualification shall be waived.

7 (2) Subject to the provisions of paragraph (3) of this subsection,
8 "widower," for employees of public employers other than the State,
9 means the man to whom a member was married at least five years
10 before the date of her death and to whom she continued to be married
11 until the date of her death and who was receiving at least one-half of
12 his support from the member in the 12-month period immediately
13 preceding the member's death or the accident which was the direct
14 cause of the member's death. The dependency of such a widower shall
15 be considered terminated by marriage of the widower subsequent to
16 the death of the member. In the event of the payment of an accidental
17 death benefit, the five-year qualification shall be waived.

18 (3) A public employer other than the State may adopt a resolution
19 providing that the term "widower" as defined in paragraph (2) of this
20 subsection shall include domestic partners as provided in paragraph (1)
21 of this subsection.

22 u. ["Widow" means] (1) "Widow," for employees of the State,
23 means the woman to whom a member was married, or a domestic
24 partner as defined in section 3 of P.L. , c. (C.)(pending before the
25 Legislature as this bill), at least five years before the date of his death
26 and to whom he continued to be married or a domestic partner until
27 the date of his death and who was receiving at least one-half of her
28 support from the member in the 12-month period immediately
29 preceding the member's death or the accident which was the direct
30 cause of the member's death. The dependency of such a widow will be
31 considered terminated by the marriage of, or establishment of a
32 domestic partnership by, the widow subsequent to the member's death.
33 In the event of the payment of an accidental death benefit, the
34 five-year qualification shall be waived.

35 (2) Subject to the provisions of paragraph (3) of this subsection,
36 "widow," for employees of public employers other than the State,
37 means the woman to whom a member was married at least five years
38 before the date of his death and to whom he continued to be married
39 until the date of his death and who was receiving at least one-half of
40 her support from the member in the 12-month period immediately
41 preceding the member's death or the accident which was the direct
42 cause of the member's death. The dependency of such a widow shall
43 be considered terminated by the marriage of the widow subsequent to
44 the member's death. In the event of the payment of an accidental death
45 benefit, the five-year qualification shall be waived.

46 (3) A public employer other than the State may adopt a resolution

1 providing that the term "widower" as defined in paragraph (2) of this
2 subsection shall include domestic partners as provided in paragraph (1)
3 of this subsection.

4 v. "Parent" means the parent of a member who was receiving at
5 least one-half of the parent's support from the member in the 12-month
6 period immediately preceding the member's death or the accident
7 which was the direct cause of the member's death. The dependency of
8 such a parent will be considered terminated by marriage of the parent
9 subsequent to the death of the member.

10 w. "Medical board" means the board of physicians provided for in
11 N.J.S.18A:66-56.

12 x. (1) "Spouse," for employees of the State, means the husband or
13 wife, or domestic partner as defined in section 3 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), of a member.

15 (2) Subject to the provisions of paragraph (1) of this subsection,
16 "spouse," for employees of public employers other than the State,
17 means the husband or wife of a member.

18 (3) A public employer other than the State may adopt a resolution
19 providing that the term "spouse" as defined in paragraph (2) of this
20 subsection shall include domestic partners as provided in paragraph (1)
21 of this subsection.

22 (cf: P.L.2001, c.128, s.1)

23

24 46. Section 3 of P.L.1989, c.65 (C.53:5A-3) is amended to read as
25 follows:

26 3. As used in this act:

27 a. "Aggregate contributions" means the sum of all the amounts,
28 deducted from the salary of a member or contributed by him or on his
29 behalf, standing to the credit of his individual account in the Annuity
30 Savings Fund. Interest credited on contributions to the former "State
31 Police Retirement and Benevolent Fund" shall be included in a
32 member's aggregate contributions.

33 b. "Annuity" means payments for life derived from the aggregate
34 contributions of a member.

35 c. "Annuity reserve" means the present value of all payments to be
36 made on account of any annuity or benefit in lieu of an annuity,
37 computed upon the basis of such mortality tables recommended by the
38 actuary as the board of trustees adopts and regular interest.

39 d. "Beneficiary" means any person entitled to receive any benefit
40 pursuant to the provisions of this act by reason of the death of a
41 member or retirant.

42 e. "Board of trustees" or "board" means the board provided for in
43 section 30 of this act.

44 f. "Child" means a deceased member's or retirant's unmarried child
45 either (a) under the age of 18 or (b) of any age who, at the time of the
46 member's or retirant's death, is disabled because of mental retardation

1 or physical incapacity, is unable to do any substantial, gainful work
2 because of the impairment and his impairment has lasted or can be
3 expected to last for a continuous period of not less than 12 months, as
4 affirmed by the medical board.

5 g. "Creditable service" means service rendered for which credit is
6 allowed on the basis of contributions made by the member or the
7 State.

8 h. "Parent" means the parent of a member who was receiving at
9 least one-half of his support from the member in the 12-month period
10 immediately preceding the member's death or the accident which was
11 the direct cause of the member's death. The dependency of such a
12 parent will be considered terminated by marriage of the parent
13 subsequent to the death of the member.

14 i. "Final compensation" means the average compensation received
15 by the member in the last 12 months of creditable service preceding his
16 retirement or death. Such term includes the value of the member's
17 maintenance allowance for this same period.

18 j. "Final salary" means the average salary received by the member
19 in the last 12 months of creditable service preceding his retirement or
20 death. Such term shall not include the value of the member's
21 maintenance allowance.

22 k. "Fiscal year" means any year commencing with July 1 and ending
23 with June 30 next following.

24 l. "Medical board" means the board of physicians provided for in
25 section 30 of this act.

26 m. "Member" means any full-time, commissioned officer,
27 non-commissioned officer or trooper of the Division of State Police of
28 the Department of Law and Public Safety of the State of New Jersey
29 enrolled in the retirement system established by this act.

30 n. "Pension" means payment for life derived from contributions by
31 the State.

32 o. "Pension reserve" means the present value of all payments to be
33 made on account of any pension or benefit in lieu of any pension
34 computed on the basis of such mortality tables recommended by the
35 actuary as shall be adopted by the board of trustees and regular
36 interest.

37 p. "Regular interest" means interest as determined by the State
38 Treasurer, after consultation with the Directors of the Divisions of
39 Investment and Pensions, the board of trustees and the actuary. It
40 shall bear a reasonable relationship to the percentage rate of earnings
41 on investments based on the market value of the assets but shall not
42 exceed the assumed percentage rate of increase applied to salaries plus
43 3%, provided however that the board of trustees shall not set the
44 average percentage rate of increase applied to salaries below 6%.

45 q. "Retirant" means any former member receiving a retirement
46 allowance as provided by this act.

1 r. "Retirement allowance" means the pension plus the annuity.

2 s. "State Police Retirement System of New Jersey," herein also
3 referred to as the "retirement system" or "system," is the corporate
4 name of the arrangement for the payment of retirement allowances and
5 of the benefits under the provisions of this act including the several
6 funds placed under said system. By that name, all of its business shall
7 be transacted, its funds invested, warrants for moneys drawn, and
8 payments made and all of its cash and securities and other property
9 held. All assets held in the name of the former "State Police
10 Retirement and Benevolent Fund" shall be transferred to the retirement
11 system established by this act.

12 t. "Surviving spouse" means the person to whom a member or a
13 retirant was married, or a domestic partner as defined in section 3 of
14 P.L. , c. (C.)(pending before the Legislature as this bill), on the date
15 of the death of the member or retirant. The dependency of such a
16 surviving spouse will be considered terminated by the marriage of, or
17 establishment of a domestic partnership by, the surviving spouse
18 subsequent to the member's or the retirant's death.

19 u. "Compensation" for purposes of computing pension
20 contributions means the base salary, for services as a member as
21 defined in this act, which is in accordance with established salary
22 policies of the State for all employees in the same position but shall
23 not include individual salary adjustments which are granted primarily
24 in anticipation of the member's retirement or additional remuneration
25 for performing temporary duties beyond the regular workday or shift.
26 (cf: P.L.1992, c.125, s.16)

27

28 47. (New section) A hospital service corporation that provides
29 hospital or medical expense benefits under a contract that is delivered,
30 issued, executed or renewed in this State or approved for issuance or
31 renewal in this State by the Commissioner of Banking and Insurance,
32 on or after the effective date of this act, under which dependent
33 coverage is available, shall offer dependent coverage to a covered
34 person for a covered person's domestic partner. For the purposes of
35 this section, "domestic partner" means a domestic partner as defined
36 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
37 bill).

38 This section shall apply to those contracts in which the hospital
39 service corporation has reserved the right to change the premium.

40

41 48. (New section) A medical service corporation that provides
42 hospital or medical expense benefits under a contract that is delivered,
43 issued, executed or renewed in this State or approved for issuance or
44 renewal in this State by the Commissioner of Banking and Insurance,
45 on or after the effective date of this act, under which dependent
46 coverage is available, shall offer dependent coverage to a covered

1 person for a covered person's domestic partner. For the purposes of
2 this section, "domestic partner" means a domestic partner as defined
3 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
4 bill).

5 This section shall apply to those contracts in which the medical
6 service corporation has reserved the right to change the premium.

7
8 49. (New section) A health service corporation that provides
9 hospital or medical expense benefits under a contract that is delivered,
10 issued, executed or renewed in this State or approved for issuance or
11 renewal in this State by the Commissioner of Banking and Insurance,
12 on or after the effective date of this act, under which dependent
13 coverage is available, shall offer dependent coverage to a covered
14 person for a covered person's domestic partner. For the purposes of
15 this section, "domestic partner" means a domestic partner as defined
16 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
17 bill).

18 This section shall apply to those contracts in which the health
19 service corporation has reserved the right to change the premium.

20

21 50. (New section) An individual health insurer that provides
22 hospital or medical expense benefits under a policy that is delivered,
23 issued, executed or renewed in this State or approved for issuance or
24 renewal in this State by the Commissioner of Banking and Insurance,
25 on or after the effective date of this act, under which dependent
26 coverage is available, shall offer dependent coverage to a covered
27 person for a covered person's domestic partner. For the purposes of
28 this section, "domestic partner" means a domestic partner as defined
29 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
30 bill).

31 This section shall apply to those policies in which the insurer has
32 reserved the right to change the premium.

33

34 51. (New section) A group health insurer that provides hospital or
35 medical expense benefits under a policy that is delivered, issued,
36 executed or renewed in this State or approved for issuance or renewal
37 in this State by the Commissioner of Banking and Insurance, on or
38 after the effective date of this act, under which dependent coverage is
39 available, shall offer dependent coverage to a covered person for a
40 covered person's domestic partner. For the purposes of this section,
41 "domestic partner" means a domestic partner as defined in section 3 of
42 P.L. , c. (C.)(pending before the Legislature as this bill).

43 This section shall apply to those policies in which the insurer has
44 reserved the right to change the premium.

45

46 52. (New section) Every health maintenance organization contract

1 that is delivered, issued, executed or renewed in this State pursuant to
2 P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or
3 renewal in this State by the Commissioner of Banking and Insurance,
4 on or after the effective date of this act, under which dependent
5 coverage is available, shall offer dependent coverage to an enrollee for
6 an enrollee's domestic partner. For the purposes of this section,
7 "domestic partner" means a domestic partner as defined in section 3 of
8 P.L. , c. (C.)(pending before the Legislature as this bill).

9 The provisions of this section shall apply to contracts in which the
10 health maintenance organization has reserved the right to change the
11 schedule of charges.

12

13 53. (New section) Every individual health benefits plan that
14 provides hospital or medical expense benefits and is delivered, issued,
15 executed or renewed in this State pursuant to P.L.1992, c.161
16 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this
17 State on or after the effective date of this act, under which dependent
18 coverage is available, shall offer dependent coverage to a covered
19 person for a covered person's domestic partner. For the purposes of
20 this section, "domestic partner" means a domestic partner as defined
21 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
22 bill).

23 The provisions of this section shall apply to all policies or contracts
24 in which the carrier has reserved the right to change the premium.

25

26 54. (New section) Every small employer health benefits plan that
27 provides hospital or medical expense benefits and is delivered, issued,
28 executed or renewed in this State pursuant to P.L.1992, c.162
29 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this
30 State on or after the effective date of this act, under which dependent
31 coverage is available, shall offer dependent coverage to a covered
32 person for a covered person's domestic partner. For the purposes of
33 this section, "domestic partner" means a domestic partner as defined
34 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
35 bill).

36 The provisions of this section shall apply to all policies or contracts
37 in which the carrier has reserved the right to change the premium.

38

39 55. (New section) Every dental service corporation contract that
40 is delivered, issued, executed or renewed in this State pursuant to
41 P.L.1968, c.305 (C.17:48C-1 et seq.) or approved for issuance or
42 renewal in this State by the Commissioner of Banking and Insurance,
43 on or after the effective date of this act, under which dependent
44 coverage is available, shall offer dependent coverage to a covered
45 person for a covered person's domestic partner. For the purposes of
46 this section, "domestic partner" means a domestic partner as defined

1 in section 3 of P.L. , c. (C.)(pending before the Legislature as this
2 bill).

3 This section shall apply to all contracts in which the dental service
4 corporation has reserved the right to change the premium.

5
6 56. (New section) Every dental plan organization contract that is
7 delivered, issued, executed or renewed in this State pursuant to
8 P.L.1979, c.478 (C.17:48D-1 et seq.) or approved for issuance or
9 renewal in this State by the Commissioner of Banking and Insurance,
10 on or after the effective date of this act, under which dependent
11 coverage is available, shall offer dependent coverage to an enrollee for
12 an enrollee's domestic partner. For the purposes of this section,
13 "domestic partner" means a domestic partner as defined in section 3 of
14 P.L. , c. (C.)(pending before the Legislature as this bill).

15 This section shall apply to all contracts in which the dental plan
16 organization has reserved the right to change the premium.

17
18 57. An employer that provides a health benefits plan as defined in
19 section 2 of P.L.1997, c.192 (C.26:2S-2) to its employees and their
20 dependents in this State may require that an employee contribute a
21 portion or the full amount of the cost of dependent coverage under the
22 plan for the employee's domestic partner as defined in section 3 of
23 P.L. , c. (C.)(pending before the Legislature as this bill).

24
25 58. a. The Commissioner of Health and Senior Services, pursuant
26 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
27 et seq.), shall adopt rules and regulations to effectuate the purposes of
28 sections 1 through 10 and 13 through 35 of this act.

29 b. The Commissioner of Banking and Insurance, pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), shall adopt rules and regulations to effectuate the purposes of
32 sections 47 through 52, 55 and 56 of this act.

33 c. The New Jersey Individual Health Coverage Program Board,
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
36 the purposes of section 53 of this act.

37 d. The New Jersey Small Employer Health Benefits Program
38 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
39 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
40 effectuate the purposes of section 54 of this act.

41
42 59. This act shall take effect on the 180th day after enactment,
43 except that the Commissioners of Health and Senior Services and
44 Banking and Insurance may take such anticipatory administrative
45 action in advance as shall be necessary for the implementation of the
46 act; and the provisions of sections 47 through 56 shall apply to policies

1 or contracts issued or renewed on or after the effective date.

2 STATEMENT

3

4 This bill, which is designated the "Family Equality Act," creates a
5 mechanism, through the establishment of domestic partnerships, for
6 New Jersey to recognize and support the many adult individuals in this
7 State who share an important personal, emotional and committed
8 relationship with another adult. These familial relationships assist the
9 State by establishing a private support network for the financial,
10 physical, and emotional health of their participants. This bill provides
11 the State with the opportunity to recognize the important material and
12 non-economic contributions that individuals in these relationships
13 make to each other, and to the State, by conferring certain rights and
14 benefits, as well as obligations and responsibilities, upon domestic
15 partners.

16 Currently, a significant number of New Jersey residents live in
17 families in which the heads of household are unmarried. These families
18 include, for example, older couples, same-sex couples, a single parent
19 and adult child, and unmarried adult siblings who share a home
20 together. Despite their interdependence and mutual commitment,
21 these families do not currently have access to the protections and
22 benefits offered by the law to certain other family structures, such as
23 marriage and parent-child relationships; nor do they bear legal
24 obligations to each other, no matter how interdependent their
25 relationship. This bill seeks to redress this oversight and provide
26 certain benefits to, and enforce certain obligations within, these
27 families.

28 The bill provides that two persons who desire to become domestic
29 partners may execute and file an Affidavit of Domestic Partnership
30 with the local registrar upon payment of a fee, in an amount to be
31 determined by the Commissioner of Health and Senior Services, if they
32 meet all of the following requirements:

33 -- Both persons share a common residence in this State, or share
34 the same place to live in another jurisdiction when at least one of them
35 is a member of a State-administered retirement system;

36 -- Both persons agree to be jointly responsible for each other's
37 basic living expenses during the domestic partnership;

38 -- Neither person is married in a marriage recognized by New
39 Jersey law or a member of another domestic partnership;

40 -- Both persons have chosen to share each other's lives in a
41 committed relationship of mutual caring;

42 -- Both persons are at least 18 years of age;

43 -- Both persons file jointly an Affidavit of Domestic Partnership;

44 and

45 -- Neither person has been a partner in a domestic partnership that
46 was terminated less than 180 days prior to the filing of the current

1 Affidavit of Domestic Partnership, except that this prohibition shall not
2 apply if one of the partners died; and, in all cases in which a person
3 registered a prior domestic partnership, the domestic partnership shall
4 have been terminated in accordance with the provisions of the bill.

5 The bill would impose civil penalties as follows:

6 -- up to \$1,000 against a person who executes an Affidavit of
7 Domestic Partnership in violation of its provisions, to be sued for and
8 collected pursuant to the "Penalty Enforcement Law of 1999"; and

9 -- up to \$500 against a local registrar (through an amendment to
10 N.J.S.A.26:8-55) for knowingly submitting a Certificate of Domestic
11 Partnership to the State registrar that contains incorrect particulars (on
12 the same basis as would apply with respect to a birth, marriage or
13 death certificate).

14 The bill gives the Superior Court jurisdiction over all proceedings
15 relating to the termination of a domestic partnership, including the
16 division and distribution of jointly held property, and requires that the
17 termination follow the same procedures, and the parties be subject to
18 the same substantive rights and obligations, as are involved in an
19 action for divorce.

20 The bill accords domestic partners rights and responsibilities that
21 reflect the mutually interdependent and supportive nature of domestic
22 partnership relationships. Specifically, the bill provides domestic
23 partners with:

24 C statutory protection through the "Law Against Discrimination"
25 (N.J.S.A.10:5-1 et seq.) against various forms of discrimination
26 based on domestic partnership status, including employment,
27 housing and credit discrimination;

28 C visitation rights for a hospitalized domestic partner and the right to
29 make medical or legal decisions for an incapacitated partner;

30 C an additional personal exemption under the "New Jersey Gross
31 Income Tax Act (N.J.S.A.54A:1-1 et seq.) and an exemption from
32 the transfer inheritance tax on the same basis as a spouse;

33 C in the case of State employees, eligibility for dependent coverage
34 under the State Health Benefits Program and dependent benefits
35 under State-administered retirement systems (Public Employees'
36 Retirement System, Police and Firemen's Retirement System,
37 Judicial Retirement System, Teachers' Pension and Annuity Fund,
38 and State Police Retirement System);

39 C in the case of other public employees, including employees of
40 counties, municipalities and boards of education, eligibility for
41 dependent coverage under the State Health Benefits Program and
42 State-administered retirement systems, if the employer adopts a
43 resolution providing for such coverage; and

44 C eligibility for dependent coverage under health insurance contracts
45 and policies that commercial health and dental insurers are required
46 to offer to covered persons under the bill, although an employer

1 may require a person covered by the employer's health benefits plan
2 to assume a portion or the full amount of the cost of coverage for
3 that person's domestic partner.

4 Finally, the bill recognizes that while individuals in domestic
5 partnerships share some of the same emotional and financial bonds and
6 other indicia of interdependence as married couples, domestic
7 partnership is a status distinct from marriage. The bill draws two chief
8 legal distinctions to reflect the continuing difference between the two
9 statuses:

10 (1) property acquired by one partner during a domestic partnership
11 is treated as the property of that individual, unlike in a marriage where
12 joint ownership may arise by law; and

13 (2) the status of domestic partnership neither creates nor
14 diminishes individual partners' rights and responsibilities toward
15 children, unlike in a marriage where both spouses possess legal rights
16 and obligations with respect to any children born during the marriage.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3743

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2003

The Assembly Health and Human Services Committee reports favorably and with committee amendments Assembly Bill No. 3743.

As amended by the committee, this bill, which is designated the "Domestic Partnership Act," creates a mechanism, through the establishment of domestic partnerships, for New Jersey to recognize and support the many adult individuals in this State who share an important personal, emotional and committed relationship with another adult. These familial relationships assist the State by establishing a private support network for the financial, physical, and emotional health of their participants. This bill provides the State with the opportunity to recognize the important material and non-economic contributions that individuals in these relationships make to each other, and to the State, by conferring certain rights and benefits, as well as obligations and responsibilities, upon domestic partners.

Currently, a significant number of New Jersey residents live in families in which the heads of household are unmarried. Despite their interdependence and mutual commitment, these families do not have access to the protections and benefits offered by the law to married couples; nor do they bear legal obligations to each other, no matter how interdependent their relationship. This bill seeks to redress this oversight and provide certain benefits to, and enforce certain obligations within, these families.

The bill provides that two persons who desire to become domestic partners may execute and file an Affidavit of Domestic Partnership with the local registrar upon payment of a fee, in an amount to be determined by the Commissioner of Health and Senior Services, if they meet all of the following requirements:

- Both persons share a common residence in this State, or share the same place to live in another jurisdiction when at least one of them is a member of a State-administered retirement system;
- Both persons are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property, which is to be demonstrated by at least one of the following: a joint deed, mortgage agreement or

lease; a joint bank account; designation of one of the persons as a primary beneficiary in the other person's will; designation of one of the persons as a primary beneficiary in the other person's life insurance policy or retirement plan; or joint ownership of a motor vehicle;

-- Both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership;

-- Neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership;

-- Neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity;

-- Both persons are of the same sex and therefore unable to enter into a marriage with each other that is recognized by New Jersey law;

-- Both persons have chosen to share each other's lives in a committed relationship of mutual caring;

-- Both persons are at least 18 years of age;

-- Both persons file jointly an Affidavit of Domestic Partnership; and

-- Neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership, except that this prohibition does not apply if one of the partners died; and, in all cases in which a person registered a prior domestic partnership, the domestic partnership must have been terminated in accordance with the provisions of the bill.

The bill would impose civil penalties as follows:

-- up to \$1,000 against a person who executes an Affidavit of Domestic Partnership in violation of its provisions, to be sued for and collected pursuant to the "Penalty Enforcement Law of 1999"; and

-- up to \$500 against a local registrar (through an amendment to N.J.S.A.26:8-55) for knowingly submitting a Certificate of Domestic Partnership to the State registrar that contains incorrect particulars (on the same basis as would apply with respect to a birth, marriage or death certificate).

The bill gives the Superior Court jurisdiction over all proceedings relating to the termination of a domestic partnership, including the division and distribution of jointly held property, and provides that the termination of a domestic partnership may be adjudged for the following causes:

* voluntary sexual intercourse between a person who is in a domestic partnership and an individual other than the person's domestic partner;

* willful and continued desertion for a period of 12 or more consecutive months, which may be established by satisfactory proof that the parties have ceased to cohabit as domestic partners;

* extreme cruelty, which is defined as including any physical or mental cruelty that endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; except that no complaint for termination is to be filed until after three months from the date of the last act of

cruelty complained of in the complaint, but this provision is not to be held to apply to any counterclaim;

- * separation, provided that the domestic partners have lived separate and apart in different habitations for a period of at least 18 or more consecutive months and there is no reasonable prospect of reconciliation; and provided further that, after the 18-month period, there is a presumption that there is no reasonable prospect of reconciliation;

- * voluntarily induced addiction or habituation to any narcotic drug, as defined in the "New Jersey Controlled Dangerous Substances Act" (N.J.S.A.24:21-2) or the "Comprehensive Drug Reform Act of 1987" (N.J.S.A.2C:35-1 et al.), or habitual drunkenness for a period of 12 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint;

- * institutionalization for mental illness for a period of 24 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint; or

- * imprisonment of the defendant for 18 or more consecutive months after establishment of the domestic partnership, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following the imprisonment.

In all proceedings relating to the termination of a domestic partnership, the court will in no event be required to effect an equitable distribution of property, either real or personal, which was legally and beneficially acquired by both domestic partners or either domestic partner during the domestic partnership.

The bill accords domestic partners rights and responsibilities that reflect the mutually interdependent and supportive nature of domestic partnership relationships. Specifically, the bill provides all domestic partners with:

- * statutory protection through the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.) against various forms of discrimination based on domestic partnership status, including employment, housing and credit discrimination;

- * visitation rights for a hospitalized domestic partner and the right to make medical or legal decisions for an incapacitated partner;

- * an additional personal exemption under the "New Jersey Gross Income Tax Act" (N.J.S.A.54A:1-1 et seq.) and an exemption from the transfer inheritance tax on the same basis as a spouse;

- * in the case of State employees, eligibility for dependent coverage under the State Health Benefits Program and dependent benefits under State-administered retirement systems (Public Employees' Retirement System, Police and Firemen's Retirement System, Judicial Retirement System, Teachers' Pension and Annuity Fund, and State Police Retirement System);

- * in the case of other public employees, including employees of counties, municipalities and boards of education, eligibility for dependent coverage under the State Health Benefits Program and

State-administered retirement systems, if the employer adopts a resolution providing for such coverage; and

* eligibility for dependent coverage under health insurance contracts and policies that commercial health and dental insurers are required to offer to covered persons under the bill.

The bill also provides that two adults who have not filed an Affidavit of Domestic Partnership are to be treated as domestic partners in an emergency medical situation for the purposes of allowing one adult to accompany the other adult who is ill or injured while the latter is being transported to a hospital, or to visit the other adult who is a hospital patient, on the same basis as a member of the latter's immediate family, if both persons, or one of the persons in the event that the other person is legally or medically incapacitated, advise the emergency care provider that the two persons have met the other requirements for establishing a domestic partnership; however, this provision is not to be construed to permit the two adults to be treated as domestic partners for any other purpose prior to their having filed an Affidavit of Domestic Partnership.

In addition, the bill stipulates that, notwithstanding any other provisions of law to the contrary, its provisions which permit an employer that provides a health benefits plan (as defined in N.J.S.A.26:2S-2) to its employees and their dependents to require that an employee contribute a portion or the full amount of the cost of dependent coverage under the plan for the employee's domestic partner (section 57) are not to be deemed an unlawful discrimination under the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.).

The bill further stipulates that an employer is not required to provide health benefits coverage for an employee's domestic partner.

Finally, the bill recognizes that while individuals in domestic partnerships share some of the same emotional and financial bonds and other indicia of interdependence as married couples, domestic partnership is a status distinct from marriage. The bill draws two chief legal distinctions to reflect the continuing difference between each status:

(1) property acquired by one partner during a domestic partnership is treated as the property of that individual, unlike in a marriage where joint ownership may arise by law; and

(2) the status of domestic partnership neither creates nor diminishes individual partners' rights and responsibilities toward children, unlike in a marriage where both spouses possess legal rights and obligations with respect to any children born during the marriage.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

(1) change the short title of the bill from the "Family Equality Act" to the "Domestic Partnership Act" (section 1);

(2) require, as a condition of establishing a domestic partnership, that, in addition to having a common residence, both persons must be

otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property (which is to be demonstrated by at least one of the following: a joint deed, mortgage agreement or lease; a joint bank account; designation of one of the persons as a primary beneficiary in the other person's will; designation of one of the persons as a primary beneficiary in the other person's life insurance policy or retirement plan; or joint ownership of a motor vehicle);

(3) preclude the establishment of a domestic partnership between persons who are related to each other by blood or affinity up to and including the fourth degree of consanguinity, that is, up to and including first cousins;

(4) require that both persons in a domestic partnership be of the same sex and therefore unable to enter into a marriage with each other that is recognized by New Jersey law;

(5) clarify the provision that two adults who have not filed an Affidavit of Domestic Partnership are to be treated as domestic partners in an emergency medical situation if both persons, or one of the persons in the event that the other person is legally or medically incapacitated, advise the emergency care provider that the two persons have met the other requirements for establishing a domestic partnership (subsection f. of section 6), by stipulating that this provision would permit one adult to accompany the other adult who is ill or injured while the latter is being transported to a hospital, or to visit the other adult who is a hospital patient, on the same basis as a member of the latter's immediate family, but is not to be construed to permit the two adults to be treated as domestic partners for any other purpose prior to their having filed an Affidavit of Domestic Partnership;

(6) delete the requirement that the termination of a domestic partnership follow the same procedures, and that the parties be subject to the same substantive rights and obligations, as are involved in an action for divorce pursuant to N.J.S.2A:34-1 et seq., and clarify that in all proceedings relating to the termination of a domestic partnership, the Superior Court will in no event be required to effect an equitable distribution of property, either real or personal, which was legally and beneficially acquired by both domestic partners or either domestic partner during the domestic partnership (section 10);

(7) provide that the fees for filing an action or proceeding for the termination of a domestic partnership are to be the same as those for filing an action or proceeding for divorce pursuant to N.J.S.A.22A:2-12;

(8) specify the causes for which a termination of a domestic partnership may be effected (section 10);

(9) require the Superior Court to notify the State Registrar of the termination of a domestic partnership through the court (section 10);

(10) direct the State registrar to revise the records of domestic partnership provided for in the bill to reflect the termination of a

domestic partnership (section 10);

(11) stipulate that an employer is not required to provide health benefits coverage for an employee's domestic partner (section 57); and

(12) provide that, notwithstanding any other provisions of law to the contrary, the provisions of section 57 (which permit an employer that provides a health benefits plan to its employees and their dependents to require that an employee contribute a portion or the full amount of the cost of dependent coverage under the plan for the employee's domestic partner, and which stipulate that an employer is not required to provide health benefits coverage for an employee's domestic partner) are not to be deemed an unlawful discrimination under the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.).

Other amendments are technical in nature and update various sections of law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3743

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2003

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3743, with committee amendments

Assembly Bill No. 3743 (1R), as amended, is designated the "Domestic Partnership Act." The bill creates a mechanism, through the establishment of domestic partnerships, for New Jersey to recognize and support the many adult individuals in this State who share an important personal, emotional and committed relationship with another adult. These familial relationships assist the State by establishing a private support network for the financial, physical, and emotional health of their participants. This bill provides the State with the opportunity to recognize the important material and non-economic contributions that individuals in these relationships make to each other, and to the State, by conferring certain rights and benefits, as well as obligations and responsibilities, upon domestic partners.

Currently, a significant number of New Jersey residents live in families in which the heads of household are unmarried. Despite their interdependence and mutual commitment, these families do not have access to the protections and benefits offered by the law to married couples; nor do they bear legal obligations to each other, no matter how interdependent their relationship. This bill seeks to redress this oversight and provide certain benefits to, and enforce certain obligations within, these families.

The bill provides that two persons who desire to become domestic partners may execute and file an Affidavit of Domestic Partnership with the local registrar upon payment of a fee, in an amount to be determined by the Commissioner of Health and Senior Services, if they meet all of the following requirements:

-- Both persons share a common residence in this State, or share the same place to live in another jurisdiction and at least one of them is a member of a State-administered retirement system;

-- Both persons are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property, which are to be demonstrated by at least one of the following: a joint deed, mortgage agreement or

lease; a joint bank account; designation of one of the persons as a primary beneficiary in the other person's will; designation of one of the persons as a primary beneficiary in the other person's life insurance policy or retirement plan; or joint ownership of a motor vehicle;

-- Both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership;

-- Neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership;

-- Neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity;

-- Both persons are of the same sex and therefore unable to enter into a marriage with each other that is recognized by New Jersey law, or are each 62 years of age or older and not of the same sex;

-- Both persons have chosen to share each other's lives in a committed relationship of mutual caring;

-- Both persons are at least 18 years of age;

-- Both persons file jointly an Affidavit of Domestic Partnership; and

-- Neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership, except that this prohibition does not apply if one of the partners died; and, in all cases in which a person registered a prior domestic partnership, the domestic partnership must have been terminated in accordance with the provisions of the bill.

The bill would impose civil penalties as follows:

-- up to \$1,000 against a person who executes an Affidavit of Domestic Partnership in violation of the bill's provisions, to be sued for and collected pursuant to the "Penalty Enforcement Law of 1999"; and

-- up to \$500 against a local registrar (through an amendment to N.J.S.A.26:8-55) for knowingly submitting a Certificate of Domestic Partnership to the State registrar that contains incorrect particulars (on the same basis as would apply with respect to a birth, marriage or death certificate).

The bill gives the Superior Court jurisdiction over all proceedings relating to the termination of a domestic partnership, including the division and distribution of jointly held property, and provides that the termination of a domestic partnership may be adjudged for the following causes:

* voluntary sexual intercourse between a person who is in a domestic partnership and an individual other than the person's domestic partner;

* willful and continued desertion for a period of 12 or more consecutive months, which may be established by satisfactory proof that the parties have ceased to cohabit as domestic partners;

* extreme cruelty, which is defined as including any physical or mental cruelty that endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue

to cohabit with the defendant; except that no complaint for termination is to be filed until after three months from the date of the last act of cruelty complained of in the complaint, but this provision is not to be held to apply to any counterclaim;

- * separation, provided that the domestic partners have lived separate and apart in different habitations for a period of at least 18 or more consecutive months and there is no reasonable prospect of reconciliation; and provided further that, after the 18-month period, there is a presumption that there is no reasonable prospect of reconciliation;

- * voluntarily induced addiction or habituation to any narcotic drug, as defined in the "New Jersey Controlled Dangerous Substances Act" (N.J.S.A.24:21-2) or the "Comprehensive Drug Reform Act of 1987" (N.J.S.A.2C:35-1 et al.), or habitual drunkenness for a period of 12 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint;

- * institutionalization for mental illness for a period of 24 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint; or

- * imprisonment of the defendant for 18 or more consecutive months after establishment of the domestic partnership, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following the imprisonment.

In all proceedings relating to the termination of a domestic partnership, the court will in no event be required to effect an equitable distribution of property, either real or personal, which was legally and beneficially acquired by both domestic partners or either domestic partner during the domestic partnership.

In the case of domestic partners that are not of the same sex, the domestic partnership will terminate automatically upon the partners' entry into a marriage with each other that is recognized by New Jersey law.

The bill accords domestic partners rights and responsibilities that reflect the mutually interdependent and supportive nature of domestic partnership relationships. The bill provides all domestic partners with:

- * statutory protection through the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.) against various forms of discrimination based on domestic partnership status, including employment, housing and credit discrimination;

- * visitation rights for a hospitalized domestic partner and the right to make medical or legal decisions for an incapacitated partner; and

- * an additional personal exemption under the "New Jersey Gross Income Tax Act" (N.J.S.A.54A:1-1 et seq.) and an exemption from the New Jersey transfer inheritance tax on the same basis as a spouse.

The bill would also make certain health and pension benefits available to dependent domestic partners in the case of domestic partnerships in which both persons are of the same sex and therefore unable to enter into a marriage with each other that is recognized by

New Jersey law:

* in the case of State employees, eligibility for dependent coverage under the State Health Benefits Program and dependent benefits under State-administered retirement systems (Public Employees' Retirement System, Police and Firemen's Retirement System, Judicial Retirement System, Teachers' Pension and Annuity Fund, and State Police Retirement System);

* in the case of other public employees, including employees of counties, municipalities and boards of education, eligibility for dependent coverage under the State Health Benefits Program and State-administered retirement systems, if the employer adopts a resolution providing for such coverage; and

* eligibility for dependent coverage under health insurance contracts and policies that commercial health and dental insurers are required to offer to covered persons under the bill.

The bill provides that two adults who have not filed an Affidavit of Domestic Partnership are to be treated as domestic partners in an emergency medical situation for the purposes of allowing one adult to accompany the other adult who is ill or injured while the latter is being transported to a hospital, or to visit the other adult who is a hospital patient, on the same basis as a member of the latter's immediate family, if both persons, or one of the persons in the event that the other person is legally or medically incapacitated, advise the emergency care provider that the two persons have met the other requirements for establishing a domestic partnership; however, this provision is not to be construed to permit the two adults to be treated as domestic partners for any other purpose prior to their having filed an Affidavit of Domestic Partnership.

In addition, the bill stipulates that, notwithstanding any other provisions of law to the contrary, its provisions which permit an employer that provides a health benefits plan (as defined in N.J.S.A.26:2S-2) to its employees and their dependents to require that an employee contribute a portion or the full amount of the cost of dependent coverage under the plan for the employee's domestic partner (section 57), and concerning the distinction between same-sex couples and opposite-sex couples over 62 years of age who establish domestic partnerships with respect to health and pension benefits made available to dependent domestic partners under the bill (section 58), are not to be deemed an unlawful discrimination under the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.).

Finally, the bill recognizes that while individuals in domestic partnerships share some of the same emotional and financial bonds and other indicia of interdependence as married couples, domestic partnership is a status distinct from marriage. The bill draws two chief legal distinctions to reflect the continuing difference between each status:

(1) property acquired by one partner during a domestic partnership is treated as the property of that individual, unlike in a

marriage where joint ownership may arise by law; and

(2) the status of domestic partnership neither creates nor diminishes individual partners' rights and responsibilities toward children, unlike in a marriage where both spouses possess legal rights and obligations with respect to any children born during the marriage.

FISCAL IMPACT:

There appear to be three areas of the bill that could have an impact on State expenditures:

- State employee health benefits would become available to domestic partners. Data from other states suggest that approximately 1% of employees may claim health benefits for domestic partners. If New Jersey experiences a similar rate, there would be an increase in State costs of about \$5 million annually.

- Decedent transfers to domestic partners would become exempt from taxation under the New Jersey transfer inheritance tax. Data for State Fiscal Year 2003-2004 indicate that, of the \$260 million attributable to the transfer inheritance tax, about \$41 million is related to transfers to "non-relatives." Data are not available for determining what portion of the \$41 million could be negatively impacted by the bill, but data on the percentage of the population that registers as domestic partners suggests it is closer to \$0 than to \$41 million.

- A gross income tax deduction of \$1,000 would be allowed for a domestic partner. The deduction would only be allowed if the partners did not file separately, so it would only apply if one of the partners had taxable income and the other did not. The value of the benefit would vary between \$14 and \$64 a year depending on the income and marginal tax rate of the filing partner. The total cost would not appear to be significant.

COMMITTEE AMENDMENTS:

The amendments:

(1) add language to the legislative findings and declarations that sets forth the rationale for the rights and benefits accorded domestic partners under the bill (section 2);

(2) permit the establishment of a domestic partnership between persons who are not of the same sex and are 62 years of age or older (section 4);

(3) provide that in the case of two persons who are 62 years of age or older and not of the same sex and have established a domestic partnership pursuant to the bill, the domestic partnership will be deemed terminated if the two persons enter into a marriage with each other that is recognized by New Jersey law (section 10);

(4) stipulate that the health and pension benefits made available to dependent domestic partners under the bill (sections 41 through 56, inclusive) will apply only to domestic partnerships in which both persons are of the same sex; and

(5) provide that, notwithstanding any other provisions of law to

the contrary, the provisions of section 58 (concerning the distinction between same-sex couples and opposite-sex couples 62 years of age or older who establish domestic partnerships with respect to health and pension benefits made available to dependent domestic partners under the bill) are not to be deemed an unlawful discrimination under the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.).

SENATE, No. 2820

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED DECEMBER 11, 2003

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)

SYNOPSIS

"Domestic Partnership Act"; establishes domestic partnerships.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the rights and responsibilities of domestic
2 partners, and revising parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) This act shall be known and may be cited as the
8 "Domestic Partnership Act."

9
10 2. (New section) The Legislature finds and declares that:

11 a. There are a significant number of individuals in this State who
12 choose to live together in important personal, emotional and economic
13 committed relationships with another individual;

14 b. These familial relationships, which are known as domestic
15 partnerships, assist the State by their establishment of a private
16 network of support for the financial, physical and emotional health of
17 their participants;

18 c. Because of the material and other support that these familial
19 relationships provide to their participants, the Legislature believes that
20 these mutually supportive relationships should be formally recognized
21 by statute, and that certain rights and benefits should be made
22 available to individuals participating in them;

23 d. The rights of domestic partners with regard to health and
24 pension benefits should be the same as spouses; and

25 e. Therefore, it is the public policy of this State to hereby establish
26 and define the rights and responsibilities of domestic partners.

27
28 3. (New section) As used in sections 1 through 9 of P.L. , c.
29 (C.)(pending before the Legislature as this bill) and in R.S.26:8-1 et
30 seq.:

31 "Affidavit of Domestic Partnership" means an affidavit that sets
32 forth each party's name and age, the parties' common mailing address,
33 and a statement that, at the time the affidavit is signed, both parties
34 meet the requirements of this act for entering into a domestic
35 partnership and wish to enter into a domestic partnership with each
36 other.

37 "Basic living expenses" means the cost of basic food and shelter,
38 and any other cost, including, but not limited to, the cost of health
39 care, if some or all of the cost is paid as a benefit because a person is
40 another person's domestic partner.

41 "Certificate of Domestic Partnership" means a certificate that
42 includes: the full names of the domestic partners, a statement that the
43 two individuals are members of a registered domestic partnership

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

Matter underlined thus is new matter.

1 recognized by the State of New Jersey, the date that the domestic
2 partnership was entered into, and a statement that the partners are
3 entitled to all the rights, privileges and responsibilities accorded to
4 domestic partners under the law. The certificate shall bear the seal of
5 the State of New Jersey.

6 "Commissioner" means the Commissioner of Health and Senior
7 Services.

8 "Domestic partner" or "partner" means a person who is in a
9 relationship that satisfies the definition of a domestic partnership as set
10 forth in this act.

11 "Have a common residence" means that two persons share the same
12 place to live in this State, or share the same place to live in another
13 jurisdiction when at least one of the persons is a member of a State-
14 administered retirement system, regardless of whether or not: the
15 legal right to possess the place is in both of their names; one or both
16 persons have additional places to live; or one person temporarily
17 leaves the shared place of residence to reside elsewhere, on either a
18 short-term or long-term basis, for reasons that include, but are not
19 limited to, medical care, incarceration, education, a sabbatical or
20 employment, but intends to return to the shared place of residence.

21 "Jointly responsible" means that each domestic partner agrees to
22 provide for the other partner's basic living expenses if the other partner
23 is unable to provide for himself.

24 "Notice of Rights and Obligations of Domestic Partners" means a
25 form that advises domestic partners, or persons seeking to become
26 domestic partners, of the procedural requirements for establishing,
27 maintaining, and terminating a domestic partnership, and includes
28 information about the rights and responsibilities of the partners.

29

30 4. (New section) a. Two persons who desire to become domestic
31 partners and meet the requirements of subsection b. of this section may
32 execute and file an Affidavit of Domestic Partnership with the local
33 registrar upon payment of a fee, in an amount to be determined by the
34 commissioner, which shall be deposited in the General Fund. Each
35 person shall receive a copy of the affidavit marked "filed."

36 b. A domestic partnership shall be established when all of the
37 following requirements are met:

38 (1) Both persons have a common residence;

39 (2) Both persons agree to be jointly responsible for each other's
40 basic living expenses during the domestic partnership;

41 (3) Neither person is in a marriage recognized by New Jersey law
42 or a member of another domestic partnership;

43 (4) Neither person is related to the other by blood or affinity up to
44 and including the fourth degree of consanguinity;

45 (5) Both persons are of the same sex and therefore unable to enter
46 into a marriage with each other that is recognized by New Jersey law,

1 except that two persons who are each 63 years of age or older and not
2 of the same sex may establish a domestic partnership if they meet the
3 requirements set forth in this section;

4 (6) Both persons have chosen to share each other's lives in a
5 committed relationship of mutual caring;

6 (7) Both persons are at least 18 years of age;

7 (8) Both persons file jointly an Affidavit of Domestic Partnership;
8 and

9 (9) Neither person has been a partner in a domestic partnership that
10 was terminated less than 180 days prior to the filing of the current
11 Affidavit of Domestic Partnership, except that this prohibition shall not
12 apply if one of the partners died; and, in all cases in which a person
13 registered a prior domestic partnership, the domestic partnership shall
14 have been terminated in accordance with the provisions of section 10
15 of P.L. , c. (C.)(pending before the Legislature as this bill).

16 c. A person who executes an Affidavit of Domestic Partnership in
17 violation of the provisions of subsection b. of this section shall be
18 liable to a civil penalty in an amount not to exceed \$1,000. The
19 penalty shall be sued for and collected pursuant to the "Penalty
20 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
21

22 5. (New section) a. A former domestic partner who has given a
23 copy of the Certificate of Domestic Partnership to any third party to
24 qualify for any benefit or right and whose receipt of that benefit or
25 enjoyment of that right has not otherwise terminated, shall, upon
26 termination of the domestic partnership, give or send to the third
27 party, at the last known address of the third party, written notification
28 that the domestic partnership has been terminated. A third party that
29 suffers a loss as a result of failure by a domestic partner to provide
30 this notice shall be entitled to seek recovery from the partner who was
31 obligated to send the notice for any actual loss resulting thereby.

32 b. Failure to provide notice to a third party, as required pursuant
33 to this section, shall not delay or prevent the termination of the
34 domestic partnership.
35

36 6. (New section) a. The obligations that two people have to each
37 other as a result of creating a domestic partnership shall be limited to
38 the provisions of this act, and those provisions shall not diminish any
39 right granted under any other provision of law.

40 b. Upon the termination of a domestic partnership, the domestic
41 partners, from that time forward, shall incur none of the obligations to
42 each other as domestic partners that are created by this or any other
43 act.

44 c. A domestic partnership, civil union or reciprocal beneficiary
45 relationship entered into outside of this State, which is valid under the
46 laws of the jurisdiction under which the partnership was created, shall

1 be valid in this State.

2 d. Any health care or social services provider, employer, operator
3 of a place of public accommodation, property owner or administrator,
4 or other individual or entity may treat a person as a member of a
5 domestic partnership, notwithstanding the absence of an Affidavit of
6 Domestic Partnership filed pursuant to this act.

7 e. Domestic partners may modify the rights and obligations to each
8 other that are granted by this act in any valid contract between
9 themselves, except for the requirements for a domestic partnership as
10 set forth in section 4 of P.L. , c. (C.)(pending before the
11 Legislature as this bill).

12 f. Two adults who have not filed an Affidavit of Domestic
13 Partnership shall be treated as domestic partners in an emergency
14 medical situation if both persons, or one of the persons in the event
15 that the other person is legally or medically incapacitated, advise the
16 emergency care provider that the two persons have met the other
17 requirements for establishing a domestic partnership as set forth in
18 section 4 of P.L. , c. (C.)(pending before the Legislature as this
19 bill).

20 g. A domestic partner shall not be liable for the debts of the other
21 partner contracted before establishment of the domestic partnership,
22 or contracted by the other partner in his own name during the
23 domestic partnership. The partner who contracts for the debt in his
24 own name shall be liable to be sued separately in his own name, and
25 any property belonging to that partner shall be liable to satisfy that
26 debt in the same manner as if the partner had not entered into a
27 domestic partnership.

28

29 7. (New section) a. The commissioner shall cause to be prepared,
30 in such a manner as the commissioner determines appropriate:

31 (1) blank forms, in quadruplicate, of Affidavits of Domestic
32 Partnership and Certificates of Domestic Partnership corresponding to
33 the requirements of this act; and

34 (2) copies of the Notice of the Rights and Obligations of Domestic
35 Partners.

36 b. The commissioner shall ensure that these forms and notices,
37 along with such sections of the laws concerning domestic partnership
38 and explanations thereof as the commissioner may deem useful to
39 persons having duties to recognize domestic partners under those
40 laws, are printed and supplied to each local registrar, and made
41 available to the public upon request.

42

43 8. (New section) a. The local registrar shall:

44 (1) stamp each completed Affidavit of Domestic Partnership
45 received with the date of its receipt and the name of the registration
46 district in which it is filed; and

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1 (2) immediately provide two copies of the stamped Affidavit of
2 Domestic Partnership to the person who files that document.

3 b. Upon the filing of an Affidavit of Domestic Partnership and
4 payment of the appropriate filing fee, the local registrar shall
5 immediately complete a Certificate of Domestic Partnership with the
6 domestic partners' relevant information and the date that the domestic
7 partnership was established. The local registrar shall then issue to the
8 domestic partners two copies of the certificate and two copies of the
9 Notice of the Rights and Obligations of Domestic Partners. Copies of
10 the Certificate of Domestic Partnership shall be prepared and recorded
11 in the local registrar's records and with the State registrar.

12 c. Each local registrar shall, on or before the 10th day of each
13 calendar month, or sooner if requested by the Department of Health
14 and Senior Services, transmit to the State registrar the original of all
15 the Affidavits of Domestic Partnership and Certificates of Domestic
16 Partnership received or prepared by the local registrar for the
17 preceding month.

18

19 9. (New section) The State registrar shall cause all Affidavits of
20 Domestic Partnership and Certificates of Domestic Partnership
21 received to be alphabetically indexed by the surname of one of the
22 partners, and shall establish a cross-referencing system to allow the
23 records to be identified by the surname of the second partner. The
24 State registrar shall also cause to be transcribed or otherwise recorded
25 from the certificates any of the vital facts appearing thereon as the
26 commissioner may deem necessary or useful.

27

28 10. (New section) a. (1) The Superior Court shall have
29 jurisdiction over all proceedings relating to the termination of a
30 domestic partnership established pursuant to section 4 of P.L. , c.
31 (C.)(pending before the Legislature as this bill), including the
32 division and distribution of jointly held property.

33 (2) In all such proceedings, the court shall in no event be required
34 to effect an equitable distribution of property, either real or personal,
35 which was legally and beneficially acquired by both domestic partners
36 or either domestic partner during the domestic partnership.

37 (3) The court shall notify the State Registrar of the termination of
38 a domestic partnership pursuant to this subsection.

39 b. In the case of two persons who are each 63 years of age or older
40 and not of the same sex and have established a domestic partnership
41 pursuant to section 4 of P.L. , c. (C.)(pending before the
42 Legislature as this bill), the domestic partnership shall be deemed
43 terminated if the two persons enter into a marriage with each other
44 that is recognized by New Jersey law.

45 c. The State registrar shall revise the records of domestic
46 partnership provided for in section 9 of P.L. , c. (C.)(pending before

1 the Legislature as this bill) to reflect the termination of a domestic
2 partnership pursuant to this section.

3

4 11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
5 follows:

6 5. As used in this act, unless a different meaning clearly appears
7 from the context:

8 a. "Person" includes one or more individuals, partnerships,
9 associations, organizations, labor organizations, corporations, legal
10 representatives, trustees, trustees in bankruptcy, receivers, and
11 fiduciaries.

12 b. "Employment agency" includes any person undertaking to
13 procure employees or opportunities for others to work.

14 c. "Labor organization" includes any organization which exists and
15 is constituted for the purpose, in whole or in part, of collective
16 bargaining, or of dealing with employers concerning grievances, terms
17 or conditions of employment, or of other mutual aid or protection in
18 connection with employment.

19 d. "Unlawful employment practice" and "unlawful discrimination"
20 include only those unlawful practices and acts specified in section 11
21 of this act.

22 e. "Employer" includes all persons as defined in subsection a. of
23 this section unless otherwise specifically exempt under another section
24 of this act, and includes the State, any political or civil subdivision
25 thereof, and all public officers, agencies, boards or bodies.

26 f. "Employee" does not include any individual employed in the
27 domestic service of any person.

28 g. "Liability for service in the Armed Forces of the United States"
29 means subject to being ordered as an individual or member of an
30 organized unit into active service in the Armed Forces of the United
31 States by reason of membership in the National Guard, naval militia or
32 a reserve component of the Armed Forces of the United States, or
33 subject to being inducted into such armed forces through a system of
34 national selective service.

35 h. "Division" means the "Division on Civil Rights" created by this
36 act.

37 i. "Attorney General" means the Attorney General of the State of
38 New Jersey or his representative or designee.

39 j. "Commission" means the Commission on Civil Rights created by
40 this act.

41 k. "Director" means the Director of the Division on Civil Rights.

42 l. "A place of public accommodation" shall include, but not be
43 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
44 camp, day camp, or resort camp, whether for entertainment of
45 transient guests or accommodation of those seeking health, recreation
46 or rest; any producer, manufacturer, wholesaler, distributor, retail

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1 shop, store, establishment, or concession dealing with goods or
2 services of any kind; any restaurant, eating house, or place where food
3 is sold for consumption on the premises; any place maintained for the
4 sale of ice cream, ice and fruit preparations or their derivatives, soda
5 water or confections, or where any beverages of any kind are retailed
6 for consumption on the premises; any garage, any public conveyance
7 operated on land or water, or in the air, any stations and terminals
8 thereof; any bathhouse, boardwalk, or seashore accommodation; any
9 auditorium, meeting place, or hall; any theatre, motion-picture house,
10 music hall, roof garden, skating rink, swimming pool, amusement and
11 recreation park, fair, bowling alley, gymnasium, shooting gallery,
12 billiard and pool parlor, or other place of amusement; any comfort
13 station; any dispensary, clinic or hospital; any public library; any
14 kindergarten, primary and secondary school, trade or business school,
15 high school, academy, college and university, or any educational
16 institution under the supervision of the State Board of Education, or
17 the Commissioner of Education of the State of New Jersey. Nothing
18 herein contained shall be construed to include or to apply to any
19 institution, bona fide club, or place of accommodation, which is in its
20 nature distinctly private; nor shall anything herein contained apply to
21 any educational facility operated or maintained by a bona fide religious
22 or sectarian institution, and the right of a natural parent or one in loco
23 parentis to direct the education and upbringing of a child under his
24 control is hereby affirmed; nor shall anything herein contained be
25 construed to bar any private secondary or post secondary school from
26 using in good faith criteria other than race, creed, color, national
27 origin, ancestry or affectional or sexual orientation in the admission of
28 students.

29 m. "A publicly assisted housing accommodation" shall include all
30 housing built with public funds or public assistance pursuant to
31 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
32 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
33 and all housing financed in whole or in part by a loan, whether or not
34 secured by a mortgage, the repayment of which is guaranteed or
35 insured by the federal government or any agency thereof.

36 n. The term "real property" includes real estate, lands, tenements
37 and hereditaments, corporeal and incorporeal, and leaseholds,
38 provided, however, that, except as to publicly assisted housing
39 accommodations, the provisions of this act shall not apply to the
40 rental: (1) of a single apartment or flat in a two-family dwelling, the
41 other occupancy unit of which is occupied by the owner as a residence;
42 or (2) of a room or rooms to another person or persons by the owner
43 or occupant of a one-family dwelling occupied by the owner or
44 occupant as a residence at the time of such rental. Nothing herein
45 contained shall be construed to bar any religious or denominational
46 institution or organization, or any organization operated for charitable

1 or educational purposes, which is operated, supervised or controlled
2 by or in connection with a religious organization, in the sale, lease or
3 rental of real property, from limiting admission to or giving preference
4 to persons of the same religion or denomination or from making such
5 selection as is calculated by such organization to promote the religious
6 principles for which it is established or maintained. Nor does any
7 provision under this act regarding discrimination on the basis of
8 familial status apply with respect to housing for older persons.

9 o. "Real estate broker" includes a person, firm or corporation who,
10 for a fee, commission or other valuable consideration, or by reason of
11 promise or reasonable expectation thereof, lists for sale, sells,
12 exchanges, buys or rents, or offers or attempts to negotiate a sale,
13 exchange, purchase, or rental of real estate or an interest therein, or
14 collects or offers or attempts to collect rent for the use of real estate,
15 or solicits for prospective purchasers or assists or directs in the
16 procuring of prospects or the negotiation or closing of any transaction
17 which does or is contemplated to result in the sale, exchange, leasing,
18 renting or auctioning of any real estate, or negotiates, or offers or
19 attempts or agrees to negotiate a loan secured or to be secured by
20 mortgage or other encumbrance upon or transfer of any real estate for
21 others; or any person who, for pecuniary gain or expectation of
22 pecuniary gain conducts a public or private competitive sale of lands
23 or any interest in lands. In the sale of lots, the term "real estate
24 broker" shall also include any person, partnership, association or
25 corporation employed by or on behalf of the owner or owners of lots
26 or other parcels of real estate, at a stated salary, or upon a
27 commission, or upon a salary and commission or otherwise, to sell
28 such real estate, or any parts thereof, in lots or other parcels, and who
29 shall sell or exchange, or offer or attempt or agree to negotiate the
30 sale or exchange, of any such lot or parcel of real estate.

31 p. "Real estate salesperson" includes any person who, for
32 compensation, valuable consideration or commission, or other thing of
33 value, or by reason of a promise or reasonable expectation thereof, is
34 employed by and operates under the supervision of a licensed real
35 estate broker to sell or offer to sell, buy or offer to buy or negotiate
36 the purchase, sale or exchange of real estate, or offers or attempts to
37 negotiate a loan secured or to be secured by a mortgage or other
38 encumbrance upon or transfer of real estate, or to lease or rent, or
39 offer to lease or rent any real estate for others, or to collect rents for
40 the use of real estate, or to solicit for prospective purchasers or lessees
41 of real estate, or who is employed by a licensed real estate broker to
42 sell or offer to sell lots or other parcels of real estate, at a stated
43 salary, or upon a commission, or upon a salary and commission, or
44 otherwise to sell real estate, or any parts thereof, in lots or other
45 parcels.

46 q. "Disability" means physical disability, infirmity, malformation or

1 disfigurement which is caused by bodily injury, birth defect or illness
2 including epilepsy, and which shall include, but not be limited to, any
3 degree of paralysis, amputation, lack of physical coordination,
4 blindness or visual impediment, deafness or hearing impediment,
5 muteness or speech impediment or physical reliance on a service or
6 guide dog, wheelchair, or other remedial appliance or device, or any
7 mental, psychological or developmental disability resulting from
8 anatomical, psychological, physiological or neurological conditions
9 which prevents the normal exercise of any bodily or mental functions
10 or is demonstrable, medically or psychologically, by accepted clinical
11 or laboratory diagnostic techniques. Disability shall also mean AIDS
12 or HIV infection.

13 r. "Blind person" means any individual whose central visual acuity
14 does not exceed 20/200 in the better eye with correcting lens or whose
15 visual acuity is better than 20/200 if accompanied by a limit to the field
16 of vision in the better eye to such a degree that its widest diameter
17 subtends an angle of no greater than 20 degrees.

18 s. "Guide dog" means a dog used to assist deaf persons or which
19 is fitted with a special harness so as to be suitable as an aid to the
20 mobility of a blind person, and is used by a blind person who has
21 satisfactorily completed a specific course of training in the use of such
22 a dog, and has been trained by an organization generally recognized by
23 agencies involved in the rehabilitation of the blind or deaf as reputable
24 and competent to provide dogs with training of this type.

25 t. "Guide or service dog trainer" means any person who is
26 employed by an organization generally recognized by agencies
27 involved in the rehabilitation of persons with disabilities as reputable
28 and competent to provide dogs with training, and who is actually
29 involved in the training process.

30 u. "Housing accommodation" means any publicly assisted housing
31 accommodation or any real property, or portion thereof, which is used
32 or occupied, or is intended, arranged, or designed to be used or
33 occupied, as the home, residence or sleeping place of one or more
34 persons, but shall not include any single family residence the occupants
35 of which rent, lease, or furnish for compensation not more than one
36 room therein.

37 v. "Public facility" means any place of public accommodation and
38 any street, highway, sidewalk, walkway, public building, and any other
39 place or structure to which the general public is regularly, normally or
40 customarily permitted or invited.

41 w. "Deaf person" means any person whose hearing is so severely
42 impaired that the person is unable to hear and understand normal
43 conversational speech through the unaided ear alone, and who must
44 depend primarily on a supportive device or visual communication such
45 as writing, lip reading, sign language, and gestures.

46 x. "Atypical hereditary cellular or blood trait" means sickle cell

- 1 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
2 fibrosis trait.
- 3 y. "Sickle cell trait" means the condition wherein the major natural
4 hemoglobin components present in the blood of the individual are
5 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
6 defined by standard chemical and physical analytic techniques,
7 including electrophoresis; and the proportion of hemoglobin A is
8 greater than the proportion of hemoglobin S or one natural parent of
9 the individual is shown to have only normal hemoglobin components
10 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
11 proportions by standard chemical and physical analytic tests.
- 12 z. "Hemoglobin C trait" means the condition wherein the major
13 natural hemoglobin components present in the blood of the individual
14 are hemoglobin A (normal) and hemoglobin C as defined by standard
15 chemical and physical analytic techniques, including electrophoresis;
16 and the proportion of hemoglobin A is greater than the proportion of
17 hemoglobin C or one natural parent of the individual is shown to have
18 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
19 hemoglobin F) in normal proportions by standard chemical and
20 physical analytic tests.
- 21 aa. "Thalassemia trait" means the presence of the thalassemia gene
22 which in combination with another similar gene results in the chronic
23 hereditary disease Cooley's anemia.
- 24 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
25 which in combination with another similar gene results in the chronic
26 hereditary disease Tay-Sachs.
- 27 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
28 gene which in combination with another similar gene results in the
29 chronic hereditary disease cystic fibrosis.
- 30 dd. "Service dog" means any dog individually trained to the
31 requirements of a person with a disability including, but not limited to
32 minimal protection work, rescue work, pulling a wheelchair or
33 retrieving dropped items.
- 34 ee. "Qualified Medicaid applicant" means an individual who is a
35 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 36 ff. "AIDS" means acquired immune deficiency syndrome as defined
37 by the Centers for Disease Control of the United States Public Health
38 Service.
- 39 gg. "HIV infection" means infection with the human
40 immunodeficiency virus or any other related virus identified as a
41 probable causative agent of AIDS.
- 42 hh. "Affectional or sexual orientation" means male or female
43 heterosexuality, homosexuality or bisexuality by inclination, practice,
44 identity or expression, having a history thereof or being perceived,
45 presumed or identified by others as having such an orientation.
- 46 ii. "Heterosexuality" means affectional, emotional or physical

1 attraction or behavior which is primarily directed towards persons of
2 the other gender.

3 jj. "Homosexuality" means affectional, emotional or physical
4 attraction or behavior which is primarily directed towards persons of
5 the same gender.

6 kk. "Bisexuality" means affectional, emotional or physical
7 attraction or behavior which is directed towards persons of either
8 gender.

9 ll. "Familial status" means being the natural parent of a child, the
10 adoptive parent of a child, the foster parent of a child, having a "parent
11 and child relationship" with a child as defined by State law, or having
12 sole or joint legal or physical custody, care, guardianship, or visitation
13 with a child, or any person who is pregnant or is in the process of
14 securing legal custody of any individual who has not attained the age
15 of 18 years.

16 mm. "Housing for older persons" means housing:

17 (1) provided under any State program that the Attorney General
18 determines is specifically designed and operated to assist elderly
19 persons (as defined in the State program); or provided under any
20 federal program that the United States Department of Housing and
21 Urban Development determines is specifically designed and operated
22 to assist elderly persons (as defined in the federal program); or

23 (2) intended for, and solely occupied by persons 62 years of age or
24 older; or

25 (3) intended and operated for occupancy by at least one person 55
26 years of age or older per unit. In determining whether housing
27 qualifies as housing for older persons under this subsection, the
28 Attorney General shall adopt regulations which require at least the
29 following factors:

30 (a) the existence of significant facilities and services specifically
31 designed to meet the physical or social needs of older persons, or if the
32 provision of such facilities and services is not practicable, that such
33 housing is necessary to provide important housing opportunities for
34 older persons; and

35 (b) that at least 80 percent of the units are occupied by at least one
36 person 55 years of age or older per unit; and

37 (c) the publication of, and adherence to, policies and procedures
38 which demonstrate an intent by the owner or manager to provide
39 housing for persons 55 years of age or older.

40 Housing shall not fail to meet the requirements for housing for
41 older persons by reason of: persons residing in such housing as of
42 September 13, 1988 not meeting the age requirements of this
43 subsection, provided that new occupants of such housing meet the age
44 requirements of this subsection; or unoccupied units, provided that
45 such units are reserved for occupancy by persons who meet the age
46 requirements of this subsection.

1 nn. "Genetic characteristic" means any inherited gene or
2 chromosome, or alteration thereof, that is scientifically or medically
3 believed to predispose an individual to a disease, disorder or
4 syndrome, or to be associated with a statistically significant increased
5 risk of development of a disease, disorder or syndrome.

6 oo. "Genetic information" means the information about genes, gene
7 products or inherited characteristics that may derive from an individual
8 or family member.

9 pp. "Genetic test" means a test for determining the presence or
10 absence of an inherited genetic characteristic in an individual, including
11 tests of nucleic acids such as DNA, RNA and mitochondrial DNA,
12 chromosomes or proteins in order to identify a predisposing genetic
13 characteristic.

14 qq. "Domestic partnership" means a domestic partnership
15 established pursuant to section 4 of P.L. , c. (C.)(pending before
16 the Legislature as this bill).

17 (cf: P.L.2003, c.180, s.6)

18

19 12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read
20 as follows:

21 11. It shall be an unlawful employment practice, or, as the case
22 may be, an unlawful discrimination:

23 a. For an employer, because of the race, creed, color, national
24 origin, ancestry, age, marital status, domestic partnership status,
25 affectional or sexual orientation, genetic information, sex, disability or
26 atypical hereditary cellular or blood trait of any individual, or because
27 of the liability for service in the Armed Forces of the United States or
28 the nationality of any individual, or because of the refusal to submit to
29 a genetic test or make available the results of a genetic test to an
30 employer, to refuse to hire or employ or to bar or to discharge or
31 require to retire, unless justified by lawful considerations other than
32 age, from employment such individual or to discriminate against such
33 individual in compensation or in terms, conditions or privileges of
34 employment; provided, however, it shall not be an unlawful
35 employment practice to refuse to accept for employment an applicant
36 who has received a notice of induction or orders to report for active
37 duty in the armed forces; provided further that nothing herein
38 contained shall be construed to bar an employer from refusing to
39 accept for employment any person on the basis of sex in those certain
40 circumstances where sex is a bona fide occupational qualification,
41 reasonably necessary to the normal operation of the particular business
42 or enterprise; provided further that nothing herein contained shall be
43 construed to bar an employer from refusing to accept for employment
44 or to promote any person over 70 years of age; provided further that
45 it shall not be an unlawful employment practice for a club exclusively
46 social or fraternal to use club membership as a uniform qualification

1 for employment, or for a religious association or organization to utilize
2 religious affiliation as a uniform qualification in the employment of
3 clergy, religious teachers or other employees engaged in the religious
4 activities of the association or organization, or in following the tenets
5 of its religion in establishing and utilizing criteria for employment of
6 an employee; provided further, that it shall not be an unlawful
7 employment practice to require the retirement of any employee who,
8 for the two-year period immediately before retirement, is employed in
9 a bona fide executive or a high policy-making position, if that
10 employee is entitled to an immediate non-forfeitable annual retirement
11 benefit from a pension, profit sharing, savings or deferred retirement
12 plan, or any combination of those plans, of the employer of that
13 employee which equals in the aggregate at least \$27,000.00; and
14 provided further that an employer may restrict employment to citizens
15 of the United States where such restriction is required by federal law
16 or is otherwise necessary to protect the national interest.

17 For the purposes of this subsection, a "bona fide executive" is a top
18 level employee who exercises substantial executive authority over a
19 significant number of employees and a large volume of business. A
20 "high policy-making position" is a position in which a person plays a
21 significant role in developing policy and in recommending the
22 implementation thereof.

23 b. For a labor organization, because of the race, creed, color,
24 national origin, ancestry, age, marital status, domestic partnership
25 status, affectional or sexual orientation, disability or sex of any
26 individual, or because of the liability for service in the Armed Forces
27 of the United States or nationality of any individual, to exclude or to
28 expel from its membership such individual or to discriminate in any
29 way against any of its members, against any applicant for, or individual
30 included in, any apprentice or other training program or against any
31 employer or any individual employed by an employer; provided,
32 however, that nothing herein contained shall be construed to bar a
33 labor organization from excluding from its apprentice or other training
34 programs any person on the basis of sex in those certain circumstances
35 where sex is a bona fide occupational qualification reasonably
36 necessary to the normal operation of the particular apprentice or other
37 training program

38 c. For any employer or employment agency to print or circulate or
39 cause to be printed or circulated any statement, advertisement or
40 publication, or to use any form of application for employment, or to
41 make an inquiry in connection with prospective employment, which
42 expresses, directly or indirectly, any limitation, specification or
43 discrimination as to race, creed, color, national origin, ancestry, age,
44 marital status, domestic partnership status, affectional or sexual
45 orientation, disability, nationality or sex or liability of any applicant for
46 employment for service in the Armed Forces of the United States, or

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1 any intent to make any such limitation, specification or discrimination,
2 unless based upon a bona fide occupational qualification.

3 d. For any person to take reprisals against any person because that
4 person has opposed any practices or acts forbidden under this act or
5 because that person has filed a complaint, testified or assisted in any
6 proceeding under this act or to coerce, intimidate, threaten or interfere
7 with any person in the exercise or enjoyment of, or on account of that
8 person having aided or encouraged any other person in the exercise or
9 enjoyment of, any right granted or protected by this act.

10 e. For any person, whether an employer or an employee or not, to
11 aid, abet, incite, compel or coerce the doing of any of the acts
12 forbidden under this act, or to attempt to do so

13 f. (1) For any owner, lessee, proprietor, manager, superintendent,
14 agent, or employee of any place of public accommodation directly or
15 indirectly to refuse, withhold from or deny to any person any of the
16 accommodations, advantages, facilities or privileges thereof, or to
17 discriminate against any person in the furnishing thereof, or directly or
18 indirectly to publish, circulate, issue, display, post or mail any written
19 or printed communication, notice, or advertisement to the effect that
20 any of the accommodations, advantages, facilities, or privileges of any
21 such place will be refused, withheld from, or denied to any person on
22 account of the race, creed, color, national origin, ancestry, marital
23 status, domestic partnership status, sex, affectional or sexual
24 orientation, disability or nationality of such person, or that the
25 patronage or custom thereat of any person of any particular race,
26 creed, color, national origin, ancestry, marital status, domestic
27 partnership status, sex, affectional or sexual orientation, disability or
28 nationality is unwelcome, objectionable or not acceptable, desired or
29 solicited, and the production of any such written or printed
30 communication, notice or advertisement, purporting to relate to any
31 such place and to be made by any owner, lessee, proprietor,
32 superintendent or manager thereof, shall be presumptive evidence in
33 any action that the same was authorized by such person; provided,
34 however, that nothing contained herein shall be construed to bar any
35 place of public accommodation which is in its nature reasonably
36 restricted exclusively to individuals of one sex, and which shall include
37 but not be limited to any summer camp, day camp, or resort camp,
38 bathhouse, dressing room, swimming pool, gymnasium, comfort
39 station, dispensary, clinic or hospital, or school or educational
40 institution which is restricted exclusively to individuals of one sex,
41 from refusing, withholding from or denying to any individual of the
42 opposite sex any of the accommodations, advantages, facilities or
43 privileges thereof on the basis of sex; provided further, that the
44 foregoing limitation shall not apply to any restaurant as defined in
45 R.S.33:1-1 or place where alcoholic beverages are served.

46 (2) Notwithstanding the definition of "public accommodation " as

1 set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5),
2 for any owner, lessee, proprietor, manager, superintendent, agent, or
3 employee of any private club or association to directly or indirectly
4 refuse, withhold from or deny to any individual who has been accepted
5 as a club member and has contracted for or is otherwise entitled to full
6 club membership any of the accommodations, advantages, facilities or
7 privileges thereof, or to discriminate against any member in the
8 furnishing thereof on account of the race, creed, color, national origin,
9 ancestry, marital status, domestic partnership status, sex, affectional
10 or sexual orientation, disability or nationality of such person.

11 In addition to the penalties otherwise provided for a violation of
12 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
13 subsection f. of this section is the holder of an alcoholic beverage
14 license issued under the provisions of R.S.33:1-12 for that private club
15 or association, the matter shall be referred to the Director of the
16 Division of Alcoholic Beverage Control who shall impose an
17 appropriate penalty in accordance with the procedures set forth in
18 R.S.33:1-31.

19 g. For any person, including but not limited to, any owner, lessee,
20 sublessee, assignee or managing agent of, or other person having the
21 right of ownership or possession of or the right to sell, rent, lease,
22 assign, or sublease any real property or part or portion thereof, or any
23 agent or employee of any of these:

24 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
25 to deny to or withhold from any person or group of persons any real
26 property or part or portion thereof because of race, creed, color,
27 national origin, ancestry, marital status, domestic partnership status,
28 sex, affectional or sexual orientation, familial status, disability,
29 nationality, or source of lawful income used for rental or mortgage
30 payments;

31 (2) To discriminate against any person or group of persons because
32 of race, creed, color, national origin, ancestry, marital status,
33 domestic partnership status, sex, affectional or sexual orientation,
34 familial status, disability, nationality or source of lawful income used
35 for rental or mortgage payments in the terms, conditions or privileges
36 of the sale, rental or lease of any real property or part or portion
37 thereof or in the furnishing of facilities or services in connection
38 therewith;

39 (3) To print, publish, circulate, issue, display, post or mail, or
40 cause to be printed, published, circulated, issued, displayed, posted or
41 mailed any statement, advertisement, publication or sign, or to use any
42 form of application for the purchase, rental, lease, assignment or
43 sublease of any real property or part or portion thereof, or to make
44 any record or inquiry in connection with the prospective purchase,
45 rental, lease, assignment, or sublease of any real property, or part or
46 portion thereof which expresses, directly or indirectly, any limitation,

1 specification or discrimination as to race, creed, color, national origin,
2 ancestry, marital status, domestic partnership status, sex, affectional
3 or sexual orientation, familial status, disability, nationality, or source
4 of lawful income used for rental or mortgage payments, or any intent
5 to make any such limitation, specification or discrimination, and the
6 production of any such statement, advertisement, publicity, sign, form
7 of application, record, or inquiry purporting to be made by any such
8 person shall be presumptive evidence in any action that the same was
9 authorized by such person; provided, however, that nothing contained
10 in this subsection shall be construed to bar any person from refusing
11 to sell, rent, lease, assign or sublease or from advertising or recording
12 a qualification as to sex for any room, apartment, flat in a dwelling or
13 residential facility which is planned exclusively for and occupied by
14 individuals of one sex to any individual of the exclusively opposite sex
15 on the basis of sex;

16 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
17 to deny to or withhold from any person or group of persons any real
18 property or part or portion thereof because of the source of any lawful
19 income received by the person or the source of any lawful rent
20 payment to be paid for the real property; or

21 (5) To refuse to rent or lease any real property to another person
22 because that person's family includes children under 18 years of age,
23 or to make an agreement, rental or lease of any real property which
24 provides that the agreement, rental or lease shall be rendered null and
25 void upon the birth of a child. This paragraph shall not apply to
26 housing for older persons as defined in subsection mm. of section 5 of
27 P.L.1945, c.169 (C.10:5-5).

28 h. For any person, including but not limited to, any real estate
29 broker, real estate salesperson, or employee or agent thereof:

30 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
31 sale, rental, lease, assignment, or sublease any real property or part or
32 portion thereof to any person or group of persons or to refuse to
33 negotiate for the sale, rental, lease, assignment, or sublease of any real
34 property or part or portion thereof to any person or group of persons
35 because of race, creed, color, national origin, ancestry, marital status,
36 domestic partnership status, familial status, sex, affectional or sexual
37 orientation, disability, nationality, or source of lawful income used for
38 rental or mortgage payments, or to represent that any real property or
39 portion thereof is not available for inspection, sale, rental, lease,
40 assignment, or sublease when in fact it is so available, or otherwise to
41 deny or withhold any real property or any part or portion of facilities
42 thereof to or from any person or group of persons because of race,
43 creed, color, national origin, ancestry, marital status, domestic
44 partnership status, familial status, sex, affectional or sexual
45 orientation, disability or nationality;

46 (2) To discriminate against any person because of race, creed,

1 color, national origin, ancestry, marital status, domestic partnership
2 status, familial status, sex, affectional or sexual orientation, disability,
3 nationality, or source of lawful income used for rental or mortgage
4 payments in the terms, conditions or privileges of the sale, rental,
5 lease, assignment or sublease of any real property or part or portion
6 thereof or in the furnishing of facilities or services in connection
7 therewith;

8 (3) To print, publish, circulate, issue, display, post, or mail, or
9 cause to be printed, published, circulated, issued, displayed, posted or
10 mailed any statement, advertisement, publication or sign, or to use any
11 form of application for the purchase, rental, lease, assignment, or
12 sublease of any real property or part or portion thereof or to make any
13 record or inquiry in connection with the prospective purchase, rental,
14 lease, assignment, or sublease of any real property or part or portion
15 thereof which expresses, directly or indirectly, any limitation,
16 specification or discrimination as to race, creed, color, national origin,
17 ancestry, marital status, domestic partnership status, familial status,
18 sex, affectional or sexual orientation, disability, nationality, or source
19 of lawful income used for rental or mortgage payments or any intent
20 to make any such limitation, specification or discrimination, and the
21 production of any such statement, advertisement, publicity, sign, form
22 of application, record, or inquiry purporting to be made by any such
23 person shall be presumptive evidence in any action that the same was
24 authorized by such person; provided, however, that nothing contained
25 in this subsection h., shall be construed to bar any person from
26 refusing to sell, rent, lease, assign or sublease or from advertising or
27 recording a qualification as to sex for any room, apartment, flat in a
28 dwelling or residential facility which is planned exclusively for and
29 occupied exclusively by individuals of one sex to any individual of the
30 opposite sex on the basis of sex;

31 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
32 to deny to or withhold from any person or group of persons any real
33 property or part or portion thereof because of the source of any lawful
34 income received by the person or the source of any lawful rent
35 payment to be paid for the real property; or

36 (5) To refuse to rent or lease any real property to another person
37 because that person's family includes children under 18 years of age,
38 or to make an agreement, rental or lease of any real property which
39 provides that the agreement, rental or lease shall be rendered null and
40 void upon the birth of a child. This paragraph shall not apply to
41 housing for older persons as defined in subsection mm. of section 5 of
42 P.L.1945, c.169 (C.10:5-5).

43 i. For any person, bank, banking organization, mortgage company,
44 insurance company or other financial institution, lender or credit
45 institution involved in the making or purchasing of any loan or
46 extension of credit, for whatever purpose, whether secured by

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1 residential real estate or not, including but not limited to financial
2 assistance for the purchase, acquisition, construction, rehabilitation,
3 repair or maintenance of any real property or part or portion thereof
4 or any agent or employee thereof:

5 (1) To discriminate against any person or group of persons because
6 of race, creed, color, national origin, ancestry, marital status, domestic
7 partnership status, sex, affectional or sexual orientation, disability,
8 familial status or nationality, in the granting, withholding, extending,
9 modifying, renewing, or purchasing, or in the fixing of the rates, terms,
10 conditions or provisions of any such loan, extension of credit or
11 financial assistance or purchase thereof or in the extension of services
12 in connection therewith;

13 (2) To use any form of application for such loan, extension of
14 credit or financial assistance or to make record or inquiry in
15 connection with applications for any such loan, extension of credit or
16 financial assistance which expresses, directly or indirectly, any
17 limitation, specification or discrimination as to race, creed, color,
18 national origin, ancestry, marital status, domestic partnership status,
19 sex, affectional or sexual orientation, disability, familial status or
20 nationality or any intent to make any such limitation, specification or
21 discrimination; unless otherwise required by law or regulation to retain
22 or use such information;

23 (3) (Deleted by amendment, P.L.2003, c.180).

24 (4) To discriminate against any person or group of persons because
25 of the source of any lawful income received by the person or the
26 source of any lawful rent payment to be paid for the real property; or

27 (5) To discriminate against any person or group of persons because
28 that person's family includes children under 18 years of age, or to
29 make an agreement or mortgage which provides that the agreement or
30 mortgage shall be rendered null and void upon the birth of a child.
31 This paragraph shall not apply to housing for older persons as defined
32 in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

33 j. For any person whose activities are included within the scope of
34 this act to refuse to post or display such notices concerning the rights
35 or responsibilities of persons affected by this act as the Attorney
36 General may by regulation require.

37 k. For any real estate broker, real estate salesperson or employee
38 or agent thereof or any other individual, corporation, partnership, or
39 organization, for the purpose of inducing a transaction for the sale or
40 rental of real property from which transaction such person or any of
41 its members may benefit financially, to represent that a change has
42 occurred or will or may occur in the composition with respect to race,
43 creed, color, national origin, ancestry, marital status, domestic
44 partnership status, familial status, sex, affectional or sexual
45 orientation, disability, nationality, or source of lawful income used for
46 rental or mortgage payments of the owners or occupants in the block,

1 neighborhood or area in which the real property is located, and to
2 represent, directly or indirectly, that this change will or may result in
3 undesirable consequences in the block, neighborhood or area in which
4 the real property is located, including, but not limited to the lowering
5 of property values, an increase in criminal or anti-social behavior, or
6 a decline in the quality of schools or other facilities.

7 1. For any person to refuse to buy from, sell to, lease from or to,
8 license, contract with, or trade with, provide goods, services or
9 information to, or otherwise do business with any other person on the
10 basis of the race, creed, color, national origin, ancestry, age, sex,
11 affectional or sexual orientation, marital status, domestic partnership
12 status, liability for service in the Armed Forces of the United States,
13 disability, nationality, or source of lawful income used for rental or
14 mortgage payments of such other person or of such other person's
15 spouse, partners, members, stockholders, directors, officers, managers,
16 superintendents, agents, employees, business associates, suppliers, or
17 customers. This subsection shall not prohibit refusals or other actions
18 (1) pertaining to employee-employer collective bargaining, labor
19 disputes, or unfair labor practices, or (2) made or taken in connection
20 with a protest of unlawful discrimination or unlawful employment
21 practices.

22 m. For any person to:

23 (1) Grant or accept any letter of credit or other document which
24 evidences the transfer of funds or credit, or enter into any contract for
25 the exchange of goods or services, where the letter of credit, contract,
26 or other document contains any provisions requiring any person to
27 discriminate against or to certify that he, she or it has not dealt with
28 any other person on the basis of the race, creed, color, national origin,
29 ancestry, age, sex, affectional or sexual orientation, marital status,
30 domestic partnership status, disability, liability for service in the
31 Armed Forces of the United States, or nationality of such other person
32 or of such other person's spouse, partners, members, stockholders,
33 directors, officers, managers, superintendents, agents, employees,
34 business associates, suppliers, or customers.

35 (2) Refuse to grant or accept any letter of credit or other document
36 which evidences the transfer of funds or credit, or refuse to enter into
37 any contract for the exchange of goods or services, on the ground that
38 it does not contain such a discriminatory provision or certification.

39 The provisions of this subsection shall not apply to any letter of
40 credit, contract, or other document which contains any provision
41 pertaining to employee-employer collective bargaining, a labor dispute
42 or an unfair labor practice, or made in connection with the protest of
43 unlawful discrimination or an unlawful employment practice, if the
44 other provisions of such letter of credit, contract, or other document
45 do not otherwise violate the provisions of this subsection.

46 n. For any person to aid, abet, incite, compel, coerce, or induce the

1 doing of any act forbidden by subsections l. and m. of section 11 of
2 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.

3 Such prohibited conduct shall include, but not be limited to:

4 (1) Buying from, selling to, leasing from or to, licensing,
5 contracting with, trading with, providing goods, services, or
6 information to, or otherwise doing business with any person because
7 that person does, or agrees or attempts to do, any such act or any act
8 prohibited by this subsection; or

9 (2) Boycotting, commercially blacklisting or refusing to buy from,
10 sell to, lease from or to, license, contract with, provide goods, services
11 or information to, or otherwise do business with any person because
12 that person has not done or refuses to do any such act or any act
13 prohibited by this subsection; provided that this subsection shall not
14 prohibit refusals or other actions either pertaining to
15 employee-employer collective bargaining, labor disputes, or unfair
16 labor practices, or made or taken in connection with a protest of
17 unlawful discrimination or unlawful employment practices.

18 o. For any multiple listing service, real estate brokers' organization
19 or other service, organization or facility related to the business of
20 selling or renting dwellings to deny any person access to or
21 membership or participation in such organization, or to discriminate
22 against such person in the terms or conditions of such access,
23 membership, or participation, on account of race, creed, color,
24 national origin, ancestry, age, marital status, domestic partnership
25 status, familial status, sex, affectional or sexual orientation, disability
26 or nationality.

27 (cf: P.L.2003, c.180, s.12)

28

29 13. (New section) a. A health care facility licensed pursuant to
30 P.L.1971, c.136 (C.26:2H-1 et seq.) shall allow a patient's domestic
31 partner as defined in section 3 of P.L. , c. (C.)(pending before the
32 Legislature as this bill), the children of the patient's domestic partner,
33 and the domestic partner of the patient's parent or child to visit, unless
34 one of the following conditions is met:

35 (1) No visitors are allowed;

36 (2) The health care facility reasonably determines that the presence
37 of a particular visitor would endanger the health or safety of a patient,
38 a member of the staff of the facility, or another visitor to the facility,
39 or would significantly disrupt the operations of the facility; or

40 (3) The patient has indicated to health care facility staff that the
41 patient does not want the person to visit.

42 b. The provisions of subsection a. of this section shall not be
43 construed as prohibiting a health care facility from otherwise
44 establishing reasonable restrictions upon visitations, including
45 restrictions upon the hours of visitation and number of visitors.

1 14. R.S.26:8-1 is amended to read as follows:

2 26:8-1. As used in this chapter:

3 "Vital statistics" means statistics concerning [~~birth~~] births, deaths,
4 fetal deaths [~~and~~], marriages and domestic partnerships established
5 pursuant to P.L. , c. (C.)(pending before the Legislature as this
6 bill).

7 "Vital records" means the birth, death, fetal death [~~and~~], marriage
8 and domestic partnership records from which vital statistics are
9 produced.

10 "State registrar" means the State registrar of vital statistics; "Local
11 registrar" or "registrar" means the local registrar of vital statistics of
12 any district; and "registration district" or "district" means a registration
13 district as constituted by this article.

14 "Live birth" or "birth" means the complete expulsion or extraction
15 from its mother of a product of conception, irrespective of the
16 duration of pregnancy, which, after such separation, breathes or shows
17 any other evidence of life such as beating of the heart, pulsation of the
18 umbilical cord, or definite movement of voluntary muscles, whether or
19 not the umbilical cord has been cut or the placenta attached.

20 (cf: P.L.1965, c.78, s.32)

21

22 15. R.S.26:8-4 is amended to read as follows:

23 26:8-4. Upon demand of the State registrar in person, by mail, or
24 through the local registrar, every physician, midwife, informant,
25 funeral director, or other person having knowledge of the facts relative
26 to any birth, death, fetal death, [~~or~~] marriage or domestic partnership,
27 shall supply such information as he may possess, upon a form provided
28 by the State registrar or upon the original birth, death, fetal death,
29 [~~or~~] marriage or domestic partnership certificate.

30 (cf: P.L.1965, c.78, s.33)

31

32 16. R.S.26:8-17 is amended to read as follows:

33 26:8-17. The local registrar, immediately upon acceptance of the
34 appointment, shall appoint a deputy to assist in the normal, day-to-day
35 operation of the office and whose duty shall be to act in the registrar's
36 stead in case of absence, disability or death of the registrar. In case of
37 death of the local registrar the deputy shall act as local registrar until
38 a new local registrar has been appointed and qualified.

39 In addition to a deputy registrar, the local registrar may appoint one
40 or two alternate deputy registrars if the local registrar deems such an
41 appointment to be necessary for the office to function efficiently and
42 to provide quality service to the public. The deputy registrar and
43 alternate deputy registrar shall have the authority to receive birth
44 certificates and death certificates; to issue burial permits, and copies
45 of birth, death, [~~and~~] marriage and domestic partnership certificates;
46 to take the oath on marriage license applications; and to issue marriage

1 licenses and register domestic partnerships. The deputy registrar and
2 alternate deputy registrar shall receive instructions from and perform
3 their duties under the direct supervision of the registrar, who shall be
4 the final authority with the responsibility of fulfilling the duties of the
5 local registrar outlined in R.S.26:8-25. The deputy registrar and any
6 alternate deputy registrar shall serve at the pleasure of the local
7 registrar.

8 (cf: P.L.1995, c.87, s.1)

9

10 17. R.S.26:8-23 is amended to read as follows:

11 26:8-23. The ~~State department~~ Department of Health and Senior
12 Services shall have charge of the registration of births, deaths, fetal
13 deaths ~~[and]~~, marriages and domestic partnerships and shall procure
14 the prompt and accurate registration of the same in each registration
15 district and in the department. The department may promulgate any
16 rule or regulation which it deems necessary for the uniform and
17 thorough enforcement of this section.

18 The department may decline permission to examine any record
19 except in the presence of an officer or employee of the department.

20 (cf: P.L.1965, c.78, s.45)

21

22 18. R.S.26:8-24 is amended to read as follows:

23 R.S.26:8-24. The State registrar shall:

24 a. Have general supervision throughout the State of the registration
25 of vital records;

26 b. Have supervisory power over local registrars, deputy local
27 registrars, and subregistrars, in the enforcement of the law relative to
28 the disposal of dead bodies and the registration of vital records;

29 c. Prepare, print, and supply to all registrars, upon request
30 therefor, all blanks and forms used in registering the records required
31 by said law. No other blanks shall be used than those supplied or
32 approved by the State registrar;

33 d. Carefully examine the certificates received monthly from the
34 local registrars, and if any such are incomplete or unsatisfactory he
35 shall require such further information to be supplied as may be
36 necessary to make the record complete and satisfactory;

37 e. Arrange, bind, and permanently preserve the certificates of vital
38 records in a systematic manner;

39 f. Prepare and maintain a comprehensive and continuous index of
40 all vital records registered, the index to be arranged alphabetically;

41 1. In the case of deaths, by the name of the decedent;

42 2. In the case of births, by the name of child, if given, and if not,
43 then by the name of father or mother;

44 3. In the case of marriages, by the surname of the husband and also
45 by the maiden name of the wife;

46 4. In the case of domestic partnerships, by the surname of each of

1 the partners; and

2 g. Mark the birth certificate of a missing child when notified by the
3 Missing Persons Unit in the Department of Law and Public Safety
4 pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c).
5 (cf: P.L.1995, c.395, s.5)

6

7 19. R.S.26:8-25 is amended to read as follows:

8 26:8-25. The local registrar, under the supervision and direction of
9 the State registrar, shall:

10 a. Strictly and thoroughly enforce the law relative to the disposal
11 of dead bodies and the registration of vital records in his registration
12 district;

13 b. Supply blank forms of certificates to such persons as require
14 them;

15 c. Supply to every physician, midwife, and funeral director a copy
16 of the law relative to the registration of vital records and the disposal
17 of dead bodies, together with such rules and regulations as may be
18 prepared by the State registrar relative to their enforcement;

19 d. Sign his name and insert the date of filing on each certificate of
20 birth, marriage, domestic partnership and death;

21 e. Examine each certificate of birth, marriage, domestic partnership
22 or death when presented for record in order to ascertain whether or
23 not it has been made in accordance with law and the instructions of the
24 State registrar; and if [such certificate is] incomplete and
25 unsatisfactory, [he shall] have the same corrected;

26 f. At the expense of the municipality make a complete and accurate
27 copy of each birth, marriage, domestic partnership and death
28 certificate registered by him on a form or in a manner prescribed by the
29 State registrar, to be preserved in his office as the local record;

30 g. On the tenth day of each month or sooner if requested by the
31 department, transmit to the State registrar all original birth, marriage,
32 domestic partnership and death certificates received by him for the
33 preceding month. If no births, marriages, domestic partnerships or
34 deaths occurred in any month, he shall, on or before the tenth day of
35 the following month, report that fact to the State registrar on a card
36 provided for such purpose;

37 h. Make an immediate report to the State registrar of any violation
38 of [this chapter or chapter 6 of this Title (R.S.26:6-1 et seq.), as well
39 as chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq.,
40 R.S.26:8-1 et seq., or R.S.37:1-1 et seq. coming to his knowledge;

41 i. In the case of any birth in his registration district to parents who
42 are residents of another registration district or of the marriage in his
43 registration district of any couple who obtained the marriage license
44 in another registration district, or of the death in his registration
45 district of any person who at the time of such death was a resident of
46 another registration district notify the registrar of the other registration

1 district, within five days of such birth, marriage, or death, on forms
2 prescribed by the State registrar. All entries relating to cause of death
3 on the original certificate must be entered on the death form sent to
4 the registrar of the other registration district; and

5 j. Mark the birth certificate of a missing child born in his
6 registration district when notified by the State registrar pursuant to
7 section 3 of P.L.1995, c.395 (C.52:17B-9.8c).

8 (cf: P.L.1995, c.395, s.6)

9

10 20. R.S.26:8-48 is amended to read as follows:

11 26:8-48. A certificate of birth, fetal death, marriage, domestic
12 partnership or death heretofore or hereafter filed with the State
13 registrar shall not be altered or changed otherwise than by amendments
14 properly signed, dated and witnessed.

15 (cf: P.L.1965, c.78, s.65)

16

17 21. R.S.26:8-51 is amended to read as follows:

18 26:8-51. Corrections to marriage or domestic partnership
19 certificates shall be signed by the person who signed the [marriage]
20 certificate or by any other person having personal knowledge of the
21 matters sought to be corrected which other person shall state such
22 matters on his oath.

23 (cf: P.L.1938, c.174, s.2)

24

25 22. R.S.26:8-55 is amended to read as follows:

26 26:8-55. Any person knowingly submitting a certificate pursuant
27 to this article containing incorrect particulars relating to any birth,
28 marriage, domestic partnership or death shall be subject to a penalty
29 of not more than [five hundred dollars] \$500, which shall be
30 recovered with costs in a summary proceeding in the name of the
31 [state] department.

32 (cf: R.S.26:8-55)

33

34 23. R.S.26:8-60 is amended to read as follows:

35 26:8-60. Each local registrar shall be entitled to receive from the
36 proper disbursing officer of the municipality or county the sum of
37 [\$1.00] \$1 for each marriage or domestic partnership certificate
38 properly transmitted to the State Registrar.

39 In any registration district, the body appointing local registrars may,
40 in lieu of fees, provide that officers performing the above service shall
41 receive a fixed compensation to be determined by such body.

42 (cf: P.L.1983, c.275, s.15)

43

44 24. R.S.26:8-62 is amended to read as follows:

45 26:8-62. a. The State registrar shall, upon request, supply to any
46 applicant a certification or certified copy of the record of any birth,

1 death, fetal death or marriage[,] registered under the [provision of
2 this chapter] provisions of R.S.26:8-1 et seq., or any domestic
3 partnership registered under the provisions of P.L. , c.)(pending
4 before the Legislature as this bill), for [either] any of which, except
5 as provided by [section 26:8-63 of the Revised Statutes] R.S.26:8-63,
6 [he] the State registrar shall be entitled to [such] a search fee, if any,
7 as is provided by [section 26:8-64 of the Revised Statutes] R.S.26:8-
8 64, to be paid by the applicant.

9 b. The State registrar shall, upon request, supply to any applicant
10 a certified transcript of any entry contained in the records of the New
11 Jersey State census for which, except as provided by [section 26:8-63
12 of the Revised Statutes] R.S.26:8-63, he shall be entitled to [such] a
13 search fee as is provided by [section 26:8-64 of the Revised Statutes]
14 R.S.26:8-64, to be paid by the applicant.

15 (cf: P.L.1965, c.78, s.72)

16

17 25. R.S.26:8-63 is amended to read as follows:

18 26:8-63. The State registrar shall:

19 a. Furnish a certification or certified copy of a birth, marriage,
20 domestic partnership, fetal death or death certificate without fee in the
21 prosecution of any claim for public pension or for military or naval
22 enlistment purposes; and

23 b. Furnish the United States Public Health Service without expense
24 to the State, microfilm or photocopy images of birth, marriage,
25 domestic partnership, fetal death and death certificates without
26 payment of the fees prescribed in this article; and

27 c. Furnish a certified transcript of any entry in the records of the
28 New Jersey State census without fee for certification in the
29 prosecution of any claim for public pension, for military or naval
30 enlistment purposes; and

31 d. Furnish without fee upon request for administrative use by any
32 city, State or Federal agency a certified transcript of any New Jersey
33 State census entry, or a certification or certified copy of a birth, death,
34 fetal death [or], marriage or domestic partnership certificate.

35 (cf: P.L.1965, c.78, s.73)

36

37 26. R.S.26:8-64 is amended to read as follows:

38 26:8-64. a. For any search of the files and records of births,
39 deaths, [or] marriages or domestic partnerships when the correct year
40 only is supplied by the applicant, whether or not a certification or a
41 certified copy is made, the State Registrar shall be entitled to a
42 minimum fee of [\$4.00] \$4, plus a fee of [\$1.00] \$1 for each
43 additional year searched, [said fee to] which fee shall be paid by the
44 applicant, except as provided by [section 26:8-63 of the Revised
45 Statutes] R.S.26:8-63. [Each] The fee for each additional copy [is

1 \$2.00] shall be \$2.

2 b. For all searches of the New Jersey State census records, except
3 as otherwise provided herein, the State Registrar shall be entitled to
4 a fee of [\$2.00] \$2 for each address searched in any census year.

5 c. Conduct without fee upon request for administrative use by any
6 city, state, or federal agency, a search for any New Jersey State census
7 entry.

8 (cf: P.L.1983, c.275, s.17)

9

10 27. Section 1 of P.L.1977, c.237 (C.26:2H-32) is amended to read
11 as follows:

12 1. The following words or phrases, as used in this act, shall have
13 the following meanings, unless the context otherwise requires:

14 a. "Nursing home" means a facility providing therein nursing care
15 to sick, invalid, infirm, disabled or convalescent persons in addition to
16 lodging and board or health-related service, or any combination of the
17 foregoing and in addition thereto, providing nursing care and
18 health-related service, or either of them, to persons who are not
19 occupants of the facility.

20 b. "Affiliate" means (1) with respect to a partnership, each partner
21 thereof; (2) with respect to a corporation, each officer, director,
22 principal stockholder or controlling person thereof; (3) with respect to
23 a natural person (a) each member of said person's immediate family,
24 (b) each partnership and each partner thereof of which said person or
25 any affiliate of said person is a partner, and (c) each corporation in
26 which said person or any affiliate of said person is an officer, director,
27 principal stockholder or controlling person.

28 c. "Controlling person" of any corporation, partnership or other
29 entity means any person who has the ability, directly or indirectly, to
30 direct or cause the direction of the management or policies of said
31 corporation, partnership or other entity.

32 d. "Immediate family" of any person includes each parent, child,
33 spouse, brother, sister, first cousin, aunt and uncle of such person,
34 whether such relationship arises by birth, marriage or adoption, as
35 well as the domestic partner of that person as defined in section 3 of
36 P.L. , c. (C.)(pending before the Legislature as this bill) and the
37 domestic partner's parent and adult child.

38 e. "Principal stockholder" of a corporation means any person who
39 beneficially owns, holds or has the power to vote, 10% or more of any
40 class of securities issued by said corporation.

41 (cf: P.L.1977, c.237, s.1)

42

43 28. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to read
44 as follows:

45 5. a. A declarant may reaffirm or modify either a proxy directive,
46 or an instruction directive, or both. The reaffirmation or modification

1 shall be made in accordance with the requirements for execution of an
2 advance directive pursuant to section 4 of this act.

3 b. A declarant may revoke an advance directive, including a proxy
4 directive, or an instruction directive, or both, by the following means:

5 (1) Notification, orally or in writing, to the health care
6 representative, physician, nurse or other health care professional, or
7 other reliable witness, or by any other act evidencing an intent to
8 revoke the document; or

9 (2) Execution of a subsequent proxy directive or instruction
10 directive, or both, in accordance with section 4 of this act.

11 c. Designation of the declarant's spouse as health care
12 representative shall be revoked upon divorce or legal separation, and
13 designation of the declarant's domestic partner as defined in section 3
14 of P.L. , c. (C.)(pending before the Legislature as this bill) as
15 health care representative shall be revoked upon termination of the
16 declarant's domestic partnership, unless otherwise specified in the
17 advance directive.

18 d. An incompetent patient may suspend an advance directive,
19 including a proxy directive, an instruction directive, or both, by any of
20 the means stated in paragraph (1) of subsection b. of this section. An
21 incompetent patient who has suspended an advance directive may
22 reinstate that advance directive by oral or written notification to the
23 health care representative, physician, nurse or other health care
24 professional of an intent to reinstate the advance directive.

25 e. Reaffirmation, modification, revocation or suspension of an
26 advance directive is effective upon communication to any person
27 capable of transmitting the information including the health care
28 representative, the attending physician, nurse or other health care
29 professional responsible for the patient's care.

30 (cf: P.L.1991, c.201, s.5)

31

32 29. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to read
33 as follows:

34 6. a. A declarant may execute a proxy directive, pursuant to the
35 requirements of section 4 of this act, designating a competent adult to
36 act as his health care representative.

37 (1) A competent adult, including, but not limited to, a declarant's
38 spouse, domestic partner as defined in section 3 of P.L. , c. (C.)
39 (pending before the Legislature as this bill), adult child, parent or other
40 family member, friend, religious or spiritual advisor, or other person
41 of the declarant's choosing, may be designated as a health care
42 representative.

43 (2) An operator, administrator or employee of a health care
44 institution in which the declarant is a patient or resident shall not serve
45 as the declarant's health care representative unless the operator,
46 administrator or employee is related to the declarant by blood,

1 marriage, domestic partnership or adoption.

2 This restriction does not apply to a physician, if the physician does
3 not serve as the patient's attending physician and the patient's health
4 care representative at the same time.

5 (3) A declarant may designate one or more alternate health care
6 representatives, listed in order of priority. In the event the primary
7 designee is unavailable, unable or unwilling to serve as health care
8 representative, or is disqualified from such service pursuant to this
9 section or any other law, the next designated alternate shall serve as
10 health care representative. In the event the primary designee
11 subsequently becomes available and able to serve as health care
12 representative, the primary designee may, insofar as then practicable,
13 serve as health care representative.

14 (4) A declarant may direct the health care representative to consult
15 with specified individuals, including alternate designees, family
16 members and friends, in the course of the decision making process.

17 (5) A declarant shall state the limitations, if any, to be placed upon
18 the authority of the health care representative including the limitations,
19 if any, which may be applicable if the declarant is pregnant.

20 b. A declarant may execute an instruction directive, pursuant to the
21 requirements of section 4 of this act, stating the declarant's general
22 treatment philosophy and objectives; or the declarant's specific wishes
23 regarding the provision, withholding or withdrawal of any form of
24 health care, including life-sustaining treatment; or both. An instruction
25 directive may, but need not, be executed contemporaneously with, or
26 be attached to, a proxy directive.

27 (cf: P.L.1991, c.201, s.6)

28

29 30. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to read
30 as follows:

31 8. When consent is required for disclosure of the record of a
32 deceased or legally incompetent person who has or is suspected of
33 having AIDS or HIV infection, consent may be obtained:

34 a. From an executor, administrator of the estate, or authorized
35 representative of the legally incompetent or deceased person;

36 b. From the person's spouse [or], domestic partner as defined in
37 section 3 of P.L. , c. (C.)(pending before the Legislature as this
38 bill), primary caretaking partner or, if none, by another member of the
39 person's family; and

40 c. From the commissioner in the event that a deceased person has
41 neither an authorized representative or next-of-kin.

42 (cf: P.L.1989, c.303, s.8)

43

44 31. Section 1 of P.L.1954, c.113 (C.26:6-50) is amended to read
45 as follows:

46 1. Any physician licensed to practice medicine and surgery in this

1 State may conduct a post-mortem and necroscopic examination upon
2 the body of a deceased person if he first obtains the consent in writing
3 of any of the following persons who shall have assumed responsibility
4 and custody of the body for purposes of the burial: surviving spouse,
5 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
6 before the Legislature as this bill), adult child, parent, or other next of
7 kin, of the deceased person. In the absence of any of the foregoing
8 named persons any other person charged by law with and who shall
9 have assumed responsibility and custody of the body for the burial may
10 give such consent. Where 2 or more of the abovementioned have
11 assumed such responsibility and custody of the body for purposes of
12 burial, the consent of 1 of such persons shall be sufficient.
13 (cf: P.L.1954, c.113, s.1)

14

15 32. Section 1 of P.L.1969, c.161 (C.26:6-57) is amended to read
16 as follows:

17 1. As used in this act:

18 (a) "Bank or storage facility" means a facility licensed, accredited,
19 or approved under the laws of any State for storage of human bodies
20 or parts thereof.

21 (b) "Decedent" means a deceased individual and includes a stillborn
22 infant or fetus.

23 (c) "Donor" means an individual who makes a gift of all or part of
24 his body.

25 (d) "Hospital" means a hospital licensed, accredited, or approved
26 under the laws of any State; includes a hospital operated by the United
27 States Government, a State, or a subdivision thereof, although not
28 required to be licensed under State laws.

29 (e) "Part" means organs, tissues, eyes, bones, arteries, blood, other
30 fluids and any other portions of a human body.

31 (f) "Person" means an individual, corporation, government or
32 governmental subdivision or agency, business trust, estate, trust,
33 partnership or association, or any other legal entity.

34 (g) "Physician" or "surgeon" means a physician or surgeon licensed
35 or authorized to practice under the laws of any State.

36 (h) "State" includes any State, district, commonwealth, territory,
37 insular possession, and any other area subject to the legislative
38 authority of the United States of America.

39 (i) "Transplant recovery specialist" means a medical professional
40 licensed by this or another State or technician trained by an organ
41 procurement organization in accordance with federal standards
42 pursuant to 42 U.S.C.274(b) and nationally accredited standards for
43 human body part removal.

44 (j) "Organ procurement organization" means an organization which
45 is qualified by the Secretary of Health and Human Services pursuant
46 to 42 U.S.C.273(b).

1 (k) "Domestic partner" means a domestic partner as defined in
2 section 3 of P.L. , c. (C.)(pending before the Legislature as this
3 bill).

4 (cf: P.L.1995, c.257, s.2)

5
6 33. Section 2 of P.L.1969, c.161 (C.26:6-58) is amended to read
7 as follows:

8 2. (a) Any individual of sound mind and 18 years of age or more
9 may give all or any part of his body for any purpose specified in
10 section 3, the gift to take effect upon death.

11 (b) Any of the following persons, in order of priority stated, when
12 persons in prior classes are not available at the time of death, and in
13 the absence of actual notice of contrary indications by the decedent or
14 actual notice of opposition by a member of the same or a prior class,
15 may give all or any part of the decedent's body for any purpose
16 specified in section 3:

17 (1) The spouse or domestic partner,

18 (2) An adult son or daughter,

19 (3) Either parent,

20 (4) An adult brother or sister,

21 (5) A guardian of the person of the decedent at the time of his
22 death,

23 (6) Any other person authorized or under obligation to dispose of
24 the body.

25 (c) If the donee has actual notice of contrary indications by the
26 decedent or that a gift by a member of a class is opposed by a member
27 of the same or a prior class, the donee shall not accept the gift. The
28 persons authorized by subsection (b) may make the gift after or
29 immediately before death.

30 (d) A gift of all or part of a body authorizes any examination
31 necessary to assure medical acceptability of the gift for the purposes
32 intended.

33 (e) The rights of the donee created by the gift are paramount to the
34 rights of others except as provided by section 7(d).

35 (cf: P.L.1969, c.161, s.2)

36
37 34. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
38 as follows:

39 1. a. At or around the time of death of a patient in a hospital
40 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital
41 shall notify its designated organ procurement organization of the
42 patient's death. If the patient has a validly executed donor card, donor
43 designation on a driver's license, advance directive pursuant to
44 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
45 registration with a Statewide organ and tissue donor registry, the
46 organ procurement organization representative or the hospital's

1 designated requestor shall attempt to notify a person listed in this
2 subsection of the gift. If no document of gift is known to the organ
3 procurement organization representative or the designated requestor,
4 one of those two individuals shall ask the persons listed in this
5 subsection whether the decedent had a validly executed document of
6 gift. If there is no evidence of an anatomical gift or actual notice of
7 contrary indications by the decedent, the organ procurement
8 organization representative or the designated requestor shall attempt
9 to notify a person listed in this subsection of the option to donate
10 organs or tissues. Consent need only be obtained from an available
11 person in the highest priority class applicable, but an anatomical gift
12 shall be barred by actual notice of opposition by a member of the same
13 or a prior class. If no available member of a class will make a
14 decision, the organ procurement organization representative or the
15 designated requestor shall approach a member of the next class.

16 The classes in order of priority are:

- 17 (1) the spouse or domestic partner,
18 (2) an adult son or daughter,
19 (3) either parent,
20 (4) an adult brother or sister,
21 (5) a guardian of the person of the decedent at the time of the
22 decedent's death, or
23 (6) any other person authorized or under the obligation to dispose
24 of the body.

25 For the purposes of this section, a person is available if that person
26 can be approached within a time period compatible with effecting an
27 anatomical gift.

28 b. The person in charge of the hospital or that person's designated
29 representative shall indicate in the medical record of the decedent
30 whether or not consent was granted, the name of the person granting
31 or refusing the consent, and that person's relationship to the decedent.

32 c. A gift made pursuant to the request required by this act shall be
33 executed pursuant to the applicable provisions of P.L.1969, c.161
34 (C.26:6-57 et seq.).

35 d. A person who acts in good faith in accordance with the
36 provisions of this act is not liable for any damages in any civil action
37 or subject to prosecution in any criminal proceeding for any act or
38 omission of the person.

39 e. If the decedent is deemed an unsuitable candidate for donation,
40 an explanatory notation shall be made part of the medical record of the
41 decedent.

42 (cf: P.L.2001, c.87, s.1)

43

44 35. Section 7 of P.L.1969, c.161 (C.26:6-63) is amended to read
45 as follows:

46 7. (a) The donee may accept or reject the gift. If the donee

1 accepts a gift of the entire body, he may, subject to the terms of the
2 gift, authorize embalming and the use of the body in funeral services,
3 and after it has served its scientific purposes, provide for its disposal
4 by burial or cremation. If the gift is of a part of the body, the donee,
5 upon the death of the donor and prior to embalming, shall cause the
6 part to be removed without unnecessary mutilation. After removal of
7 the part, custody of the remainder of the body vests in the surviving
8 spouse or domestic partner, next of kin, or other persons under
9 obligation to dispose of the body.

10 (b) The time of death shall be determined by a physician who
11 attends the donor at his death, or, if none, the physician who certifies
12 the death. The physician shall not participate in the procedures for
13 removing or transplanting a part.

14 (c) A person who acts in good faith in accord with the terms of this
15 act or the anatomical gift laws of another State or foreign country is
16 not liable for damages in any civil action or subject to prosecution in
17 any criminal proceeding for his act.

18 (d) The provisions of this act are subject to the laws of this State
19 prescribing powers and duties with respect to autopsies.

20 (cf: P.L.1969, c.161, s.7)

21
22 36. R.S.54:34-1 is amended to read as follows:

23 54:34-1. Except as provided in section 54:34-4 of this Title, a tax
24 shall be and is hereby imposed at the rates set forth in section 54:34-2
25 of this Title upon the transfer of property, real or personal, of the
26 value of \$500.00 or over, or of any interest therein or income
27 therefrom, in trust or otherwise, to or for the use of any transferee,
28 distributee or beneficiary in the following cases:

29 a. Where real or tangible personal property situated in this State or
30 intangible personal property wherever situated is transferred by will or
31 by the intestate laws of this State from a resident of this State dying
32 seized or possessed thereof.

33 b. Where real or tangible personal property within this State of a
34 decedent not a resident of this State at the time of his death is
35 transferred by will or intestate law.

36 c. Where real or tangible personal property within this State of a
37 resident of this State or intangible personal property wherever situate
38 of a resident of this State or real or tangible personal property within
39 this State of a nonresident, is transferred by deed, grant, bargain, sale
40 or gift made in contemplation of the death of the grantor, vendor or
41 donor, or intended to take effect in possession or enjoyment at or after
42 such death.

43 A transfer by deed, grant, bargain, sale or gift made without
44 adequate valuable consideration and within three years prior to the
45 death of the grantor, vendor or donor of a material part of his estate
46 or in the nature of a final disposition or distribution thereof, shall, in

1 the absence of proof to the contrary, be deemed to have been made in
2 contemplation of death within the meaning of subsection c. of this
3 section; but no such transfer made prior to such three-year period shall
4 be deemed or held to have been made in contemplation of death.

5 d. Where by transfer of a resident decedent of real or tangible
6 personal property within this State or intangible property wherever
7 situate, or by transfer of a nonresident decedent of real or tangible
8 personal property within this State, a transferee, distributee or
9 beneficiary comes into the possession or enjoyment therein of:

10 (1) An estate in expectancy of any kind or character which is
11 contingent or defeasible, transferred by an instrument taking effect on
12 or after July 4, 1909; or

13 (2) Property transferred pursuant to a power of appointment
14 contained in an instrument taking effect on or after July 4, 1909.

15 e. When a decedent appoints or names one or more executors or
16 trustees and bequeaths or devises property to him or them in lieu of
17 commissions or allowances, the transfer of which property would
18 otherwise be taxable, or appoints him or them his residuary legatee or
19 legatees, and the bequest, devise or residuary legacy exceeds what
20 would be reasonable compensation for his or their services, such
21 excess shall be deemed a transfer liable to tax. The Superior Court
22 having jurisdiction in the case, shall determine what is a reasonable
23 compensation.

24 f. The right of the surviving joint tenant or joint tenants, person or
25 persons, to the immediate ownership or possession and enjoyment of
26 real or personal property held in the joint names of two or more
27 persons, or deposited in banks or other institutions or depositories in
28 the joint names of two or more persons and payable to either or the
29 survivor, excluding, however, the right of a spouse, as a surviving
30 joint tenant with his or her deceased spouse, or the right of a domestic
31 partner as defined in section 3 of P.L. , c. (C.)(pending before the
32 Legislature as this bill), as a surviving joint tenant with that person's
33 deceased domestic partner, to the immediate ownership or possession
34 and enjoyment of a membership certificate or stock in a cooperative
35 housing corporation, the ownership of which entitles such member or
36 stockholder to occupy real estate for dwelling purposes as the
37 principal residence of the decedent and spouse or domestic partner, as
38 applicable, shall upon the death of one of such persons, be deemed a
39 transfer taxable in the same manner as though such property had
40 belonged absolutely to the deceased joint tenant or joint depositor and
41 had been devised or bequeathed by his will to the surviving joint tenant
42 or joint tenants, person or persons, excepting therefrom such part of
43 the property as such survivor or survivors may prove to the
44 satisfaction of the Director of the Division of Taxation to have
45 originally belonged to him or them and never to have belonged to the
46 decedent.

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1 In the case of a nonresident decedent, subsection f. of this section
2 shall apply only to real or tangible personal property within this State.
3 (cf: P.L.1991, c.91, s.510)

4
5 37. R.S.54:34-2 is amended to read as follows:

6 54:34-2. a. (1) The transfer of property to a husband or wife, or
7 a domestic partner as defined in section 3 of P.L. , c. (C.)(pending
8 before the Legislature as this bill), of a decedent shall be taxed at the
9 following rates:

10 For transfers made through December 31, 1984:

- 11 On any amount in excess of \$15,000.00, up to \$50,000.00 2%
- 12 On any amount in excess of \$50,000.00, up to \$100,000.00 3%
- 13 On any amount in excess of \$100,000.00, up to \$150,000.00 %
- 14 On any amount in excess of \$150,000.00, up to \$200,000.00 5%
- 15 On any amount in excess of \$200,000.00, up to \$300,000.00 6%
- 16 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 17 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 18 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 19 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 20 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..11%
- 21 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 22 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 23 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ...4%
- 24 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 25 On any amount in excess of \$3,200,000.00 16%

26 For transfers made on or after January 1, 1985 there shall be no tax
27 imposed under this paragraph.

28 (2) The transfer of property to a father, mother, grandparent, child
29 or children of a decedent, or to any child or children adopted by the
30 decedent in conformity with the laws of this State, or of any of the
31 United States or of a foreign country, or the issue of any child or
32 legally adopted child of a decedent, shall be taxed at the following
33 rates:

34 For transfers through June 30, 1985:

- 35 On any amount in excess of \$15,000.00, up to \$50,000.00 2%
- 36 On any amount in excess of \$50,000.00, up to \$100,000.00 3%
- 37 On any amount in excess of \$100,000.00, up to \$150,000.00 4%
- 38 On any amount in excess of \$150,000.00, up to \$200,000.00 5%
- 39 On any amount in excess of \$200,000.00, up to \$300,000.00 6%
- 40 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 41 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 42 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 43 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 44 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 45 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 . 12%
- 46 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%

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- 1 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 2 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 3 On any amount in excess of \$3,200,000.00 16%
- 4 For transfers made from July 1, 1985 through June 30, 1986:
- 5 On any amount in excess of \$50,000.00, up to \$100,000.00 3%
- 6 On any amount in excess of \$100,000.00, up to \$150,000.00 4%
- 7 On any amount in excess of \$150,000.00, up to \$200,000.00 5%
- 8 On any amount in excess of \$200,000.00, up to \$300,000.00 6%
- 9 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 10 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 11 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 12 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...10%
- 13 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..11%
- 14 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 15 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 16 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 17 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 18 On any amount in excess of \$3,200,000.00 16%
- 19 For transfers made from July 1, 1986 through June 30, 1987:
- 20 On any amount in excess of \$150,000.00, up to \$200,000.00 5%
- 21 On any amount in excess of \$200,000.00, up to \$300,000.00 6%
- 22 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 23 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 24 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 25 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 26 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 27 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..12%
- 28 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 29 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 30 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 31 On any amount in excess of \$3,200,000.00 16%
- 32 For transfers made from July 1, 1987 through June 30, 1988:
- 33 On any amount in excess of \$250,000.00, up to \$300,000.00 6%
- 34 On any amount in excess of \$300,000.00, up to \$500,000.00 7%
- 35 On any amount in excess of \$500,000.00, up to \$700,000.00 8%
- 36 On any amount in excess of \$700,000.00, up to \$900,000.00 9%
- 37 On any amount in excess of \$900,000.00, up to \$1,100,000.00 ... 10%
- 38 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 . 11%
- 39 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 . 12%
- 40 On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..13%
- 41 On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..14%
- 42 On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..15%
- 43 On any amount in excess of \$3,200,000.00 16%
- 44 For transfers made on or after July 1, 1988 there shall be no tax
- 45 imposed under this subsection.
- 46 b. (Deleted by amendment.)

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1 c. The transfer of property to a brother or sister of a decedent, wife
2 or widow of a son of a decedent, or husband or widower of a daughter
3 of a decedent shall be taxed at the following rates:

- 4 (1) For transfers through June 30, 1988:
- 5 On any amount up to \$1,100,000.00 11%
 - 6 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
 - 7 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
 - 8 On any amount in excess of \$1,700,000.0016%

- 9 (2) For transfers made on or after July 1, 1988:
- 10 On any amount in excess of \$25,000.00, up to \$1,100,000.0011%
 - 11 On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
 - 12 On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
 - 13 On any amount in excess of \$1,700,000.00 16%

14 d. The transfer of property to every other transferee, distributee or
15 beneficiary not hereinbefore classified shall be taxed at the following
16 rates:

- 17 On any amount up to \$700,000.00 15%
- 18 On any amount in excess of \$700,000.00 16%

19 For every purpose of this subtitle all persons, including the
20 decedent, shall be deemed to have been born in lawful wedlock and
21 this provision shall apply to the estate of every decedent whether said
22 decedent died before March 25, 1935, or shall die thereafter, but it
23 shall not entitle any person to a refund of any tax paid before the
24 aforementioned date.

25 (cf: P.L.1985, c.57, s.1)

26

27 38. R.S.54:34-4 is amended to read as follows:

28 54:34-4. The following transfers of property shall be exempt from
29 taxation:

30 a. Property passing to or for the use of the State of New Jersey, or
31 to or for the use of a municipal corporation within the State or other
32 political subdivision thereof, for exclusively public purposes.

33 b. Property passing to a beneficiary or beneficiaries having any
34 present or future, vested, contingent or defeasible interest under any
35 trust deed or agreement heretofore or hereafter executed by a resident
36 or nonresident decedent, to the extent that the trust fund results from
37 the proceeds of contracts of insurance heretofore or hereafter in force,
38 insuring the life of such decedent, and paid or payable, at or after the
39 death of such decedent, to the trustee or trustees under such trust deed
40 or agreement.

41 c. Property passing to (i) a trustee or trustees of any trust deed or
42 agreement heretofore or hereafter executed or (ii) to a trustee or
43 trustees of a trust created by the will of a decedent, by virtue of any
44 contract of insurance heretofore or hereafter in force insuring the life
45 of a resident or nonresident decedent and the proceeds of which are
46 paid or payable at or after the death of such decedent to such trustee

1 or trustees for the benefit of a beneficiary or beneficiaries having any
2 present or future, vested, contingent or defeasible interest under such
3 trust deed, agreement or will.

4 d. That part of the estate of any decedent which passes to, for the
5 use of or in trust for any educational institution, church, hospital,
6 orphan asylum, public library or Bible and tract society or to, for the
7 use of or in trust for any institution or organization organized and
8 operated exclusively for religious, charitable, benevolent, scientific,
9 literary or educational purposes, including any institution instructing
10 the blind in the use of dogs as guides, no part of the net earnings of
11 which inures to the benefit of any private stockholder or other
12 individual or corporation; provided, that this exemption shall not
13 extend to transfers of property to such educational institutions and
14 organizations of other states, the District of Columbia, territories and
15 foreign countries which do not grant an equal, and like exemption of
16 transfers of property for the benefit of such institutions and
17 organizations of this State.

18 e. That part of the estate of any decedent who has heretofore died,
19 or may hereafter die, received, either heretofore or hereafter, by the
20 legal representatives of such decedent, whether directly from the
21 United States, or through any intervening estate or estates, by reason
22 of any war risk insurance certificate or policy, either term or
23 converted, or any adjusted service certificate, issued by the United
24 States. Nothing contained in this subsection e. shall entitle any person
25 to a refund of any tax heretofore paid on the transfer of property of
26 the nature aforementioned; and provided further, that the exemption
27 provided for in this subsection e. shall not extend to that part of the
28 estate of any decedent composed of property of the nature
29 aforementioned, when such property was received by the decedent
30 before death.

31 f. The proceeds of any contract of insurance heretofore or
32 hereafter in force insuring the life of a resident or nonresident decedent
33 paid or payable at or after the death of such decedent to any
34 beneficiary or beneficiaries other than the estate or the executor or
35 administrator of such decedent.

36 g. Any transfer, relinquishment, surrender or exercise at any time
37 or times by a resident or nonresident of any right to nominate or
38 change the beneficiary or beneficiaries of any contract of insurance
39 heretofore or hereafter in force insuring the life of such resident or
40 nonresident irrespective of whether such transfer, relinquishment,
41 surrender or exercise of such right took place or whether the proceeds
42 of such policy were paid or payable, before or after the taking effect
43 of this act.

44 h. The value of any pension, annuity, retirement allowance, return
45 of contributions, or benefit payable by the Government of the United
46 States pursuant to the Civil Service Retirement Act to a beneficiary or

1 beneficiaries other than the estate or the executor or administrator of
2 a decedent.

3 i. The value of any annuity payable by the Government of the
4 United States pursuant to the Retired Serviceman's Family Protection
5 Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other
6 than the estate or the executor or administrator of a decedent.

7 j. The value of any pension, annuity, retirement allowance or return
8 of contributions, regardless of the source, which is a direct result of
9 the decedent's employment under a qualified plan as defined by section
10 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, payable
11 to a surviving spouse, or a domestic partner as defined in section 3 of
12 P.L. , c. (C.)(pending before the Legislature as this bill), and not
13 otherwise exempted pursuant to this section or other law of the State
14 of New Jersey.

15 (cf: P.L.1981, c.152, s.1)

16

17 39. N.J.S.54A:1-2 is amended to read as follows:

18 54A:1-2. As used in this act, unless the context clearly indicates
19 otherwise, the following words and phrases shall have the following
20 meaning:

21 a. "Director" means the Director of the Division of Taxation in the
22 Department of the Treasury.

23 b. "Fiduciary" means a guardian, trustee, executor, administrator,
24 receiver, conservator, or any person acting in any fiduciary capacity
25 for any person.

26 c. "Excludable income" shall be limited to those payments set forth
27 in chapter 6 hereunder.

28 d. "Gross income" shall include that set forth in chapter 5
29 hereunder.

30 e. "Dependent" means a spouse or child, or a domestic partner as
31 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
32 as this bill), or any individual related to the taxpayer and who is a
33 dependent pursuant to the provisions of the Internal Revenue Code
34 during a taxable year.

35 f. "Disabled" means total and permanent inability to engage in any
36 substantial gainful activity by reason of any medically determinable
37 physical or mental impairment, including blindness. For purposes of
38 this subsection, "blindness" means central visual acuity of 20/200 or
39 less in the better eye with the use of a correcting lens. An eye which
40 is accompanied by a limitation in the fields of vision such that the
41 widest diameter of the visual field subtends an angle no greater than
42 20 degrees shall be considered as having a central visual acuity of
43 20/200 or less.

44 g. "Medical expenses" means nonreimbursed payments for
45 physicians, dental and other medical fees, hospital care, nursing care,
46 medicines and drugs, prosthetic devices, X-rays and other diagnostic

1 services conducted by or directed by a physician or dentist. In
2 addition, medical expenses may also include amounts paid for
3 transportation primarily for and essential to medical care and
4 insurance (including amounts paid as premiums under part B of Title
5 XVIII of the Social Security Act, relating to supplementary medical
6 insurance for the aged) covering medical care.

7 h. Partnership and partner. The term "partnership" includes a
8 syndicate, group, pool, joint venture, or other unincorporated
9 organization, through or by means of which any business, financial
10 operation, or venture is carried on, and which is not, within the
11 meaning of this act, a trust or estate or a corporation; and the term
12 "partner" includes a member in such a syndicate, group, pool, joint
13 venture, or organization.

14 i. Blank.

15 j. Blank.

16 k. "Taxable year" means the calendar or fiscal accounting period
17 for which a tax is payable under this act.

18 l. "Taxpayer" means any individual, estate or trust required to
19 report or to pay taxes, interest and penalties under this act, or whose
20 income in whole or in part is subject to the tax imposed by this act.

21 m. "Resident taxpayer" means an individual:

22 1. Who is domiciled in this State, unless he maintains no permanent
23 place of abode in this State, maintains a permanent place of abode
24 elsewhere, and spends in the aggregate no more than 30 days of the
25 taxable year in this State; or

26 2. Who is not domiciled in this State but maintains a permanent
27 place of abode in this State and spends in the aggregate more than 183
28 days of the taxable year in this State, unless such individual is in the
29 Armed Forces of the United States.

30 n. "Nonresident taxpayer" means a taxpayer who is not a resident.

31 o. Resident estate or trust. A resident estate or trust means:

32 (1) The estate of a decedent who at his death was domiciled in this
33 State,

34 (2) A trust, or a portion of a trust, consisting of property
35 transferred by will of a decedent who at his death was domiciled in this
36 State, or

37 (3) A trust, or portion of a trust, consisting of the property of:

38 (a) A person domiciled in this State at the time such property was
39 transferred to the trust, if such trust or portion of a trust was then
40 irrevocable, or if it was then revocable and has not subsequently
41 become irrevocable; or

42 (b) A person domiciled in this State at the time such trust, or
43 portion of a trust, became irrevocable, if it was revocable when such
44 property was transferred to the trust but has subsequently become
45 irrevocable.

46 For the purposes of the foregoing, a trust or portion of a trust is

1 revocable if it is subject to a power, exercisable immediately or at any
2 future time, to revest title in the person whose property constitutes
3 such trust or portion of a trust, and a trust or portion of a trust
4 becomes irrevocable when the possibility that such power may be
5 exercised has been terminated.

6 p. Nonresident estate or trust. A nonresident estate or trust means
7 an estate or trust which is not a resident.

8 q. Unless the context in which it occurs requires otherwise, the
9 term "act" or "this act" shall mean the New Jersey Gross Income Tax
10 Act, Title 54A of the New Jersey Statutes.

11 (cf: N.J.S.54A:1-2)

12

13 40. N.J.S.54A:3-1 is amended to read as follows:

14 54A:3-1. Personal exemptions and deductions. Each taxpayer shall
15 be allowed personal exemptions and deductions against his gross
16 income as follows:

17 (a) Taxpayer. Each taxpayer shall be allowed a personal exemption
18 of \$1,000.00 which may be taken as a deduction from his New Jersey
19 gross income.

20 (b) Additional exemptions. In addition to the personal exemptions
21 allowed in (a), the following additional personal exemptions shall be
22 allowed as a deduction from gross income:

23 1. For the taxpayer's spouse, or domestic partner as defined in
24 section 3 of P.L. , c. (C.)(pending before the Legislature as this
25 bill), who does not file separately - \$1,000.00.

26 2. For each dependent who qualifies as a dependent of the taxpayer
27 during the taxable year for federal income tax purposes - \$1,500.00.

28 3. Taxpayer 65 years of age or over at the close of the taxable year
29 - \$1,000.00.

30 4. Taxpayer's spouse 65 years of age or over at the close of the
31 taxable year - \$1,000.00.

32 5. Blind or disabled taxpayer - \$1,000.00.

33 6. Blind or disabled spouse - \$1,000.00.

34 (c) Special Rule. The personal exemptions allowed under this
35 section shall be limited to that percentage which the total number of
36 months within a taxpayer's taxable year under this act bears to 12. For
37 this purpose 15 days or more shall constitute a month.

38 (d) (Deleted by amendment, P.L.1993, c.178).

39 (e) Nonresidents. For taxable years to which a certification
40 pursuant to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a
41 nonresident taxpayer shall be allowed the same deduction for personal
42 exemptions as a resident taxpayer. However, if (1) the nonresident
43 taxpayer's gross income which is subject to tax under this act is
44 exceeded by (2) the gross income which the nonresident taxpayer
45 would be required to report under this act if the taxpayer were a
46 resident by more than \$100.00, the taxpayer's deduction for personal

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- 1 exemptions shall be limited by the percentage which (1) is to (2).
- 2 (cf: P.L.1993, c.320, s.1)

1 41. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
2 read as follows:

3 2. As used in this act:

4 (a) The term "State" means the State of New Jersey.

5 (b) The term "commission" means the State Health Benefits
6 Commission, created by section 3 of this act.

7 (c) The term "employee" means an appointive or elective officer or
8 full-time employee of the State of New Jersey. For the purposes of
9 this act an employee of Rutgers, The State University of New Jersey,
10 shall be deemed to be an employee of the State, and an employee of
11 the New Jersey Institute of Technology shall be considered to be an
12 employee of the State during such time as the Trustees of the Institute
13 are party to a contractual agreement with the State Treasurer for the
14 provision of educational services. The term "employee" shall further
15 mean, for purposes of this act, a former employee of the South Jersey
16 Port Corporation, who is employed by a subsidiary corporation or
17 other corporation, which has been established by the Delaware River
18 Port Authority pursuant to subdivision (m) of Article I of the compact
19 creating the Delaware River Port Authority (R.S.32:3-2), as defined
20 in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for
21 continued membership in the Public Employees' Retirement System
22 pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

23 For the purposes of this act the term "employee" shall not include
24 persons employed on a short-term, seasonal, intermittent or emergency
25 basis, persons compensated on a fee basis, persons having less than
26 two months of continuous service or persons whose compensation
27 from the State is limited to reimbursement of necessary expenses
28 actually incurred in the discharge of their official duties. An employee
29 paid on a 10-month basis, pursuant to an annual contract, will be
30 deemed to have satisfied the two-month waiting period if the employee
31 begins employment at the beginning of the contract year. The term
32 "employee" shall also not include retired persons who are otherwise
33 eligible for benefits under this act but who, although they meet the age
34 eligibility requirement of Medicare, are not covered by the complete
35 federal program. A determination by the commission that a person is
36 an eligible employee within the meaning of this act shall be final and
37 shall be binding on all parties.

38 (d) (1) The term "dependents" means an employee's spouse, or an
39 employee's domestic partner as defined in section 3 of P.L. , c.
40 (C.)(pending before the Legislature as this bill), and the employee's
41 unmarried children under the age of 23 years who live with the
42 employee in a regular parent-child relationship. "Children" shall
43 include stepchildren, legally adopted children and foster children
44 provided they are reported for coverage and are wholly dependent
45 upon the employee for support and maintenance. A spouse, domestic
46 partner or child enlisting or inducted into military service shall not be

1 considered a dependent during the military service. The term
2 "dependents" shall not include spouses or domestic partners of retired
3 persons who are otherwise eligible for the benefits under this act but
4 who, although they meet the age eligibility requirement of Medicare,
5 are not covered by the complete federal program.

6 (2) Notwithstanding the provisions of paragraph (1) of this
7 subsection to the contrary and subject to the provisions of paragraph
8 (3) of this subsection, for the purposes of an employer other than the
9 State that is participating in the State Health Benefits Program
10 pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term
11 "dependents" means an employee's spouse and the employee's
12 unmarried children under the age of 23 years who live with the
13 employee in a regular parent-child relationship. "Children" shall
14 include stepchildren, legally adopted children and foster children
15 provided they are reported for coverage and are wholly dependent
16 upon the employee for support and maintenance. A spouse or child
17 enlisting or inducted into military service shall not be considered a
18 dependent during the military service. The term "dependents" shall not
19 include spouses of retired persons who are otherwise eligible for
20 benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who,
21 although they meet the age eligibility requirement of Medicare, are not
22 covered by the complete federal program.

23 (3) An employer other than the State that is participating in the
24 State Health Benefits Program pursuant to section 3 of P.L.1964,
25 c.125 (C.52:14-17.34) may adopt a resolution providing that the term
26 "dependents" as defined in paragraph (2) of this subsection shall
27 include domestic partners as provided in paragraph (1) of this
28 subsection.

29 (e) The term "carrier" means a voluntary association, corporation
30 or other organization, including a health maintenance organization as
31 defined in section 2 of the "Health Maintenance Organizations Act,"
32 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
33 or paying for or reimbursing the cost of, personal health services,
34 including hospitalization, medical and surgical services, under
35 insurance policies or contracts, membership or subscription contracts,
36 or the like, in consideration of premiums or other periodic charges
37 payable to the carrier.

38 (f) The term "hospital" means (1) an institution operated pursuant
39 to law which is primarily engaged in providing on its own premises,
40 for compensation from its patients, medical diagnostic and major
41 surgical facilities for the care and treatment of sick and injured persons
42 on an inpatient basis, and which provides such facilities under the
43 supervision of a staff of physicians and with 24 hour a day nursing
44 service by registered graduate nurses, or (2) an institution not meeting
45 all of the requirements of (1) but which is accredited as a hospital by
46 the Joint Commission on Accreditation of Hospitals. In no event shall

1 the term "hospital" include a convalescent nursing home or any
2 institution or part thereof which is used principally as a convalescent
3 facility, residential center for the treatment and education of children
4 with mental disorders, rest facility, nursing facility or facility for the
5 aged or for the care of drug addicts or alcoholics.

6 (g) The term "State managed care plan" means a health care plan
7 under which comprehensive health care services and supplies are
8 provided to eligible employees, retirees, and dependents: (1) through
9 a group of doctors and other providers employed by the plan; or (2)
10 through an individual practice association, preferred provider
11 organization, or point of service plan under which services and
12 supplies are furnished to plan participants through a network of
13 doctors and other providers under contracts or agreements with the
14 plan on a prepayment or reimbursement basis and which may provide
15 for payment or reimbursement for services and supplies obtained
16 outside the network. The plan may be provided on an insured basis
17 through contracts with carriers or on a self-insured basis, and may be
18 operated and administered by the State or by carriers under contracts
19 with the State.

20 (h) The term "Medicare" means the program established by the
21 "Health Insurance for the Aged Act," Title XVIII of the "Social
22 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
23 or its successor plan or plans.

24 (i) The term "traditional plan" means a health care plan which
25 provides basic benefits, extended basic benefits and major medical
26 expense benefits as set forth in section 5 of P.L.1961, c.49
27 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
28 dependents for expenses for covered health care services and supplies
29 through payments to providers or reimbursements to participants.
30 (cf: P.L.1997, c.150, s.25)

31

32 42. Section 6 of L.1954, c.84 (C.43:15A-6) is amended to read as
33 follows:

34 6. As used in this act:

35 a. "Accumulated deductions" means the sum of all the amounts,
36 deducted from the compensation of a member or contributed by or on
37 behalf of the member, standing to the credit of the member's individual
38 account in the annuity savings fund.

39 b. "Annuity" means payments for life derived from the accumulated
40 deductions of a member as provided in this act.

41 c. "Annuity reserve" means the present value of all payments to be
42 made on account of any annuity or benefit in lieu of an annuity,
43 granted under the provisions of this act, computed on the basis of such
44 mortality tables recommended by the actuary as the board of trustees
45 adopts, with regular interest.

46 d. "Beneficiary" means any person receiving a retirement allowance

1 or other benefit as provided in this act.

2 e. "Child" means a deceased member's unmarried child either (1)
3 under the age of 18 or (2) of any age who, at the time of the member's
4 death, is disabled because of mental retardation or physical incapacity,
5 is unable to do any substantial, gainful work because of the impairment
6 and the impairment has lasted or can be expected to last for a
7 continuous period of not less than 12 months, as affirmed by the
8 medical board.

9 f. "Parent" shall mean the parent of a member who was receiving
10 at least 1/2 of the parent's support from the member in the 12-month
11 period immediately preceding the member's death or the accident
12 which was the direct cause of the member's death. The dependency of
13 such a parent will be considered terminated by marriage of the parent
14 subsequent to the death of the member.

15 g. ["Widower" means] (1) "Widower," for employees of the
16 State, means the man to whom a member was married, or a domestic
17 partner as defined in section 3 of P.L. , c. (C.)(pending before the
18 Legislature as this bill), at least five years before the date of her death
19 and to whom she continued to be married or a domestic partner until
20 the date of her death and who was receiving at least 1/2 of his support
21 from the member in the 12-month period immediately preceding the
22 member's death or the accident which was the direct cause of the
23 member's death. The dependency of such a widower will be
24 considered terminated by marriage of, or establishment of a domestic
25 partnership by, the widower subsequent to the death of the member.
26 In the event of the payment of an accidental death benefit, the
27 five-year qualification shall be waived.

28 (2) Subject to the provisions of paragraph (3) of this subsection,
29 "widower," for employees of public employers other than the State,
30 means the man to whom a member was married at least five years
31 before the date of her death and to whom she continued to be married
32 until the date of her death and who was receiving at least 1/2 of his
33 support from the member in the 12-month period immediately
34 preceding the member's death or the accident which was the direct
35 cause of the member's death. The dependency of such a widower shall
36 be considered terminated by marriage of the widower subsequent to
37 the death of the member. In the event of the payment of an accidental
38 death benefit, the five-year qualification shall be waived.

39 (3) A public employer other than the State may adopt a resolution
40 providing that the term "widower" as defined in paragraph (2) of this
41 subsection shall include domestic partners as provided in paragraph (1)
42 of this subsection.

43 h. "Final compensation" means the average annual compensation
44 for which contributions are made for the three years of creditable
45 service in New Jersey immediately preceding the member's retirement
46 or death, or it shall mean the average annual compensation for New

- 1 Jersey service for which contributions are made during any three fiscal
2 years of his or her membership providing the largest possible benefit
3 to the member or the member's beneficiary.
- 4 i. "Fiscal year" means any year commencing with July 1 and ending
5 with June 30 next following.
- 6 j. "Medical board" shall mean the board of physicians provided for
7 in section 17 (C.43:15A-17).
- 8 k. "Pension" means payments for life derived from appropriations
9 made by the employer as provided in this act.
- 10 l. "Pension reserve" means the present value of all payments to be
11 made on account of any pension or benefit in lieu of a pension granted
12 under the provisions of this act, computed on the basis of such
13 mortality tables recommended by the actuary as the board of trustees
14 adopts, with regular interest.
- 15 m. "Public Employees' Retirement System of New Jersey,"
16 hereinafter referred to as the "retirement system" or "system," is the
17 corporate name of the arrangement for the payment of retirement
18 allowances and other benefits under the provisions of this act including
19 the several funds placed under said system. By that name all of its
20 business shall be transacted, its funds invested, warrants for money
21 drawn, and payments made and all of its cash and securities and other
22 property held.
- 23 n. "Regular interest" shall mean interest as determined by the State
24 Treasurer, after consultation with the Directors of the Divisions of
25 Investment and Pensions, the board of trustees and the actuary. It
26 shall bear a reasonable relationship to the percentage rate of earnings
27 on investments based on the market value of the assets but shall not
28 exceed the assumed percentage rate of increase applied to salaries plus
29 3%, provided however that the board of trustees shall not set the
30 average percentage rate of increase applied to salaries below 6%.
- 31 o. "Retirement allowance" means the pension plus the annuity.
- 32 p. "Veteran" means any honorably discharged officer, soldier,
33 sailor, airman, marine or nurse who served in any Army, Air Force or
34 Navy of the Allies of the United States in World War I, between July
35 14, 1914, and November 11, 1918, or who served in any Army, Air
36 Force or Navy of the Allies of the United States in World War II,
37 between September 1, 1939, and September 2, 1945, and who was
38 inducted into such service through voluntary enlistment, and was a
39 citizen of the United States at the time of such enlistment, and who did
40 not, during or by reason of such service, renounce or lose United
41 States citizenship, and any officer, soldier, sailor, marine, airman,
42 nurse or army field clerk, who has served in the active military or naval
43 service of the United States and has or shall be discharged or released
44 therefrom under conditions other than dishonorable, in any of the
45 following wars, uprisings, insurrections, expeditions, or emergencies,
46 and who has presented to the retirement system evidence of such

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- 1 record of service in form and content satisfactory to said retirement
2 system:
- 3 (1) The Indian wars and uprisings during any of the periods
4 recognized by the War Department of the United States as periods of
5 active hostility;
- 6 (2) The Spanish-American War between April 20, 1898, and April
7 11, 1899;
- 8 (3) The Philippine insurrections and expeditions during the periods
9 recognized by the War Department of the United States as of active
10 hostility from February 4, 1899, to the end of 1913;
- 11 (4) The Peking relief expedition between June 20, 1900, and May
12 27, 1902;
- 13 (5) The army of Cuban occupation between July 18, 1898, and
14 May 20, 1902;
- 15 (6) The army of Cuban pacification between October 6, 1906, and
16 April 1, 1909;
- 17 (7) The Mexican punitive expedition between March 14, 1916, and
18 February 7, 1917;
- 19 (8) The Mexican border patrol, having actually participated in
20 engagements against Mexicans between April 12, 1911, and June 16,
21 1919;
- 22 (9) World War I, between April 6, 1917, and November 11, 1918;
- 23 (10) World War II, between September 16, 1940, and December
24 31, 1946, who shall have served at least 90 days in such active service,
25 exclusive of any period of assignment (1) for a course of education or
26 training under the Army Specialized Training Program or the Navy
27 College Training Program which course was a continuation of a
28 civilian course and was pursued to completion, or (2) as a cadet or
29 midshipman at one of the service academies any part of which 90 days
30 was served between said dates; provided, that any person receiving an
31 actual service-incurred injury or disability shall be classed as a veteran
32 whether or not that person has completed the 90-day service as herein
33 provided;
- 34 (11) Korean conflict on or after June 23, 1950, and on or prior to
35 January 31, 1955, who shall have served at least 90 days in such active
36 service, exclusive of any period of assignment (1) for a course of
37 education or training under the Army Specialized Training Program or
38 the Navy College Training Program which course was a continuation
39 of a civilian course and was pursued to completion, or (2) as a cadet
40 or midshipman at one of the service academies, any part of which 90
41 days was served between said dates; provided, that any person
42 receiving an actual service-incurred injury or disability shall be classed
43 as a veteran whether or not that person has completed the 90-day
44 service as herein provided; and provided further, that any member
45 classed as a veteran pursuant to this paragraph prior to August 1,
46 1966, shall continue to be classed as a veteran whether or not that

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1 person completed the 90-day service between said dates as herein
2 provided;

3 (12) Lebanon crisis, on or after July 1, 1958, who has served in
4 Lebanon or on board any ship actively engaged in patrolling the
5 territorial waters of that nation for a period, continuous or in the
6 aggregate, of at least 14 days commencing on or before November 1,
7 1958 or the date of termination of that conflict, as proclaimed by the
8 President of the United States or Congress, whichever date of
9 termination is the latest, in such active service; provided, that any
10 person receiving an actual service-incurred injury or disability shall be
11 classed as a veteran whether or not that person has completed the 14
12 days' service as herein provided;

13 (13) Vietnam conflict on or after December 31, 1960, and on or
14 prior to May 7, 1975, who shall have served at least 90 days in such
15 active service, exclusive of any period of assignment (1) for a course
16 of education or training under the Army Specialized Training Program
17 or the Navy College Training Program which course was a
18 continuation of a civilian course and was pursued to completion, or (2)
19 as a cadet or midshipman at one of the service academies, any part of
20 which 90 days was served between said dates; and exclusive of any
21 service performed pursuant to the provisions of section 511(d) of Title
22 10, United States Code, pursuant to an enlistment in the Army
23 National Guard or as a reserve for service in the Army Reserve, Naval
24 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
25 Reserve; provided, that any person receiving an actual service-incurred
26 injury or disability shall be classed as a veteran whether or not that
27 person has completed the 90 days' service as herein provided;

28 (14) Lebanon peacekeeping mission, on or after September 26,
29 1982, who has served in Lebanon or on board any ship actively
30 engaged in patrolling the territorial waters of that nation for a period,
31 continuous or in the aggregate, of at least 14 days commencing on or
32 before December 1, 1987 or the date of termination of that mission, as
33 proclaimed by the President of the United States or Congress,
34 whichever date of termination is the latest, in such active service;
35 provided, that any person receiving an actual service-incurred injury
36 or disability shall be classed as a veteran whether or not that person
37 has completed the 14 days' service as herein provided;

38 (15) Grenada peacekeeping mission, on or after October 23, 1983,
39 who has served in Grenada or on board any ship actively engaged in
40 patrolling the territorial waters of that nation for a period, continuous
41 or in the aggregate, of at least 14 days commencing on or before
42 November 21, 1983 or the date of termination of that mission, as
43 proclaimed by the President of the United States or Congress,
44 whichever date of termination is the latest, in such active service;
45 provided, that any person receiving an actual service-incurred injury
46 or disability shall be classed as a veteran whether or not that person

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1 has completed the 14 days' service as herein provided;

2 (16) Panama peacekeeping mission, on or after December 20, 1989
3 or the date of inception of that mission, as proclaimed by the President
4 of the United States or Congress, whichever date of inception is
5 earliest, who has served in Panama or on board any ship actively
6 engaged in patrolling the territorial waters of that nation for a period,
7 continuous or in the aggregate, of at least 14 days commencing on or
8 before January 31, 1990 or the date of termination of that mission, as
9 proclaimed by the President of the United States or Congress,
10 whichever date of termination is the latest, in such active service;
11 provided, that any person receiving an actual service-incurred injury
12 or disability shall be classed as a veteran whether or not that person
13 has completed the 14 days' service as herein provided;

14 (17) Operation "Desert Shield/Desert Storm" mission in the
15 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
16 the date of inception of that operation, as proclaimed by the President
17 of the United States, Congress or the Governor, whichever date of
18 inception is earliest, who has served in the Arabian peninsula or on
19 board any ship actively engaged in patrolling the Persian Gulf for a
20 period, continuous or in the aggregate, of at least 14 days commencing
21 on or before the date of termination of that mission, as proclaimed by
22 the President of the United States or Congress, whichever date of
23 termination is the latest, in such active service; provided, that any
24 person receiving an actual service-incurred injury or disability shall be
25 classed as a veteran whether or not that person has completed the 14
26 days' service as herein provided;

27 (18) Operation "Restore Hope" in Somalia, commencing on or
28 after December 5, 1992, or the date of inception of that operation as
29 proclaimed by the President of the United States or the Congress,
30 whichever date is earliest, and terminating on March 31, 1994, or the
31 date of termination as proclaimed by the President of the United States
32 or the Congress, whichever date is latest, who served for at least 14
33 days, continuously or in the aggregate, in Somalia or on board any
34 ship actively engaged in patrolling the territorial waters of that nation
35 during the specified period; provided that any person receiving an
36 actual service-incurred injury or disability shall be classed as a veteran
37 whether or not that person has completed the 14-day service as herein
38 provided;

39 (19) Operations "Joint Endeavor" and "Joint Guard" in the
40 Republic of Bosnia and Herzegovina, commencing on or after
41 November 20, 1995 or December 20, 1996, as the case may be, and
42 terminating on December 20, 1996 or on such date as the United
43 States Secretary of Defense may designate, as the case may be, who
44 served in direct support of one or both of the operations for at least 14
45 days, continuously or in the aggregate, and (1) was deployed in that
46 nation or in another area in the region, or (2) was on board a United

1 States naval vessel operating in the Adriatic Sea, or (3) operated in
2 airspace above the Republic of Bosnia and Herzegovina; provided that
3 any person receiving an actual service-incurred injury or disability shall
4 be classed as a veteran whether or not that person completed the
5 14-day service requirement.

6 "Veteran" also means any honorably discharged member of the
7 American Merchant Marine who served during World War II and is
8 declared by the United States Department of Defense to be eligible for
9 federal veterans' benefits.

10 q. ["Widow" means] (1) "Widow," for employees of the State,
11 means the woman to whom a member was married, or a domestic
12 partner as defined in section 3 of P.L. , c. (C.)(pending before the
13 Legislature as this bill), at least five years before the date of his death
14 and to whom he continued to be married or a domestic partner until
15 the date of his death and who was receiving at least 1/2 of her support
16 from the member in the 12-month period immediately preceding the
17 member's death or the accident which was the direct cause of the
18 member's death. The dependency of such a widow will be considered
19 terminated by the marriage of, or establishment of a domestic
20 partnership by, the widow subsequent to the member's death. In the
21 event of the payment of an accidental death benefit, the five-year
22 qualification shall be waived.

23 (2) Subject to the provisions of paragraph (3) of this subsection,
24 "widow," for employees of public employers other than the State,
25 means the woman to whom a member was married at least five years
26 before the date of his death and to whom he continued to be married
27 until the date of his death and who was receiving at least 1/2 of her
28 support from the member in the 12-month period immediately
29 preceding the member's death or the accident which was the direct
30 cause of the member's death. The dependency of such a widow shall
31 be considered terminated by the marriage of the widow subsequent to
32 the member's death. In the event of the payment of an accidental death
33 benefit, the five-year qualification shall be waived.

34 (3) A public employer other than the State may adopt a resolution
35 providing that the term "widow" as defined in paragraph (2) of this
36 subsection shall include domestic partners as provided in paragraph (1)
37 of this subsection.

38 r. "Compensation" means the base or contractual salary, for
39 services as an employee, which is in accordance with established salary
40 policies of the member's employer for all employees in the same
41 position but shall not include individual salary adjustments which are
42 granted primarily in anticipation of the member's retirement or
43 additional remuneration for performing temporary or extracurricular
44 duties beyond the regular workday or the regular work year. In cases
45 where salary includes maintenance, the retirement system shall fix the
46 value of that part of the salary not paid in money which shall be

1 considered under this act.

2 (cf: P.L.2001, c.128, s.2)

3

4 43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read
5 as follows:

6 1. As used in this act:

7 (1) "Retirement system" or "system" shall mean the Police and
8 Firemen's Retirement System of New Jersey as defined in section 2 of
9 this act.

10 (2) (a) "Policeman" shall mean a permanent, full-time employee of
11 a law enforcement unit as defined in section 2 of P.L.1961, c.56
12 (C.52:17B-67) or the State, other than an officer or trooper of the
13 Division of State Police whose position is covered by the State Police
14 Retirement System, whose primary duties include the investigation,
15 apprehension or detention of persons suspected or convicted of
16 violating the criminal laws of the State and who:

17 (i) is authorized to carry a firearm while engaged in the actual
18 performance of his official duties;

19 (ii) has police powers;

20 (iii) is required to complete successfully the training requirements
21 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable
22 training requirements as determined by the board of trustees; and

23 (iv) is subject to the physical and mental fitness requirements
24 applicable to the position of municipal police officer established by an
25 agency authorized to establish these requirements on a Statewide
26 basis, or comparable physical and mental fitness requirements as
27 determined by the board of trustees.

28 The term shall also include an administrative or supervisory
29 employee of a law enforcement unit or the State whose duties include
30 general or direct supervision of employees engaged in investigation,
31 apprehension or detention activities or training responsibility for these
32 employees and a requirement for engagement in investigation,
33 apprehension or detention activities if necessary, and who is
34 authorized to carry a firearm while in the actual performance of his
35 official duties and has police powers.

36 (b) "Fireman" shall mean a permanent, full-time employee of a
37 firefighting unit whose primary duties include the control and
38 extinguishment of fires and who is subject to the training and physical
39 and mental fitness requirements applicable to the position of municipal
40 firefighter established by an agency authorized to establish these
41 requirements on a Statewide basis, or comparable training and physical
42 and mental fitness requirements as determined by the board of trustees.
43 The term shall also include an administrative or supervisory employee
44 of a firefighting unit whose duties include general or direct supervision
45 of employees engaged in fire control and extinguishment activities or
46 training responsibility for these employees and a requirement for

1 engagement in fire control and extinguishment activities if necessary.
2 As used in this paragraph, "firefighting unit" shall mean a municipal
3 fire department, a fire district, or an agency of a county or the State
4 which is responsible for control and extinguishment of fires.

5 (3) "Member" shall mean any policeman or fireman included in the
6 membership of the retirement system pursuant to this amendatory and
7 supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

8 (4) "Board of trustees" or "board" shall mean the board provided
9 for in section 13 of this act.

10 (5) "Medical board" shall mean the board of physicians provided
11 for in section 13 of this act.

12 (6) "Employer" shall mean the State of New Jersey, the county,
13 municipality or political subdivision thereof which pays the particular
14 policeman or fireman.

15 (7) "Service" shall mean service as a policeman or fireman paid for
16 by an employer.

17 (8) "Creditable service" shall mean service rendered for which
18 credit is allowed as provided under section 4 of this act.

19 (9) "Regular interest" shall mean interest as determined by the
20 State Treasurer, after consultation with the Directors of the Divisions
21 of Investment and Pensions, the board of trustees and the actuary. It
22 shall bear a reasonable relationship to the percentage rate of earnings
23 on investments based on the market value of assets but shall not
24 exceed the assumed percentage rate of increase applied to salaries plus
25 3%, provided however that the board of trustees shall not set the
26 average percentage rate of increase applied to salaries below 6%.

27 (10) "Aggregate contributions" shall mean the sum of all the
28 amounts, deducted from the compensation of a member or contributed
29 by him or on his behalf, standing to the credit of his individual account
30 in the annuity savings fund.

31 (11) "Annuity" shall mean payments for life derived from the
32 aggregate contributions of a member.

33 (12) "Pension" shall mean payments for life derived from
34 contributions by the employer.

35 (13) "Retirement allowance" shall mean the pension plus the
36 annuity.

37 (14) "Earnable compensation" shall mean the full rate of the salary
38 that would be payable to an employee if he worked the full normal
39 working time for his position. In cases where salary includes
40 maintenance, the retirement system shall fix the value of that part of
41 the salary not paid in money which shall be considered under this act.

42 (15) "Average final compensation" shall mean the average annual
43 salary upon which contributions are made for the three years of
44 creditable service immediately preceding his retirement or death, or it
45 shall mean the average annual salary for which contributions are made
46 during any three fiscal years of his or her membership providing the

1 largest possible benefit to the member or his beneficiary.

2 (16) "Retirement" shall mean the termination of the member's
3 active service with a retirement allowance granted and paid under the
4 provisions of this act.

5 (17) "Annuity reserve" shall mean the present value of all payments
6 to be made on account of any annuity or benefit in lieu of any annuity
7 computed upon the basis of such mortality tables recommended by the
8 actuary as shall be adopted by the board of trustees, and regular
9 interest.

10 (18) "Pension reserve" shall mean the present value of all payments
11 to be made on account of any pension or benefit in lieu of any pension
12 computed upon the basis of such mortality tables recommended by the
13 actuary as shall be adopted by the board of trustees, and regular
14 interest.

15 (19) "Actuarial equivalent" shall mean a benefit of equal value
16 when computed upon the basis of such mortality tables recommended
17 by the actuary as shall be adopted by the board of trustees, and regular
18 interest.

19 (20) "Beneficiary" shall mean any person receiving a retirement
20 allowance or other benefit as provided by this act.

21 (21) "Child" shall mean a deceased member's or retirant's
22 unmarried child (a) under the age of 18, or (b) 18 years of age or older
23 and enrolled in a secondary school, or (c) under the age of 24 and
24 enrolled in a degree program in an institution of higher education for
25 at least 12 credit hours in each semester, provided that the member
26 died in active service as a result of an accident met in the actual
27 performance of duty at some definite time and place, and the death
28 was not the result of the member's willful misconduct, or (d) of any
29 age who, at the time of the member's or retirant's death, is disabled
30 because of mental retardation or physical incapacity, is unable to do
31 any substantial, gainful work because of the impairment and his
32 impairment has lasted or can be expected to last for a continuous
33 period of not less than 12 months, as affirmed by the medical board.

34 (22) "Parent" shall mean the parent of a member who was receiving
35 at least one-half of his support from the member in the 12-month
36 period immediately preceding the member's death or the accident
37 which was the direct cause of the member's death. The dependency of
38 such a parent will be considered terminated by marriage of the parent
39 subsequent to the death of the member.

40 (23) ["Widower" shall mean] (a) "Widower," for employees of
41 the State, means the man to whom a member or retirant was married,
42 or a domestic partner as defined in section 3 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), on the date of her death
44 and who has not since remarried or established a domestic partnership.
45 In the event of the payment of accidental death benefits, pursuant to
46 section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction

1 concerning remarriage or establishment of a domestic partnership shall
2 be waived.

3 (b) Subject to the provisions of paragraph (c) of this subsection,
4 "widower," for employees of public employers other than the State,
5 means the man to whom a member or retirant was married on the date
6 of her death and who has not remarried.

7 (c) A public employer other than the State may adopt a resolution
8 providing that the term "widower" as defined in paragraph (b) of this
9 subsection shall include domestic partners as provided in paragraph (a)
10 of this subsection.

11 (24) ["Widow" shall mean] (a) "Widow," for employees of the
12 State, means the woman to whom a member or retirant was married,
13 or a domestic partner as defined in section 3 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), on the date of his death
15 and who has not since remarried or established a domestic partnership.
16 In the event of the payment of accidental death benefits, pursuant to
17 section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction
18 concerning remarriage or establishment of a domestic partnership shall
19 be waived.

20 (b) Subject to the provisions of paragraph (c) of this subsection,
21 "widow," for employees of public employers other than the State,
22 means the woman to whom a member or retirant was married on the
23 date of his death and who has not remarried.

24 (c) A public employer other than the State may adopt a resolution
25 providing that the term "widow" as defined in paragraph (b) of this
26 subsection shall include domestic partners as provided in paragraph (a)
27 of this subsection.

28 (25) "Fiscal year" shall mean any year commencing with July 1, and
29 ending with June 30, next following.

30 (26) "Compensation" shall mean the base salary, for services as a
31 member as defined in this act, which is in accordance with established
32 salary policies of the member's employer for all employees in the same
33 position but shall not include individual salary adjustments which are
34 granted primarily in anticipation of the member's retirement or
35 additional remuneration for performing temporary duties beyond the
36 regular workday.

37 (27) "Department" shall mean any police or fire department of a
38 municipality or a fire department of a fire district located in a township
39 or a county police or park police department or the appropriate
40 department of the State or instrumentality thereof.

41 (28) "Final compensation" means the compensation received by the
42 member in the last 12 months of creditable service preceding his
43 retirement or death.

44 (29) (Deleted by amendment, P.L.1992, c.78).

45 (30) (Deleted by amendment, P.L.1992, c.78).

46 (31) (a) "Spouse," for employees of the State, means the husband

1 or wife, or domestic partner as defined in section 3 of P.L. , c.
2 (C.) (pending before the Legislature as this bill), of a member.

3 (b) Subject to the provisions of paragraph (c) of this subsection,
4 "spouse," for employees of public employers other than the State,
5 means the husband or wife of a member.

6 (c) A public employer other than the State may adopt a resolution
7 providing that the term "spouse" as defined in paragraph (b) of this
8 subsection shall include domestic partners as provided in paragraph (a)
9 of this subsection.

10 (cf: P.L.2003, c.181, s.1)

11

12 44. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read
13 as follows:

14 3. As used in this act:

15 a. "Accumulated deductions" means the sum of all amounts,
16 deducted from the compensation of a member or contributed by him
17 or on his behalf, standing to the credit of his individual account in the
18 annuity saving fund.

19 b. "Annuity" means payments for life derived from the accumulated
20 deductions of a member as provided in this amendatory and
21 supplementary act.

22 c. "Annuity reserve" means the present value of all payments to be
23 made on account of any annuity or benefit in lieu of an annuity
24 computed on the basis of such mortality tables recommended by the
25 actuary as the State House Commission adopts with regular interest.

26 d. "Beneficiary" means any person entitled to receive any benefit
27 pursuant to the provisions of this act by reason of the death of a
28 member or retirant.

29 e. "Child" means a deceased member's or retirant's unmarried child
30 who is either (a) under the age of 18; (b) of any age who, at the time
31 of the member's or retirant's death, is disabled because of mental
32 retardation or physical incapacity, is unable to do any substantial,
33 gainful work because of the impairment and his impairment has lasted
34 or can be expected to last for a continuous period of not less than 12
35 months, as affirmed by the medical board; or (c) under the age of 21
36 and is attending school full time.

37 f. "Compensation" means the base salary, for services as a member
38 as defined in this act, which is in accordance with established salary
39 policies of the State for all employees in the same position but shall
40 not include individual salary adjustments which are granted primarily
41 in anticipation of the member's retirement or additional remuneration
42 for performing temporary duties beyond the regular work schedule.

43 g. "Final salary" means the annual salary received by the member
44 at the time of his retirement or death.

45 h. "Fiscal year" means any year commencing with July 1 and ending
46 with June 30 next following.

1 i. "Medical board" means the board of physicians provided for in
2 section 29 of this act.

3 j. "Member" means the Chief Justice and associate justices of the
4 Supreme Court, judges of the Superior Court and tax court of the
5 State of New Jersey required to be enrolled in the retirement system
6 established by this act.

7 For purposes of this act, the person holding the office of standing
8 master by appointment pursuant to N.J.S.2A:1-7 shall have the same
9 privileges and obligations under this act as a judge of a Superior
10 Court.

11 k. "Parent" means the parent of a member who was receiving at
12 least one-half of his support from the member in the 12-month period
13 immediately preceding the member's death or the accident which was
14 the direct cause of the member's death. The dependency of such a
15 parent will be considered terminated by marriage of the parent
16 subsequent to the death of the member.

17 l. "Pension" means payment for life derived from contributions by
18 the State.

19 m. "Pension reserve" means the present value of all payments to be
20 made on account of any pension or benefit in lieu of a pension
21 computed on the basis of such mortality tables recommended by the
22 actuary as shall be adopted by the State House Commission with
23 regular interest.

24 n. "Regular interest" means interest as determined by the State
25 Treasurer, after consultation with the Directors of the Divisions of
26 Investment and Pensions, the State House Commission and the
27 actuary. It shall bear a reasonable relationship to the percentage rate
28 of earnings on investments based on the market value of assets but
29 shall not exceed the assumed percentage rate of increase applied to
30 salaries plus 3%, provided however that the commission shall not set
31 the average percentage rate of increase applied to salaries below 6%.

32 o. "Retirant" means any former member receiving a pension or
33 retirement allowance as provided by this act.

34 p. "Retirement allowance" means the pension plus the annuity.

35 q. "Retirement system" or "system" herein refers to the "Judicial
36 Retirement System of New Jersey," which is the corporate name of the
37 arrangement for the payment of pensions, retirement allowances and
38 other benefits under the provisions of this act including the several
39 funds placed under said system. By that name, all of its business shall
40 be transacted, its funds invested, warrants for money drawn, and
41 payments made and all of its cash and securities and other property
42 held.

43 r. "Service" means public service rendered for which credit is
44 allowed on the basis of contributions made by the State.

45 s. "Several courts" means the Supreme, Superior, and tax courts.

46 t. "Widow" means the woman to whom a member or a retirant was

1 married, or a domestic partner as defined in section 3 of P.L. , c.
2 (C.)(pending before the Legislature as this bill), at least four years
3 before the date of his death and to whom he continued to be married
4 or a domestic partner until the date of his death. The eligibility of such
5 a widow to receive a survivor's benefit will be considered terminated
6 by the marriage of, or establishment of a domestic partnership by, the
7 widow subsequent to the member's or the retirant's death. In the event
8 of accidental death the four-year qualification shall be waived. When
9 used in this act, the term "widow" shall mean and include "widower"
10 as may be necessary and appropriate to the particular situation.

11 u. "Widower" means the man to whom a member or a retirant was
12 married, or a domestic partner as defined in section 3 of P.L. , c.
13 (C.)(pending before the Legislature as this bill), at least four years
14 before the date of her death and to whom she continued to be married
15 or a domestic partner until the date of her death. The eligibility of such
16 a widower to receive a survivor's benefit will be considered terminated
17 by the marriage of, or establishment of a domestic partnership by, the
18 widower subsequent to the member's or retirant's death. In the event
19 of accidental death the four-year qualification shall be waived.

20 v. "Spouse" means the husband or wife, or domestic partner as
21 defined in section 3 of P.L. , c. (C.)(pending before the Legislature
22 as this bill), of a member or retirant.

23 (cf: P.L.1992, c.125, s.4)

24

25 45. N.J.S.18A:66-2 is amended to read as follows:

26 18A:66-2. As used in this article:

27 a. "Accumulated deductions" means the sum of all the amounts,
28 deducted from the compensation of a member or contributed by or in
29 behalf of the member, including interest credited to January 1, 1956,
30 standing to the credit of the member's individual account in the annuity
31 savings fund.

32 b. "Annuity" means payments for life derived from the accumulated
33 deductions of a member as provided in this article.

34 c. "Beneficiary" means any person receiving a retirement allowance
35 or other benefit as provided in this article.

36 d. "Compensation" means the contractual salary, for services as a
37 teacher as defined in this article, which is in accordance with
38 established salary policies of the member's employer for all employees
39 in the same position but shall not include individual salary adjustments
40 which are granted primarily in anticipation of the member's retirement
41 or additional remuneration for performing temporary or extracurricular
42 duties beyond the regular school day or the regular school year.

43 e. "Employer" means the State, the board of education or any
44 educational institution or agency of or within the State by which a
45 teacher is paid.

46 f. "Final compensation" means the average annual compensation

1 for which contributions are made for the three years of creditable
2 service in New Jersey immediately preceding the member's retirement
3 or death, or it shall mean the average annual compensation for New
4 Jersey service for which contributions are made during any three fiscal
5 years of his or her membership providing the largest possible benefit
6 to the member or the member's beneficiary.

7 g. "Fiscal year" means any year commencing with July 1, and
8 ending with June 30, next following.

9 h. "Pension" means payments for life derived from appropriations
10 made by the State or employers to the Teachers' Pension and Annuity
11 Fund.

12 i. "Annuity reserve" means the present value of all payments to be
13 made on account of any annuity or benefit in lieu of an annuity,
14 granted under the provisions of this article, computed on the basis of
15 such mortality tables recommended by the actuary as the board of
16 trustees adopts, with regular interest.

17 j. "Pension reserve" means the present value of all payments to be
18 made on account of any pension or benefit in lieu of a pension granted
19 to a member from the Teachers' Pension and Annuity Fund, computed
20 on the basis of such mortality tables recommended by the actuary as
21 the board of trustees adopts, with regular interest.

22 k. "Present-entrant" means any member of the Teachers' Pension
23 and Annuity Fund who had established status as a "present-entrant
24 member" of said fund prior to January 1, 1956.

25 l. "Rate of contribution initially certified" means the rate of
26 contribution certified by the retirement system in accordance with
27 N.J.S.18A:66-29.

28 m. "Regular interest" shall mean interest as determined by the State
29 Treasurer, after consultation with the Directors of the Divisions of
30 Investment and Pensions, the board of trustees and the actuary. It
31 shall bear a reasonable relationship to the percentage rate of earnings
32 on investments based on the market value of assets but shall not
33 exceed the assumed percentage rate of increase applied to salaries plus
34 3%, provided however that the board of trustees shall not set the
35 average percentage rate of increase applied to salaries below 6%.

36 n. "Retirement allowance" means the pension plus the annuity.

37 o. "School service" means any service as a "teacher" as defined in
38 this section.

39 p. "Teacher" means any regular teacher, special teacher, helping
40 teacher, teacher clerk, principal, vice-principal, supervisor, supervising
41 principal, director, superintendent, city superintendent, assistant city
42 superintendent, county superintendent, State Commissioner or
43 Assistant Commissioner of Education, members of the State
44 Department of Education who are certificated, unclassified
45 professional staff and other members of the teaching or professional
46 staff of any class, public school, high school, normal school, model

1 school, training school, vocational school, truant reformatory school,
2 or parental school, and of any and all classes or schools within the
3 State conducted under the order and superintendence, and wholly or
4 partly at the expense of the State Board of Education, of a duly
5 elected or appointed board of education, board of school directors, or
6 board of trustees of the State or of any school district or normal
7 school district thereof, and any persons under contract or engagement
8 to perform one or more of these functions. It shall also mean any
9 person who serves, while on an approved leave of absence from
10 regular duties as a teacher, as an officer of a local, county or State
11 labor organization which represents, or is affiliated with an
12 organization which represents, teachers as defined in this subsection.
13 No person shall be deemed a teacher within the meaning of this article
14 who is a substitute teacher. In all cases of doubt the board of trustees
15 shall determine whether any person is a teacher as defined in this
16 article.

17 q. "Teachers' Pension and Annuity Fund," hereinafter referred to
18 as the "retirement system" or "system," is the corporate name of the
19 arrangement for the payment of retirement allowances and other
20 benefits under the provisions of this article, including the several funds
21 placed under said system. By that name all its business shall be
22 transacted, its funds invested, warrants for money drawn, and
23 payments made and all of its cash and securities and other property
24 held.

25 r. "Veteran" means any honorably discharged officer, soldier,
26 sailor, airman, marine or nurse who served in any Army, Air Force or
27 Navy of the Allies of the United States in World War I between July
28 14, 1914, and November 11, 1918, or who served in any Army, Air
29 Force or Navy of the Allies of the United States in World War II,
30 between September 1, 1939, and September 2, 1945, and who was
31 inducted into such service through voluntary enlistment, and was a
32 citizen of the United States at the time of such enlistment, and who did
33 not, during or by reason of such service, renounce or lose United
34 States citizenship, and any officer, soldier, sailor, marine, airman,
35 nurse or army field clerk who has served in the active military or naval
36 service of the United States and has or shall be discharged or released
37 therefrom under conditions other than dishonorable, in any of the
38 following wars, uprisings, insurrections, expeditions or emergencies,
39 and who has presented to the retirement system evidence of such
40 record of service in form and content satisfactory to said retirement
41 system:

42 (1) The Indian wars and uprisings during any of the periods
43 recognized by the War Department of the United States as periods of
44 active hostility;

45 (2) The Spanish-American War between April 20, 1898, and April
46 11, 1899;

- 1 (3) The Philippine insurrections and expeditions during the periods
2 recognized by the War Department of the United States as of active
3 hostility from February 4, 1899, to the end of 1913;
- 4 (4) The Peking relief expedition between June 20, 1900, and May
5 27, 1902;
- 6 (5) The army of Cuban occupation between July 18, 1898, and
7 May 20, 1902;
- 8 (6) The army of Cuban pacification between October 6, 1906, and
9 April 1, 1909;
- 10 (7) The Mexican punitive expedition between March 14, 1916, and
11 February 7, 1917;
- 12 (8) The Mexican border patrol, having actually participated in
13 engagements against Mexicans between April 12, 1911, and June 16,
14 1919;
- 15 (9) World War I, between April 6, 1917, and November 11, 1918;
- 16 (10) World War II, between September 16, 1940, and December
17 31, 1946, who shall have served at least 90 days in such active service,
18 exclusive of any period of assignment (1) for a course of education or
19 training under the Army Specialized Training Program or the Navy
20 College Training Program, which course was a continuation of a
21 civilian course and was pursued to completion, or (2) as a cadet or
22 midshipman at one of the service academies, any part of which 90 days
23 was served between said dates; provided that any person receiving an
24 actual service-incurred injury or disability shall be classed as a veteran,
25 whether or not that person has completed the 90-day service as herein
26 provided;
- 27 (11) Korean conflict on or after June 23, 1950, and on or prior to
28 January 31, 1955, who shall have served at least 90 days in such active
29 service, exclusive of any period of assignment (1) for a course of
30 education or training under the Army Specialized Training Program or
31 the Navy College Training Program, which course was a continuation
32 of a civilian course and was pursued to completion, or (2) as a cadet
33 or midshipman at one of the service academies, any part of which 90
34 days was served between said dates; provided that any person
35 receiving an actual service-incurred injury or disability shall be classed
36 as a veteran, whether or not that person has completed the 90-day
37 service as herein provided; and provided further that any member
38 classed as a veteran pursuant to this subsection prior to August 1,
39 1966, shall continue to be classed as a veteran, whether or not that
40 person completed the 90-day service between said dates as herein
41 provided;
- 42 (12) Lebanon crisis, on or after July 1, 1958, who has served in
43 Lebanon or on board any ship actively engaged in patrolling the
44 territorial waters of that nation for a period, continuous or in the
45 aggregate, of at least 14 days commencing on or before November 1,
46 1958 or the date of termination of that conflict, as proclaimed by the

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1 President of the United States or Congress, whichever date of
2 termination is the latest, in such active service; provided, that any
3 person receiving an actual service-incurred injury or disability shall be
4 classed as a veteran whether or not that person has completed the 14
5 days' service as herein provided;

6 (13) Vietnam conflict, on or after December 31, 1960, and on or
7 prior to May 7, 1975, who shall have served at least 90 days in such
8 active service, exclusive of any period of assignment (1) for a course
9 of education or training under the Army Specialized Training Program
10 or the Navy College Training Program, which course was a
11 continuation of a civilian course and was pursued to completion, or (2)
12 as a cadet or midshipman at one of the service academies, any part of
13 which 90 days was served between said dates; and exclusive of any
14 service performed pursuant to the provisions of section 511(d) of Title
15 10, United States Code, pursuant to an enlistment in the Army
16 National Guard or as a reserve for service in the Army Reserve, Naval
17 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
18 Reserve; provided that any person receiving an actual service-incurred
19 injury or disability shall be classed as a veteran, whether or not that
20 person has completed the 90-day service as herein provided;

21 (14) Lebanon peacekeeping mission, on or after September 26,
22 1982, who has served in Lebanon or on board any ship actively
23 engaged in patrolling the territorial waters of that nation for a period,
24 continuous or in the aggregate, of at least 14 days commencing on or
25 before December 1, 1987 or the date of termination of that mission, as
26 proclaimed by the President of the United States or Congress,
27 whichever date of termination is the latest, in such active service;
28 provided, that any person receiving an actual service-incurred injury
29 or disability shall be classed as a veteran whether or not that person
30 has completed the 14 days' service as herein provided;

31 (15) Grenada peacekeeping mission, on or after October 23, 1983,
32 who has served in Grenada or on board any ship actively engaged in
33 patrolling the territorial waters of that nation for a period, continuous
34 or in the aggregate, of at least 14 days commencing on or before
35 November 21, 1983 or the date of termination of that mission, as
36 proclaimed by the President of the United States or Congress,
37 whichever date of termination is the latest, in such active service;
38 provided, that any person receiving an actual service-incurred injury
39 or disability shall be classed as a veteran whether or not that person
40 has completed the 14 days' service as herein provided;

41 (16) Panama peacekeeping mission, on or after December 20, 1989
42 or the date of inception of that mission, as proclaimed by the President
43 of the United States or Congress, whichever date of inception is
44 earliest, who has served in Panama or on board any ship actively
45 engaged in patrolling the territorial waters of that nation for a period,
46 continuous or in the aggregate, of at least 14 days commencing on or

1 before January 31, 1990 or the date of termination of that mission, as
2 proclaimed by the President of the United States or Congress,
3 whichever date of termination is the latest, in such active service;
4 provided, that any person receiving an actual service-incurred injury
5 or disability shall be classed as a veteran whether or not that person
6 has completed the 14 days' service as herein provided;

7 (17) Operation "Desert Shield/Desert Storm" mission in the
8 Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or
9 the date of inception of that operation, as proclaimed by the President
10 of the United States or Congress, whichever date of inception is
11 earliest, who has served in the Arabian peninsula or on board any ship
12 actively engaged in patrolling the Persian Gulf for a period, continuous
13 or in the aggregate, of at least 14 days commencing on or before the
14 date of termination of that mission, as proclaimed by the President of
15 the United States or Congress, whichever date of termination is the
16 latest, in such active service; provided, that any person receiving an
17 actual service-incurred injury or disability shall be classed as a veteran
18 whether or not that person has completed the 14 days' service as
19 herein provided;

20 (18) Operation "Restore Hope" in Somalia, commencing on or
21 after December 5, 1992, or the date of inception of that operation as
22 proclaimed by the President of the United States or the Congress,
23 whichever date is earliest, and terminating on March 31, 1994, or the
24 date of termination as proclaimed by the President of the United States
25 or the Congress, whichever date is latest, who served for at least 14
26 days, continuously or in the aggregate, in Somalia or on board any
27 ship actively engaged in patrolling the territorial waters of that nation
28 during the specified period; provided that any person receiving an
29 actual service-incurred injury or disability shall be classed as a veteran
30 whether or not that person has completed the 14-day service as herein
31 provided;

32 (19) Operations "Joint Endeavor" and "Joint Guard" in the
33 Republic of Bosnia and Herzegovina, commencing on or after
34 November 20, 1995 or December 20, 1996, as the case may be, and
35 terminating on December 20, 1996 or on such date as the United
36 States Secretary of Defense may designate, as the case may be, who
37 served in direct support of one or both of the operations for at least 14
38 days, continuously or in the aggregate, and (1) was deployed in that
39 nation or in another area in the region, or (2) was on board a United
40 States naval vessel operating in the Adriatic Sea, or (3) operated in
41 airspace above the Republic of Bosnia and Herzegovina; provided that
42 any person receiving an actual service-incurred injury or disability shall
43 be classed as a veteran whether or not that person completed the
44 14-day service requirement.

45 "Veteran" also means any honorably discharged member of the
46 American Merchant Marine who served during World War II and is

1 declared by the United States Department of Defense to be eligible for
2 federal veterans' benefits.

3 s. "Child" means a deceased member's unmarried child either (a)
4 under the age of 18 or (b) of any age who, at the time of the member's
5 death, is disabled because of mental retardation or physical incapacity,
6 is unable to do any substantial, gainful work because of the impairment
7 and the impairment has lasted or can be expected to last for a
8 continuous period of not less than 12 months, as affirmed by the
9 medical board.

10 t. ["Widower" means] (1) "Widower," for employees of the State,
11 means the man to whom a member was married, or a domestic partner
12 as defined in section 3 of P.L. , c. (C.)(pending before the
13 Legislature as this bill), at least five years before the date of her death
14 and to whom she continued to be married or a domestic partner until
15 the date of her death and who was receiving at least one-half of his
16 support from the member in the 12-month period immediately
17 preceding the member's death or the accident which was the direct
18 cause of the member's death. The dependency of such a widower will
19 be considered terminated by marriage of, or establishment of a
20 domestic partnership by, the widower subsequent to the death of the
21 member. In the event of the payment of an accidental death benefit,
22 the five-year qualification shall be waived.

23 (2) Subject to the provisions of paragraph (3) of this subsection,
24 "widower," for employees of public employers other than the State,
25 means the man to whom a member was married at least five years
26 before the date of her death and to whom she continued to be married
27 until the date of her death and who was receiving at least one-half of
28 his support from the member in the 12-month period immediately
29 preceding the member's death or the accident which was the direct
30 cause of the member's death. The dependency of such a widower shall
31 be considered terminated by marriage of the widower subsequent to
32 the death of the member. In the event of the payment of an accidental
33 death benefit, the five-year qualification shall be waived.

34 (3) A public employer other than the State may adopt a resolution
35 providing that the term "widower" as defined in paragraph (2) of this
36 subsection shall include domestic partners as provided in paragraph (1)
37 of this subsection.

38 u. ["Widow" means] (1) "Widow," for employees of the State,
39 means the woman to whom a member was married, or a domestic
40 partner as defined in section 3 of P.L. , c. (C.)(pending before the
41 Legislature as this bill), at least five years before the date of his death
42 and to whom he continued to be married or a domestic partner until
43 the date of his death and who was receiving at least one-half of her
44 support from the member in the 12-month period immediately
45 preceding the member's death or the accident which was the direct
46 cause of the member's death. The dependency of such a widow will be

1 considered terminated by the marriage of, or establishment of a
2 domestic partnership by, the widow subsequent to the member's death.
3 In the event of the payment of an accidental death benefit, the
4 five-year qualification shall be waived.

5 (2) Subject to the provisions of paragraph (3) of this subsection,
6 "widow," for employees of public employers other than the State,
7 means the woman to whom a member was married at least five years
8 before the date of his death and to whom he continued to be married
9 until the date of his death and who was receiving at least one-half of
10 her support from the member in the 12-month period immediately
11 preceding the member's death or the accident which was the direct
12 cause of the member's death. The dependency of such a widow shall
13 be considered terminated by the marriage of the widow subsequent to
14 the member's death. In the event of the payment of an accidental death
15 benefit, the five-year qualification shall be waived.

16 (3) A public employer other than the State may adopt a resolution
17 providing that the term "widower" as defined in paragraph (2) of this
18 subsection shall include domestic partners as provided in paragraph (1)
19 of this subsection.

20 v. "Parent" means the parent of a member who was receiving at
21 least one-half of the parent's support from the member in the 12-month
22 period immediately preceding the member's death or the accident
23 which was the direct cause of the member's death. The dependency of
24 such a parent will be considered terminated by marriage of the parent
25 subsequent to the death of the member.

26 w. "Medical board" means the board of physicians provided for in
27 N.J.S.18A:66-56.

28 x. (1) "Spouse," for employees of the State, means the husband or
29 wife, or domestic partner as defined in section 3 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), of a member.

31 (2) Subject to the provisions of paragraph (1) of this subsection,
32 "spouse," for employees of public employers other than the State,
33 means the husband or wife of a member.

34 (3) A public employer other than the State may adopt a resolution
35 providing that the term "spouse" as defined in paragraph (2) of this
36 subsection shall include domestic partners as provided in paragraph (1)
37 of this subsection.

38 (cf: P.L.2001, c.128, s.1)

39

40 46. Section 3 of P.L.1989, c.65 (C.53:5A-3) is amended to read as
41 follows:

42 3. As used in this act:

43 a. "Aggregate contributions" means the sum of all the amounts,
44 deducted from the salary of a member or contributed by him or on his
45 behalf, standing to the credit of his individual account in the Annuity
46 Savings Fund. Interest credited on contributions to the former "State

- 1 Police Retirement and Benevolent Fund" shall be included in a
2 member's aggregate contributions.
- 3 b. "Annuity" means payments for life derived from the aggregate
4 contributions of a member.
- 5 c. "Annuity reserve" means the present value of all payments to be
6 made on account of any annuity or benefit in lieu of an annuity,
7 computed upon the basis of such mortality tables recommended by the
8 actuary as the board of trustees adopts and regular interest.
- 9 d. "Beneficiary" means any person entitled to receive any benefit
10 pursuant to the provisions of this act by reason of the death of a
11 member or retirant.
- 12 e. "Board of trustees" or "board" means the board provided for in
13 section 30 of this act.
- 14 f. "Child" means a deceased member's or retirant's unmarried child
15 either (a) under the age of 18 or (b) of any age who, at the time of the
16 member's or retirant's death, is disabled because of mental retardation
17 or physical incapacity, is unable to do any substantial, gainful work
18 because of the impairment and his impairment has lasted or can be
19 expected to last for a continuous period of not less than 12 months, as
20 affirmed by the medical board.
- 21 g. "Creditable service" means service rendered for which credit is
22 allowed on the basis of contributions made by the member or the
23 State.
- 24 h. "Parent" means the parent of a member who was receiving at
25 least one-half of his support from the member in the 12-month period
26 immediately preceding the member's death or the accident which was
27 the direct cause of the member's death. The dependency of such a
28 parent will be considered terminated by marriage of the parent
29 subsequent to the death of the member.
- 30 i. "Final compensation" means the average compensation received
31 by the member in the last 12 months of creditable service preceding his
32 retirement or death. Such term includes the value of the member's
33 maintenance allowance for this same period.
- 34 j. "Final salary" means the average salary received by the member
35 in the last 12 months of creditable service preceding his retirement or
36 death. Such term shall not include the value of the member's
37 maintenance allowance.
- 38 k. "Fiscal year" means any year commencing with July 1 and ending
39 with June 30 next following.
- 40 l. "Medical board" means the board of physicians provided for in
41 section 30 of this act.
- 42 m. "Member" means any full-time, commissioned officer,
43 non-commissioned officer or trooper of the Division of State Police of
44 the Department of Law and Public Safety of the State of New Jersey
45 enrolled in the retirement system established by this act.
- 46 n. "Pension" means payment for life derived from contributions by

1 the State.

2 o. "Pension reserve" means the present value of all payments to be
3 made on account of any pension or benefit in lieu of any pension
4 computed on the basis of such mortality tables recommended by the
5 actuary as shall be adopted by the board of trustees and regular
6 interest.

7 p. "Regular interest" means interest as determined by the State
8 Treasurer, after consultation with the Directors of the Divisions of
9 Investment and Pensions, the board of trustees and the actuary. It
10 shall bear a reasonable relationship to the percentage rate of earnings
11 on investments based on the market value of the assets but shall not
12 exceed the assumed percentage rate of increase applied to salaries plus
13 3%, provided however that the board of trustees shall not set the
14 average percentage rate of increase applied to salaries below 6%.

15 q. "Retirant" means any former member receiving a retirement
16 allowance as provided by this act.

17 r. "Retirement allowance" means the pension plus the annuity.

18 s. "State Police Retirement System of New Jersey," herein also
19 referred to as the "retirement system" or "system," is the corporate
20 name of the arrangement for the payment of retirement allowances and
21 of the benefits under the provisions of this act including the several
22 funds placed under said system. By that name, all of its business shall
23 be transacted, its funds invested, warrants for moneys drawn, and
24 payments made and all of its cash and securities and other property
25 held. All assets held in the name of the former "State Police
26 Retirement and Benevolent Fund" shall be transferred to the retirement
27 system established by this act.

28 t. "Surviving spouse" means the person to whom a member or a
29 retirant was married, or a domestic partner as defined in section 3 of
30 P.L. , c. (C.)(pending before the Legislature as this bill), on the date
31 of the death of the member or retirant. The dependency of such a
32 surviving spouse will be considered terminated by the marriage of, or
33 establishment of a domestic partnership by, the surviving spouse
34 subsequent to the member's or the retirant's death, except that in the
35 event of the payment of accidental death benefits, pursuant to section
36 14 of P.L.1965, c.89 (C.53:5A-14), the dependency of such a
37 surviving spouse or domestic partner will not be considered terminated
38 by the marriage of, or establishment of a domestic partnership by, the
39 surviving spouse subsequent to the member's death.

40 u. "Compensation" for purposes of computing pension
41 contributions means the base salary, for services as a member as
42 defined in this act, which is in accordance with established salary
43 policies of the State for all employees in the same position but shall
44 not include individual salary adjustments which are granted primarily
45 in anticipation of the member's retirement or additional remuneration
46 for performing temporary duties beyond the regular workday or shift.

1 (cf: P.L.2003, c.181, s.3)

2 47. (New section) A hospital service corporation that provides
3 hospital or medical expense benefits under a contract that is delivered,
4 issued, executed or renewed in this State or approved for issuance or
5 renewal in this State by the Commissioner of Banking and Insurance,
6 on or after the effective date of P.L. , c. (C.)(pending before the
7 Legislature as this bill), under which dependent coverage is available,
8 shall offer dependent coverage to a covered person for a covered
9 person's domestic partner. For the purposes of this section, "domestic
10 partner" means a domestic partner as defined in section 3 of P.L. , c.
11 (C.)(pending before the Legislature as this bill).

12 This section shall apply to those contracts in which the hospital
13 service corporation has reserved the right to change the premium.

14

15 48. (New section) A medical service corporation that provides
16 hospital or medical expense benefits under a contract that is delivered,
17 issued, executed or renewed in this State or approved for issuance or
18 renewal in this State by the Commissioner of Banking and Insurance,
19 on or after the effective date of P.L. , c. (C.)(pending before the
20 Legislature as this bill), under which dependent coverage is available,
21 shall offer dependent coverage to a covered person for a covered
22 person's domestic partner. For the purposes of this section, "domestic
23 partner" means a domestic partner as defined in section 3 of P.L. , c.
24 (C.)(pending before the Legislature as this bill).

25 This section shall apply to those contracts in which the medical
26 service corporation has reserved the right to change the premium.

27

28 49. (New section) A health service corporation that provides
29 hospital or medical expense benefits under a contract that is delivered,
30 issued, executed or renewed in this State or approved for issuance or
31 renewal in this State by the Commissioner of Banking and Insurance,
32 on or after the effective date of P.L. , c. (C.)(pending before the
33 Legislature as this bill), under which dependent coverage is available,
34 shall offer dependent coverage to a covered person for a covered
35 person's domestic partner. For the purposes of this section, "domestic
36 partner" means a domestic partner as defined in section 3 of P.L. , c.
37 (C.)(pending before the Legislature as this bill).

38 This section shall apply to those contracts in which the health
39 service corporation has reserved the right to change the premium.

40

41 50. (New section) An individual health insurer that provides
42 hospital or medical expense benefits under a policy that is delivered,
43 issued, executed or renewed in this State or approved for issuance or
44 renewal in this State by the Commissioner of Banking and Insurance,
45 on or after the effective date of P.L. , c. (C.)(pending before the
46 Legislature as this bill), under which dependent coverage is available,

1 shall offer dependent coverage to a covered person for a covered
2 person's domestic partner. For the purposes of this section, "domestic
3 partner" means a domestic partner as defined in section 3 of P.L. , c.
4 (C.)(pending before the Legislature as this bill).

5 This section shall apply to those policies in which the insurer has
6 reserved the right to change the premium.

7
8 51. (New section) A group health insurer that provides hospital or
9 medical expense benefits under a policy that is delivered, issued,
10 executed or renewed in this State or approved for issuance or renewal
11 in this State by the Commissioner of Banking and Insurance, on or
12 after the effective date of P.L. , c. (C.)(pending before the
13 Legislature as this bill), under which dependent coverage is available,
14 shall offer dependent coverage to a covered person for a covered
15 person's domestic partner. For the purposes of this section, "domestic
16 partner" means a domestic partner as defined in section 3 of P.L. , c.
17 (C.)(pending before the Legislature as this bill).

18 This section shall apply to those policies in which the insurer has
19 reserved the right to change the premium.

20
21 52. (New section) Every health maintenance organization contract
22 that is delivered, issued, executed or renewed in this State pursuant to
23 P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or
24 renewal in this State by the Commissioner of Banking and Insurance,
25 on or after the effective date of P.L. , c. (C.)(pending before the
26 Legislature as this bill), under which dependent coverage is available,
27 shall offer dependent coverage to an enrollee for an enrollee's domestic
28 partner. For the purposes of this section, "domestic partner" means a
29 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
30 before the Legislature as this bill).

31 The provisions of this section shall apply to contracts in which the
32 health maintenance organization has reserved the right to change the
33 schedule of charges.

34
35 53. (New section) Every individual health benefits plan that
36 provides hospital or medical expense benefits and is delivered, issued,
37 executed or renewed in this State pursuant to P.L.1992, c.161
38 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this
39 State on or after the effective date of P.L. , c. (C.)(pending before
40 the Legislature as this bill), under which dependent coverage is
41 available, shall offer dependent coverage to a covered person for a
42 covered person's domestic partner. For the purposes of this section,
43 "domestic partner" means a domestic partner as defined in section 3 of
44 P.L. , c. (C.)(pending before the Legislature as this bill).

45 The provisions of this section shall apply to all policies or contracts
46 in which the carrier has reserved the right to change the premium.

1 54. (New section) Every small employer health benefits plan that
2 provides hospital or medical expense benefits and is delivered, issued,
3 executed or renewed in this State pursuant to P.L.1992, c.162
4 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this
5 State on or after the effective date of P.L. , c. (C.)(pending before
6 the Legislature as this bill), under which dependent coverage is
7 available, shall offer dependent coverage to a covered person for a
8 covered person's domestic partner. For the purposes of this section,
9 "domestic partner" means a domestic partner as defined in section 3 of
10 P.L. , c. (C.)(pending before the Legislature as this bill).

11 The provisions of this section shall apply to all policies or contracts
12 in which the carrier has reserved the right to change the premium.

13

14 55. (New section) Every dental service corporation contract that
15 is delivered, issued, executed or renewed in this State pursuant to
16 P.L.1968, c.305 (C.17:48C-1 et seq.) or approved for issuance or
17 renewal in this State by the Commissioner of Banking and Insurance,
18 on or after the effective date of P.L. , c. (C.)(pending before the
19 Legislature as this bill), under which dependent coverage is available,
20 shall offer dependent coverage to a covered person for a covered
21 person's domestic partner. For the purposes of this section, "domestic
22 partner" means a domestic partner as defined in section 3 of P.L. , c.
23 (C.)(pending before the Legislature as this bill).

24 This section shall apply to all contracts in which the dental service
25 corporation has reserved the right to change the premium.

26

27 56. (New section) Every dental plan organization contract that is
28 delivered, issued, executed or renewed in this State pursuant to
29 P.L.1979, c.478 (C.17:48D-1 et seq.) or approved for issuance or
30 renewal in this State by the Commissioner of Banking and Insurance,
31 on or after the effective date of P.L. , c. (C.)(pending before the
32 Legislature as this bill) , under which dependent coverage is available,
33 shall offer dependent coverage to an enrollee for an enrollee's domestic
34 partner. For the purposes of this section, "domestic partner" means a
35 domestic partner as defined in section 3 of P.L. , c. (C.)(pending
36 before the Legislature as this bill).

37 This section shall apply to all contracts in which the dental plan
38 organization has reserved the right to change the premium.

39

40 57. a. The Commissioner of Health and Senior Services, pursuant
41 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
42 et seq.), shall adopt rules and regulations to effectuate the purposes of
43 sections 1 through 10 and 13 through 35 of this act.

44 b. The Commissioner of Banking and Insurance, pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), shall adopt rules and regulations to effectuate the purposes of

1 sections 47 through 52, 55 and 56 of this act.

2 c. The New Jersey Individual Health Coverage Program Board,
3 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
4 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
5 the purposes of section 53 of this act.

6 d. The New Jersey Small Employer Health Benefits Program
7 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
9 effectuate the purposes of section 54 of this act.

10

11 58. This act shall take effect on the 180th day after enactment,
12 except that the Commissioners of Health and Senior Services and
13 Banking and Insurance may take such anticipatory administrative
14 action in advance as shall be necessary for the implementation of the
15 act; and the provisions of sections 47 through 56 shall apply to policies
16 or contracts issued or renewed on or after the effective date.

17

18

19

STATEMENT

20

21 This bill, which is designated the "Domestic Partnership Act,"
22 creates a mechanism, through the establishment of domestic
23 partnerships, for New Jersey to recognize and support the many adult
24 individuals in this State who share an important personal, emotional
25 and committed relationship with another adult. These familial
26 relationships assist the State by establishing a private support network
27 for the financial, physical, and emotional health of their participants.
28 This bill provides the State with the opportunity to recognize the
29 important material and non-economic contributions that individuals in
30 these relationships make to each other, and to the State, by conferring
31 certain rights and benefits, as well as obligations and responsibilities,
32 upon domestic partners.

33 Currently, a significant number of New Jersey residents live in
34 families in which the heads of household are unmarried. Despite their
35 interdependence and mutual commitment, these families do not
36 currently have access to the protections and benefits offered by the law
37 to married couples; nor do they bear legal obligations to each other,
38 no matter how interdependent their relationship. This bill seeks to
39 redress this oversight and provide certain benefits to, and enforce
40 certain obligations within, these families.

41 The bill provides that two persons who desire to become domestic
42 partners may execute and file an Affidavit of Domestic Partnership
43 with the local registrar upon payment of a fee, in an amount to be
44 determined by the Commissioner of Health and Senior Services, if they
45 meet all of the following requirements:

46 -- Both persons share a common residence in this State, or share

1 the same place to live in another jurisdiction when at least one of them
2 is a member of a State-administered retirement system;

3 -- Both persons agree to be jointly responsible for each other's
4 basic living expenses during the domestic partnership;

5 -- Neither person is in a marriage recognized by New Jersey law or
6 a member of another domestic partnership;

7 -- Neither person is related to the other by blood or affinity up to
8 and including the fourth degree of consanguinity;

9 -- Both persons are of the same sex and therefore unable to enter
10 into a marriage with each other that is recognized by New Jersey law,
11 except that two persons who are each 63 years of age or older and not
12 of the same sex may establish a domestic partnership if they meet the
13 requirements set forth in the bill;

14 -- Both persons have chosen to share each other's lives in a
15 committed relationship of mutual caring;

16 -- Both persons are at least 18 years of age;

17 -- Both persons file jointly an Affidavit of Domestic Partnership;
18 and

19 -- Neither person has been a partner in a domestic partnership that
20 was terminated less than 180 days prior to the filing of the current
21 Affidavit of Domestic Partnership, except that this prohibition shall not
22 apply if one of the partners died; and, in all cases in which a person
23 registered a prior domestic partnership, the domestic partnership shall
24 have been terminated in accordance with the provisions of the bill.

25 The bill would impose civil penalties as follows:

26 -- up to \$1,000 against a person who executes an Affidavit of
27 Domestic Partnership in violation of its provisions, to be sued for and
28 collected pursuant to the "Penalty Enforcement Law of 1999"; and

29 -- up to \$500 against a local registrar (through an amendment to
30 N.J.S.A.26:8-55) for knowingly submitting a Certificate of Domestic
31 Partnership to the State registrar that contains incorrect particulars (on
32 the same basis as would apply with respect to a birth, marriage or
33 death certificate).

34 The bill gives the Superior Court jurisdiction over all proceedings
35 relating to the termination of a domestic partnership, including the
36 division and distribution of jointly held property. In all proceedings
37 relating to the termination of a domestic partnership, the court will in
38 no event be required to effect an equitable distribution of property,
39 either real or personal, which was legally and beneficially acquired by
40 both domestic partners or either domestic partner during the domestic
41 partnership. The bill stipulates that in the case of two persons who are
42 each 63 years of age or older and not of the same sex and have
43 established a domestic partnership pursuant to the bill, the domestic
44 partnership will be deemed terminated if the two persons enter into a
45 marriage with each other that is recognized by New Jersey law.

46 The bill accords domestic partners rights and responsibilities that

1 reflect the mutually interdependent and supportive nature of domestic
2 partnership relationships. Specifically, the bill provides domestic
3 partners with:

4 -- statutory protection through the "Law Against Discrimination"
5 (N.J.S.A.10:5-1 et seq.) against various forms of discrimination based
6 on domestic partnership status, including employment, housing and
7 credit discrimination;

8 -- visitation rights for a hospitalized domestic partner and the right
9 to make medical or legal decisions for an incapacitated partner;

10 -- an additional personal exemption under the "New Jersey Gross
11 Income Tax Act" (N.J.S.A.54A:1-1 et seq.) and an exemption from the
12 transfer inheritance tax on the same basis as a spouse;

13 -- in the case of State employees, eligibility for dependent coverage
14 under the State Health Benefits Program and dependent benefits under
15 State-administered retirement systems (Public Employees' Retirement
16 System, Police and Firemen's Retirement System, Judicial Retirement
17 System, Teachers' Pension and Annuity Fund, and State Police
18 Retirement System);

19 -- in the case of other public employees, including employees of
20 counties, municipalities and boards of education, eligibility for
21 dependent coverage under the State Health Benefits Program and
22 State-administered retirement systems, if the employer adopts a
23 resolution providing for such coverage; and

24 -- eligibility for dependent coverage under health insurance
25 contracts and policies that commercial health and dental insurers are
26 required to offer to covered persons under the bill.

27 Finally, the bill recognizes that while individuals in domestic
28 partnerships share some of the same emotional and financial bonds and
29 other indicia of interdependence as married couples, domestic
30 partnership is a status distinct from marriage. The bill draws two chief
31 legal distinctions to reflect the continuing difference between each
32 status:

33 (1) property acquired by one partner during a domestic partnership
34 is treated as the property of that individual, unlike in a marriage where
35 joint ownership may arise by law; and

36 (2) the status of domestic partnership neither creates nor
37 diminishes individual partners' rights and responsibilities toward
38 children, unlike in a marriage where both spouses possess legal rights
39 and obligations with respect to any children born during the marriage.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2820**

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2003

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2820.

This substitute, which is designated the "Domestic Partnership Act," creates a mechanism, through the establishment of domestic partnerships, for New Jersey to recognize and support the many adult individuals in this State who share an important personal, emotional and committed relationship with another adult. These familial relationships assist the State by establishing a private support network for the financial, physical, and emotional health of their participants. This substitute provides the State with the opportunity to recognize the important material and non-economic contributions that individuals in these relationships make to each other, and to the State, by conferring certain rights and benefits, as well as obligations and responsibilities, upon domestic partners.

Currently, a significant number of New Jersey residents live in families in which the heads of household are unmarried. Despite their interdependence and mutual commitment, these families do not have access to the protections and benefits offered by the law to married couples; nor do they bear legal obligations to each other, no matter how interdependent their relationship. This substitute seeks to redress this oversight and provide certain benefits to, and enforce certain obligations within, these families.

Sections 1 and 2: Establishes the "Domestic Partnership Act" and sets out findings and declarations providing that it is the public policy of this State to create and define the rights and responsibilities of domestic partners.

Section 3: Defines terms in the substitute, such as "Affidavit of Domestic Partnership," "Certificate of Domestic Partnership," "Domestic Partner," and "Notice of Rights and Obligations of Domestic Partners."

Section 4: Establishes the conditions necessary to form a domestic partnership:

* Both persons have a common residence and are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property;

- * Both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership;
- * Neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership;
- * Neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity;
- * Both persons are of the same sex, OR both persons are of the opposite sex and each person is 62 years of age or older;
- * Both persons have chosen to share each other's lives in a committed relationship of mutual caring;
- * Both persons are at least 18 years of age;
- * Both persons file jointly an Affidavit of Domestic Partnership; and
- * Neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership, except that this prohibition does not apply if one of the partners died.

In addition, section 4 also provides for a civil penalty of \$1,000 for execution of an affidavit of domestic partnership without the requisite qualifications.

In authorizing domestic partnerships only for opposite sex couples who are age 62 and older, the committee recognizes that older persons often refrain from entering into marriage because remarriage could jeopardize their status as surviving spouse with regard to retirement income and benefits.

Section 5: Provides that, when a domestic partnership is terminated, it is the obligation of a former domestic partner who previously notified a third party (such as an insurance company) of the existence of the partnership to notify that third party that the partnership has been terminated and that benefits must cease. A third party that suffers a loss as a result of failure by the former domestic partner to provide such notice is entitled to seek recovery from the former domestic partner.

Section 6: Provides that the obligations of domestic partners are limited to the provisions of the bill. Domestic partners may modify their rights and obligations in any valid contract between themselves, except where the modifications conflict with the substitute. Upon termination of the domestic partnership, any obligations of the partners to each other are also terminated.

Provides that a health care or social services provider, employer, or other individual or entity may treat a person as a member of a domestic partnership, notwithstanding the absence of an Affidavit of Domestic Partnership.

Provides that two adults who have not filed an Affidavit of Domestic Partnership are to be treated as domestic partners in an emergency medical situation for the purposes of visiting and accompanying an ill partner on the same basis as a member of the ill partner's immediate family.

Provides that a domestic partner shall not be liable for any debts of

the other partner contracted before establishment of the domestic partnership, or contracted by the other partner in his own name during the domestic partnership. The partner who contracts for the debt in his own name shall be liable to be sued separately, and any property belonging only to that partner shall be liable to satisfy that partner's debt.

Provides that a domestic partnership, civil union or reciprocal beneficiary relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the partnership was created, shall be valid in this State.

Section 7: Authorizes the Commissioner of Health and Senior Services to prepare appropriate forms and notices concerning the creation of domestic partnerships and for ensuring that the rights and obligations afforded to such partnerships are lawfully recognized.

Section 8: Requires the local registrar to register domestic partnerships by issuing Certificate of Domestic Partnership, upon filing of an Affidavit of Domestic Partnership and payment of the appropriate fee. The registrar is then required to transmit copies of the Affidavits of Domestic Partnership and Certificates of Domestic Partnership to the State registrar.

Section 9: Requires the State registrar to establish an alphabetical index of registered domestic partnerships.

Section 10: Provides the following grounds for termination of domestic partnership: voluntary sexual intercourse between a person who is in a domestic partnership and an individual other than the person's domestic partner; willful and continued desertion for a period of 12 or more consecutive months; extreme cruelty; separation for a period of 18 or more consecutive months; voluntarily induced drug addiction, or habitual drunkenness for a period of 12 or more months; institutionalization for mental illness for a period of 24 or more consecutive months; or imprisonment of the defendant for 18 or more consecutive months.

In the case of two persons who are each 62 years of age or older and not of the same sex and have established a domestic partnership the substitute also provides that the partnership would be terminated if the two persons enter into a valid marriage.

This section also designates the Superior Court as the court of jurisdiction over all proceedings to terminate domestic partnership, including the division and distribution of jointly held property. The section specifies that equitable distribution shall not be used in distributing the property.

Sections 11 and 12: Amends the "Law Against Discrimination" (N.J.S.A.10:5-1 et seq.) to prohibit discrimination on the basis of domestic partnership status.

Section 13: Allows for visitation rights for domestic partners, the children of the patient's partner, and the domestic partner of the patient's parent or child in a health care facility.

Sections 14 through 26: Amends Title 26 of the New Jersey

Statutes concerning the collection of vital statistics relating to domestic partnerships.

Sections 27 through 31: Amends definition of "immediate family" and "health care provider" to include domestic partner. Authorizes domestic partner to give consent for autopsy. Provides that termination of domestic partnership will also terminate a designation of a domestic partner as a health care representative.

Sections 32 through 35: Provides that domestic partner can authorize donation of the deceased partner's organs.

Sections 36 , 37 and 38: Amends the inheritance tax provisions in Chapter 34 of Title 54 of the New Jersey Statutes to treat domestic partners on the same basis as a spouse.

Sections 39 and 40: Provides for an additional personal exemption under the "New Jersey Gross Income Tax Act," (N.J.S.A.54A:1-1 et seq.).

Section 41: Amends Title 52 of the New Jersey Statutes concerning the State Health Benefits Program to require coverage of domestic partners of State employees as dependents. In the case of public entities other than the State, such as counties, municipalities and boards of education, which participate in the State Health Benefits Program, these entities have the option to provide coverage to domestic partners of their employees.

Sections 42 through 46: Amends current law governing State-administered retirement systems (Public Employees' Retirement System, Police and Firemen's Retirement System, Judicial Retirement System, Teachers' Pension and Annuity Fund, and State Police Retirement System) to provide dependent benefits to domestic partners of State employees. In the case of public entities other than the State, which participate in a State-administered retirement system, these entities have the option to provide dependent benefits to domestic partners of their employees.

Sections 47 through 56: Requires health insurers to offer coverage for domestic partners as dependents.

Section 57: Permits a private employer to provide dependent coverage for the domestic partners of its employees. However, the employer may require that the employee pay for part or all of the cost of the dependent coverage under the plan for the employee's domestic partner. Provides that this section shall not be deemed an unlawful discrimination under the "Law Against Discrimination" (N.J.S.A.10:5-1 et. seq.).

Section 58: Establishes that the health and pension benefits made available to domestic partners will apply only to domestic partnerships in which both persons are of the same sex and that this section shall not be deemed to be an unlawful discrimination under the "Law Against Discrimination."

Section 59: Requires promulgation of rules and regulations by the following: Commissioner of Health and Senior Services, the Commissioner of Banking and Insurance, the New Jersey Individual

Health Coverage Program Board and the New Jersey Small Employer Health Benefits Program Board.

Section 60: Provides that the substitute will take effect on the 180th day after enactment, except that the Commissioners of Health and Senior Services and Banking and Insurance may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act; and the provisions of sections 47 through 56 shall apply to policies or contracts issued or renewed on or after the effective date.

This substitute is identical to A-3743 (2R).

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2820
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JANUARY 8, 2004

SUMMARY

Synopsis: "Family Equality Act"; establishes domestic partnerships.

Type of Impact: Loss of General Fund revenues (Transfer Inheritance Tax; Gross Income Tax); Increase in General Fund expenditures (State Health Benefits Program; Pensions).

Agencies Affected: Division of Taxation, Division of Pensions and Benefits, Local Government entities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$4.7-\$12.3 million	\$5.3-\$13.8 million	\$5.9-\$15.4 million
State Revenue	(\$0 - \$20 million)	(\$0 - \$20 million)	(\$0 - \$20 million)

The Office of Legislative Services (OLS) estimates the following fiscal impact on State revenues/expenditures as a result of this legislation:

Costs:

- ! State Health Benefits: Costs to the State Health Benefit Plan (SHBP) in the first year following enactment are estimated to be between \$4.7 million to \$12.3 million. Costs in subsequent years are estimated to increase by an annual medical inflation rate of 12 percent.
- ! State Administered Retirement Systems: The provision affected by the addition of a domestic partner to the definition of spouse would be the accidental death benefit, which provides a pension to a surviving spouse, or dependent children or parents. Currently the actuarial funding of the systems already takes into account that some benefit will be paid on behalf of a member.
- ! (Cost savings): OLS recognizes that there may be potential State expenditure savings if the income and assets of domestic partners are used in determining eligibility for various means-tested State programs. However, such savings are contingent on future regulatory or

statutory changes that may or may not occur.

Revenues:

- ! Transfer Inheritance Tax revenues: The amount foregone to the General Fund from this tax is estimated to be between \$0 and \$20 million based on certified FY 2004 revenues, current audited collection patterns, and demographics.
- ! The Gross Income Tax: Minimal impact from a gross income tax deduction of \$1,000 for domestic partners, which would only apply if one of the partners had taxable income and the other did not.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 2820 of 2003 is designated the "Domestic Partnership Act." The bill creates a mechanism, through the establishment of domestic partnerships, which confers certain rights and benefits, as well as obligations and responsibilities, upon domestic partners.

Those rights and benefits provided to domestic partners under the bill which would have an impact on State and local revenues and/or expenditures, include:

- ! An additional personal exemption under the "New Jersey Gross Income Tax Act" (N.J.S.A.54A:1-1 et seq.);
- ! An exemption from the New Jersey transfer inheritance tax on the same basis as a spouse;
- ! Certain health and pension benefits to dependent domestic partners in the case of domestic partnerships in which both persons are of the same sex and therefore unable to enter into a marriage with each other that is recognized by New Jersey law, including: in the case of State employees, eligibility for dependent coverage under the State Health Benefits Program, and dependent benefits under State-administered retirement systems; in the case of other public employees, including employees of counties, municipalities and boards of education, eligibility for dependent coverage under the State Health Benefits Program and State-administered retirement systems, if the employer adopts a resolution providing for such coverage; and eligibility for dependent coverage under health insurance contracts and policies that commercial health and dental insurers are required to offer to covered persons under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates the fiscal impact on State revenues/expenditures as a result of this legislation as follows:

- The Gross Income Tax: A gross income tax deduction of \$1,000 would be allowed for

a domestic partner. The deduction would only be allowed if the dependent partner did not have enough taxable income to file a return. The value of the benefit would vary between \$14 and \$64 a year depending on the income and marginal tax rate of the filing partner. The total cost would not appear to be significant.

-- Transfer Inheritance Tax: The amount foregone to the General Fund from this tax is estimated to be between \$0 and \$20 million based on certified FY 2004 revenues, current audited collection patterns and demographics.

The FY 2004 certified amount for inheritance taxes is \$433 million. Based on prior analysis of inheritance tax data for Assembly Bill A-2302 of 2003 (which decoupled the State estate tax from the federal estate tax), it is assumed that approximately 60 percent of that amount, or about \$260 million, is attributable to the transfer inheritance tax. Based on audited information provided by the Transfer Inheritance Tax Bureau, Division of Taxation, of the amount collected under the transfer inheritance tax, 81.51 percent is attributable to Class D beneficiaries (the class under which domestic partners currently fall), of which 19.71 percent are non-relatives. Based on these data, the maximum potential loss if *all other revenue* is assumed to be attributable to domestic partners would be \$41 million ($\$260 \times .8151 \times .1971$). However, based on the demographics, the actual amount of revenue which would be foregone can be assumed to be no more than half of that amount, or a maximum of \$20 million. Although the OLS cannot ascertain a more precise figure, the OLS is aware of a study¹ which examined State specific 2002 U.S. Census data for unmarried, cohabiting couples. This study estimated a potential loss of transfer inheritance tax revenues as a result of an earlier version of this legislation of between \$4.3 million and \$8.6 million per year, with most of that revenue attributable to opposite sex domestic partners. The study's methodology appears reasonable.

-- State Health Benefits Program (SHBP): OLS estimates that the provisions of this legislation would increase State costs to fund the State Health Benefits Program (SHBP) by between \$4.7 million to \$12.3 million beginning in the first year after enactment. Based on an annual medical health benefits inflation rate of 12 percent, OLS estimates that FY 2006 costs to the SHBP would rise between \$5.3 million and \$13.8 million, while costs in FY 2007 would rise between \$5.9 million and \$15.4 million.

OLS lacks precise data on the number of active state employees, state retirees and local education retirees receiving coverage under the State Health Benefit Plan (SHBP) that could immediately establish domestic partnerships pursuant to this bill. Based on experience of other states, OLS assumes that between .05 and 1 percent of active and retired SHBP enrollment would claim health benefits for domestic partners. Applying this participation rate to the 166,288 employees enrolled in the SHBP (including 62,808 active State employees and 27,971 State retirees and an additional 19,705 active employees of institutions of higher education and 55,807 local education employer retirees) yields 831 to 1,663 members applying for benefits for domestic partners. Thus, these individuals would elect to change their coverage from single to member and spouse or to family coverage. The State contribution for NJ Plus single coverage is \$3,435 per year. However, the State contribution for member and spouse coverage is \$7,487 per year and for family coverage the State contribution is \$8,911 per year. Thus, costs would increase between \$4,052 to \$5,476 per year for each SHBP member who claims health benefits for domestic partners. In addition, the State dental benefits contribution for single coverage is

¹ *Supporting Families, Saving Funds: A Fiscal Analysis of New Jersey's Domestic Partnership Act* (December 2003). M.V. Lee Badgett, Ph.D., Institute for Gay and Lesbian Strategic Studies, University of Massachusetts, Amherst; R. Bradley Sears, J.D., Williams Project on Sexual Orientation Law and Public Policy, University of California, Los Angeles; with Suzanne Goldberg, J.D., Rutgers School of Law, Newark.

\$241 per year, but is \$371 per year for member and spouse coverage and \$616 per year for family coverage. Further, the State prescription drug benefits contribution for single coverage is \$1,234 per year, but is \$2,820 per year for member and spouse coverage and \$2,962 per year for family coverage. Thus, costs would increase between \$130 to \$375 per year for dental benefits (applicable only to active employees), and between \$1,586 to \$1,728 for prescription drug benefits for each SHBP member who claims these benefits for domestic partners.

This bill permits but does not mandate local government employers to extend benefits to domestic partners. Assuming each local government entity that participates in the SHBP elects to provide such health benefit coverage, FY 2005 costs to local government employers are estimated between \$3 million and \$8.2 million. This fiscal estimate reflects potential costs associated with the SHBP only. Thus, the costs to local government employers that contract with a commercial health benefit provider and elect to extend benefits to domestic partners are not reflected in this fiscal estimate. OLS is not able to estimate the number of local agencies that contract with a commercial health benefit provider, for example, are not reflected in this fiscal estimate.

-- State Administered Retirement Systems: For the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund, the provision affected by the addition of a domestic partner to the definition of spouse would be the accidental death benefit, which provides a pension to a surviving spouse, or dependent children or parents. Currently the actuarial funding of the systems already takes into account that some benefit will be paid on behalf of a member. On an annual basis, the number of accidental deaths of members of these system is minimal. Other benefits such as the death benefit (life insurance) or a survivor pension funded by a reduced retirement allowance, go to a named beneficiary who may or may not be a spouse. For the Police and Firemen's Retirement System, the State Police Retirement System and the Judicial Retirement System the effect would be similar for their accidental death benefit. In addition, those systems provide a pension benefit upon death in active service and death in retirement so there could be additional funding needed depending upon the frequency in which a member dies while in a domestic partnership. The overall impact of these effects is likely to be marginal.

--Potential Cost Savings: OLS recognizes that there may be potential State expenditure savings if the income and assets of domestic partners are used in determining eligibility for various means-tested State programs. However, such savings are contingent on future regulatory or statutory changes that may or may not occur.

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