

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND TWENTY-EIGHTH
GENERAL ASSEMBLY

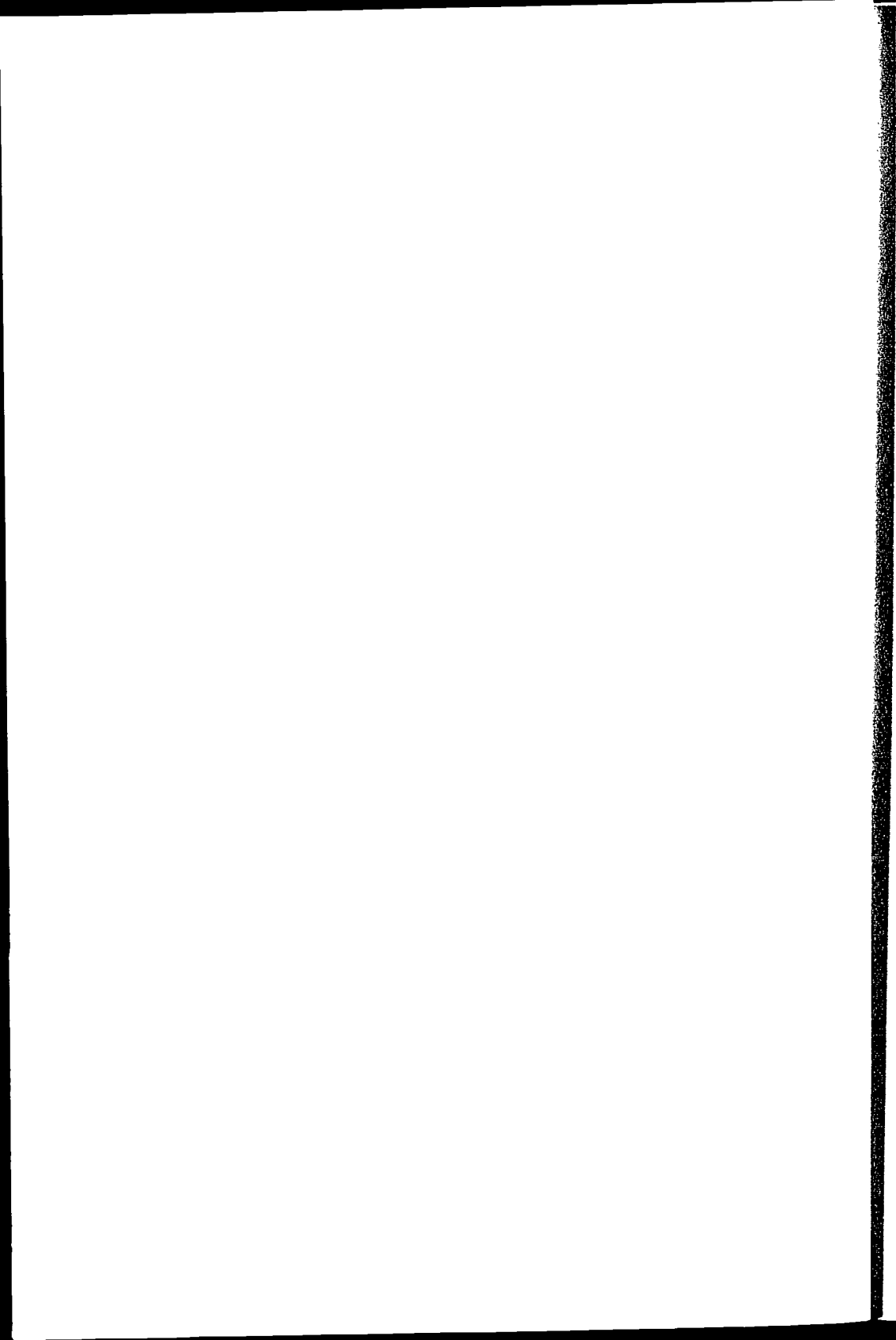
FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 14, A.D.
1975

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 13, A.D.
1976

PART II
VOLUME LX



CHAPTER 440

FORMERLY HOUSE BILL NO. 989

**AN ACT TO AMEND CHAPTER 51, TITLE 30,
DELAWARE CODE, RELATING TO REPORT DUE
DATE OF DISTRIBUTORS AND SPECIAL FUEL
USERS AND DEALERS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5113(a) and (b) of Chapter 51, Title 30, Delaware Code by striking the words "next to the last business" as the same appears in said Sections and substituting in lieu thereof the words "the twenty-fifth (25th)".

Section 2. Amend §5113(d) of Chapter 51, Title 30, Delaware Code by striking said paragraph (d) in its entirety and substituting in lieu thereof a new paragraph (d) to read as follows:

"(d) The monthly statements or payments of tax as provided in §5114 of this Title, shall be considered to have been duly and timely filed if such statements or payments are deposited in the United States Mail with postage prepaid on or before the twenty-fifth (25th) day of a given calendar month; provided, however, that for good cause the Department of Public Safety may grant a Licensee a reasonable extension of time."

Section 3. Amend §5113 of Chapter 51, Title 30, Delaware Code by adding thereto a new paragraph to be designated as paragraph (e) which new paragraph shall read as follows:

"(e) When the twenty-fifth (25th) day of a given month falls on a weekend or State Holiday, the due date of the statement and tax shall be the next following business day of the State."

Section 4. Amend §5136(a) of Chapter 51, Title 30, Delaware Code by striking the words "next to the last business", as the same appears in the first paragraph of said Section and substituting in lieu thereof the words "twenty-fifth (25th)".

Section 5. Amend §5136(a) of Chapter 51, Title 30, Delaware Code by striking the second paragraph in its entirety commencing with the words "Such reports...", and ending with the words, "extension of time" and substituting in lieu thereof a new paragraph to read as follows:

"Such report and payment will be considered to have been duly and timely filed if such report or payment is deposited in the United States Mail with postage prepaid on or before the twenty-fifth (25th) day of a given calendar month; provided, however, that for good cause the Department of Public Safety may grant a Licensee a reasonable extension of time."

Section 6. Amend §5136(a) of Chapter 51, Title 30, Delaware by adding thereto a new paragraph to read as follows:

"When the twenty-fifth (25th) day of the month falls on a weekend or State Holiday, the due date of the report and tax shall be the next following business day of the State."

Approved June 4, 1976

CHAPTER 441

FORMERLY HOUSE BILL NO. 767
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 27, PART 1, TITLE 18
OF THE DELAWARE CODE RELATING TO IN-
SURANCE; AND PROVIDING BASIC READABIL-
ITY REQUIREMENTS FOR AUTOMOBILE IN-
SURANCE POLICY FORMS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 27, Part 1, Title 18 of the Delaware Code by designating all of the present Chapter as Subchapter 1, entitled: "INSURANCE CONTRACTS GENERALLY".

Section 2. Amend Chapter 27, Part 1, Title 18, Delaware Code by adding thereto a new subchapter, designated as Subchapter II, to read as follows:

**"SUBCHAPTER II. READABILITY OF AUTO-
MOBILE INSURANCE POLICY
FORMS**

§2740. Statement of Policy.

It is the purpose of this Act to encourage the Commissioner to promulgate regulations by October 15, 1976, which assure that automobile insurance policies issued in Delaware, after the effective date of said regulations, will be understandable and readable by a person of average intelligence and education; or, in the event of the failure of the Commissioner to promulgate such regulations by October 15, 1976, to establish certain basic minimum readability requirements for automobile insurance policy forms. Accordingly, it is intended that the provisions of Subchapter III of this Act shall become effective only upon the failure of the Commissioner

to promulgate such regulations by October 15, 1976.' ''

**“2741. Commissioner’s Authority to Promulgate
Readability Rules and Regulations.**

(a) In addition to those general powers granted in §314 of Title 18, Delaware Code, the Commissioner is hereby authorized and empowered to make rules and regulations to the extent the Commissioner deems necessary to assure that automobile insurance policy forms as described in §2742 of this Chapter are readable and understandable by a person of average intelligence and education; provided, however, that such rules and regulations shall require, in the manner the Commissioner deems appropriate, that all such automobile insurance policy forms shall have a total ‘readability score’ of 40 or more on the Flesch Scale, although forms with a Flesch Test Score of less than 40 may be approved where the length of sentences and words are sufficiently compensated for by compliance with other standards set forth in such rules and regulations.

(b) The Commissioner shall adopt and promulgate readability rules and regulations only after a hearing thereon of which notice has been given to all persons subject to the Commissioner’s supervision under this Title who are to be affected by the proposed rule or regulation. Any readability rules and regulations so adopted and promulgated shall be effective upon the date specified therein.”

Section 3. Amend Chapter 27, Part I, Title 18, Delaware Code, by adding thereto a new Subchapter, to be designated as Subchapter III, only in the event the Commissioner does not adopt and promulgate readability regulations by October 15, 1976, said Subchapter to read as follows:

**“SUBCHAPTER III. BASIC READABILITY RE-
QUIREMENTS FOR AUTOMOBILE
INSURANCE POLICY FORMS**

§2742. Applicability.

(a) The provisions of this subsection shall apply to all policies providing automobile liability, medical payments, physical damage or uninsured motorists' insurance on private passenger automobiles owned or rented under a long-term lease or contract by an individual, or husband and wife who are resident in the same household on a specified car basis. A 'private passenger automobile' for the purposes of this Chapter includes the following:

(1) A motor vehicle of the private passenger or station wagon type which is neither used for transporting goods or passengers for hire, nor rented to others without a driver.

(2) A motor vehicle with a pick-up body, a delivery sedan or panel truck, not customarily used in the occupation, profession or business of the insured other than farming or ranching. A motor vehicle used in the course of driving to or from work, which otherwise meets the eligibility requirements of this definition, shall be classified as a private passenger automobile.

(3) An automobile owned by a farm family, co-partnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions in paragraph (1) or paragraph (2) of this subsection, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

(b) The requirements of this Subchapter shall apply to all policy forms covering risks mentioned in this Section received by the Insurance Department of this State for approval. Its requirements shall apply to all policy forms for automobile insurance as defined in this section presently approved for use in Delaware.

§2743. Short Sentences.

Sentences shall be as short as possible. Sentence structure shall be primarily simple. Compound and complex

sentences shall be avoided wherever possible.

§2744. Simple Wording.

Policy forms are to be written in simple words. Each word shall convey meanings clearly and directly. Legal sounding words shall be avoided. Present tense and positive statements shall be used wherever possible. Gerunds, participles and infinitives shall be avoided. Words shall be used in their commonly understood senses.

§2745. Definitions.

Definitions shall be limited to words which cannot be properly explained or qualified in the text. Terms shall reflect their defined meanings.

§2746. Index.

(a) Policy forms shall include an index at the beginning of the form. The index shall give a comprehensive listing of policy parts in a logical sequence. Index listings shall clearly state the contents of each section. The index shall be so arranged as to provide a useful guide to the use of the policy or form.

(b) The index shall, wherever possible, make the following information easily available:

- (1) the person insured under each coverage;
- (2) the item covered under each coverage;
- (3) clearly state what is not covered under each coverage, how such coverage is limited;
- (4) words requiring definition;

(5) the procedure required of the insured in order to file a claim under each coverage;

(6) what the insured is required to do if sued;

(7) all changes in the policy.

(c) If the index does not appear on the cover, the back side of the cover, or on the first page after the cover, its location shall be noted in large type on the cover page.

§2747. Introduction.

Policy forms shall be introduced by a brief explanation of the fact that the policy is a contract between the company and the policy holder.

§2748. Policy Structure.

For clarity, each coverage (in forms with two or more coverages) shall be arranged separately with its related exclusions, conditions and other provisions. Claim filing procedures shall either be stated in a separate section and keyed to each coverage section or set forth in the section pertaining to each coverage.

§2749. Legibility.

(a) The body text of the policy shall be printed in Roman type at least as large as ten-point modern type, two points leaded. The legibility shall be comparable to that of Century type. No insurer, however, is required to use a specific type-face as long as the type selected meets his standard of readability. The Insurance Department shall permit the following type faces to be used, and they shall be deemed as being as legible as Century type:

Aldine

Baskerville
Bodoni
Bodoni Book
Century Schoolbook
Journal
Press Roman
Times Roman

The use of any other type of type-face must first be approved by the Insurance Commissioner.

(b) The column width or line length of the body text of the policy shall not exceed four inches per column. Margins shall be adequate for purposes of readability.

(c) The contrast and legibility of the color of ink and the color of paper of the policy shall be substantially the equivalent of that of black ink on white paper. Contract section headings shall be in a contrasting color, contrasting type-face and/or size.

§2750. Narrative or Outline Form.

Policy forms shall be prepared either in narrative or in outline form. If the narrative form is used, frequent section headings shall be used to permit ease in locating provisions. If the outline form is used a maximum of three levels of division shall be used. Care shall be taken to avoid fragmentation in the outline form.

§2751. Conditions.

Conditions shall be incorporated into the sections to which they apply. Conditions relating to a specific coverage shall be included with that coverage. Conditions relating to claims procedures shall be included in a section on how to file a claim. The insurer shall avoid using a series of unrelated conditions which relate to other parts of the policy individually, or which could be combined in a section on

what the insured should do if sued, or on policy changes.

§2752. Testing.

(a) Policy forms shall have a total 'readability score' of 40 or more on the Flesch Scale. Forms with a Flesch Test Score of less than 40 may be approved where the length of sentences and words are sufficiently compensated for by compliance with other standards in this Subchapter.

(b) A Flesch Test Score of 40 or more shall not permit approval of a form which does not meet other standards in this Subchapter.

§2753. Filing Requirements.

Policy forms filed for approval shall be accompanied by a Flesch Readability Analysis and Test Score in accordance with law or the rules and regulations of the Commissioner.

Where policy forms are filed as replacements for other forms presently in use, copies of such forms are to accompany the filing, for comparison purposes.

§2754. Approved Forms.

All forms presently approved by the Insurance Department for insurance within the scope of this Subchapter are subject to disapproval, unless they comply with the requirement set forth herein.

If presently approved forms are believed to be in compliance with the requirements of this Subchapter, an insurer may request confirmation from the Insurance Commissioner."

"§2755. Flesch Readability Analysis".

Readability is to be measured by the following procedure:

A. Counting sentences. When counting sentences, only full units of thought shall be considered, each ending with a period, semicolon, or colon. Headings and subsection numbers are not to be counted. Lists of items having only a few words shall be disregarded completely.

B. Counting words. Contractions and hyphenated words are to be counted as one word. So are numbers and letters, if they are separated by spaces. For example, "C.O.D." and "19" would each be considered one word.

C. Counting syllables. Syllables shall be counted in the manner in which they are pronounced; each syllable of a number or letter shall be counted. If there are two equally acceptable pronunciations of a word, as shown by a dictionary, the word having the fewer number of syllables shall be used.

1. Each syllable is to be counted as a "word", and a count shall be taken of each. The number of words and syllables shall be totaled.

2. The total number of sentences, words and syllables for each whole contract shall be added. The following equations shall apply:

$$\text{Average sentence length} = \frac{\text{Total number of words}}{\text{Total number of sentences}}$$

$$\text{Average word length} = \frac{\text{Total number of syllables}}{\text{Total number of words}}$$

$$\text{Flesch Reading Ease Score} = 206.835 - (X + Y)$$

$$X = \text{average sentence length} \times 1.015$$

$$Y = \text{average word length} \times 84.6$$

B. Sampling.

The Commissioner may analyze a contract by the use of sampling procedures in lieu of counting each sentence, word and syllable. Each sample, however, must contain 100 words determined by including all sentences up to and including the sentence ending after the 100-word mark. To ensure an unbiased sample, the following procedure shall be used:

1. Samples shall not be used for small contracts of one or two pages. Each small contract shall be analyzed totally as a whole contract.

2. For policies over two pages, sampling shall be no less than two samples per page.

3. In sampling, skip an equal number of printed lines after each sample and start the next sample with the sentence beginning after that point. To determine the number of lines between samples, take two samples from the very first page, and count how many lines are between them. For example, if there are 50 printed lines between the first two samples, then after each sample count 50 lines, and start the next sample with the sentence beginning after that 50-line point.

4. If a row of print is less than one-half the column of print, shall not be counted.

C. Information on Readability

Each policy shall be analyzed by the insurer, subject to review by the Insurance Department. For each policy analyzed by the Flesch Readability Method, the following shall be submitted to the Insurance Department.

1. If the whole contract is analyzed, please submit a

summary of information for each sentence including number of words and number of syllables. Also include calculation of average sentence length, average word length, and the Flesch Reading Ease Score.

2. If samples are used, the analysis shall include a description of the sampling method (i.e., number of samples, number of printed lines between samples, and a marked copy of a policy indicating samples).

3. Include a summary of information for each sample, such as number of sentences, number of words, and number of syllables.

4. Include the calculation of average sentence length, average word length, and Flesch Reading Ease Score.

Because of the effect of some words on readability, each filing submitted shall list the number of times each of the following words or phrases is used for calculating the Flesch Score on each policy:

accident
automobile
bodily injury
company
insurance
liability
physical damage
policy
property damage."

Section 4. The provisions of this Act included within Subchapters I and II hereof shall become effective immediately upon enactment into law. The provisions of this Act included within Subchapter III hereof shall only take effect in the event that the Commissioner does not adopt and promulgate readability regulations by October 15, 1976, in which event the provisions of Subchapter III shall take effect on October 15, 1977.

Approved June 4, 1976

CHAPTER 442

FORMERLY HOUSE BILL NO. 959
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE
DELAWARE CODE RELATING TO INSPECTION
OF SMALL TRAILERS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2143, Chapter 21, Title 21 of the Delaware Code by adding a new subsection (d) to said section, which shall read as follows:

“(d) The Department shall waive the requirement for inspection for those small trailers with a gross weight of vehicle and load of 4,000 pounds or less, which are not required to be equipped with brakes.”

Approved June 4, 1976

CHAPTER 443

FORMERLY HOUSE BILL NO. 995

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE PUBLIC DEFENDER OF THE STATE OF DELAWARE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of twenty-seven thousand nine hundred fifty eight dollars and sixty cents (\$27,958.60) is hereby appropriated to the Public Defender of the State of Delaware for the payment of past-due and existing bills for trial transcripts, psychological examinations and psychiatric examinations performed in the fiscal year 1974-1975.

Section 2. The sum of twenty-five thousand dollars (\$25,000.00) is hereby appropriated to the Public Defender of the State of Delaware for the payment of existing and anticipated bills for trial transcripts, psychological and psychiatric examinations performed in the fiscal year 1975-76.

Section 3. This Act is a supplementary appropriation act and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 4. The funds so appropriated shall be used only for the purposes herein specified, and any funds appropriated but unexpended by July 1, 1976, shall thereupon revert to the General Fund of the State Treasury.

Approved June 4, 1976

CHAPTER 444

FORMERLY SENATE BILL NO. 635

AN ACT TO AMEND PART VI, CHAPTER 61, TITLE 29, DELAWARE CODE, RELATING TO FUNDS RECEIVED FROM STATE OPERATED HOUSING PROJECTS UNDER THE AUSPICES OF THE DELAWARE STATE HOUSING AUTHORITY OR THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §6102 of Part VI, Chapter 61, Title 29, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (h) which new paragraph shall read as follows:

“(h) Nothing in this Chapter shall be construed to deprive the Delaware State Housing Authority or the Department of Community Affairs and Economic Development of the right to receive and expend, for operating costs, replacements, and maintenance, rental and operating income from housing managed by said Authority or Department and to maintain separate internal funds accounts and reserve accounts for such purposes.”

Approved June 4, 1976

CHAPTER 445

FORMERLY HOUSE BILL NO. 473

**AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE
DELAWARE CODE PERTAINING TO THE CRIME
OF OBSCENITY AND PROVIDING PENALTIES
THEREFORE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Section 1361, Subpart C, Chapter 5, Part I, Title 11 of the Delaware Code by adding a new sentence at the end thereof to read as follows:

“Any person convicted of obscenity shall, in addition to the penalties set forth in this Title, for a period of one (1) year have suspended his business license(s) for that business from which the conviction of obscenity arose.”

Approved June 4, 1976

CHAPTER 446

FORMERLY SENATE BILL NO. 555
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 1 AND CHAPTER 3,
TITLE 15 OF THE DELAWARE CODE RELATING
TO THE DEFINITIONS OF "PARTY" OR
"POLITICAL PARTY" AND OF "PRIMARY
ELECTION"; AND PROVIDING FOR THE SUP-
PLYING OF VOTER LISTS TO POLITICAL PARTY
CHAIRMEN AND OTHER PERSONS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §101, Chapter 1, Title 15,
Delaware Code, by striking subsection (13) of said section in
its entirety and inserting in lieu thereof the following:

“(13) ‘Party’ or political party’ means any political party or political organization which elects delegates who participate in the national convention of a political party, nominates candidates for electors of President and Vice-President, United States Senator, Representative in Congress, Governor, and other offices to be presented on the ballot throughout the State, elects a State committee and officers of a State committee by a State convention composed of delegates elected from each representative district in which the party has registered members and, unless it qualified and appeared on the general election ballot of this State for the preceding Presidential election year of 1972, the party or organization meets one or more of the following qualifications:

(a) the number of voters registered in the name of the party is equal to at least one percent (1%) of the total number of voters registered in the State;

(b) in the preceding general election, any Statewide candidate of the party received at least two percent (2%) of the total vote cast throughout the State for that office;

(c) no later than August 15th of a general election year, petitions are filed certifying that the party exists and signed by a number of registered voters not less than one percent (1%) of the total number of registered voters of the State. These petitions shall be prepared within the period of January 1st to August 15th of a general election year and shall contain the full name and address of each signer and the date upon which he signed. Each registered voter signing shall do so upon a petition prepared for the county in which he is registered, and the petition shall be filed with the Department of Elections for that county. Each Department shall certify those petitions submitted to it and the names of the registered voters signing the petitions as valid. The certification of all Departments receiving petitions shall be necessary for a party to exist."

Section 2. Amend §101, Chapter 1, Title 15 of the Delaware Code by striking subsection (15) of said section in its entirety and inserting in lieu thereof the following:

"(15) 'Primary election' means an election by voters who are registered members of any political party which, upon the date set by law for the filing of candidates for nomination at a primary election, has enrolled at least one percent (1%) of the total number of registered voters of this State."

Section 3. Amend subsection (a), Section 307, Chapter 3, Title 15 of the Delaware Code by striking the second sentence of said subsection, which begins with the words "Eight copies of each list", in its entirety and inserting in lieu thereof the following:

"Eight copies of each list shall be supplied without charge to each political party whose registered members

equal at least 1% of the total number of registered voters of this State."

Approved June 7, 1976

CHAPTER 447

FORMERLY SENATE BILL NO. 556
AS AMENDED BY SENATE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 33, TITLE 15 OF THE
DELAWARE CODE RELATING TO THE NOMINA-
TIONS OF CANDIDATES BY PARTIES; AND PRO-
VIDING A SUPPLEMENTARY APPROPRIATION
TO VARIOUS DEPARTMENTS OF ELECTION.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §3301, Chapter 33, Title 15 of the Delaware Code by striking subsection (a) of said section in its entirety and substituting in lieu thereof the following:

“(a) The nominations of the candidates for electors of President and Vice President of the United States (together with the names of the candidates for President and Vice President) and for the United States Senator, Representative in Congress, Governor and all other State offices shall be certified to the State Election Commissioner by the presiding officer and secretary of the State convention or committee of each political party eligible to place candidates upon the ballot. The Commissioner shall forthwith send copies of each certificate of nomination to each county Department of Elections.”

Section 2. Amend §3301, Chapter 33, Part III, Title 15 of the Delaware Code by striking subsection (b) and subsection (c), and substituting in lieu thereof the following:

“(b) The nominations of the candidates for State Senator, State Representative, and the various county office: shall be certified to the Department of Election for the county in which the contests are to be held, by the presiding of

ficer and secretary of the county committee of each political party eligible to place candidates upon the ballot. Each Department shall forthwith send copies of each certificate of nomination to the State Election Commissioner."

Section 3. Amend §3301, Chapter 33, Part III, Title 15 of the Delaware Code by striking subsection (g) of said section in its entirety and inserting in lieu thereof the following:

"(g) The State Election Commissioner shall see to it that the nominations of candidates submitted to him and the eligibility of each political party to make such nominations conform to those requirements set forth in this Title. Each county Department of Elections shall perform the same duty concerning those certificates of nomination submitted to it."

Section 4. Amend §3301, Chapter 33, Part III, Title 15 of the Delaware Code by re-designating present subsection (d) as new subsection (c), and by re-designating each succeeding section accordingly.

Section 5. Amend subsection (a), Section 3302, Chapter 33, Title 15 of the Delaware Code by striking the words "clerks of the peace" as the same appear in said subsection, and inserting in lieu thereof the words "county departments of election".

Section 6. Amend subsection (b), Section 3302, Chapter 33, Title 15 of the Delaware Code by striking the words "assemble in the office of the clerk of the peace at Dover" as the same appear in said subsection, and inserting in lieu thereof the words "assemble in Dover, with the State Election Commissioner presiding and having the right to vote in event of a tie,".

Section 7. Amend §3302, Chapter 33, Part III, Title 15 of the Delaware Code by striking the words "Clerks of the Peace" wherever they appear in subsection (b) and

substituting the words "Department of Election" in lieu thereof; by striking the words "Clerk of the Peace" wherever the same may appear in subsection (b), and substituting "Department of Elections" in lieu thereof; and by striking the word "himself" wherever the same appears in subsection (b), and substituting the word "itself" in lieu thereof.

Section 8. Amend §3303, Chapter 33, Part III, Title 15 of the Delaware Code by striking the words "Secretary of State or the clerks of the peace," as the same appear in the first sentence of said section, and inserting in lieu thereof the words "State Election Commissioner or the Department of Election,".

Section 9. Amend §3304, Chapter 33, Part III, Title 15 of the Delaware Code by striking the words "Secretary of State" wherever the same appear in said section, and inserting in lieu thereof the words "State Election Commissioner"; and by striking the words "clerk of the peace" as the same appear in said section, and inserting in lieu thereof the words "Department of Election".

Section 10. Amend §3305, Chapter 33, Part III, Title 15 of the Delaware Code by striking the words "Secretary of State and the clerks of peace" as the same appear in said section and inserting in lieu thereof the words "State Election Commissioner and the Departments of Election".

Section 11. Amend §3307, Chapter 33, Part III, Title 15 of the Delaware Code by striking the words "clerk of the peace" and "clerks of the peace" wherever the same appear in said section, and inserting in lieu thereof the words "department of elections" and "departments of election", respectively.

Approved June 7, 1976

CHAPTER 448

FORMERLY HOUSE BILL NO. 1004

**AN ACT TO AMEND CHAPTER 80, TITLE 29,
DELAWARE CODE, RELATING TO HIRING OF
SEASONAL EMPLOYEES BY THE DEPARTMENT
OF NATURAL RESOURCES AND ENVIRONMEN-
TAL CONTROL.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §8003, Chapter 80, Title 29, Delaware Code by striking paragraph (3) of said section in its entirety and substituting in lieu thereof a new paragraph (3) to read as follows:

“(3) Appoint such additional personnel as may be necessary for the administration and operation of the Department. Those positions in the classified service shall be hired through the Office of Personnel. Those positions not in the classified service shall not be hired through the Office of Personnel and shall not receive an appointment exceeding 180 days in any calendar year. No pro rata share of employee administration costs shall be paid to the Office of Personnel.”

Approved June 7, 1976

CHAPTER 449

FORMERLY SENATE BILL NO. 577

**AN ACT TO AMEND TITLE 10, TITLE 11, TITLE 14
AND TITLE 31 OF THE DELAWARE CODE
RELATING TO PARENTS AND CHILDREN; AND
PROVIDING CRITERIA IN CERTAIN CASES FOR
THE DEFINITION OF TRUANT BEHAVIOR AND
TRUANCY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §901, Chapter 9, Part I, Title 10 of the Delaware Code by adding thereto a new subsection, designated as subsection (14), which new subsection shall read as follows:

“(14) ‘Truancy’ or ‘truant’ shall refer to a child who has been absent from school without valid excuse for more than three days, or who has had an unreasonable amount of intermittent attendance or tardiness without valid excuse. If a parent, to ensure the safety and welfare of his child, fails to cause the child to attend school, such child is not truant.”

Section 2. Amend §1103, Chapter 5, Part I, Title 11 of the Delaware Code by adding thereto a new subsection, designated as subsection (c), which new subsection shall read as follows:

“(c) ‘Truancy’ or ‘truant’ shall refer to a child who has been absent from school without valid excuse for more than three days, or who has had an unreasonable amount of intermittent attendance or tardiness without valid excuse. If a parent, to ensure the safety and welfare of his child, fails to cause the child to attend school, such child is not truant.”

Section 3. Amend §2702, Chapter 27, Part II, Title

14 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

“§2702. Compulsory Attendance Requirements.

(a) Except as otherwise set forth in this section, every person in the State having control of a child between six years of age and sixteen years of age shall send such child to a free public school, in the district of the residence of the parents, except as determined in accordance with Chapter 6 of this Title, and shall send the child to such school each day of the minimum school term of 180 days beginning on the first day of the school year of the calendar year in which the child reaches six years of age, unless the local school authorities determine that such beginning is not in the best interests of the child.

(b) If a parent, to ensure the safety and welfare of the child fails to cause the child to attend school, such child is not a truant.”

Section 4. Amend §2706, Chapter 27, Part II, Title 14 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

“§2706. Absences and Truancy.

Subject to the rules and regulations of the local school board, pupils enrolled in the free public schools may be excused by the Superintendent of Schools or persons authorized by him.

If a parent, to ensure the safety and welfare of his child, fails to cause the child to attend school, such child is not truant. Except as otherwise stated in this section, ‘truancy’ or ‘truant’ shall refer to a child who has been absent from school without valid excuse for more than three days, or who has had an unreasonable amount of intermittent attendance or tardiness without valid excuse.”

Section 5. Amend §2711, Chapter 27, Part II, Title 14 of the Delaware Code by striking said section in its entirety.

Section 6. Amend §301, Chapter 3, Part I, Title 31 of the Delaware Code by adding thereto a new subsection, designated as subsection (4), which new subsection shall read as follows:

“(4) ‘Truancy’ or ‘truant’ shall refer to a child who has been absent from school without valid excuse for more than three days, or who has had an unreasonable amount of intermittent attendance or tardiness without valid excuse. If a parent, to ensure the safety and welfare of his child, fails to cause the child to attend school, such child is not truant.”

Approved June 10, 1976

CHAPTER 450

FORMERLY SENATE BILL NO. 609

**AN ACT TO AMEND CHAPTER 1 OF TITLE 17,
DELAWARE CODE, RELATING TO GENERAL
JURISDICTION OF THE DEPARTMENT OF
HIGHWAYS AND TRANSPORTATION.**

WHEREAS, the 128th General Assembly passed in its First Session and Governor Tribbitt signed an Act to amend Chapter 1, Title 17 of the Delaware Code (Senate Bill No. 313); and

WHEREAS, paragraph (g) of this Act required the Department of Highways and Transportation, Division of Highways, upon dedication of the right of way to public use, to maintain, repair and reconstruct all roads and streets situated in unincorporated suburban communities which were built between July 1, 1951, and July 1, 1975; and

WHEREAS, a specific deadline in which to dedicate or remain private was never included in such legislation as well as funds to effectuate any repairs or maintenance on such dedicated roads; and

WHEREAS, the omission of a time schedule and the necessary funds places undue hardship upon the Department as to work schedules and availability of materials; and

WHEREAS, the lack of a time element allows private suburban communities with good streets at present to wait until they are in poor shape for decision making which necessitates excessive amounts for proper maintenance to be expended.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §131(g) of Chapter 1, Title 17, Delaware Code, by adding thereto a new sentence to read as follows:

“Dedication of the right-of-way must occur prior to June 30, 1978, to qualify for the aforementioned responsibilities under the auspices of this section.”

Approved June 10, 1976

CHAPTER 451

FORMERLY HOUSE BILL NO. 604
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 4, TITLE 21,
DELAWARE CODE, RELATING TO RECIPROCI-
TY AGREEMENTS FOR DRIVERS' LICENSES.**

*Be it enacted by the General Assembly of the State
of Delaware:*

Section 1. Amend §401, Title 21, Delaware Code,
by designating the existing paragraph as paragraph (a).

Section 2. Further amend §401, Title 21, Delaware
Code, by adding the following new paragraph to be
designated as paragraph (b):

“(b) The Secretary of Public Safety may enter into an
agreement or arrangement with the duly authorized
representatives of another jurisdiction, granting to licensed
drivers who are properly licensed in such jurisdictions and
for which evidence of compliance is supplied, benefits,
privileges and exemptions of a similar kind or to a similar
degree as are extended to drivers properly licensed in this
State.

Each such agreement or arrangement shall, in the
judgment of the Secretary of Public Safety, be in the best
interest of this State and the citizens thereof and all of the
same shall be determined on the basis and recognition of
the benefits which accrue to the economy of this State
from the uninterrupted flow of commerce.”

Section 3. Amend §404, Title 21, Delaware Code,
by inserting the words “or licensed drivers” after the
words “properly registered or licensed” and before the
words “in such other jurisdiction”.

Section 4. Amend §407, Title 21, Delaware Code, by inserting the words "or a driver" after the words "to a vehicle" and before the words "which is in violation".

Section 5. Amend §409, Title 21, Delaware Code, by inserting the words "or driver" after the words "All reciprocity registration" and before the words "agreements, arrangements".

Section 6. Further amend §409, Title 21, Delaware Code, by inserting the words "or drivers" after the words "relating to vehicles" and before the words "in force".

Approved June 10, 1976

CHAPTER 452

FORMERLY SENATE BILL NO. 126
AS AMENDED BY SENATE AMENDMENT NOS. 1,2,3

**AN ACT TO AMEND SUBCHAPTER 1 OF CHAPTER
1, TITLE 26, DELAWARE CODE, RELATING TO
DISCONTINUANCE OF GAS, WATER, OR ELEC-
TRIC SERVICE BY PUBLIC UTILITIES.**

Be it enacted by the General Assembly of the State of Delaware (Two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Subchapter 1 of Chapter 1, Title 26, Delaware Code, by adding thereto a new section to be designated as §117 to read as follows:

§117. Prohibitions.

(a) Definitions (1) For purposes of this section, "Person" shall include, but not limited to, any individual, corporation, partnership, association or joint stock company.

(2) For purposes of this section, "Employee" shall include, but not limited to; (i) any person who is an employee of such utility authorized to accept payment for sales and services; (ii) the individual who is to terminate such sale or service.

(b) No person who engages in the distribution and sale of gas, water or electricity for use or consumption in any dwelling unit shall discontinue service or sale thereof due to nonpayment of past charges for such service or sale to the occupants of that dwelling unit and owed by the occupants thereof without at least 72 hours notice to said occupants of intention to so terminate, except as otherwise provided by this section.

(c) In no event shall such termination occur between 12 o'clock Noon on any Friday and 12 o'clock Noon on the succeeding Monday, unless such utility provides facilities for payment and restoration of such services at all times during such period. Should Friday be a legal, state or national holiday, the last preceding business day shall be substituted for Friday. Should Monday be a state or national legal holiday, the next succeeding business day shall be substituted for Monday.

(d) In no event shall such termination occur if any occupant of any dwelling unit shall be so ill that the termination of such sale or service shall adversely affect his health or recovery, which has been so certified by a statement from any duly licensed physician of this State or any accredited Christian Science practitioner and received by any employee or officer of such person engaging in the distribution or sale of gas, water, or electricity.

(e) Violation of this section shall constitute a misdemeanor.

Approved June 11, 1976

CHAPTER 453

FORMERLY SENATE BILL NO. 531

**AN ACT TO AMEND CHAPTER 34, VOLUME 58,
LAWS OF DELAWARE, BEING AN ACT EN-
TITLED: "AN ACT TO REINCORPORATE THE
TOWN OF BLADES", RELATING TO PROVI-
SIONS FOR VOTING IN AN ANNEXATION
ELECTION.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Section 3 (e) of Chapter 34, Volume 58, Laws of Delaware, by inserting a period (.) immediately after the word "vote" and further striking all remaining language beginning with the word "for" and ending with the word "annexed" as the same appears in the first sentence of said paragraph (e).

Section 2. Amend Section 3 (e) of Chapter 34, Volume 58, Laws of Delaware by inserting a period (.) immediately following the word "vote" and further striking all remaining language beginning with the word "for" and ending with the word "assessment" as the same appears in the third sentence of said paragraph (e).

Approved June 11, 1976

CHAPTER 454

FORMERLY SENATE BILL NO. 614

AN ACT TO REPEAL CHAPTER 312, VOLUME 60, LAWS OF DELAWARE AND TO AMEND CHAPTER 216, VOLUME 27, LAWS OF DELAWARE ENTITLED: "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF NEW CASTLE".

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each house concurring therein):

Section 1. Chapter 312, Volume 60, Laws of Delaware is hereby repealed.

Section 2. Amend Chapter 216, Volume 27, Laws of Delaware by striking section 18 thereof in its entirety and substituting in lieu thereof the following:

"Section 18. The Council shall have power and authority to appropriate out of the Treasury, by ordinance or resolution passed by a majority of all members, all sums of money necessary to carry on the government of the City and defray the expenses thereof, and the said Council shall fix and determine the salary or compensation to be paid to the Treasurer, Police Constables, and all other persons in the employ of the said City. The Mayor shall receive as compensation or emolument for his services as Mayor the sum of Twelve Hundred Dollars per year. The President of the Council shall receive as compensation or emolument for his or her services as President the sum of Eleven Hundred Dollars per year. Each member, other than the President of the said Council, shall receive One Thousand Dollars per year as compensation, and emolument for his or her services."

Approved June 11, 1976

CHAPTER 455

FORMERLY SENATE BILL NO. 674

**AN ACT TO AMEND CHAPTER 5, TITLE 13 OF THE
DELAWARE CODE RELATING TO JURISDIC-
TION OF THE FAMILY COURT OVER SUPPORT
AGREEMENTS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend subsection 507 (a), Title 13 of the Delaware Code by adding thereto a new sentence at the end of the first sentence thereof, which sentence shall read as follows:

“The Court shall have exclusive jurisdiction with respect to construction and enforcement of agreements relating to payments for support between spouses, between persons formerly spouses, between parents and children, and between parents and children’s spouses or former spouses.”

Approved June 11, 1976

CHAPTER 456

FORMERLY SENATE BILL NO. 686

AN ACT TO AMEND VOLUME 36, LAWS OF DELAWARE, CHAPTER 158, 1929 ENTITLED AN ACT CHANGING THE NAME OF "THE TOWN OF DOVER" TO "THE CITY OF DOVER" AND ESTABLISHING A CHARTER THEREFORE, SAID AMENDMENT BEING TO CHANGE THE CHARTER CONCERNING THE DESIGNATION OF BOUNDARIES OF THE CITY THEREIN; CHANGING THE HOURS THAT THE POLLS SHALL REMAIN OPEN FOR MUNICIPAL ELECTIONS AND THE PLACE OF HOLDING ELECTIONS; CHANGING THE ELECTION RULES CONCERNING A TIE VOTE IN MUNICIPAL ELECTIONS; CHANGING THE PROVISIONS FOR A QUORUM AND PROVISIONS FOR SPECIAL ELECTIONS; ABOLISHING THE RIGHT OF THE MAYOR TO VOTE AND PROVIDING THAT MEMBERS OF THE PLANNING COMMISSION CANNOT HOLD ELECTED CITY OFFICES AT THE SAME TIME AND MAKING OTHER CHANGES TO THE CHARTER.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 1, Volume 36, Laws of Delaware, Chapter 158 (1929) by striking said section in its entirety, and by adding a new section to read as follows:

"Section 1. The municipal corporation of the State of Delaware, known as "The Town of Dover" shall hereafter be known as "The City of Dover". The boundaries of the City of Dover are hereby established and declared as recorded on the official map of record in the

Recorder of Deeds Office for Kent County and State of Delaware as presently existing and as hereinafter amended.”

Section 2. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking Section 8 in its entirety and by substituting in lieu thereof a new Section 8 to read as follows:

“Section 8.

(a) The regular municipal election shall be held on the third Monday in January of each year. At each such election the polls shall be opened at 11:00 A.M. and closed at 8:00 P.M. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud of elections, and for the recount of ballots in case of doubt or fraud.

(b) All elections shall be held by an Election Board which shall consist of the Alderman and two of the four members of council whose terms of office continue for the year following the election, to be chosen by the Council at the meeting prior to the election. The Alderman may designate such other persons as he shall deem necessary to assist the members of the Election Board in the conduct of the election and counting of the ballots. Should any or all of the members of the Election Board be absent from the place of election at 11:00 A.M. on the day of the election or fail or neglect to act in the conduct of such election during the time the polls are open and until the ballots are counted and the results of the election certified, the voters of the City present at such time may choose from the qualified voters of the City such person or persons as shall be necessary to fill the places made vacant by the absence or neglect aforesaid.

(c) When the polls are closed the Election Board shall

publicly count the votes and shall certify the result of the election to each of the persons elected and to the council. The candidate for the Office of Mayor who receives the highest number of votes cast for that office shall be declared to be elected Mayor, and the candidate for the Office of Councilman from each district who has received the highest number of votes cast for Councilman in that district shall be declared to be elected to that office. In the event of a tie vote for any office, a special election shall be held within 30 days and the registration books shall remain closed until the outcome of the special election is determined.

(d) Every resident of the City of Dover who shall have reached the age of 18 years by the time of the election; who has resided in the City of Dover for at least 30 days continuously preceding the day of the election and who has properly registered to vote shall be entitled to vote at the regular or special municipal elections. The council ordinance duly adopted may provide for the registration of voters and require that a person otherwise qualified to vote must also be properly registered in order to vote in the municipal elections. Any such ordinance providing for registration of votes shall make adequate provision for the preparation and custody of registration books and for the entry therein of the names of registered voters, their qualifications as such, the fact of their voting at each municipal election, and such other matters as may be required by this Charter or the Laws of the State of Delaware. Reasonable opportunity shall be provided for voters to register, and there shall be at least three registration days in each year.

(e) This subsection is reinstated herein as previously enacted.

(f) This subsection is reinstated herein as previously enacted.

Section 3. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking the first paragraph of Sec-

tion 10 and by adding a new first paragraph of said section to read as follows:

“Section 10. Conduct of Meetings.

Five of the members elected to the Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.”

Section 4. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking the fifth paragraph of Section 10 in its entirety and by adding a new fifth paragraph to read as follows:

“A councilman may abstain from voting on a matter that he feels would involve the consideration of his own official conduct or financial interest.”

Section 5. Amend Section 13 of Volume 36, Laws of Delaware, Chapter 158 (1929) by striking the last sentence thereof in its entirety and substituting in lieu thereof the following:

“In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than 6 months in duration, the council shall fill such vacancy. If such vacancy should be in excess of 6 months in duration, a special election shall be held to fill such vacancy, this special election to be held no sooner than 30 days from the date of the vacancy, but said special election to be held no later than 60 days after the date of the vacancy.”

Section 6. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) Section 14 by striking said section in its entirety and by adding a new section to read as follows:

“Section 14. Duties of Mayors.

The Mayor shall be the Executive and Chief Official of the City. He shall preside at meetings of the council. He shall have the powers and perform the duties conferred and imposed by this charter and ordinances of the city.”

Section 7. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking Section 18 in its entirety and by adding a new Section 18 to read as follows:

“Section 18. Power to Define Nuisances.

The council shall have the power to define nuisances and cause their abatement. The operation of any instrument, device or machine of any kind whatsoever, that shall cause electrical interference with radio or television reception within the limits of the city shall, at the option of the council, be deemed a nuisance.”

Section 8. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking Section 23 in its entirety and by adding a new Section 23 to read as follows:

“Section 23. Planning.

The council may create a City Planning Commission for the development, improvement, and beautification of the city, and prescribe its powers and duties. No member of the Planning Commission may hold at the same time, any elected city office.”

Section 9. Amend Volume 36, Laws of Delaware, Chapter 158 (1929) by striking Section 24 in its entirety and by adding a new Section 24 to read as follows:

“Section 24. Regulation of Use of Streets.

The council shall have the right to grant or refuse

franchises or licenses to public utilities and common carriers and to fix the terms and conditions thereof and to regulate their use of the streets, lanes and alleys of the city.”

Approved June 11, 1976

CHAPTER 457

FORMERLY SENATE BILL NO. 702

AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO

WHEREAS, The Town of Millsboro became a municipality upon the passage of its Charter by the General Assembly in 1909, appearing as Chapter 203, Volume 25, Laws of Delaware; and

WHEREAS, the Charter has been amended from time to time and it is deemed desirable that it be consolidated into one complete Act and in certain respects amended and revised.

NOW, THEREFORE, BE IT ENACTED by the General Assembly of the State of Delaware (two-thirds of all Members elected to each House thereof concurring therein):

INCORPORATION

Section 1. The inhabitants of The Town of Millsboro within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided are hereby declared to be a body politic incorporated in law and equity and shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever by the corporate name of "The Town of Millsboro."

TERRITORIAL LIMITS

Section 2. The present boundaries and limits of The Town of Millsboro are hereby established and declared to be, as follows:

BEGINNING at a point on the Northerly edge of Millsboro Mill Pond, on a line of The American Legion West property line projected across the Pond; thence S $23\frac{1}{2}^{\circ}$ W 606 ft. to a point in the South right of way of State Street; thence South $55^{\circ} 18'$ W 1232 ft. to a point which is 150 feet distant from the North right of way of Monroe Street; thence parallel to Monroe Street and 150 feet from North right of way N $61^{\circ} 5'$ W 277 ft. and N $51^{\circ} 10'$ W 1220 ft., crossing highway R 82 to a point 500 ft. West of the West right of way measured at a right angle therefrom; thence, parallel to the West right of way of R 82 and 500 ft. therefrom S 4° W 580 ft. to center of R 82A; S $2^{\circ} 45'$ W 800 ft. and S $0^{\circ} 55'$ W 2130 ft. to the center of R 24; thence, continuing with R 82, now a 30 ft. county road and 515 ft. W of right of way line S $0^{\circ} 15'$ W 500 ft. and S 2° E 875 ft to a point in the center line of Route 339 projected to this point; thence, S 50° E to the run of Iron Branch; thence, with the run of Iron Branch crossing R 113 to the center of highway R 334-A (Mitchell Street extended); thence with center line of Street N $22^{\circ} 45'$ E 2160 ft. to the Tiger Valley Ditch; thence Southeasterly and Northeasterly with the Tiger Valley Ditch around the Cemetery to the Southerly edge of highway R 331 (State St. extended); thence, with Southerly edge of State St. Northeasterly 1219 ft.; thence N $29^{\circ} 15'$ E 462 ft. to a monument at Southwest corner of Houston St.; thence with Southerly line of Houston St. S $62^{\circ} 30'$ E. 310 ft. to the edge of Indian River; thence at a right angle N $27^{\circ} 30'$ E across Indian River to the North edge of the river; thence with the North edge of Indian River and of the Millsboro Mill Pond to the place of beginning.

ANNEXATION OF TERRITORY

Section 3. In the event it becomes feasible and necessary in the future for The Town of Millsboro to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

- (a) If all of the property owners of the territory con-

tiguous to the then existing corporate limits and territory of The Town of Millsboro, by written Petition with the signature of each such Petitioner duly acknowledged, shall request The Town Council to annex that certain territory in which they own property, the Mayor of The Town of Millsboro shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Millsboro. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millsboro and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millsboro may then pass a second Resolution annexing such territory to The Town of Millsboro. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. In the event that the Committee appointed by the mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Millsboro.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of The Town of Millsboro by written Petition with the signature of each such Petitioner

duly acknowledged shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Millsboro shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the Town Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The Town of Millsboro.

(c) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the Town Council of Millsboro. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millsboro and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second Resolution shall then be passed by the Town Council proposed to the property owners and residents of both The Town of Millsboro and the territory proposed to be annexed that the town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the Committee, the Resolution proposing annexation to the property owners and residents of both the Town and the territory proposed to be annexed shall be pass-

ed by the affirmative vote of two-thirds ($\frac{2}{3}$) of the elected members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds ($\frac{2}{3}$) of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Millsboro at least one week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in four (4) public places both in The Town of Millsboro and in the territory proposed to be annexed.

(d) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall **ipso facto** be considered the determination of the Town Council to proceed with the matter of the proposed annexation.

(e) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in The Town of Millsboro, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in The Town of Millsboro and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.

(f) At the Special Election, every property owner, whether an individual, partnership or a corporation both

in The Town of Millsboro and in the territory proposed to be annexed shall have one (1) vote. Every citizen of either The Town of Millsboro or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one-half (1/2) vote. In the event that a person owns property both in The Town of Millsboro and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in The Town of Millsboro and in the territory proposed to be annexed but does not reside in either place, he may vote only in The Town of Millsboro and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Millsboro in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Sussex County on the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

(g) In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the Town Manager of The Town of Millsboro. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.

(h) The Town Council of The Town of Millsboro, shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:

☐ For the proposed annexation

☐ Against the proposed annexation

(i) The Mayor of The Town of Millsboro shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in The Town of Millsboro and at least one (1) of whom shall own property in the property to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of The Town of Millsboro shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(j) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their Hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of The Town of Millsboro. Said Certificate shall be filed with the papers of the Town Council.

(k) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from the Town of Millsboro and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in

an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Millsboro shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Millsboro from the time of recordation. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(l) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of The Town of Millsboro may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by a individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of The Town of Millsboro shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Millsboro. The report so submitted shall include the advantages and disadvantages of the proposed annexa-

tion both to The Town of Millsboro and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millsboro may then pass a second Resolution annexing such territory to The Town of Millsboro. Such Resolution shall be passed by the affirmative vote of two-thirds ($2/3$) of all the elected members of the Town Council. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths ($3/4$) of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Millsboro shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Millsboro from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

STRUCTURE OF GOVERNMENT

Section 4. The government of The Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council. The Town Council shall be composed of seven (7) members, each of whose terms shall be for a period of three

(3) years, commencing at the Annual Meeting of the Town Council following his election and continuing until his successor is duly elected and qualified. Six (6) members of the Town Council shall be nominated and elected from the several Districts in which they reside and one (1) member shall be nominated and elected from the Town at large. One of the members of the Town Council shall be elected President of the Town Council and upon his election shall have the title of Mayor of The Town of Millsboro and shall perform all duties prescribed herein to be performed by the Mayor of The Town of Millsboro.

DISTRICT LIMITS

Section 5. There are hereby created and established three (3) Representative Districts for The Town of Millsboro, as follows:

(a) District One: The area located North of United States Route 113 and East of Main Street to the Town limits;

(b) District Two: The area located North of United States Route 113 and West of Main Street to the Town limits;

(c) District Three: The area located South of United States Route 113 to the Town limits.

QUALIFICATIONS FOR TOWN COUNCILMAN

Section 6. The qualifications for Town Councilman at the time of his election shall be as follows:

(a) A bona fide resident of the United States and of the State of Delaware and a resident freeholder of The Town of Millsboro for at least one (1) year next preceding the Annual Municipal Election; and

(b) At least twenty-one (21) years of age;

(c) Each of the qualifications for Town Councilman shall be continuing qualifications to hold office and the failure of any of the Town Councilmen to have any of the qualifications required by this Section during his term of office shall create a vacancy in the office.

METHOD OF MAKING NOMINATIONS FOR TOWN COUNCILMAN

Section 7. Each candidate for Town Councilman shall be nominated as follows:

(a) Each candidate shall notify the Town Manager in writing of his candidacy for the office of Town Councilman.

(b) All such notifications of candidacy must be filed in the Office of the Town Manager during the regular business hours of the Town on or before the close of business on the last Friday in the month of May; and thereupon it shall be the duty of the Town Manager to have a list of names of all candidates so filed with him printed in a newspaper of general circulation in the Town of Millsboro at least five (5) days prior to the date of the said Annual Municipal Election next ensuing; or, in the discretion of the Town Council, the Town Manager may post a list of names of all candidates designating the office sought by each candidate in at least five (5) public places in the Town, such public places to be designated by the Town Council. One of the said public places shall be in the Town Hall of the Town of Millsboro.

(c) In the event that the Town Manager is unable to act because of illness, absence, or for any other reason whatsoever, the names of all candidates shall be filed with the Vice-President of the Town Council who shall thereupon perform the duties required of the Town Manager in Subsection (b) of this Section.

(d) The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the

time set forth in this Charter for the beginning of the Annual Municipal Election.

MANNER OF HOLDING ANNUAL MUNICIPAL ELECTION

Section 8. The procedure for holding the Annual Municipal Election shall be as follows:

(a) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Millsboro on the Second Saturday in June of each and every year from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, the first said Annual Municipal Election to be held pursuant to this Charter to be held on the Second Saturday in June, A.D. 1977.

(b) At the Annual Municipal Election to be held on the Second Saturday in June, A.D. 1977, one (1) Councilman from the First District and one (1) Councilman from the Second District shall be elected. Each of the Councilmen who are elected shall serve for a term of three (3) years, or until his successor has been duly elected and qualified.

(c) At the Annual Municipal Election to be held on the Second Saturday in June, A.D. 1978, one (1) Councilman shall be elected from the Second District, one (1) Councilman from the Third District, and one (1) Councilman at large who may reside in any District. Each of the Councilmen so elected shall serve for a period to three (3) years or until his successor has been duly elected and qualified.

(d) At the Annual Municipal Election to be held on the Second Saturday in June, A.D. 1979, there shall be elected from the First District one (1) Councilman and from the Third District one (1) Councilman, each of whom shall hold office for a period of three (3) years or until his successor is duly elected and qualified.

(e) Thereafter, at each Annual Municipal Election, there shall be elected two (2) Councilmen who shall serve for a term of three (3) years, or until their successors have been duly elected and qualified, except at the Annual Municipal Election in the year when the Councilman at large is to be elected, at which time there will be three (3) Councilmen elected.

(f) The members of the Commissioners of Millsboro who hold office at the time of passage of this Act shall continue to hold office as members of the Town Council of the Town of Millsboro until their respective successors have been duly elected and qualified.

(g) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of the Town of Millsboro with the concurrence of a majority of the members of the Town Council not later than the last regular meeting of the Town Council prior to the date of the Annual Municipal Election. The Board of Election shall determine who is and who is not lawfully entitled to vote thereat, take reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and for the purpose of counting the votes and certifying the result to the Town Council. If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy and such Board of Election caused by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.

(h) At such Annual Municipal Election every person, male or female, who shall have attained the age of eighteen (18) years on the date of the Annual Municipal Election and who shall be a bona fide resident of the Town of Millsboro

shall have one (1) vote, provided he or she is registered on the "Books of Registered Voters" of the Town of Millsboro. The Town Council of The Town of Millsboro shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the Town Manager. The Books of Registered Voters shall contain the following information for each registrant: The name of the registered voter arranged in alphabetical order, the address of the voter, the birth date of the voter, the date the registrant became a citizen of the United States, the date the registrant became a resident of The Town of Millsboro, and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless he or she will have acquired the qualifications to vote in the Annual Municipal Election for the year in which he or she registers. A person shall be required to register only one time; provided, however, that if a registered voter fails to vote in two (2) consecutive Annual Municipal Elections in which there is a contest, his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by certified mail with return receipt requested advising the registered voter that his name has been removed from the Books of Registered Voters, and that it will be necessary to register again in order to be eligible to vote in the Annual Municipal Election. The Books of Registered Voters shall be maintained in the office of the Town Manager and shall be conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the office of the Town Manager during the regular business hours of such office until the close of business of such office on the last Friday in May prior to the date of the Annual Municipal Election by completing such forms as may be provided by the Town.

(i) All votes offered at the Annual Municipal Election shall be offered in person.

(j) In the event that no person files or is nominated for office for which an election is to be held within the time set forth in Section 7 of this Charter, the incumbent shall be

deemed to be reelected for a full term and it shall not be necessary to have an election.

(k) In the event that only one person files or who is nominated for office for which an election is to be held within the time set forth in Section 7 of this Charter, the person who files or is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

ORGANIZATION AND ANNUAL MEETING OF COUNCIL

Section 9. (a) Before entering upon the duties of their respective offices, the Councilman Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At eight o'clock in the evening, prevailing time, at the first regular meeting following the Annual Municipal Election, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

(b) At the annual meeting, held on the first regular meeting following the Annual Municipal Election, the Town Council shall organize and elect, by ballot, a President and a Vice-President, who shall hold office for the term of one (1) year or until his successor shall be duly elected. The person elected as President of the Town Council shall have the title of Mayor. The Town Council shall likewise select a Secretary from their own number to serve until the first regular meeting after the next Annual Municipal Election. The Town Council may also select an Assistant Secretary to serve, as aforesaid, who may or may not be from among their own number and such other officers and employees as may be determined to be necessary.

REGULAR AND SPECIAL MEETINGS

Section 10. The Town Council of The Town of

Millsboro shall hold one (1) meeting in each month on the first Monday of the month. If the first Monday of the month shall be a legal holiday, the monthly meeting of the Town Council of The Town of Millsboro shall be held on the next succeeding regular business day. Special meetings shall be called by the Secretary upon the written request of the Mayor of The Town of Millsboro, or upon the written request of any two (2) members of The Town Council of The Town of Millsboro, stating the day, hour and place of the special meeting requested, and the subject or subjects proposed to be considered thereat. The Secretary shall thereon give written notice to the Mayor and to each member of the Town Council of the day, hour and place of such special meeting and the subject or subjects to be considered thereat. Such notice of the Secretary shall be deposited in the United States mail in the main Post Office of The Town of Millsboro at least forty-eight (48) hours before the time of said special meeting; provided, however, that a written waiver of such notice signed by the Mayor of The Town of Millsboro and by all members of the Town Council prior to or immediately upon convening of the said such special meeting shall make such written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in the waiver and the transaction of any business considered at the meeting if the waiver so states.

QUORUM

Section 11. A majority of the members elected to The Town Council shall constitute a quorum at any regular or special meeting; but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

RULES AND MINUTES OF COUNCIL

Section 12. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be

entered in the journal with the text of the ordinance or resolution.

VACANCIES

Section 13. If any vacancy shall occur in the office of Councilman by death, resignation, loss of residence in the District which the Councilman represents, loss of residents in the Town of Millsboro, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council, the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

DISQUALIFICATIONS

Section 14. If any Councilman, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever, or shall for any reason cease to be a resident of the District which he represents in the case of those members of Council elected from a particular District or shall for any reason cease to be a resident of the Town, he shall forthwith be disqualified to act as a member of Council and his office shall be deemed vacant and shall be filled by the Town Council, as aforesaid.

CONTRACTS

Section 15. (a) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of the Town of Millsboro with any member of the Town Council or with any partnership in which any member of the Town Council is a General Partner, or with any corporation in which any member of the Town Council is a Director or controlling stockholder or any firm or company which any member of

the Town Council is pecuniarily interested, provided that if all the elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

(b) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; PROVIDED, HOWEVER, that competitive bidding shall not be required in any of the following circumstances:

(1) The aggregate amount involved is not more than Three Thousand Five Hundred Dollars (\$3,500.00);

(2) The purchase or contract is for personal or professional services;

(3) The purchase or contract is for any service rendered by a University, college or other educational institution;

(4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;

(5) The purchase or contract is for property or services for which it is impracticable to obtain competition;

(6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;

(7) The materials to be purchased are to be used to complete a project under the supervision of the Town Manager;

(8) The purchase or contract is for property or services for which the Town Council determines the prices received

after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;

(9) A public emergency as determined by the Town Council exists.

DUTIES OF THE MAYOR AND PRESIDENT OF COUNCIL

Section 16. (a) The President of the Town Council shall preside at all meetings thereat, and shall vote on all matters brought before the Town Council for a vote. He shall appoint all committees, receive complaints or nuisances, and other complaints of citizens concerning violations of law and ordinances. He shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such action to be required. The President of the Town Council shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter.

(b) The President of the Town Council, within thirty (30) days following his election, may appoint, by and with the advice and consent of a majority of the elected members of the Town Council, two (2) suitable persons who shall be qualified voters of The Town of Millsboro to act as Alderman and Assistant Alderman. Both the Alderman and the Assistant Alderman shall hold office until each successor shall be duly appointed and chosen.

(c) The President of the Town Council may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council,

remove from office any person appointed by him or any or his predecessors. The person against whom the Council may be about to proceed shall receive five (5) days' written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the President of the Town Council by certified mail with return receipt requested within ten (10) days following the date that notice of removal is received by such person.

(d) The President of the Town Council may appoint such other committees as he deems necessary for the proper administration of The Town of Millsboro or the Council may, by resolution, authorize the President of the Town Council to appoint certain committees which are deemed necessary to carry out the provisions of this Act.

(e) It shall be the duty of the Vice-President of the Town Council, in the absence of the President, to preside at all meetings of the Town Council in the event of absence of the President and perform such other duties and to have such other powers of the President as are prescribed by the Charter of The Town of Millsboro or by any Ordinance of the Town Council.

SECRETARY

Section 17. (a) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. He shall keep a full and complete record of all the transactions in The Town of Millsboro. He shall be a voting member of all committees and shall keep a record of the transactions and proceedings of the same, together with such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of The Town of Millsboro. He shall file and keep in a safe place the seal of The Town of Millsboro and all papers and documents arising out of the proceedings of the Town Council of The Town of Millsboro relative to the affairs of the Town. He shall deliver

the same to his successor in office. He shall attest the seal of The Town of Millsboro when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.

(b) All books, records and journals of The Town of Millsboro in the custody of the Secretary may, in the presence of the Mayor, Secretary, Assistant Secretary or any member of the Town Council of The Town of Millsboro, be inspected by any registered voter of the Town desiring legitimate information at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.

(c) All books, records, papers and documents in the custody of the Secretary shall be open for inspection by members of the Town Council of The Town of Millsboro.

(d) Compensation, if any, of the Secretary for his duties, shall be determined by the Town Council.

ASSISTANT SECRETARY

Section 18. The duties and powers of the Secretary as hereinbefore prescribed shall devolve upon the Assistant Secretary in the absence or inability of the Secretary. The Assistant Secretary shall likewise perform such other duties and have such other powers as may be prescribed by resolution to the Town Council of the Town of Millsboro and shall receive such compensation as the Town Council by Resolution shall determine.

ALDERMAN AND ASSISTANT ALDERMAN

Section 19. (a) The Mayor may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall

be of good character and reputation and shall be a resident of the Town of Millsboro and shall not be a member of the Town Council of the Town of Millsboro. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman such be appointed for an indefinite term and any such appointment shall be confirmed by a majority of all members of the Town Council of the Town of Millsboro. Either the Alderman or Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of two-thirds ($\frac{2}{3}$) of all the elected members of the Town Council of the Town of Millsboro.

(b) Before entering upon the duties of his office, the person appointed by the Mayor to serve as Alderman and the person appointed by the Mayor to serve as Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his office honestly, faithfully and diligently and to uphold and enforce the Charter of the Town of Millsboro and Ordinances duly enacted by the Town Council of the Town of Millsboro and to carry into effect all orders of the Town Council of the Town of Millsboro made pursuant to any law of this state. The Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designated by the Mayor. During such periods the Assistant Alderman shall have all the powers and duties of the Alderman.

(c) The Town Council shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the "Alderman's Docket." The Alderman and the Assistant Alderman shall each record all official acts and proceedings in the Alderman's Docket.

(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of The Town of Millsboro so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of The Town of Millsboro and any Ordinance enacted thereunder; of all neglects, omissions or defaults of any officer,

agent or employee of the Town; provided, however, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor imprison any offender for more than sixty (60) days, or both, except as otherwise provided in the Charter of The Town of Millsboro. The Alderman and the Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by Ordinance or Resolution of the Town Council of The Town of Millsboro; provided, however, that no costs shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.

(e) The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties.

(f) The Alderman and the Assistant Alderman shall receive such salary as may be fixed from time to time by Resolution of the Town Council.

(g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the Town Manager, within two days after his removal from office, all the books and papers belonging to his office, and to pay over to the Town Manager all moneys in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the Town Manager shall require the auditor of the Town, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the Town Manager within the time specified by this Charter, or to pay over all of

the moneys to the Town Manager within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that he fails to deliver the books and papers to the Town Manager or to pay over all moneys to the Town Manager.

TOWN MANAGER

Section 20. (a) The Town Council of The Town of Millsboro may appoint a Town Manager who shall be the Chief Administrative Officer of the Town.

(b) The Town Council of The Town of Millsboro shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of Town Councilman shall be chosen to be Town Manager during his term of office as Councilman.

(c) The Town Manager shall hold office of an indefinite term and may be removed by a majority vote of the Town Council of The Town of Millsboro. At least thirty (30) days before such removal shall be come effective, the Town Council shall, by a majority vote of all the elected members thereof, adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days not later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council, by a majority vote of all the elected members thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council may suspend the Town Manager from duty but shall in any case call to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following the adoption of the preliminary resolution.

(d) In case of the absence or disability of the Town Manager, the Town Council may designate some qualified person who may be an elected or appointed official of The Town of Millsboro to perform the duties of such office during his absence or disability. The compensation which the Town Manager shall receive for the performance of his duties shall be fixed by the Town Council of The Town of Millsboro.

(e) The Town Manager shall be responsible to the Town Council of The Town of Millsboro for the proper administration of the affairs of the Town placed in his charge and to that end, he shall have the power to make such appointment and to hire such employees at such compensations as the Town Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the Town Council. All employees shall be hired for an indefinite term and may be removed by the Town Manager at any time unless otherwise provided by resolution of Council. He shall exercise his sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. The Town Council of the Town of Millsboro shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interests of the Town of Millsboro. The decision of the Town Council in such case shall be final and conclusive.

(f) It is the intention of this Charter that, in the performance of his duties, and in the exercise of his powers, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by matters of expediency and efficiency in the administration of the affairs of the Town placed in his charge. Except for purposes of inquiry, the Town Council shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(g) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his charge and to make such reports to the Town Council as are required by the Town Council. He shall make such recommendations to the Town Council concerning the affairs of the Town as may seem to him desirable. He shall keep the Town Council advised of the financial condition and future needs of the Town. He shall prepare and submit to the Town Council the annual budget estimate. He shall render to the Town Council at the regular monthly meeting of each and every month a true, accurate and detailed account of all the moneys collected or received by him in the performance of his duties and shall promptly turn the same over to the Town Council.

(h) In conjunction with the Mayor of The Town of Millsboro, he shall sign warrants pursuant to appropriations or resolutions theretofore made for the Town Council. He shall prepare and submit to the Town Council such reports that may be required by the Town Council. He shall perform such other duties as may be prescribed by this Charter or required of him by Ordinance or Resolution of the Town Council.

(i) The Town Manager and such other officers of the Town as may be designated by vote of the Town Council shall be entitled to seats in the meetings of the Town Council, but shall not vote therein.

(j) The Town Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. He shall have charge of and shall collect all taxes, assessment, rentals, license fees, or other charges due the Town. He shall have charge of the administration of all provisions of this Charter and Ordinances and Resolutions of the Town Council relating to the affairs of the Town when not otherwise provided for by this Charter or by any Ordinance or Resolution of the Town Council. He shall pay over to the Town Treasurer at least monthly, as hereinbefore provided, and oftener if required by the Town

Council, all moneys received or collected by him and by any employee under his supervision.

(k) He shall keep a full and strict account of all moneys received and all disbursements made by him and such accounts shall, at all times, be open to inspection to the Town Council.

(l) He shall give to The Town of Millsboro a bond, if required by the Town Council, in such sum and in form with security satisfactory to the Town Council for the faithful performance of the duties of his office and the restoration to the Town of Millsboro, in case of his death, resignation, or removal from office all books, papers, vouchers, money and other property of whatever kind in his possession belonging to the Town.

(m) In the event of a vacancy in the office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(n) Upon the death, resignation, or removal from office of the Town Manager, the Town Council shall appoint some suitable person, who may be an elected or appointed official of The Town of Millsboro, to perform the duties of Town Manager; provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his appointment.

TOWN SOLICITOR

Section 21. The Mayor of The Town of Millsboro with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a

Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of The Town of Millsboro either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Sussex County. It shall be his duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him by the Town Council.

BOARD OF HEALTH

Section 22. (a) The Board of Health shall consist of four (4) members, one of whom shall be a practicing physician. The Board shall be appointed by the Mayor of The Town of Millsboro with the advice and consent of a majority of the elected members of the Town Council at the annual meeting hereinbefore provided, and shall serve for one (1) year or until their successors are duly appointed and qualified. The Board of Health shall have cognizance of and interest in the life and health of the people of the Town. The Board shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of The Town of Millsboro. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.

(b) The Secretary of the Board may be allowed a reasonable annual compensation for his services, which shall be determined by the Town Council and no other compensation shall be paid to the Secretary for his services as such. The Secretary may or may not be a member of the Board of Health appointed by the Mayor, but he shall be a resident of The Town of Millsboro.

(c) The Board of Health shall have the power to recom-

mend the adoption of ordinances relating to the health of the population of the Town or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the same and such ordinances, when adopted by the Town Council, shall extend to an area outside the Town limits for a distance of one (1) mile.

POLICE FORCE

Section 23. (a) The Town Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force shall preserve peace and order and shall compel obedience within the Town limits to the Ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Town Council shall, from time to time, prescribe. The Chief of Police and the members of the police force shall be subject to the direction of the Town Manager acting in behalf of the Town Council.

(b) Each member of the police force shall have police powers similar to those of constables and shall be conservators of the peace throughout the Town of Millsboro, and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all laws enacted by the Town Council of The Town of Millsboro. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of The Town of Millsboro.

(c) Every person sentenced to imprisonment by the Alderman or the Assistant Alderman or a Justice of the Peace, as the case may be, shall be delivered by a member of the police force to the correctional institution located in Sussex County to be there imprisoned for the term of his sentence.

(d) In the case of an arrest at any time when the Alder-

man or the Assistant Alderman of The Town of Millsboro shall not be available or if no such Alderman or Assistant Alderman has been appointed, the person arrested may be taken before the nearest Justice of the Peace with officers in Sussex County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter under the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.

(e) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same, and upon the view of the above or upon view of the violation of any Ordinances of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.

ANNUAL AUDIT

Section 24. At the annual meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall appoint an accountant to be the auditor of accounts of The Town of Millsboro. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall audit the books of the Alderman and the Assistant Alderman of The Town of Millsboro the records of all fines, penalties, costs imposed or collected by him pursuant to any judgment, order or decree made. The auditor shall on or before the expiration of ninety (90) days from the end of the fiscal year annually make and deliver a detailed report of any and all accounts, records, and books by them

examined and audited which report under his hand and seal shall be printed in a newspaper having a general circulation in the Town in the issue immediately preceding the annual report. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the Town Council and he is hereby authorized and empowered to employ such clerks as in his judgment may be necessary in the proper performance of his duties.

BOARD OF ASSESSMENT

Section 25. (a) The Board of Assessment shall be appointed by the Mayor of The Town of Millsboro, with the advice and consent of a majority of the elected members of the Town Council for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be over the age of twenty-one (21) years, bona fide residents of The Town of Millsboro and freeholders of the Town.

(b) They shall be sworn or affirmed by the Mayor of The Town of Millsboro or by a Notary Public to perform their duties with fidelity and without favor. It shall be their duty to make a fair and impartial assessment of property and persons subject to taxation situate within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed from time to time by the Town Council of The Town of Millsboro. Compensation to be by them received for the performance of their duties in the hiring of employees to assist them in the performance of their duties shall be fixed by and subject to the approval of the Town Council of The Town of Millsboro.

(c) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Sussex County of persons and property shall be applicable insofar as consistent with the provisions of this Charter.

ASSESSMENT OF TAXES

Section 26. The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within The Town of Millsboro. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown." A mistake in the name of the owner or owners or a wrong name or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any municipal tax or assessment based thereon; Provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Sussex County. The Board of Assessment shall also make a personal assessment of all male and female citizens of the Town above the age of Eighteen (18) years, whether an owner of real estate or not; said personal assessment shall be determined by the Town Council and certified to the Board of Assessment. Said personal assessment or per capita tax shall be in addition to the assessment levied on real estate owned or assessed by any person or persons whomsoever.

(a) The Board of Assessment, after making such annual assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of The Town of Millsboro a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.

(b) The annual assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, and the per capita assessment shall appear in separate columns or spaces. In making this assessment, the Board shall make its valuation accordingly.

(c) The real property of the several members of the Board of Assessment shall be assessed by the Town Council of The Town of Millsboro.

(d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of The Town of Millsboro shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in The Town of Millsboro and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto and also in five (5) or more public places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices that, at the next regular meeting of the Town Council, the Town Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Town Council sitting as the Board of Appeals shall be final and conclusive and said Town Council shall revise and complete said assessment at this sitting. No member of the Town Council shall sit upon his own appeal but the same shall be heard and determined by the other councilmen.

(e) All the members of the Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Board of Assessment by appropriate process.

LEVY OF ANNUAL TAXES

Section 27. (a) At the last regular meeting in the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and

obligations of the Town, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the Town Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

(b) The Town Council should then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

(1) The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100.00) of the assessed value; and/or

(2) The amount of personal or per capita tax upon each citizen of the Town over the age of eighteen (18) years; and/or

(3) The rate of tax upon all poles, construction, erections, wires and appliances more particularly mentioned, or intended so to be in Section 30 of this Charter as amended; and/or

(4) The several license fees to be charged for carrying on or conducting of the several businesses, professions or occupations more particularly mentioned or intended so to be in Section 30 of this Charter, as amended; and/or

(5) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment; and/or

(6) The fees or rates to be charged in respect to any other authorized source of revenue sufficient to their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as foresaid;

PROVIDED, HOWEVER, that sources (4), (5) and (6) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and that any regular or special meeting of the Town Council as the Town Council, in its own proper discretion, shall determine.

(c) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of The Town of Millsboro. In addition to the information contained in the assessment list, it shall also contain information as to the rate of tax upon real estate for each One Hundred Dollars (\$100.00) of assessed valuation thereof.

(d) The Town Council shall cause to be delivered to the Town Manager a duplicate of said Annual Tax List and the Town Manager shall immediately proceed to collect the same as hereinafter provided.

(e) Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due The Town of Millsboro under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in The Town of Millsboro created hereby.

COLLECTION OF ANNUAL TAXES

Section 28. (a) The Town Manager, as soon as the Town Council shall have placed in his hands a duplicate Annual Tax List, shall proceed at once to collect the taxes on said duplicate list.

(b) All taxes so laid or imposed by The Town of Millsboro in such Annual Tax List shall be and constitute a

lien upon all the real estate of the taxable for a period of ten (10) years against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time after such taxes shall have been levied and imposed that is situate within The Town of Millsboro. Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien of taxes.

(c) All taxes, when and as collected by the Town Manager, shall be paid to The Town of Millsboro, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Town Manager.

(d) All taxes shall be payable at the Town Office of The Town of Millsboro during the regular business hours of that office.

(e) In the collection of said taxes, there shall be an abatement of Five Percent (5%) on any taxes paid on or after the first day of the fiscal year next succeeding the delivery of the duplicate Annual Tax List to the Town Manager and prior to the expiration of ninety (90) days from the beginning of said fiscal year. On all taxes paid on or after the expiration of ninety (90) days next succeeding the delivery of the duplicate Annual Tax List to the Town Manager there shall be added interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the expiration of ninety (90) days from the beginning of the fiscal year of The Town of Millsboro shall be considered delinquent. In effecting a collection of any delinquent tax the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.

(f) At the annual meeting of the Town Council of each year, the Town Manager shall account to the Town Council for all taxes and sewer rentals collected by him during the year and shall be liable on his bond for failure to account for any uncollected taxes or sewer rentals unless he can show to the satisfaction of the Town Council that all remedies permitted for the collection of said taxes were pursued without result or, if not pursued the remedies would have been without avail.

(g) The Town Manager, when any tax has become delinquent, may, in the name of The Town of Millsboro, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court as the case may be.

(h) However, should the Town Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure:

(1) The Town Manager shall present in the name of The Town of Millsboro to the Superior Court of the State of Delaware, in and for Sussex County, a petition in which shall be stated:

(A) The name of the taxable;

(B) The year for which the tax was levied;

(C) The rate of tax;

(D) The total amount due;

(E) The date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty and any collection charge permitted;

(F) A reasonable, precise description of the lands and tenements proposed to be sold;

(G) A statement that the bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by certified mail and postage prepaid;

(H) That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Town Manager and shall be verified before a Notary Public.

(2) A least ten (10) days prior to the filing of any such petition as described herein, the Town Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The Town Manager shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, it shall be sufficient for the Town Manager to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.

(3) Upon the filing of the petition, the Prothonary shall record the same in a property indexed record of the Superior Court, in and for Sussex County, and shall endorse upon the said record of said petition the following: "This petition, filed the _____ day of _____, A.D., _____, and the Town Manager of The Town of _____"

Millsboro is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." This endorsement shall be signed by the Prothonotary.

(4) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in The Town of Millsboro, one of said public places shall be the Town Office and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the Town Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceedings.

(6) No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs, no deed shall be made until the expiration of one (1) year from the date of the sale within which time the owner, his heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(7) After satisfying the tax due and the costs of expense

of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, upon the refusal of the said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in The Town of Millsboro, either to the credit of the owner or in a manner in which the fund may be identified.

(8) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be:

(A) To the Prothonotary for filing and recording the petition, One Dollar (\$1.00);

(B) For filing and recording the return of sale, One Dollar and Fifty Cents (\$1.50)

(C) To the Town Manager for preparing the Certificate, Twenty-five Cents (\$.25), for making the sale of lands, Two Dollars (\$2.00), for preparing and filing a return, One Dollar and Fifty Cents (\$1.50), for posting sale bills, One Dollar (\$1.00). In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands at the tax sale.

(9) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(10) If any person is assessed for several parcels of land a tenements in the same assessment in The Town of Millsboro, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, pro-

vided that the land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.

(11) In the event of death, resignation or removal from office of the Town Manager of The Town of Millsboro before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Town Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold or a just portion thereof; and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(12) The Town Manager shall have the same right to require the aid or assistance of any person or persons in the performance of his duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

TOWN BUDGET

Section 29. (a) The fiscal year for The Town of Millsboro shall be as determined by Resolution of the Town Council.

(b) Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, the Town Manager shall prepare a rough draft of the Town Budget. From this rough draft, the Town Council shall not later than the regular meeting following the presentation of the rough draft prepared of the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(c) The budget shall contain the following information:

(1) A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year;

(2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;

(3) The amount of the debt of the Town, together with the schedule of maturities of Bond issues;

(4) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;

(5) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds";

(6) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front foot assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.

(d) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

ENUMERATION OF POWERS

Section 30. (a) Not by way of limitation upon the power vested in the Town Council of The Town of Millsboro to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Coun-

cil is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:

- (1) To prevent vice, drunkenness and immorality;
- (2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;
- (3) To prohibit all gaming and fraudulent devices;
- (4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;
- (5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macademize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, warf, dock, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town;
- (6) To regulate or control the observance of the Sabbath Day;
- (7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast,

bird or fowl running at large, and to authorize the destruction of the same;

(8) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer and manure plants or establishments, swine pens, privies, water closets in any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature;

(9) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;

(10) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the Town;

(11) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare;

(12) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by the Town of Millsboro may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury, or damage to or in-

interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

(13) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any wilful or negligent injury or damage to, or interference with the said system, plan or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.

(14) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lake, strands, sidewalks, crosswalks, wharfs, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to

regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.

(15) To fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural water course, runs or rivulent within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town;

(16) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, property protected that the general public might enjoy the use thereof.

(17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television,

railroad excepting railroads or railways engaged in Interstate Commerce, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharfs and piers and for the purpose of vending any article or merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever;

(18) To regulate and control the exercise of any license or franchise mentioned in Section 30 of this Charter, or intended so to be;

(19) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees;

(20) To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter;

(21) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues;

(22) To regulate, control or prevent the use or storage of gun powder, fireworks, tar, pitch, resin, and all other combustible materials and the use of candles, lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires;

(23) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C of 1974, and all amendments heretofore or hereafter adopted;

(24) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violation of law or Ordinance, or for detention of persons accused of violation of law or Ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars, and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose;

(25) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

(26) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other devices for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds;

(27) To provide for the punishment of a violation of any Ordinance of the Town by fine or imprisonment, or both, not exceeding Five Hundred Dollars (\$500.00) or sixty (60) days, or both;

(28) To provide for the organization of a fire depart-

ment and the control and government thereof; to establish fire limits and to do all things necessary for the prevention or extinguishment of fires; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts not to exceed in the total during any fiscal year three percentum (3%) of the total taxes levied on real estate unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;

(29) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same;

(30) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of Five Hundred Thousand Dollars (\$500,000.00); and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred;

(31) To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of The Town of Millsboro to be used for any and all municipal purposes;

(32) To levy and collect taxes upon all telephone, telegraph, power poles, pipelines, rail lines, or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other ap-

plicances thereto or thereon attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other applicants shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 27 of this Charter, the Town Council shall have the authority to cause the same to be removed;

(33) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town; provided, however, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides;

(34) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness;

(35) To provide for the collection of and disbursement of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter;

(36) To borrow money in the name of the Town for any

proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes; provided, however, that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed in the aggregate twenty-five percent (25%) of the assessed value of all real estate in the Town subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned;

(37) To acquire, and/or to vacate the use of lands, tenements, personalty, property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Millsboro by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del. C. of 1974, as heretofore or hereafter amended;

(38) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency;

(39) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same;

(40) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena

witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;

(41) To establish by Ordinance duly adopted pursuant to this Charter a Pension Plan or a Health and Welfare Plan, or both, for the employees of the Town under such terms and conditions as the Town Council, in its discretion, may deem most appropriate; provided, however, that any annual appropriation which is made by the Town Council under any such Pension Plan or any Health and Welfare Plan, or both, shall not exceed a maximum of fifteen percent (15%) of the total annual payroll of the Town; and provided further, that the method of funding may, if deemed desirable by the Town Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the Town Council;

(42) To borrow money in anticipation of revenues on the full faith and credit of The Town of Millsboro sum or sums not exceeding One Hundred Thousand Dollars (\$100,000.00) in any one year when, in the opinion of a majority of the Town Council of The Town of Millsboro, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Millsboro, duly authorized by Resolution adopted by the Town Council of The Town of Millsboro, and signed by the Mayor of The Town of Millsboro, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Town Council; provided, however, that the total sum outstanding at any one time shall not exceed One Hundred Thousand Dollars (\$100,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first

fiscal year when said sum or sums were borrowed, with interest thereon; and provided that such **ad valorem** taxes shall be levied as is necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.

(43) To make, adopt and establish all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants; provided, however, that any Ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well as to all areas and persons outside the Town within one (1) mile from said limits.

STREETS

Section 31. (a) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever the Town Council shall deem it for the best interest of the Town.

(b) The procedure to be used for any of those things heretofore listed in this Section shall be as follows:

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the pro-

posed street to be opened, layed out, changed, altered, widened, vacated or closed shall by written petition with each signature duly acknowledged request the Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of The Town of Millsboro shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of The Town of Millsboro, the Council by resolution, passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the Town of Millsboro, the resolution proposing the change in the street structure to the property owners and citizens of The Town of Millsboro shall be passed by a ma-

majority of three fourths ($\frac{3}{4}$ ths) of the elected members of the Town Council. The resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in The Town of Millsboro or, in the discretion of the Town Council, the resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the said public hearing. The resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the town.

(3) Whenever the Town Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefor, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ten (10) days after such notice, as aforesaid, was posted or mailed appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid on the Mayor

of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of The Town of Millsboro, and two (2) of whom shall be nonresidents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

(4) The freeholders named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town Council which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) days, then the same shall be deposited to his or her credit in the Farmers Bank of the State of Delaware, with offices in Georgetown, Sussex County, Delaware, within said time and thereupon the said

property on lands may be taken or occupied for the use as aforesaid.

(5) If the ascertainment and assessment of damages by the freeholders appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Town Manager belonging to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the commission shall receive and be entitled for each day's actual service or of any part of a day the sum of Five Dollars (\$5.00). After the damage shall be fixed and ascertained by the freeholders, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.

CURBING AND PAVING

Section 32. (a) Whenever the Town Council shall have determined that any paving, graveling, curbing or any or all of them shall be done, it shall cause a notice to be sent to the owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof and thereupon it shall be the duty of such owner or owners to cause such paving, graveling and/or curbing, or any of them, to be done in conformity with said notice. In the event any owner or owners neglect to comply with said notice for the space of thirty (30) days, the said Town Council may proceed to have the same done and when done, the Town Manager shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing expenses of such paving, graveling and curbing, or any of them. If such owner or owners be not resident in The Town of Millsboro, such bills shall be sent by certified mail with postage prepaid or to such owner or owners

directed to him, her or them at the last known address. If such bill be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the Town Manager shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

(b) Any notice sent to one co-owner shall be notice to all owners and in the case no owners shall reside in said Town, notice served as set forth herein or posted upon the premises shall be sufficient.

(c) The provisions contained herein shall apply to any order made by the Town Council in respect to any pavement, sidewalk or curb heretofore made or done which the said Town Council may deem insufficient or need repairing.

COLLECTION OF CHARGES DUE THE TOWN

Section 33. (a) In the collection of any charges due the Town for water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, such charges shall become a first lien against all real estate of the delinquent property owners and/or taxpayers situate within the Town and such charges shall have preference and priority for a period of Ten (10) years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

(b) The remedies available to the Town Manager for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

property on lands may be taken or occupied for the use as aforesaid.

(5) If the ascertainment and assessment of damages by the freeholders appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Town Manager belonging to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the commission shall receive and be entitled for each day's actual service or of any part of a day the sum of Five Dollars (\$5.00). After the damage shall be fixed and ascertained by the freeholders, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.

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directed to him, her or them at the last known address. If such bill be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the Town Manager shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

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(b) The remedies available to the Town Manager for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

POWER TO BORROW MONEY AND ISSUE BONDS

Section 34. (a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of The Town of Millsboro to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lanes or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; provided however that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:

(1) The Town Council by resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the resolution and shall fix a time and place for a hearing on the said resolution.

(2) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form at least one week before the time set for the public hearing.

(3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more

than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall **ipso facto** be considered the determination of the Town Council to proceed with the matter in issue.

(4) The notice of the time and place of holding the said special election shall be printed in two (2) issues of a newspaper having a general circulation in The Town of Millsboro within thirty (30) days prior to the said special election or distributed in circular form at least fifteen (15) days prior to the special election, or both, at the discretion of the Town Council.

(5) At the said special election, every citizen of The Town of Millsboro shall have one vote and, in addition, every partnership or corporation owning property within the corporate limits of The Town of Millsboro shall also have one vote and the said votes may be cast either in person or by proxy.

(6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) days prior to the said special election. The special election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of The Town of Millsboro, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from 12:00 noon prevailing time, until 6:00 in the evening, prevailing time, on the date set for the special election.

(7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their Hands of the number of votes cast for and against the proposed loan and the number of void votes

and shall deliver the same to the Town Council which said certificate shall be retained by the Town Council with the other papers of the Town Council.

(8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said special election.

(9) The bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be described by the Town Council for at least one (1) month before offering the same for sale.

(10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.

(11) The faith and credit of The Town of Millsboro shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.

(b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five (25) percent of the value of real property situate within the limits of The Town of Millsboro shown by the last assessment preceding the creation of the said indebtedness.

ACTIONS OR SUITS

Section 35. No action, suit or proceeding shall be brought or maintained against The Town of Millsboro for damages, either compensatory or punitive on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, or wilful or wanton of the said Town of Millsboro, or any of its departments, of-

ficers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within ninety (90) days from the happening of said injury or the suffering of such damages shall notify The Town of Millsboro in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of The Town of Millsboro by certified mail with return receipt requested and postage prepaid.

COMPENDIUM

Section 36. It shall be the duty of the Town Council, at reasonable time or times, to compile the ordinances, current regulations, orders and rules of The Town of Millsboro. The Town Council shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, currents, rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of The Town of Millsboro copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.

REVIVAL OF POWERS AND VALIDATING SECTION

Section 37. (a) All powers conferred upon or vested in the Town Council of The Town of Millsboro by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in The Town of Millsboro and/or the Town Council of The Town of Millsboro precisely as of each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by The Commissioners of

Millsboro and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of The Town of Millsboro under the provisions of this Charter.

(c) All of the acts and doings of the Commissioners of Millsboro or of any official of the Commissioners of Millsboro which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Commissioners of Millsboro or under any provision of any prior Charter of the Town Council of The Town of Millsboro, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

(d) All taxes, assessments, license fees, penalties, fines, and forfeitures due the Commissioners of Millsboro of The Town of Millsboro shall be due The Town of Millsboro and all debts from the Town or the Commissioners of Millsboro shall remain unimpaired until paid by The Town of Millsboro.

(e) All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Commissioners of Millsboro.

(f) The bonds given by or on account of any official of the Commissioners of Millsboro shall not be impaired or affected by the provisions of this Charter.

(g) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter be and the same are hereby repealed to the extent of any such inconsistency.

(h) If any part of this Charter shall be held to be unconstitutional or invalid by a Court of competent jurisdiction

tion, such holding shall not be deemed to invalidate the remaining provisions of this Charter.

(i) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

Approved June 11, 1976

CHAPTER 458

FORMERLY HOUSE BILL NO. 1076

**AN ACT TO AMEND CHAPTER 7, TITLE 5,
DELAWARE CODE, RELATING TO PAYMENT OF
DIVIDENDS BY BANKS AND TRUST COM-
PANIES.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Title 5, Delaware Code, by striking §748 in its entirety and inserting in lieu thereof a new §748 to read as follows:

§748. Dividends.

The directors of a bank or trust company may declare dividends on common or preferred stock of so much of the net profits of the corporation as they shall judge expedient; but the corporation shall, before the declaration of a dividend on common stock from the net profits, carry 50% of its net profits of the preceding period for which the dividend is paid to its surplus fund until the same shall amount to 50% of its capital stock; and thereafter shall carry 25% of its net profits of the preceding period for which the dividend is paid to its surplus fund until the same shall amount to 100% of its capital stock."

Approved June 11, 1976

CHAPTER 459

FORMERLY HOUSE BILL NO. 832

AN ACT TO AMEND CHAPTER 7, PART I, TITLE 7 OF THE DELAWARE CODE RELATING TO THE PRIMITIVE WEAPONS SEASON; AND PROHIBITING THE ATTACHMENT AND USE OF TELESCOPIC SIGHTS ON MUZZLE-LOADING RIFLES DURING SUCH SEASON.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §704, Chapter 7, Title 7 of the Delaware Code by striking subsection (g) in its entirety and substituting in lieu thereof the following:

“(g) A muzzle-loading rifle, meaning a single-barrel gun which is loaded with black powder and projectile through the muzzle, having distinct rifling the full length of the bore, shooting an all-lead spherical or conical projectile, ignited by a flint striking a frizzen or by a percussion cap, having a minimum bore of 0.42 inches (10.67 mm), minimum barrel length of 28 inches (71.2 cm), minimum powder charge of 62 grains (4 grams) and having non-telescopic metal sights, may be used in the pursuit, taking or attempted taking (‘hunting’) of protected wildlife, provided, (1) such hunting takes place during the primitive weapon season established by the Department of Natural Resources and Environmental Control and is done pursuant to the requirements of law applicable to other means of hunting protected wildlife, (2) no person engaged in such hunting shall possess or use any multi-projected loads (buck and ball), explosive bullets or any balls smaller than .42 caliber and (3) such rifle is not used for hunting deer during the season established for hunting deer by shotgun. No weapon may be used for hunting deer during the primitive weapon season other than a

muzzle-loading rifle or long bow.”

Approved June 14, 1976

CHAPTER 460

FORMERLY HOUSE BILL NO. 920
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 21, TITLE 24 OF THE
DELAWARE CODE RELATING TO OPTOMETRY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2105 (a) and (b), Chapter 21, Title 24 of the Delaware Code by striking said subsections (a) and (b) in their entirety and substituting in lieu thereof new subsections (a) and (b) to read as follows:

“(a) Each member of the Board shall receive as compensation a sum not to exceed \$50.00 for each day actually engaged in the duties of the office, which sum shall include compensation for all expenses incurred by such member.

(b) All fees and other money received by the Board shall be paid over to the State Treasurer in accordance with Chapter 61, Title 29. All expenses of the Board, within the limits of appropriations made to it, shall be paid by the State Treasurer upon receipt of vouchers signed by the proper officers of the Board.”

Section 2. Amend §2107, Chapter 21, Title 24 of the Delaware Code by striking the figure “\$50.00” and substituting the figure “\$75.00” in lieu thereof.

Section 3. Amend §2109, Chapter 21, Title 24 of the Delaware Code by striking the figure “\$50.00” and substituting the figure “\$75.00” in lieu thereof.

Section 4. Amend §2112, Chapter 21, Title 24 of the Delaware Code by striking “\$10.00 per annum” and

substituting "\$30.00 biennially".

Section 5. Amend §2114, Chapter 21, Title 24 of the Delaware Code by striking "and 50 cents for issuing the same".

Approved June 14, 1976

CHAPTER 461

FORMERLY HOUSE BILL NO. 944

**AN ACT TO AMEND CHAPTER 20, TITLE 16 OF THE
DELAWARE CODE RELATING TO HEARING AID
DEALERS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2008 (c), Chapter 20, Title 16 of
the Delaware Code by striking the figure "6" and
substituting the figure "36" in lieu thereof.

Approved June 14, 1976

CHAPTER 462

FORMERLY HOUSE BILL NO. 990
AS AMENDED BY HOUSE AMENDMENT NO. 2, 3,
AND 4 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 17, TITLE 24, DELAWARE CODE, RELATING TO MEDICINE, SURGERY AND OSTEOPATHY; AND PROVIDING FOR A DELAWARE MEDICAL PRACTICES ACT.

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 17, Title 24 of the Delaware Code by striking Subchapter I, Subchapter II, Subchapter III, and Subchapter IV of said Chapter, and substituting in lieu thereof the following:

CHAPTER 17. MEDICAL PRACTICES ACT

SUBCHAPTER I. LICENSE REQUIREMENTS

§1701. Statement of Purpose.

Recognizing that the practice of medicine is a privilege and not a natural right of individuals, it is hereby deemed necessary as a matter of policy in the interests of public health, safety and welfare to provide laws and provisions covering the granting of that privilege and its subsequent use and control, and to provide regulations to the end that the public health shall be promoted and that the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine and from unprofessional conduct by persons licensed to practice medicine.

§1702. License Requirement for Practice of Medicine.

No person shall practice medicine in this State without having obtained from the Board of Medical Practice a certificate of authorization therefor and a license therefor as provided in this Chapter.

**§1703. Definitions of Practice of Medicine;
Application of Chapter.**

(a) As used in this Chapter, "medicine" means the science of restoring or preserving health and includes medicine, surgery, osteopathic medicine and surgery, forensic medicine and all the respective branches of the foregoing.

(b) As used in this Chapter, "practice of medicine" means to:

(1) Establish an office in furtherance of the activities stated in paragraphs (2), (3) and (4) of this subsection; or

(2) Investigate or diagnose or offer to investigate or diagnose any physical or mental ailment, condition or disease of any person, living or dead; or

(3) Sell or give to, suggest, recommend, prescribe or direct for the use of any person, any drug, surgery, medicine, appliance or other agent, for the prevention, cure or relief of any ailment or disease of the mind or body or any symptom thereof, or for the cure or relief of any wound, fracture, bodily injury, or deformity; or

(4) Hold oneself out in any manner as engaged in the practice of medicine or to use in connection with his name, the words or letters, Dr., Doctor, M.D., D.O., Healer, or any other title, word, letter or designation which may imply or designate one engaged in the practice of medicine.

(c) As used in this Chapter, the "unauthorized practice of medicine" shall refer to the practice of medicine as defined in subsection (b) of this section by persons not per-

mitted to perform any of the acts set forth in said subsection.

(d) This Chapter shall apply to:

(1) The administration of first aid in case of emergency or of domestic or family remedies in case of emergency; or

(2) Physicians of any civilian or military branch of the United State Government in the discharge of their official duties; or

(3) Physical therapists, psychologists, optometrists, pharmacists, chiropractors, cosmetologists, chiropodists and/or podiatrists, veterinarians, barbers, dentists, oral hygienists, professional nurses or practical nurses.

(e) Nothing contained in this Chapter shall prevent:

(1) The mechanical application of glasses, or

(2) A person who has earned a doctorate degree from a recognized college or university from using the letters "Dr." in connection with his name or from calling himself Doctor, except in matters related to medicine or health, and in such matters the type of doctorate held shall be specified; or

(3) The practice of massage; or

(4) The practice of ritual circumcision performed pursuant to the requirements or tenets of any religion; provided, however, that a person licensed to practice medicine in this State shall have certified in writing to the Board that in his opinion the practitioner has sufficient knowledge and competence to perform such procedures according to accepted medical standards, and shall not have withdrawn such certification; or

(5) The business of manicuring; or

(6) The practice of healing by spiritual means in accordance with the tenets and practice of any church or religious denomination by a duly accredited practitioner thereof. In the practice of healing by spiritual means, no individual shall use medical titles or any other designations which imply or designate him as licensed to practice medicine or surgery in this State. A person engaged in the practice of healing by spiritual means shall not perform surgical operations, nor shall he prescribe medications, nor shall any pharmacist or pharmacy honor any prescriptions drawn by such a person; or

(7) Any person from rendering medical, surgical, or health services, if such services are rendered by such person under the supervision and control of a physician or surgeon, licensed under this Chapter. Nothing herein shall be construed to change or modify legitimate practices currently prevailing in the practice of optometry or ophthalmology.

(f) Whenever any law, rule or regulation of this State or subdivision thereof requires the services of qualifications of a licensed physician or surgeon, such requirement shall be met by any person licensed to practice medicine under this Chapter.

(g) The confidential relations and communications between a physician registered under provisions of this Chapter and his patient are placed on the same basis as those provided by law between attorney and client, and nothing in this subchapter shall be construed to require any such privileged communications to be disclosed except as provided for by law.

(h) If any clause, paragraph, section or part of this law is declared unconstitutional by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the whole or any other portion of this law.

SUBCHAPTER II. THE BOARD OF MEDICAL PRACTICE

§1710. Composition of Board.

(a) The Board of Medical Practice, hereafter in this Chapter referred to as the "Board", is hereby established as the sole competent authority in this State to issue certificates to practice medicine and shall be the supervisory, regulatory and disciplinary body for the practice of medicine in this State.

(b) The Board shall consist of thirteen (13) voting members, six (6) of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in New Castle County, two (2) of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in Kent County, two (2) of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in Sussex County, one (1) from among all osteopathic physicians licensed to practice medicine in this State, and two (2) lay persons not licensed in any health related field and not licensed to practice law.

(c) The Governor shall appoint the members of such Board of Medical Practice from the list of resident members submitted by the Medical Society of Delaware, to the Governor by January first of each year under the seal and signed by the Secretary of the Society, and from the list of resident members submitted by the Delaware State Osteopathic Medical Society, which list shall be transmitted to the Governor by January first of such year, under the seal and signed by the Secretary of the Society, when the term of the osteopathic physician member is expiring. Such lists shall contain five names for each anticipated vacancy. The Governor shall appoint a Board of Medical Practice from the list of nominees and further, shall appoint two lay members as provided in (b) of this subsection. In case of the failure of the Societies to submit the lists, The Governor shall appoint licensed physicians or osteopathic physicians of his choice,

adhering to the prescribed representation ratio as set forth in subparagraph (b) of this Section.

(d) The original Board shall be appointed by the Governor in a timely fashion from a list of thirty (30) names, from the list of resident members submitted by the Medical Society of Delaware, eighteen (18) of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice in New Castle County, six (6) of whom shall be persons licensed to practice medicine in this state (except osteopathic physicians) who have their primary place in practice in Kent County, six (6) of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in Sussex County, and from a list of three (3) names from the list of resident members submitted by the Delaware Osteopathic Medical Society, from among all osteopathic physicians licensed to practice medicine in this State. The original Board shall consist of six (6) persons licensed to practice medicine (except osteopathic physicians) in New Castle County, two (2) persons licensed to practice medicine (except osteopathic physicians) in Kent County, two (2) persons licensed to practice medicine (except osteopathic physicians) in Sussex County, one (1) person from among all osteopathic physicians licensed to practice medicine in this State, and two (2) lay persons.

(e) The members of the Board shall be divided into three classes: the first class shall be composed of four (4) members, two (2) of whom shall be physicians who have their principal practice in New Castle County, one (1) of whom shall be a physician who has his principal practice in Kent County, and One (1) of whom shall be a lay person, whose term of office shall expire March 1 next ensuing after the initial appointment; the second class shall be composed of five (5) members, two (2) of whom shall be physicians who have their principal practice in New Castle County, one (1) of whom shall be a physician who has his principal practice in Sussex County, one (1) of whom shall be an

osteopathic physician practicing in the State of Delaware, and one (1) of whom shall be a lay person, whose term of office shall expire two (2) years after the initial appointment; and the third class shall be composed of four (4) members, two (2) of whom shall be physicians who have their principal practice in New Castle County, one (1) of whom shall be a physician who has his principal practice in Kent County, and one (1) of whom shall be a physician who has his principal practice in Sussex County, whose term of office shall expire three years after the initial appointment. At each annual appointment held after the initial classification and appointment, members shall be chosen for a full three (3) year term to succeed those whose terms expire. The term of office shall become effective March 1 of the year of such appointment.

(f) The President Judge of the Superior Court also shall be a member of the Board, but shall be without vote.

(g) Each one of the physician appointees must be a registered physician in good standing, and shall have practiced medicine or surgery under the laws of this State for a period of not less than five (5) years prior to such appointment.

(h) The Governor shall fill vacancies occurring for any reason other than expiration of term, for unexpired terms of such members, from the most recent submitted lists, and may remove any member of such Board for continued neglect of the duties required by this Chapter, or on recommendation of the appropriate medical society for unprofessional or dishonorable conduct.

(i) No member of the Board may serve more than four (4) full terms, which will not be diminished by serving an unexpired term as provided in §1710 (h) above.

(j) The terms of present members of the Board of Medical Examiners shall terminate upon the appointment of the new members of the Board of Medical Practice.

§1711. Organization.

(a) The Board shall organize annually within thirty days of its election and shall elect from its members a President, a Secretary, and a Treasurer and such other officers as it may deem necessary, two (2) of whom may be the same person.

(b) The Board shall establish and maintain an office within this State.

(c) Meetings of the Board shall be held at least four (4) times a year at such place or places as the Board may otherwise from time to time determine by a two-thirds vote of all Board members present at a meeting where patient records are to be discussed or at a meeting where any one or more of the following duties of the Board are to be discharged:

(1) Investigating the character of an applicant for a certificate to practice medicine;

(2) Investigating any charges of unprofessional conduct;

(3) Investigating complaints and charges of physical or mental illness or excessive use or abuse of drugs, including alcohol, resulting in inability to practice medicine and reasonable skill and safety; or

(4) Suspension, revocation or reinstatement of any certificate to practice medicine.

§1712. Quorum.

(a) Seven (7) members of the Board entitled to vote shall constitute a quorum for the transaction of business with five affirmative votes being required to transact ordinary day-to-day operations.

(b) The affirmative vote of at least nine members of the

Board entitled to vote, taken at a meeting at which a quorum is present, shall be required to adopt any regulation which could deprive a physician of his license; or to issue, deny, revoke or suspend any certificate to practice medicine; or to take any disciplinary action against any person.

§1713. Compensation Receipts and Disbursements.

(a) Each member of the Board shall receive fifty dollars (\$50.00) per diem when actually attending meetings of the Board or working under its direction; and in addition thereto shall be reimbursed for actual expenses necessarily incurred in carrying out the duties of the Board.

(b) All fees and other money received by the Board shall be paid over to the State Treasurer, in accordance with Chapter 61 of Title 29.

(c) All expenses of the Board and its members, within the limits of appropriations made to it, shall be paid by the State Treasurer upon warrants signed by the proper officers of the Board.

SUBCHAPTER III. LICENSING OF PHYSICIANS

§1720. Qualification Required.

(a) Any person not having a certificate to practice medicine in this State, and desiring to have such a certificate, must:

(1) Be a citizen of the United States, or have filed a petition for naturalization, or be a lawful permanent alien resident of the United States.

(2) Have a working ability to read, write, speak and understand and be understood in the English language.

(3) Have received the degree of "Doctor of Medicine" or "Doctor of Osteopathy" from a legally incorporated col-

lege or school approved by the Board, or recognized by the American Osteopathic Association or by the American Medical Association as of the time the degree was conferred; or if a graduate of a medical college or school other than one in the United States or Canada, have successfully passed the examination by the Educational Council for Foreign Medical Graduates.

(4) Have satisfactorily completed internship, or an equivalent training in an institution, which intership, training and/or institution shall have been approved by the Board.

(5) Submit to the Board a sworn statement by the applicant that he has not been convicted of a felony, been professionally penalized or convicted of drug addiction, violated the Medical Practice Act of another State, engaged in the practice of medicine without a license, prescribed narcotic drugs unlawfully, willfully violated the confidence of a patient, or has been professionally penalized or convicted of fraud.

(6) Submit to the Board a sworn statement by the applicant that he or she is at the time of application physically and mentally capable of engaging in the practice of medicine according to generally accepted standards and submit to such examination as the Board may deem necessary to determine such capability.

(7) Pass the professional examination (unless excepted under §1725 or waived as provided herein) administered by the Board under §1721 below.

(b) Each person desiring to practice medicine in this State shall submit to the Board an application in writing in such form as shall be required by the Board.

(c) Each applicant shall satisfy the Board of compliance with the requirements of subsection (a) above, in such form and manner as the rules and regulations published by the

Board shall require. Upon the applicant's so satisfying the Board and upon payment of such fee as shall be required by the rules and regulations of the Board the Board (unless an exception in §1725 applies) shall administer to the applicant an examination under §1721.

(d) The Board of Medical Practice may waive any of the above provisions by unanimous vote of the entire Board, with an explanation recorded in the minutes.

§1721. Professional Examinations.

(a) The Board shall conduct examinations of applicants for a certificate to practice medicine in accordance with rules and regulations prescribed and published by the Board. Such examination shall be given at least twice each year, or more often as the Board shall determine. Examinations shall be given in such a way that the persons grading examination papers shall have no knowledge of the identity of the individual being examined.

(b) The examination shall be in the English language, shall be comprehensive in character and designed to determine the applicant's fitness to practice medicine and shall cover those general subjects and topics, a knowledge of which is commonly and generally required of candidates for the degree of Doctor of Medicine and Doctor of Osteopathy conferred by approved colleges or schools in the United States.

(c) After examination, the Board shall promptly determine whether or not each applicant has passed the examination.

(d) The Board shall determine by regulation the number of times and conditions under which an applicant who has failed one or more examinations may again apply for a certificate to practice medicine under this Chapter.

**§1722. Certificate to Practice; Resignation; Annual
Renewal of Registration; Fees therefor.**

(a) The Secretary of the Board shall issue to each applicant who shall have successfully passed the examination a notice to that effect. Upon payment of a biennial fee of \$30.00 by such applicant to the Board, the Board shall forthwith issue to such applicant a certificate stating that such applicant is authorized to practice medicine in this State (hereinafter referred to as "certificate to practice medicine.")

(b) The Board shall keep a current register of all persons authorized to practice medicine in this State and of all certificates issued by it under this section.

(c) Each person to whom a certificate to practice medicine in this State has been granted, and who desires to continue to be authorized to practice medicine in this State, shall procure from the Board at intervals established pursuant to 29 Del. C. §7904 (d) (l) a certificate to practice medicine, and pay to the Board therefor a renewal fee of \$30.00 per biennium.

**§1723. Notice of Certificates to Division of Public Health
of the Department of Health and Social Services.**

(a) The Secretary of the Board shall, immediately upon issuing a certificate to practice medicine, notify the director of the Division of Public Health of the Department of Health and Social Services of such issuance, giving to the Division of Public Health the full name and address of the person to whom such certificate was issued, and the date thereof and, in case of a temporary certificate, the length of time for which the certificate authorizes practice, and limitation on the authorization, if any.

§1724. State License.

(a) The State Department of Finance shall issue a

license, signed by the Director of Revenue and certifying that the licensee is licensed to practice medicine in this State in conformity with the laws hereof, to any person who presents to the Director of Revenue a current certificate to practice medicine issued by the Board as provided in this Subchapter together with payment of all applicable State fees and taxes. No person shall practice medicine in this State without having obtained a license therefor as provided in this Subchapter; provided, however, that a temporary license shall be issued to any person presenting to the Director of Revenue a current temporary certificate to practice medicine, together with payment of any State license fee, such temporary license to be valid for the same length of time as is the temporary certificate.

§1725. Exceptions to Examinations.

(a) Under such rules and regulations as the Board may adopt, the examination required for a certificate to practice medicine may be waived by the Board in the following cases:

(1) A person who is licensed or otherwise legally qualified to practice medicine in any State of the United States or other jurisdiction of their discretion may be issued a certificate to practice medicine for not less than two weeks nor more than three months for the purpose of taking charge of the practice of a person licensed to practice medicine in this State during a temporary illness or absence from this State. The Board may, in its discretion, extend the temporary certificate for an additional three months, but not longer. Such certificate shall be issued upon the written request to the Board of the person licensed to practice medicine in this State, and upon the payment to the Board of a fee of \$25.00. The written request shall contain a certification that the purpose of the temporary certificate is to take charge of the practice of the person licensed to practice medicine in this State during a temporary illness or absence from the State.

(2) A person who is employed in this State as an intern, resident, house physician or fellow in any hospital

accredited by the Joint Commission on the Accreditation of Hospitals or the American Osteopathic Hospital Association or who is a staff physician employed in any government institution, may be given a certificate to practice medicine for a period of time not to exceed the length of time of employment in such hospital or governmental institution, but such certificate shall be subject to yearly renewal pursuant to Section 1722 (c) above and shall limit such practice to the hospital or institution where such person is employed.

(3) A person licensed to practice medicine by competent authority in any of the United States or any other jurisdiction approved by the Board.

(4) A person who has satisfactorily passed the examination given by the National Board of Medical Examiners, or the National Board of Examiners for Osteopathic Physicians and Surgeons.

(b) When a temporary certificate is issued and a license obtained, the physician receiving such certificate shall have authority to practice medicine in this State for the time and under the conditions specified in the temporary certificate.

§1726. Consulting Physicians from other States.

(a) The provisions of this Chapter shall not prevent persons who are licensed to practice medicine in any of the United States, or a foreign country, from coming into this State in consultation with any person licensed to practice medicine in this State.

(b) The provisions of this Chapter shall not prevent a person licensed to practice medicine in any State of the United States contiguous to Delaware and actively practicing medicine in such State, from practicing medicine within this State, subject to limitations and conditions set by the Board, but no such person shall establish an office for the practice of medicine in this State without obtaining a license.

§1727. Temporary Certificate in Emergency .

(a) The Board may issue temporary emergency certificates to practice medicine, said temporary certificates to be limited to twelve months' duration, but renewable at the discretion of the Board, to such persons as it finds qualified to practice medicine in this State during a public emergency directly relating to the availability of and the need for medical practitioners declared by the President of the United States, the Governor of the State of Delaware, or by the unanimous vote of the entire Board. The holder of any such temporary certificate, when licensed by the Director of Revenue as provided in §1724 of this Chapter may, during the term specified therein, unless sooner revoked, practice medicine in this State, subject to all the laws of this State and to such regulations, restrictions, as the Board may make. In issuing such temporary certificate, the Board may make such regulations or restrictions as it deems best, including but not limited to, area limitations on the practice of the holder of a temporary certificate and the nature of his practice within the State.

§1728. Duty to Report .

(a) It shall be the duty of every person to whom a license is issued to practice medicine and surgery in this State to report to the Board that he is treating professionally any person to whom a certificate is issued to practice medicine and surgery for any condition as defined in §1731 (c) of Subchapter IV if, in his opinion, the person so treated may be unable to practice medicine and surgery with reasonable skill or safety. Such report shall be written and shall provide the name and address of the person treated, the exact condition found, and an opinion of whether or not action should be taken under Subchapter IV. Any person so reporting to the Board or testifying in any proceedings as a result of such report shall not be subject to, and shall be immune from, claim, suit, liability, damages, or any other recourse, civil or criminal, so long as such person acted in good faith and without malice, good faith being presumed until proven

otherwise, with malice required to be shown by the complainant.

(b) It shall be the duty of every person to whom a certificate is issued to practice medicine and surgery to report within thirty (30) days to the Board any changes in hospital privileges as a result of disciplinary action taken by hospitals or disciplinary action taken by medical societies against him.

(c) It shall be the duty of every person to whom a certificate is issued to practice medicine and surgery in this State to report to the Board information concerning medical malpractice claims settled or adjudicated to final judgment as provided in Chapter 68, Title 18.

SUBCHAPTER IV. PROCEEDINGS OF THE BOARD

§1730. Powers and Duties.

(a) The Board shall have the following powers and duties in addition to the other powers and duties set forth in this Chapter.

(1) To investigate the character of all applicants for a certificate to practice medicine to determine whether or not he or she has previously engaged in unprofessional conduct defined in §1731, and whether he or she is physically and mentally capable of engaging in the practice of medicine with safety to the public.

(2) To conduct such examinations as it deems necessary and proper, not inconsistent with the laws of this State and of the United States, to determine the professional qualifications of those persons who apply for certificates to practice medicine in this State.

(3) To investigate complaints and charges of unprofessional conduct respecting any holder of a certificate to practice medicine.

(4) To investigate complaints and charges of the inability of a person to practice medicine and surgery with reasonable skill or safety to patients by reason of incompetence, or of mental illness, or mental incompetence, or physical illness, including but not limited to deterioration through the aging process, or loss of motor skill, or excessive use or abuse of drugs, including alcohol.

(5) To investigate complaints of unauthorized practice of medicine.

(6) In accordance with the provisions of this Subchapter, to levy fines not to exceed one thousand dollars (\$1000), or to restrict, revoke, or suspend or reinstate any certificate to practice medicine.

(7) To employ necessary stenographic or clerical help.

(8) To administer oaths and to compel the attendance of witnesses and the production of documents by the filing of praecipe for a subpoena with the Prothonotary of any county of this State, said subpoena to be effective throughout the entire State, service of such subpoena to be made by any sheriff of this State. Failure to obey a subpoena shall be punishable according to the Rules of the Superior Court.

(9) To require the production of and receive information regarding changes in hospital privileges as a result of disciplinary action taken by hospitals or disciplinary action taken by medical societies against any physician and act thereon as provided in (10) below.

(10) To reprimand, censure publicly or privately, or take other appropriate disciplinary action with respect to any person authorized to practice medicine in this State.

(11) To take or cause depositions to be taken as needed in any investigation, hearing or proceeding.

(12) To hold hearings pursuant to the provisions of this Subchapter.

(13) To promulgate rules and regulations not inconsistent with this Chapter or other laws of this State for the carrying out of the powers and duties required by this Subchapter. All such rules and regulations shall be published and available to anyone who desires to see them.

(14) By resolution passed by a majority of the members of the Board, to designate one or more committees, each committee to include one or more of the members of the Board and such other person or persons as may be appropriate. Unless specific vote of the Board is required by this Chapter, each such committee may have and exercise all powers and authority of the Board delegated to it by the Board, provided, however, that no such committee shall have the power or authority to fine or to refuse, grant, restrict, revoke or suspend or reinstate a certificate of authority to practice medicine.

(15) To designate such of the records of the Board as the Board may deem proper to constitute confidential records of the Board which shall not constitute public records or be available for general inspection by the public, such designation or designations as made from time to time by the Board to be effective as if constituting a specific exemption from disclosure by statute.

(A) Every member of the Board and any committees appointed thereby shall not be subject to, and shall be immune from, claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken so long as such member acted in good faith and without malice, good faith being presumed until proven otherwise, with malice required to be shown by the complainant.

(B) No member of the Board shall in any manner what-

soever discriminate against any applicant or person holding or applying for a certificate to practice medicine by reason of sex, race, color, creed or national origin.

SUBCHAPTER V. PROFESSIONAL REGULATION

§1731. Unprofessional Conduct and Inability to Practice Medicine and Surgery.

(a) Any person to whom a certificate to practice medicine and surgery in this State has been issued may be disciplined by the Board, by means of fine, restriction, revocation or suspension, either permanently or temporarily, of his certificate of authorization, or other action deemed appropriate by the Board, for unprofessional conduct as defined in subsection (b).

(b) Unprofessional conduct is hereby defined as any of the following acts:

(1) Use of any false, fraudulent or forged statement or document or use of any fraudulent, deceitful, dishonest or immoral practice in connection with any certification or licensing requirements of this Act;

(2) Conviction of a felony;

(3) Any dishonorable or unethical conduct likely to deceive, defraud or harm the public;

(4) Practice of medicine under a false or assumed name;

(5) Practice of medicine without a license unless authorized by this Act;

(6) Use, distribution or prescription for use of dangerous or narcotic drugs other than for therapeutic or diagnostic purposes;

(7) Advertising of the practice of medicine in any unethical or unprofessional manner;

(8) Solicitation or acceptance of a fee from a patient or other person by fraudulent representation that a manifestly incurable condition, as determined with reasonable medical certainty, can be permanently cured;

(9) Knowing or intentional performance of any act which, unless authorized by this Act, assists an unlicensed person to practice medicine;

(10) The willful or wanton failure to supervise a person working under his direction;

(11) Gross misconduct, negligence or incompetence in the practice of medicine;

(12) Willful violation of the confidential relations and communications of a patient;

(13) Willful failure to report to the Board as required by §1728 (a) of this Act;

(14) Willful failure to report to the Board as required by §1728 (b) of this Act;

(15) Willful failure to report to the Board as required by §1728 (c) of this Act;

(16) Willful failure to divulge information relevant to authorization or competence to practice medicine to the Board or any committee thereof upon its request;

(17) The violation of any provision of this Chapter, or the violation of an order or regulation of the Board directly related to medical procedures, the performance of which would harm or injure the public or any individual.

(c) The certificate to practice medicine and surgery issued to any person shall be subject to restriction, revocation or suspension, either permanently or temporarily in case of inability of the person to practice medicine and surgery with reasonable skill or safety to patients by reason of one or more of the following:

(1) Mental illness, or mental incompetence;

(2) Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill;

(3) Excessive use or abuse of drugs, including alcohol.

(d) The Board may establish by class and not by individual requirements for continuing education and/or re-examination as a condition for re-certification to practice medicine.

§1732. Complaints: Investigative Committees.

(a) It shall be the duty of the Board to investigate, either upon complaint or, whenever it shall think proper, upon its own motion, cases of unprofessional conduct or inability to practice medicine as defined by §1731 (a), (b) and (c) of this Subchapter, unauthorized practice of medicine and medical malpractice claims, to formulate charges against any person to whom a certificate to practice medicine in this State has been issued if the circumstances warrant, to proceed, upon due notice to respondent or such charges and of the time and place of hearing, to hear such charges upon sworn testimony and other evidence, to determine whether or not disciplinary action is warranted, and, in the event it shall find disciplinary action to be warranted, to make findings of fact and state conclusions of law with respect thereto, and take action by means of fine, restriction, revocation or suspension, either permanently or temporarily, of a certificate or authorization or take other action deemed appropriate.

(b) The Board may appoint an unbiased committee to investigate charges of unprofessional conduct and medical malpractice. Investigation by this committee shall stay within the bounds of the charge being investigated, unless the investigation itself provides good cause for additional investigation. The committee shall report to the Board its activities and findings. The Board may direct the committee to prepare a complaint against the person accused.

(c) The Board may appoint an unbiased committee to investigate charges of inability to practice medicine. Investigation by this committee shall stay within the bounds of the charge being investigated, unless the investigation itself provides good cause for additional investigation. The committee shall conduct an examination to determine whether the person to whom a certificate has been issued to practice medicine is fit to practice medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis. If the committee in its discretion deems a mental or physical examination necessary, the committee shall order the person to submit to such examination by a physician designated by the committee. Any person to whom a certificate has been issued to practice medicine shall, by seeking certification, be deemed to have given his consent to submit to mental or physical examination when so directed by the committee, and, further, to have waived all objections to the admissibility of the committee's report to the Board on the grounds of privileged communication; the person who submits to a diagnostic mental or physical examination as ordered by the committee shall have a right to designate another physician to be present at the examination and make an independent report to the Board. The committee shall report to the Board its activities and findings. The Board may direct the committee to prepare a complaint against the person.

(d) All complaints against persons to whom a certificate to practice medicine has been issued in this State shall be in writing, shall set out with particularity the essential facts constituting the alleged unprofessional conduct, inability to practice medicine, or medical malpractice.

(e) Complaints of unauthorized practice of medicine shall be reported to the Attorney General.

(f) The Attorney General shall provide legal services to the Board and its committees.

§1733. Notice.

Respondent shall be served personally with the complaint not less than 30 days nor more than 60 days prior to a hearing on the complaint, and shall be advised of the time and place of the hearing. Respondent may file with the Board a written response to the complaint within 20 days of service.

§1734. Hearings.

(a) Procedure. Charges of unprofessional conduct or inability to practice medicine under this Subchapter shall be heard upon sworn testimony. The rules of evidence applicable to the Superior Court of the State of Delaware shall be followed as far as practicable.

(b) Privacy. All hearings on complaints shall be opened to the public only at the request of the respondent.

(c) Transcript of Proceedings. A stenographic transcript of all formal hearings shall be made and respondent shall be entitled to obtain a copy of such transcript at his own expense.

(d) Quorum. No disciplinary action shall be taken unless nine voting members of the Board shall be present during all formal hearings and unless nine Board members, who must have participated in all hearings, shall vote in favor of disciplinary action.

(e) Rights of Respondent. Respondent shall have the

right to defend against the charge by the introduction of evidence, the right to be represented by counsel, and the right to examine and cross-examine witnesses. He shall also have the right to issuance of subpoenas for the attendance of witnesses to appear and testify or for the production of books and records.

(f) **Conduct of the Hearing.** One member of the investigating committee shall examine all witnesses called in support of the charges and shall present all other evidence in support thereof and may also cross-examine any witness testifying on behalf of respondent. No member of the investigating committee who is also a member of the Board shall take part in the deliberations or decisions of the Board as to the charge.

(g) **Reports.** The President of the Board shall designate a member of the Board to write the draft report recommending disciplinary or other action, which report shall contain the findings of fact and conclusions of law as required. Such draft report shall be submitted to all members of the Board taking part in the hearings, and upon approval by the necessary majority shall become the final report, which report shall include the disciplinary action taken. The Board will make their discipline public if in their judgment it will serve the best interests of the public.

§1735. Revocation or Suspension of Certificate.

(a) If the Board shall determine that fine, restriction, revocation or suspension of certificate of authority to practice medicine or any other action is warranted, an order so stating the action shall be served personally or by registered mail upon the certificate holder, filed in the office of the Board, filed with the Division of Public Health of the Department of Health and Social Services and with the Director of Revenue. The order may contain such terms with respect to probation, reinstatement, length or suspension, or other terms with respect to probation, reinstatement, length of suspension, or other terms as the Board shall deem ap-

propriate in the circumstances. Upon receipt of an order of the Board revoking or suspending a certificate of authority to practice medicine, the Director of Revenue shall forthwith revoke the license to practice medicine issued by him and shall comply with the terms of any such order.

(b) The Board may take such other disciplinary action as a majority of its members shall deem appropriate in the circumstances.

(c) If less than nine members of the Board vote for the taking of any disciplinary action, the Board shall forthwith order a dismissal of the complaint and the exoneration of the certificate holder. When a complaint has been dismissed, the Board shall relieve the accused from any possible opprobrium that may attach by reason of the charges made against him by such public exoneration as the Board shall determine is necessary, if requested by the certificate holder to do so.

(d) The Director of Revenue shall not issue any license or renewal thereof to any person whose certificate to practice medicine has been revoked or suspended by the Board except in conformity with the terms and conditions of the order of revocation or suspension, or in conformity with any order of reinstatement issued by the Board, or in accordance with a final judgment in any proceeding for review instituted under the provisions of this Chapter.

§1736. Appeal Procedure.

(a) If the accused wishes to appeal a decision of the Board, he shall do so within thirty days and if no appeal is made within such thirty-day period, the action of the Board shall be final. An appeal shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards, and agencies.

(b) Appeals shall be heard and decided by the Superior

Court in the county in which such person was practicing his profession or occupation at the time of the alleged offense. The appeal shall be on the record before the Board. The Court shall fix a time to hear such appeal at the pending or next term of Court, and may extend the hearing of such appeal.

(c) Appeals shall be heard on the original papers and exhibits, which shall constitute the record on appeal.

(d) Any authorization to practice originally granted to the appellant shall not be revoked, suspended or otherwise curtailed until the matter is finally determined after appeal, unless the complaint directly involves inability to practice medicine and surgery with reasonable skill or safety to patients as provided in §1731 of this Chapter.

(e) Any person whose authority to practice under the provisions of this chapter has been revoked or suspended may, after the expiration of ninety days from the decision of the Superior Court, or after the expiration of ninety days following the formal decision of the Board if no appeal is taken, apply to the Board to have the same re-granted to him upon satisfactory showing that the disqualification has ceased.

§1737. Records of Hearing and Appeal.

Although a complaint of unauthorized practice may be reported to the Attorney General, the records of the Board, including original complaints, hearings on such complaints by the Board and appeals shall be confidential and shall not be released to any person; provided, however, complaints may be released upon the joint approval by the Board and the accused or upon request by the accused; hearings of the Board may be released by joint approval by the Board and the accused or upon request by the accused; and the record of any appeal, excluding the original complaint and record of the Board, may be released by the Superior Court upon motion by any of the parties thereto or by motion of the Court itself."

Section 2. §1761 of Chapter 17, Title 24, Delaware Code, is hereby repealed.

Section 3. Amend §1768, Chapter 17, Title 24, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new §1768 to read as follows:

“§1768. Immunity of Persons Reviewing Medical Records, Medical Care, and Physicians’ Work

(a) The members of the Board of Medical Practice or of any committee appointed thereby, and members of hospital and medical society and osteopathic medical society committees, or of a professional standards review organization established under Federal law (or other peer review committee or organization), whose function is the review of medical records, medical care, and physicians’ work, with a view to the quality of care and utilization of hospital or nursing home facilities, home visits, and office visits shall not be subject to, and shall immune from, claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, or performed or recommendation made so long as such member acted in good faith and without malice in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under the provisions of this Chapter (excluding only Subchapter VI of this Chapter) of this Title or any other provisions of the Delaware Law, Federal law or regulations, or duly adopted rules and regulations of the aforementioned committees, organizations, and hospitals, good faith being presumed until proven otherwise, with malice required to be shown by the complainant.

(b) The records and proceedings of any such committees or organizations as described in §1768 (a) above shall be confidential and shall be used by such committees or organizations and the members thereof only in the exercise of the proper functions of the committee or organization and shall not be public records and shall not be available for court subpoena or subject to discovery; and no person in attendance

at a meeting of any such committee or organization shall be required to testify as to what transpired thereat. No physician, hospital, organization, or institution furnishing information, data, reports, or records to any such committee or organization with respect to any patient examined or treated by such physician or confined in such hospital or institution shall, by reason of furnishing such information, be liable in damages to any person or subject to any other recourse, civil or criminal.”

Section 4. Amend Chapter 17, Title 24, Delaware Code by redesignating the present Subchapter V and Subchapter VI and further redesignating all subsequent subchapters accordingly.

Approved June 14, 1976

CHAPTER 463

FORMERLY HOUSE BILL NO. 993

**AN ACT TO AMEND CHAPTER 7, TITLE 7,
DELAWARE CODE RELATING TO REGULA-
TIONS AND PROHIBITIONS CONCERNING
GAME AND FISH PERMITTING THE USE OF A
SINGLE SHOT MUZZLE LOADING PISTOL
UNDER CERTAIN CIRCUMSTANCES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §704 (g), Chapter 7, Title 7,
Delaware Code by adding to the end thereof the following:

“The Department may permit the use of a single shot
muzzle loading pistol being a minimum .42 calibre with a
minimum powder charge of 40 grains during the primitive
weapons season for deer, when using a muzzle loading rifle
to provide the coup-de-grace, if required.”

Approved June 14, 1976

CHAPTER 464

FORMERLY HOUSE BILL NO. 1016
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF LABOR FOR THE PAYMENT OF UNEMPLOYMENT BENEFITS TO STATE EMPLOYEES.

WHEREAS, the sum of \$250,000 was appropriated in the Budget Act for Fiscal Year 1976 to pay Unemployment Compensation to State Employees; and

WHEREAS, disbursements from this fund through December 1975 have totaled \$220,905; and

WHEREAS, the estimated liability for this fiscal year is \$400,000.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. A supplemental appropriation in the amount of \$150,000 is hereby appropriated to the Department of Labor for the cost of Unemployment benefits to State employees through the end of the fiscal year 1976.

Unemployment Compensation (60-07-000-02-80)
\$150,000

Section 2. This Act is a supplemental appropriation and shall be paid by the State Treasurer from funds not otherwise appropriated.

Section 3. Any funds not expended as of June 30,

1976 shall revert to the General Fund.

Approved June 14, 1976

CHAPTER 465

FORMERLY HOUSE BILL NO. 1042

**AN ACT TO AMEND CHAPTER 41, TITLE 11,
DELAWARE CODE RELATING TO THE HOURLY
RATE OF PAYMENT ALLOWABLE TO DEFEN-
DANTS TOWARDS PAYMENT OF FINES AND
COSTS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §4105(b), Chapter 41, Title 11, Delaware Code by inserting after the period (.) at the end of the first sentence thereof the following sentence:

“For purposes of this Section, an hourly rate equal to the minimum wage for employees, as established by Chapter 90, Title 19, Delaware Code, shall be used in computing the amount credited to any person discharging fines and costs.”

Approved June 14, 1976

CHAPTER 466

FORMERLY HOUSE BILL NO. 1135
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND TITLE 4 OF THE DELAWARE
CODE RELATING TO LICENSES FOR NON-
PROFIT GROUPS AND ORGANIZATIONS, AND
TO LICENSES FOR CATERERS.**

WHEREAS, increased applications for gathering licenses have been received by the Delaware Alcoholic Beverage Control Commission; and

WHEREAS, these gathering licensees are operating as **de facto** tavern and taproom licensees, and are only open at peak times; and

WHEREAS, taproom and tavern licensees are restricted by distance requirements and are subject to greater license fees; and

WHEREAS, to protect duly licensed and legally-spaced taproom and tavern owners from the unfair competition of gathering licensees engaged in the sale of alcoholic liquors for profit, gathering licenses are hereby limited to non-profit groups and organizations promoting a civic, social, educational or religious purpose as provided in this Act. Gathering licensees presently licensed which come within the caterer definition in §101 of Title 4 as provided below may continue as licensees until the expiration of their gathering licenses, at which time they must qualify as licensees under §512 (g) of Title 4, as provided below.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §101, Title 4 of the Delaware Code by inserting the following new subsections, and by re-

numbering the succeeding subsections in said section accordingly:

“(5) ‘Caterer’ means any proprietorship, partnership or corporation engaged in the business of providing food and beverages at social gatherings such as weddings, dinners, benefits, banquets or other similar events for consideration on a regular basis and duly licensed by the State of Delaware as caterers with at least sixty percent (60%) of its gross receipts resulting from the sale of food.”

Section 2. Amend present subsection (13), Section 101, Title 4 of the Delaware Code by adding the following after the word “dispensed”:

“by non-profit organizations such as churches, colleges and universities, volunteer fire companies, political parties, or other similar non-profit groups having a common civic, social, educational or religious purpose, or where entrance tickets are sold or entrance fees are required by those non-profit organizations.”

Section 3. Amend §512, Title 4 of the Delaware Code by adding thereto a new subsection (g), which shall read as follows:

“(g) A caterer may apply for a license to purchase alcoholic liquors from the Commission or through the Commission, as provided in §702 of this Title, from a manufacturer or from an importer and to receive, keep and sell such alcoholic liquors either by the glass or by the bottle, for consumption on any portion of the premises approved by the Commission for that purpose.”

Section 4. Amend §554 (i) (l), Title 4 of the Delaware Code by striking the period (.) at the end of said sub-paragraph, and by adding the following:

“or unless the said license shall be for any holiday specified in §714 (e) of this Title, in which case the license fee

shall be an additional \$5.00 for each such holiday.”

Section 5. Amend §554 (i) (2), Title 4 of the Delaware Code by adding the following new sentence at the end of said sub-paragraph:

“For the holder of an annual premises-type gathering license to sell alcoholic liquor on any holiday specified in §714 (e) of this Title, the fee shall be an additional \$200.”

Section 6. Amend §554, Title 4 of the Delaware Code by adding the following new subsection to said section:

“(z) For a license to sell alcoholic liquors as a caterer, the license fee shall be \$225.”

Section 7. Amend §714 (d), Title 4 of the Delaware Code by inserting, between the word “railroad” and the word “shall” as the same appear in the first sentence of said subsection, the following:

“caterer”

Section 8. Amend §714 (d), Title 4 of the Delaware Code by adding after the word “railroad” as the same appears in the third and fourth sentence of said subsection the word “caterer”.

Section 9. Amend subsection 512 (d) Chapter 5, Title 4 of the Delaware Code by adding a new sentence at the end thereof to read as follows:

“Any person who has purchased a bottle of alcoholic liquor other than beer from a caterer and who has partially consumed the contents of such bottle on the premises approved by the Commission for the catering, may remove it from the approved premises for the purpose of consumption off the approved premises.”

Approved June 14, 1976

CHAPTER 467

FORMERLY HOUSE BILL NO. 1014

AN ACT MAKING SUPPLEMENTARY APPROPRIATIONS TO THE DEPARTMENT OF STATE FOR THE PURPOSE OF PAYING EMPLOYEES WHO FAILED TO RECEIVE THEIR PROPER ANNUAL SALARIES.

WHEREAS, as a result of an audit of three employees by the Personnel and/or Auditor of Accounts and the Department Personnel Section revealed that they did not receive: First Person; proper incremental step. Second Person; proper supervisory differential. Third Person; annual increments at proper times; and

WHEREAS, these employees did not receive salaries which they were entitled to statutorily and by regulation of the Personnel Department; and

WHEREAS, Linda Sue Coulbourn is entitled, as a result of the audit, to back pay in the amount of \$1,216.41; and

WHEREAS, Frances E. Fredericks is entitled, as a result of the audit, to back pay in the amount of \$42.00; and

WHEREAS, Linda Ann Biddle is entitled, as a result of the audit, to back pay in the amount of \$653.38

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The total sum of \$2,293.19 is hereby appropriated to the Department of State for the purpose of

paying three employees, who inadvertently were not paid properly dating as far back as April 7, 1969. The \$2,293.19 amount is broken down as follows: Linda Sue Coulbourn will receive \$1,216.41, Frances E. Fredericks will receive \$42.00, Linda Ann Biddle will receive \$653.38. The State FICA equals \$111.84 and the State Pension equals \$269.56.

Section 2. Funds appropriated herein shall be paid by the State Treasurer from the General Fund monies not otherwise appropriated.

Section 3. This is a supplementary appropriation act and funds appropriated herein which remain unexpended on June 30, 1976 shall revert to the General Fund.

Approved June 18, 1976

CHAPTER 468

FORMERLY HOUSE BILL NO. 1061

AN ACT TO AMEND TITLE 9, RELATING TO COUNTIES TO CORRECT EDITORIAL ERRORS IN THE DELAWARE CODE ANNOTATED.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §301 (b), Title 9, Delaware Code by adding to said subsection (b) the following two sentences:

“Wherever the words ‘County Government’ are used in this Title, the words ‘County Council’ should be substituted as to New Castle County except in §1521 (b). Wherever the Words ‘officials of the County governing body’ are used in this Title, the words ‘County Councilmen’ should be substituted as to New Castle County.”

Section 2. Amend §301 (c), Title 9, Delaware Code, by striking the words “any county” and substituting in lieu thereof the words “Kent and Sussex Counties”.

Section 3. Amend §3001 (1), Title 9, Delaware Code by striking the period after the word “County” and adding the following:

“in Section 3003 but shall mean the Department of Planning in all other sections.”

Section 4. Amend §3007 (a), Title 9, Delaware Code by striking the words “County Executive” and substituting in lieu thereof the words “County Council by the President”.

Section 5. Amend §8302 (a) and (b), Title 9,

Delaware Code by striking the words "the respective county governing bodies" and substituting in lieu thereof the words "each Board of Assessment or Department of Finance".

Section 6. Amend §8303 (a), Title 9, Delaware Code by striking the words "the respective County governing bodies" and substituting in lieu thereof the words "each Board of Assessment or Department of Finance".

Section 7. Amend §8309, Title 9, Delaware Code, by striking the words "the respective County governing body" and substituting in lieu thereof the words "Board of Assessment or Finance Department".

Section 8. Amend §8310 (a), Title 9, Delaware Code, by striking the words "each respective County governing body" and substituting in lieu thereof the words "each Board of Assessment or Department of Finance".

Section 9. Amend §8312 (a), (b), and (c), Title 9, Delaware Code by striking the words "respective County governing body" and substituting in lieu thereof the words "each Board of Assessment or Department of Finance".

Section 10. Amend §8315, Title 9, Delaware Code, by striking the words "the County governing body" and substituting in lieu thereof the words "each Board of Assessment or Department of Finance".

Section 11. Amend §8422, Title 9, Delaware Code, by inserting the words "or Director of Finance" after the word "Treasurer" and before the word "for".

Approved June 18, 1976

CHAPTER 469

FORMERLY HOUSE BILL NO. 1072
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 3, TITLE 21,
DELAWARE CODE, RELATING TO FEES FOR
CERTIFIED RECORDS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §305, Chapter 3, Title 21, Delaware Code by striking subsection (e) in its entirety and inserting in lieu thereof the following new subsection (e) to read as follows:

“(e) The Secretary shall charge a fee of \$2.00 for each copy of a record supplied to persons other than those designated in subsections (b) and (c-1), (c-3), (c-4), (c-5) and (c-7) of this Section. If a certified copy of a record is requested, the fee for such certified copy shall be \$4.00 to all persons other than those designated in subsections (b) and (c-1, (c-3), (c-4, (c-5) and (c-7) of this Section.”

Approved June 18, 1976

CHAPTER 470

FORMERLY HOUSE BILL NO. 356
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT REPEALING CHAPTER 19 OF TITLE 6,
DELAWARE CODE, RELATING TO "FAIR
TRADE LAWS".**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Chapter 19, Title 6, Delaware Code, is
hereby repealed in its entirety.

Approved June 18, 1976

CHAPTER 471

FORMERLY HOUSE BILL NO. 735
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND CHAPTER 11, TITLE 24 OF THE
DELAWARE CODE RELATING TO DENTISTRY
AND ORAL HYGIENE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1105, Chapter 11, Title 24 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

“§1105. Compensation and Expense of Members.

Each member of the Board shall receive as compensation a sum not to exceed \$50 for each day actually engaged in the duties of the office, which sum shall include compensation for all expenses incurred by such member.”

Section 2. Amend subsection (a), Section 1122, Chapter 11, Title 24 of the Delaware Code by striking the figure “\$50” and substituting the figure “\$75” in lieu thereof.

Section 3. Amend §1125, Chapter 11, Title 24 of the Delaware Code by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

“(a) For the purpose of correcting and revising the register of legal practitioners of dentistry as kept by the Board, each person to whom a certificate to practice dentistry in this State is granted shall procure from the Board, on or before the due date, a renewal certificate of registration.”

Section 4. Amend §1151, Chapter 11, Title 24 of the Delaware Code by striking the Figure "\$15" and substituting the figure "\$25" in lieu thereof.

Section 5. Amend §1153, Chapter 11, Title 24 of the Delaware Code by striking the figure "\$15" as the same appears at the end of subsection (a), and substituting the figure "\$25" in lieu thereof.

Section 6. Amend §1154, Chapter 11, Title 24 of the Delaware Code by striking the words "30th day of June" as the same appear in subsection (a), and substituting the words "1st day of May" in lieu thereof.

Section 7. Amend §1151, Chapter 11, Title 24 of the Delaware Code by striking the word "female" as the same appears in subsection (a).

Section 8. Amend Subchapter III, Chapter 11, Title 24 of the Delaware Code by striking the word "she" wherever the same appears in said Subchapter, and substituting the word "he" in lieu thereof.

Section 9. Amend Subchapter III, Chapter 11, Title 24 of the Delaware Code by striking the word "her" wherever the same appears in said Subchapter, and substituting the word "his" in lieu thereof.

Approved June 18, 1976

CHAPTER 472

FORMERLY HOUSE BILL NO. 1013

**AN ACT TO AMEND CHAPTER 182, SECTION 1,
VOLUME 45 LAWS OF DELAWARE, AS
AMENDED, RELATING TO THE TOWN OF
DELMAR, BY PROVIDING A METHOD FOR AN-
NEXATION.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of the members elected to each branch concurring therein):

Section 1. Amend Chapter 182, Section 1, Volume 45, Laws of Delaware, as amended, by striking the third paragraph of the said Section 1 beginning with the words, "The Mayor and Council", and substituting in lieu thereof the following third paragraph:

"In the event it becomes feasible and necessary in the future for the Town of Delmar to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:".

Section 2. Futher amend Chapter 182, Section 1, Volume 45, Laws of Delaware, as amended, by striking all of said section after the third paragraph and substituting in lieu thereof the following:

"(a) If all of the property owners of the territory contiguous to the then existing corporate limits and territory of the Town of Delmar, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Delmar shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the

Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Delmar and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Delmar may then pass a second Resolution annexing such territory to The Town of Delmar. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the Territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Delmar.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of The Town of Delmar by written Petition with the signature of each such Petitioner duly acknowledged shall request the Town Council to annex that certain territory in which they own property, the Mayor of the Town of Delmar shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the Town Council by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less:

than three (3) of the elected members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the Town of Delmar.

(c) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the Town Council of Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Delmar and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second Resolution shall then be passed by the Town Council proposed to the property owners and residents of both The Town of Delmar and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the Committee, the Resolution proposing to the property owners and the residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds ($2/3$) of the elected members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds ($2/3$) of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper

having a general circulation in The Town of Delmar at least one (1) week prior to the date set for the public hearing, or, at the discretion of The Town Council, the said Resolution shall be posted in four (4) public places both in the Town of Delmar and in the territory proposed to be annexed.

(d) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall **ipso facto** be considered the determination of the Town Council to proceed with the matter of the proposed annexation.

(e) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation of the Town of Delmar, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in the Town of Delmar and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth the said Special Election.

(f) At the Special Election, every property owner, whether an individual, partnership or a corporation both in the Town of Delmar and in the territory proposed to be annexed shall have one (1) vote, except as hereinafter provided. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of either the Town of Delmar or of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. In the event that a person owns property both in the Town of Delmar and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in the Town of Delmar and in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Delmar and not in

the territory proposed to be annexed. Nonresident property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of the Town of Delmar in the case of Town property owners and citizens of the Town and the books and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

(g) In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the Town Manager of the Town of Delmar. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

(h) Town Council of the Town of Delmar may cause either voting machines or paper ballots to be used in the Special Election, the form of ballot to be printed as follows:

- ☐ For the proposed annexation
- ☐ Against the proposed annexation

(i) The Mayor of the Town of Delmar shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in the Town of Delmar and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by

the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines or ballot boxes. All votes cast by those persons, partnerships, or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine or on one ballot box and all ballots cast by those persons, partnerships, or corporations, who are authorized to vote as residents or property owners of The Town of Delmar shall be accomplished on the other such voting machine or ballot box. The polling place shall be open from eleven o'clock in the morning, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(j) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their Hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of the Town of Delmar. Said Certificate shall be filed with the papers of the Town Council.

(k) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from The Town of Delmar and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of the Town of Delmar shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no

event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Delmar from the time of recordation. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(l) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of the Town of Delmar may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Delmar shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Delmar and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Delmar may then pass a second Resolution annexing such territory to

The Town of Delmar. Such Resolution shall be passed by the affirmative vote of two-thirds ($2/3$) of all the elected members of the Town Council. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths ($3/4$) of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of six (6) months from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Delmar shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Delmar from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

Approved June 21, 1976

CHAPTER 473

FORMERLY HOUSE BILL NO. 621

**AN ACT TO AMEND CHAPTER 51, TITLE 30,
DELAWARE CODE, RELATING TO MOTOR FUEL
TAX LICENSES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5104, Chapter 51, Title 30, Delaware Code, by striking the second sentence of said section and inserting in lieu thereof the following:

“Such license shall expire on the 30th of June next following. Every distributor desiring to continue as a distributor shall apply for and procure a license before the first day of July each year.”

Approved June 21, 1976

CHAPTER 474

FORMERLY SENATE BILL NO. 235

AN ACT TO AMEND TITLE 10, TITLE 11 AND TITLE 29 OF THE DELAWARE CODE RELATING TO COURT PRACTICE AND PROCEDURE; AND PROVIDING LEGAL REPRESENTATION FOR PUBLIC OFFICERS AND EMPLOYEES UNDER CERTAIN CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 39, Part III, Title 10 of the Delaware Code by adding thereto a new section, designated as §3925, which new section shall read as follows:

“§3925. Public Officers and Employees.

Any public officer or employee, in a criminal or civil action against him arising from his State employment, shall be entitled to petition the court for a court-appointed attorney to represent his interests in the matter. If the judge, after consideration of the petition, examination of the petitioner, and receipt of such further evidence as he may require, determines that the petition has merit, he shall appoint an attorney to represent the interests of such public officer or employee. The court-appointed attorney shall represent such person at all stages, trial and appellate, until the final determination of the matter, unless the attorney is earlier released by such person or by the court. The court may first appoint an attorney from the Department of Justice. If the court determines that the Department is unable to represent such public officer or employee, the court may appoint an attorney from the Office of the Public Defender in criminal actions only, and in civil actions may appoint an attorney licensed in this State.”

Section 2. Amend Chapter 51, Part III, Title 11 of the Delaware Code by adding thereto a new section, designated as §5105, which new section shall read as follows:

“§1505. Public Officers and Employees.

Any public officer or employee, in any criminal action against such officer or employee arising from his State employment, shall be entitled to petition the Court for a Court-appointed attorney to represent his interests in the matter. If the judge, after the consideration of the petition, examination of the petitioner, and receipt of such further evidence as he may require, determines that the petition has merit, he shall appoint an attorney to represent the interests of such public officer or employee. The Court-appointed attorney shall continue such representation until the final determination of the matter, even if the case is transferred to another court, unless such attorney is earlier released by such person or by the Court.”

Section 3. Amend Chapter 53, Part III, Title 11 of the Delaware Code by adding thereto a new section, designated as §5307, which new section shall read as follows:

“§5307. Public Officers and Employees.

Any public officer or employee, in any criminal action against such officer or employee arising from his State employment, shall be entitled to petition the Court for a Court-appointed attorney to represent his interests in the matter. If the judge, after consideration of the petition, examination of the petitioner, and receipt of such further evidence as he may require, determines that the petition has merit, he shall appoint an attorney to represent the interests of such public officer or employee. The Court-appointed attorney shall represent such person at all stages, trial and appellate, until the final determination of the matter, unless the attorney is earlier released by such person or by the Court. In any action where the Court-appointed attorney has been ap-

pointed in the Court of Common Pleas, such attorney shall remain the Court-appointed attorney of said public official or employee even when the case is transferred for any reason to another court of this State."

Section 4. Amend Chapter 59, Part III, Title 11 of the Delaware Code by adding thereto a new section, designated as §5902, which new section shall read as follows:

"§5902. Public Officers and Employees.

Any public officer or employee, in any criminal action against such officer or employee arising from his State employment, shall be entitled to petition the Court for a Court-appointed attorney to represent his interests in the matter. If the judge, after consideration of the petition, examination of the petitioner, and receipt of such further evidence as he may require, determines that the petition has merit, he shall appoint an attorney to represent the interests of such public officer or employee. The Court-appointed attorney shall represent such person at all stages, trial and appellate, until the final determination of the matter, unless the attorney is earlier released by such person or by the Court. In any action where the Court-appointed attorney has been appointed in the Justice of the Peace Court, such attorney shall remain the Court-appointed attorney of said public official or employee even when the case is transferred for any reason to another court of this State."

Section 5. Any State officer or employee presently involved in civil or criminal litigation arising directly from his State employment may petition the Court to have the Court designate his present attorney of record as a Court-appointed attorney for purposes of this Act. If the judge, after consideration of the petition, examination of the petitioner, and receipt of such further evidence as he may require, determines that the petition has merit, he may appoint such attorney and such attorney shall be deemed to be a Court-appointed attorney as set forth in Section 1 of this Act for the remainder of the litigation. For his services following

his appointment as a Court-appointed attorney, such attorney shall be paid by the Court at a rate of compensation to be determined by the Court.

Approved June 21, 1976

CHAPTER 475

FORMERLY SENATE BILL NO. 613

**AN ACT TO AMEND §9801 (1) (A), CHAPTER 98, TITLE
10 OF THE DELAWARE CODE, RELATING TO
THE ESTABLISHMENT OF A NEW RATE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §9801 (1) (a), Chapter 98, Title 10 of the Delaware Code by adding a new rate, the said amended §9801 (1) (a) to read as follows:

“§9801. Rates.

All costs in proceedings before justices of the peace shall be at the following rates:

(1) Civil.

(a) For receipt, insurance and process of a civil action	\$15.00
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In addition to the above:

For issuance of an alias, pluries or any subsequent writ of process	5.00
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Action of replevin	5.00
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Attachment in lieu of summons	10.00”
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Approved June 21, 1976

CHAPTER 476

FORMERLY SENATE BILL NO. 712

**AN ACT TO AMEND CHAPTER 25 OF TITLE 29,
DELAWARE CODE, RELATING TO THE
DEPARTMENT OF JUSTICE SUPPLYING LEGAL
ADVICE AND COUNSEL TO DELAWARE STATE
COLLEGE.**

Be it enacted by the General Assembly of the State of Delaware.

Section 1. Amend §2515 of Chapter 25, Title 29, Delaware Code, by inserting immediately after the word "Delaware" and before the word "or" the following: ", Delaware State College".

Approved June 21, 1976

CHAPTER 477

FORMERLY HOUSE BILL NO. 1021

**AN ACT TO AMEND CHAPTER 51, TITLE 30,
DELAWARE CODE, RELATING TO RETENTION
OF SPECIAL FUEL RECORDS.**

*Be it enacted by the General Assembly of the State of
Delaware;*

Section 1. Amend §5135 (b), Chapter 51, Title 30,
Delaware Code by striking the number "2" and substituting
in lieu thereof the number "3".

Approved June 22, 1976

CHAPTER 478

FORMERLY HOUSE BILL NO. 1048

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE STATE TREASURER FOR INTEREST DUE ON OBLIGATIONS THROUGH JUNE 30, 1976.

Be it enacted by the General Assembly of the State of Delaware;

Section 1. There is hereby appropriated the sum of \$1,136,000 to meet the interest requirement deficiencies for the fiscal year ending June 30, 1976:

Debt Service - Interest	\$ 1,095,000
Interest - Revenue Anticipation Notes	41,000

Section 2. The sum appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended as of June 30, 1976, shall revert to the General Fund of the State of Delaware.

Approved June 22, 1976

CHAPTER 479

FORMERLY HOUSE BILL NO. 1110

**AN ACT TO AMEND SECTION 13, PARAGRAPH 13 OF
THE CHARTER OF THE CITY OF HARRINGTON
TO PERMIT THE CITY OF HARRINGTON TO
COLLECT THEIR SEPARATE GARBAGE FEE IN
CERTAIN WAYS.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Section 13, Paragraph 13 of the Charter of the City of Harrington by striking the word "shall" as the same appears in the last subparagraph thereof and in the second sentence thereof in its entirety and substituting in lieu thereof the word "may".

Section 2. Amend Section 13, Paragraph 13 of the Charter of the City of Harrington by adding at the end of the last sub-paragraph thereof the following:

"the city may collect any garbage collection fee imposed by authority of this paragraph on a monthly or quarterly basis."

Approved June 22, 1976

CHAPTER 480

FORMERLY SENATE BILL NO. 548

AN ACT AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE STATE BOARD OF EXAMINERS AND REGISTRATION OF ARCHITECTS, DIVISION OF BUSINESS AND OCCUPATIONAL REGULATION, DEPARTMENT OF ADMINISTRATIVE SERVICES, FOR THE PURPOSE OF REIMBURSEMENT FOR THE EXPENSES OF THE 1974 MIDDLE ATLANTIC REGIONAL CONFERENCE OF THE NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS.

WHEREAS, the Middle Atlantic Regional Conference of the National Council of Architectural Registration Boards was held in Delaware in 1974; and

WHEREAS, the total cost for the conference was \$600; and

WHEREAS, there is need of funds to reimburse those persons who have advanced the funds;

NOW THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The State Board of Examiners and Registration of Architects, Division of Business and Occupational Regulation, Department of Administrative Services, is hereby appropriated the sum of \$600 to be used to reimburse those persons who advanced the funds to pay for the 1974 Middle Atlantic Regional Conference of the National Council of Architectural Registration Boards.

Section 2. This Act is a supplemental appropriation for the fiscal year 1976 and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein which is unexpended or unencumbered on June 30, 1976 shall revert to the General Fund.

Approved June 22, 1976

CHAPTER 481

FORMERLY SENATE BILL NO. 582

**AN ACT TO AMEND CHAPTER 87 OF TITLE 10,
DELAWARE CODE, RELATING TO THE PRO-
THONOTARY.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §8705(e) of Chapter 87, Title 10, Delaware Code, by striking the figure "40" as the same appears in the first sentence of said paragraph (e) and substituting in lieu thereof the figure "75".

Approved June 23, 1976

CHAPTER 482

FORMERLY SENATE BILL NO. 718
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT DIRECTING THE SECRETARY OF STATE TO
EXECUTE AND DELIVER DEEDS TO CERTAIN
PERSONS FOR LAND IN BALTIMORE HUN-
DRED, SUSSEX COUNTY, DELAWARE.**

WHEREAS, there exists in Baltimore Hundred, Sussex County, Delaware, a patent known as South Petherton, granted on November 10, 1695, which forms the Northern boundary of the public lands of the State of Delaware as surveyed by Thomas B. Pepper in 1929 for the Public Lands Commission; and

WHEREAS, the exact Southern boundary line of the patent known as South Petherton is, at the present time, unknown and a matter of dispute; and

WHEREAS, the land that is claimed as part of the patent known as South Petherton adjoining the public lands of the State of Delaware was conveyed to William P. Short and Mary A. J. Short, his wife, by deed of Delaware Shore Land Company, dated October 2, 1926, of record in the Office of the Recorder of Deeds, in and for Sussex County, in Deed Book 259 at page 273; and

WHEREAS, the said land was conveyed to Delaware Atlantic Shores, Inc., by deed of William P. Short and Mary A. J. Short, his wife, dated May 29, 1935, of record in the Office of the Recorder of Deeds, in and for Sussex County, in Deed Book 301 at page 36; and

WHEREAS, the said land was conveyed to Viola B. Wienski, by deed of Delaware Atlantic Shores, Inc., dated May 9, 1946, of record in the Office of the Recorder of Deeds, in and for Sussex County, in Deed Book 360 at page 465: and

WHEREAS, the said land was conveyed to York Beach, Inc., a Delaware corporation, by deed of Viola B. Wienski and John C. Wienski, her husband, dated August 26, 1953, of record in the Office of the Recorder of Deeds, in and for Sussex County, in Deed Book 424 at page 75; and

WHEREAS, an Agreement of Sale for certain lands which were part of the patent known as South Petherton was entered into on December 7, 1953, pursuant to which York Beach, Inc. agreed to sell a part of the lands in the patent known as South Petherton beginning at a post marking a corner for the lands of the State of Delaware and for the patent known as South Petherton and extending 950 feet along the shore of the Atlantic Ocean; and

WHEREAS, the purchaser, Howard W. Hudson, refused to accept title to the said lands; and

WHEREAS, on February 1, 1954, a suit was commenced by York Beach, Inc., in the Court of Chancery of the State of Delaware, in and for Sussex County, being Civil Action No. 72, to compel the said Howard W. Hudson to comply with the terms of his Agreement of Sale and accept title to said property; and

WHEREAS, by an Order of the Court of Chancery of the State of Delaware, in and for Sussex County, dated May 27, 1954, Howard W. Hudson was compelled to complete the Agreement of Sale and Purchase, the Court finding that York Beach, Inc. held a good and marketable fee simple title to the said land; and

WHEREAS, relying upon the Order of the Court of Chancery of the State of Delaware, in and for Sussex County, dated May 27, 1954, the land was subdivided into lots and has been conveyed in numerous lot owners; and

WHEREAS, in the litigation in the Court of Chancery of the State of Delaware, in and for Sussex County, being

Civil Action No. 72, captioned York Beach, Inc.-vs.-Howard W. Hudson, Thomas B. Pepper, the Surveyor who was employed in 1929 by the Public Lands Commission of the State of Delaware to prepare a plot and survey showing the public lands of the State bordering the Atlantic Ocean between Bethany Beach and Fenwick Island, executed an Affidavit in which he stated that the lands which were the subject of the litigation were part of the patent known as South Petherton in which the State of Delaware had no claim of title and which were not surveyed as part of the lands of the State of Delaware; and

WHEREAS, the State of Delaware claims no ownership in the lands between the Southern boundary line of the patent known as South Petherton and the Southern corporate limits of The Town of Bethany Beach; and

WHEREAS, since 1954 and prior thereto, the owners of the lands in question have paid real estate taxes and school taxes to Sussex County; and

WHEREAS, the lands now in dispute have recently become a part of The Town of South Bethany and the various lot owners have paid real estate taxes in South Bethany; and

WHEREAS, the State of Delaware has recognized that the lands are part of The Town of South Bethany and has paid Municipal Street Aid to The Town of South Bethany as provided by Statute for streets located within the area; and

WHEREAS, by letter dated September 15, 1975, for the first time since the land was plotted following the 1954 litigation and lots sold, certain of the property owners of the land which was the subject of the litigation in 1954 have been advised by John C. Bryson, Secretary of the Department of Natural Resources and Environmental Control, that a part of the land which was the subject of the 1954 litigation are now claimed by the State of Delaware as public lands; and

WHEREAS, there are approximately nineteen (19) lot owners involved in a strip of land claimed by the State of Delaware; and

WHEREAS, the claim of the State of Delaware has cast a cloud over the title of the said nineteen (19) lot owners; and

WHEREAS, it would be an injustice for the State of Delaware to claim the premises now in the possession of the various lot owners and it is desired to confirm and ratify the title of the various lot owners in and to the land and premises described herein.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Secretary of the State of Delaware is hereby authorized, empowered and directed to execute and deliver, subject to the provisions of Section 2 hereof, in the name of and under the Great Seal of the State of Delaware, deeds and such affidavits as are required by law, conveying to the various lot owners, their heirs, executors and assigns, as their interests may appear and to The Town of South Bethany, its successors and assigns, as its interest may appear, all the right, title and interest of the State of Delaware in the following described tract of land:

ALL that certain tract, piece and parcel of land, situate, lying and being in York Beach, Baltimore Hundred, Sussex County, Delaware, being more particularly bounded and described as follows: BEGINNING at a concrete monument, said concrete monument being located in the Eastern right-of-way line of Delaware Route 14 (Delaware Route 1) and marking a corner for the lands herein described and the public lands of the State of Delaware; thence South 60° 30' East a distance of 744.31 feet to a point in the high water mark of the Atlantic Ocean marking a corner for these lands

and lands of the patent known as South Petherton; thence in a Northern direction along and with the high water mark of the Atlantic Ocean a distance of 251.28 feet to a point; thence North 60° 30' West a distance of 744.31 feet or such distance as is required to reach the Eastern right-of-way line of Delaware Route 14 (Delaware Route 1); thence South along and with the Eastern right-of-way line of Delaware Route 14 (Delaware Route 1) South 02° 17' East a distance of 251.28 feet, home to the place of beginning, be the contents there what they may.

Under no circumstances does this description include any part of the lands of the old patent known as Derrickson's Venture as described in the Deed of August 8, 1812 from Littleton Townsend to William Derrickson.

Section 2. The State of Delaware shall convey all its right, title and interest in and to the land hereinbefore described to the various lot owners as their interests may appear and shall convey the streets located herein to The Town of South Bethany as its interest may appear on condition that the respective grantees comply with the following prerequisites for the conveyance by the State of each parcel;

a. Pay to the State of Delaware the sum of one dollar (\$1.00); and

b. Have prepared at their own expense a deed containing a survey description of that portion of the hereinbefore described lands to which the grantee or grantees, as the case may be, claim title; and

c. Have prepared at their own expense such affidavits and other documents as are required by law to transfer legal title and to comply with applicable recording statutes.

d. Grant an easement to the State of Delaware for public use and for construction by the Corps of Engineers for their Delaware Coast Beach Erosion Control and Hur-

ricane Protection Project. This easement shall include all the land East of a line 84 feet East of the western boundary of all ocean front lots.

Section 3. The Secretary of State is hereby directed to execute and deliver deeds to the various grantees as each grantee or grantees, as the case may be, complies with the requirements hereinbefore set forth.

Section 4. This Act shall be deemed and taken to be a public act.

Approved June 24, 1976

CHAPTER 483

FORMERLY HOUSE BILL NO. 1155
AS AMENDED BY HOUSE AMENDMENT NO. 3

**AN ACT TO AMEND CHAPTER 55, TITLE 29, AND
CHAPTER 39, TITLE 14, DELAWARE CODE,
RELATING TO STATE EMPLOYEES PENSION
PLAN AND TEACHERS' RETIREMENT AND
DISABILITY PENSIONS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. This Act shall be referred to as the 1976
Pension Act.

Section 2. Amend §5501, Chapter 55, Title 29,
Delaware Code, by designating subsections of §5501 by let-
ters in lieu of numbers and be designating paragraphs of
subsections of §5501 by numbers in lieu of letters.

Section 3. Amend §5501 (a) (1), Chapter 55, Title
29, Delaware Code, by striking said subsection in its entirety
and substituting in lieu thereof a new subsection (a) (1) to
read as follows:

“(a) ‘Employee’ shall mean an individual who:

(1) is employed on a full time or annual basis or on a
regular part time basis, as the terms ‘full time or annual
basis’ and ‘regular part time basis’ are defined in rules and
regulations adopted by the Board, by:

(i) the State, including elected or appointed officials, or

(ii) the State Department of Public Instruction, a School
District which is part of the State School System, the Univer-

sity of Delaware, Delaware State College, or Delaware Technical and Community College, or

(iii) a State agency that is supported wholly or in part by funds granted to the State by the Federal Government; and”.

Section 4. Amend §5501 (b) (1), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (b) (1) to read as follows:

“(b) ‘Credited service’ shall mean, for any individual,

(1) service as an employee, which may include periods during which an employee is on an approved sabbatical leave provided such employee elected to make contributions to the Fund equal to the sum of the employee contributions and State appropriations which would have been made to the Fund during such periods of sabbatical leave, with the amount of such contributions to be determined in accordance with rules and regulations approved by the Board,”.

Section 5. Amend §5501 (b) (4) and §5501 (b) (5), Chapter 55, Title 29, Delaware Code, by adding immediately at the beginning of each said subsection the following phrase:

“who first became an employee before July 1, 1976,”.

Section 6. Amend §5501 (b) (6) by striking said subsection in its entirety and substituting in lieu thereof a new subsection (b) (6) to read as follows:

“(b) (6) If an individual ceases to be an employee before he has acquired 10 years of credited service, his service credits to the date of termination shall be cancelled but shall

be restored if: (i) His cessation of employment is due to absence on account of military service, disability or approved leave, under such rules as the Board may adopt, and he again becomes an employee within 4 months after such absence, or (ii) he again becomes an employee within 4 months after such cessation of employment, or (iii) he subsequently acquires 5 years of credited service, provided that if he has withdrawn his contributions he repays them with interest at a rate determined by the Board."

Section 7. Amend §5501, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (b) (8) to read as follows:

"(b) (8) Any employee may elect to purchase (i) up to five years of credited service for full-time active duty in the Armed Services of the United States, and/or (ii) up to five years of credited service for full-time employment performed for another State, a political subdivision of another State, or other service with the State of Delaware for which the employee will not receive pensionable credit in another Delaware State pension plan, a county or municipality of the State of Delaware, the Federal Government, or an accredited private school or college, provided that the individual pays into the Fund, on or before the date of issuance of his first benefit check, a single lump sum payment equal to the actuarial value of the pension benefits to be derived from such service credits computed on the basis of actuarial assumptions approved by the Board and the individual's attained age and final average compensation. An individual may not accrue a total of more than ten years of credited service under this paragraph (8) and under paragraphs (4) and (5) of this subsection, and any credited service purchased under this paragraph (8) shall not be used to determine eligibility for benefits under this chapter."

Section 8. Amend §5501, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (b) (9) to read as follows:

“(b) (9) An employee who goes on medical leave (including maternity leave of up to one year) and who subsequently accrues at least one year of credited service under paragraph (b) (1) will receive credit for the period of medical leave provided that the employee pays to the fund contributions equal to the sum of the employee contributions and state appropriations which would have been made to the fund during such period of medical leave, with the amount of such contributions to be determined in accordance with rules and regulations approved by the Board.”

Section 9. Amend §5501 (d), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (d) to read as follows:

“(d) ‘Final average compensation’ shall mean $1/60$ of the compensation paid to an employee during any period of sixty consecutive months in his or her years of service credited under paragraphs (b) (1), (2) and (3) in which his or her compensation was highest, or the average monthly compensation paid to an employee during the period of his or her service credited under paragraphs (b) (1), (2), and (3) if such period is less than sixty consecutive months, provided that such amount shall not be less than the average monthly compensation paid to an employee during any calendar years in his/her years of service credited under paragraphs (b)(1), (2), and (3).”

Section 10. Amend §5501 (e), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

“(e) ‘Prior final average compensation’ shall mean $1/60$ of the compensation paid to an employee during any period of sixty consecutive months in his or her years of service credited under paragraphs (b) (1), (2), and (3) in which his or her compensation was highest, except that compensation in

excess of \$24,000 during any calendar year or the sum of any partial calendar years in such period of sixty consecutive months shall be excluded and total compensation for such period of sixty consecutive months shall not exceed \$120,000; provided, however, that for an employee who while an active employee pays to the fund contributions determined in accordance with the rules and regulations approved by the Board equal to the sum of (1) the additional employee contributions which would have been made to the fund if the maximum limit on employee contributions in effect prior to the 1976 Pension Act had not been applied, (2) an amount determined by applying the rate of state appropriations to the fund on or before December 1, 1976 to his or her earnings prior to December 1, 1976 in excess of \$2,000 monthly and (3) interest compounded at the rate of 6° per annum on the sum of (1) and (2) from the end of the calendar year accrued to the date paid, 'prior final average compensation' shall then mean final average compensation as defined in paragraph (d)."

Section 11. Amend §5501, Chapter 55, Title 29, Delaware Code, by designating subsections (e) and (f) in effect immediately prior to the effective date of the 1976 Pension Act as subsections (f) and (g), respectively.

Section 12. Amend §5501, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (h) to read as follows:

"(h) The clause 'for which he or she is eligible under the Federal Social Security Act' shall mean the old age insurance benefit or the disability insurance benefit for which an individual is or will be eligible by virtue of age and his or her wage credits under the Federal Social Security Act, based on his or her final average compensation and the provisions of the Federal Social Security Act in effect when the individual ceased to be an employee under this chapter and computed in accordance with rules and regulations approved by the Board, regardless of any other factors such as, without limitation, whether the employee has made application for

Social Security benefits or is subsequently employed.”

Section 13. Amend §5502 (a) (3), Chapter 55, Title 29, Delaware Code, by striking the figure “\$2,000” as the same appears in said subsection and inserting in lieu thereof the figure “\$3,000”.

Section 14. Amend §5521 (c) (3), Chapter 55, Title 29, Delaware Code, by striking the figure “\$2,000” as the same appears in said subsection and inserting in lieu thereof the figure “\$3,000”.

Section 15. Amend §5522(b), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

“(b) A former employee with a vested right to a service pension shall become eligible to receive such pension, computed in accordance with the provisions of this chapter in effect when he or she ceased to be an employee, beginning with the first month after his or her attainment of (1) age 60 if such pension is computed under §5527 (a) (1) (i) or (2) age 62 if such pension is computed under §5527 (a) (2).”

Section 16. Amend §5522, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (c) to read as follows:

“(c) An employee shall be come eligible to receive a reduced service pension, beginning with the month after he or she has terminated employment, if he or she has 15 years of credited service, exclusive of service credited under §5501 (b) (4) or (5), and has attained age 55; the amount of the service pension payable to such an employee shall be reduced by four-tenths percent for each month the employee is under age 60.”

Section 17. Amend §5523 (a), Chapter 55, Title 29,

Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

“(a) An employee who has ten (10) years of credited service exclusive of service under §5501 (b) (4) or (5) shall have a vested right to a pension, provided that such pension shall not be calculated under §5527 (a) (1) (i) unless the pension would have been payable under the provisions of this Chapter in effect immediately prior to the effective date of the 1976 Pension Act.”

Section 18. Amend §5524 (a), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

“(a) An employee who has 5 years of credited service, exclusive of service credited under §5501(b) (4) or (5), and becomes disabled shall become eligible to receive a disability pension beginning with the fourth month following the inception of his or her disability provided that such pension shall not be calculated under §5527(a) (1) (i) unless a pension would have been payable under provisions of this Chapter in effect immediately prior to the effective date of the 1976 Pension Act. Such individual shall cease to be eligible at the end of the month in which he or she recovers from disability and is again offered employment as an employee, if such recovery and offer of employment occurs before his or her attainment of age 60.”

Section 19. Amend §5527 (a), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

“(a) The amount of the monthly service or disability pension payable to an employee or former employee shall be:

(1) In the case of an employee or former employee whose credited service under §5501 (b) (1), (2), and (3) includes service before July 1976, and who would have also been eligible to receive a service or disability pension under the provisions of this chapter in effect immediately prior to the effective date of the 1976 Pension Act, the greater of (i) $1/60$ of his or her prior final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service, subject to the maximum and minimum limitations specified in paragraphs (b) and (c) herein, or (ii) the amount computed in accordance with paragraph (a) (2) herein.

(2) In the case of any employee or former employee who does not meet the requirements of paragraph (a) (1) herein, or in the case of any employee or former employee who meets the requirements of paragraph (a) (1) herein and is eligible for a larger amount under this paragraph (a) (2), $1/60$ of his or her final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service after 1976, plus $1/60$ of his or her prior final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service before 1977, provided that:

(i) the maximum and minimum limitations specified in paragraphs (b) and (c) herein shall not apply with the exception that the maximum amount payable to a participant who does not make the additional contribution provided for in §5501 (e) for years of credited service before 1977 shall be \$1,000, and

(ii) Beginning at age 62 or, if later, at retirement, the service pension payable shall in no case exceed seventy-five percent of final average compensation minus the old age insurance benefit for which he or she is eligible under the Federal Social Security Act at age 62, the result to be multiplied by the ratio, not to exceed one, the numerator of which is his or her years of accredited service and the denominator of which is 30 years, and

(iii) the disability pension, when combined with the disability insurance benefit or old age insurance benefit for which he or she is eligible under the Federal Social Security Act, without taking into account any increases in such benefit after payments commence, shall in no case exceed seventy-five percent of final average compensation."

Section 20. Amend §5527(c) (2), Chapter 55, Title 29, Delaware Code, by striking the last sentence of said subsection beginning with the word "for" and ending with the figure "130".

Section 21. Amend §5527 (d), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and insert in lieu thereof a new subsection (d) to read as follows:

"(d) Notwithstanding provisions of this chapter to the contrary, an elected official shall receive a pension computed in accordance with this subsection. The service or disability pension payable to the elected official and the survivor's pension payable to the eligible survivor of such individuals shall be computed on the basis of compensation to the elected official as an elected official irrespective of other credited service, with contribution to be determined based upon compensation as an elected official. The minimum amount of pension payable to such an elected official shall be \$15 multiplied by each year of service, taken to the nearest one-twelfth of the year and he shall be eligible to receive a pension beginning with the first month after the attainment of age 60, provided that he shall have served at least five years at the time of the termination of his service as an elected official. Any pension for credited service other than as an elected official shall be determined under the remainder of this chapter as a separate pension.

Notwithstanding any other provision of this chapter, elected officials and former elected officials who served for a minimum of five years which years were served before June 1970, or were served partly before June, 1970, and partly

after June, 1970, shall also be eligible for pensions under this chapter."

Section 22. Amend §5527 (e), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) Any section of this chapter to the contrary notwithstanding, the amount of the monthly service or disability pension payable to any regular part time employee who is not employed on a full time or annual basis, as the term full time or annual basis is defined in rules and regulations adopted by the Board, shall be determined in accordance with paragraph (a) herein, provided that no minimum amount shall be payable to any such regular part time employee; provided, however, that for any public school cafeteria employee who entered State service on or before July 1, 1971, and who accrues 15 years of credited service as an employee under §5501 (b) (1) by the date of his retirement eligibility shall receive a minimum state benefit and primary Social Security benefit of not less than \$200 per month."

Section 23. Amend §5528 (a), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Upon the death of an employee who has five (5) years of credited service, exclusive of service credited under §5501 (b) (4) or (5), a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to one-half of the service pension for which the employee would have been eligible if he or she has been 65 years of age provided that such pension shall not be calculated under §5527(a) (1) (i) unless a pension would have been payable under provisions of this chapter in effect immediately prior to the effective date of the 1976 Pension Act."

Section 24. Amend §5528 (b), Chapter 55, Title 29,

Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

“(b) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor’s pension shall be payable to his or her eligible survivor or survivors equal to one-half of such service or disability pension, provided that upon the death of an individual who had not attained age 62 and was receiving a service pension at the time of his or her death, a monthly survivor’s pension shall be payable to his or her eligible survivor or survivors equal to one-half of the service pension for which the individual would have been eligible if he had been 62 years of age.”

Section 25. Amend §5528(c), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

“(c) For the purpose of this section, the eligible survivors of any employee covered under this chapter on or after the effective date of the 1976 Pension Act shall be as follows, provided that an employee may change the priority of eligible survivors specified for herein by designating his or her priority of eligible survivors on a form prescribed by the Board and filed with the Board at the time of the employee’s death:

(1) the widow or widower, provided such person had been married to the deceased employee or former employee for at least one year before the date of death, or

(2) if there is no eligible widow or eligible widower, a child (or, with the survivor’s pension divided among them in equal shares, all such children if there are more than one), provided the child is unmarried and either:

(i) has not attained age 18,

(ii) has attained age 18 but not age 22 and is attending school on a full time basis, or

(iii) has attained age 18 and is permanently disabled as the result of a disability which began before he attained age 18, or

(3) if there is no eligible widow, eligible widower, or eligible child, a dependent parent (or, with the survivor's pension divided between them in equal shares, both such parents if there are two)."

Section 26. Amend §5528(e), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) A parent shall be deemed to have been dependent on the deceased employee, former employee, or pensioner if such individual was receiving at least one-half of his or her support from such deceased person at the time of death."

Section 27. Amend §5531, Chapter 55, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §5531 to read as follows:

§5531. Application of benefits.

(a) A service pension, disability pension, survivor's pension, death benefit, or withdrawal benefit shall be paid only upon the filing of an application in a form prescribed by the Board. A monthly benefit shall not be payable for any month earlier than the second month preceding the date on which the application for such benefit is filed. In no event shall a withdrawal benefit be paid to an individual whose application is filed more than five (5) years after the date he first becomes eligible to receive such benefit.

(b) The Board may require any employee, former employee, or eligible survivor to furnish such information as may be required for the determination of benefits under this chapter, or to authorize the Board to procure such information including, but not limited to, information regarding benefits pursuant to the Federal Social Security Act. The Board may withhold payment of any pension under this chapter whenever the determination of such pension is dependent upon such information and the employee, former employee, or eligible survivor does not cooperate in the furnishings or procuring thereof."

Section 28. Amend §5532, Chapter 55, Title 29, Delaware Code, by striking the title of said section in its entirety and substituting in lieu thereof a new title to read as follows:

"Increases in pensions".

Section 29. Amend §5532, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (d) to read as follows:

"(d) Any service or survivor pension which became effective before 1975 and is payable on June 30, 1976 to an individual who is 60 years of age or older, and any disability pension which became effective before 1975 and is payable on June 30, 1976, shall be increased effective January 1, 1976 in accordance with the following schedule:

<u>Year pension became effective</u>	<u>Percent increase in pension effective 1/1/76</u>
prior to 1971	19%
1971	16%
1972	14%
1973	11%
1974	5%

Any pension which became effective before 1960 and is

payable on June 30, 1976 to an individual who is not also receiving or eligible for benefits under the Federal Social Security Act shall be increased by 35% effective January 1, 1976, provided that such increase shall be in lieu of, and not in addition to, the increases provided in accordance with the above schedule.

The percentage increases in pensions provided for herein shall be applied to the correct amount determined as a result of audits made between May 1971 and June 1972, and shall only be paid to an individual if such correct amount, inclusive of such increase, exceeds the amount of any pension being paid in accordance with §5533(b)."

Section 30. Amend Chapter 39, Title 14, Delaware Code, by adding thereto a new section to be designated as #3909 which shall read as follows:

"§3909. Increases in pensions.

Effective January 1, 1976, any pension being paid under this chapter to an individual 60 years of age or older shall be increased by either (a) \$30 per month if such individual is also receiving or is eligible for benefits under the Federal Social Security Act, or (b) \$50 per month if such individual is not also receiving or eligible for benefits under the Federal Social Security Act; provided that such increase shall be applied to the correct amount determined as a result of audits made between May 1971 and June 1972, and shall only be paid to an individual if such correct amount, inclusive of such increase, exceeds the amount of any pension being paid in accordance with §3908(b)."

Section 31. Amend §5543 (a), Chapter 55, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Effective January 1, 1977, employee contributions to the Fund shall be:

(1) in the case of any employee who first enters service after June 30 , 1976, three percent of that portion of his or her compensation during any calendar year which exceeds \$6,000 and does not exceed the maximum annual amount subject to taxes under the Federal Insurance Contributions Act, plus five percent of his or her compensation during any calendar year which exceeds the maximum annual amount subject to taxes under the Federal Insurance Contributions Act, and

(2) in the case of any employee who first entered service before July 1, 1976, five percent of that portion of his or her compensation during any calendar year which exceeds \$6,000.”

Section 32. Amend §5544, Chapter 55, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §5544 to read as follows:

“§5544. Actuarial valuations and appropriations.

(a) The State’s appropriation to the Fund for the fiscal year 1975-76 shall be 11.3% of covered payroll.

(b) The State’s appropriation to the Fund for the fiscal year 1976-77 shall be 11.3% of covered payroll.

(c) The State’s appropriation to the Fund for the fiscal year 1977-78 shall be 11.6% of covered payroll.

(d) The actuary shall prepare an actuarial valuation of the assets and liabilities of the Fund as of December 31, 1976, and at least once every two years thereafter. On the basis of reasonable actuarial assumptions and tables approved by the Board, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded accrued liability.

(e) The State’s appropriation to the Fund for the fiscal

year 1978-79, and for each fiscal year thereafter, shall be the percentage of covered payroll approved by the Board on the basis of the most recent actuarial valuation, and shall equal the sum of the normal cost plus the payment required to amortize the unfunded accrued liability over 40 years from July 1, 1975. The amortization payment shall be an amount computed as a level percentage of the prospective total covered payroll over the remainder of the amortization period, with such prospective total covered payroll to be determined on the basis of a growth rate of 4% per year, compounded annually."

Section 33. The 1976 Pension Act shall become effective July 1, 1976, provided that: (1) the increases in pensions provided by Sections 29 and 30 of this Act shall be payable retroactive to January 1, 1976; (2) Section 31 of this Act which amends §5543(a), Chapter 55, Title 29, Delaware Code, shall become effective on January 1, 1977 and the provisions of §5443(a) in effect immediately prior to the effective date of this Act shall remain in effect until January 1, 1977; and (3) Section 32 of this Act shall become effective retroactive to July 1, 1975.

Approved June 24, 1976

CHAPTER 484

FORMERLY HOUSE BILL NO. 803
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 27, PART II, TITLE 10
OF THE DELAWARE CODE RELATING TO
SPECIAL CONSTABLES FOR RAILROAD COM-
PANIES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2715, Chapter 27, Part II, Title 10 of the Delaware Code by adding thereto a new paragraph, which new paragraph shall be placed immediately following the existing first paragraph:

“Each special constable appointed for a railroad company shall have and exercise in every city and county in which the said railroad does business, operates or owns property, the power to arrest, with or without warrant, any person who in his presence commits upon the premises of any such company or in or about its cars, depots, depot grounds, yards, buildings or other structures any offense against the laws of this State or the ordinances of any such city or county; provided, however, in instances where such arrest is made without warrant the special constable shall forthwith take such offender before the nearest open Justice of the Peace Court and make formal complaint against the person so arrested. Where such arrests without warrant are made within the limits of the City of Wilmington, the special constable shall forthwith take such suspect before the Municipal Court of the City of Wilmington and make formal complaint against the person so arrested.”

Approved June 25, 1976

CHAPTER 485

FORMERLY HOUSE BILL NO. 1207

**AN ACT TO AMEND TITLE 5, DELAWARE CODE,
RELATING TO THE FARMERS BANK COMMISSION.**

Be it enacted by the general assembly of the State of Delaware:

Section 1. Amend §934, Title 5, Delaware Code, by adding a new subsection (j) to read as follows:

“(j) The State shall indemnify a Commissioner who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a Commissioner, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interests of the State and with respect to any criminal action or proceeding had no reasonable cause to believe his conduct was unlawful. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the State in advance of final disposition of such action, suit or proceeding as authorized by a majority vote of the Commissioners, unless more than a majority of the Commissioners shall also be parties to the same action, suit or proceeding, in which instance, such authorization shall be by the Governor of the State of Delaware.”

Approved June 25, 1976

CHAPTER 486

FORMERLY HOUSE BILL NO. 1198

**AN ACT TO AMEND CHAPTER 6, TITLE 14,
DELAWARE CODE AS IT RELATES TO
STUDENTS TRANSFERRING FROM ONE PUBLIC
SCHOOL DISTRICT TO ANOTHER.**

WHEREAS, there is already an established statutory pattern for student transfers between four New Castle County school districts, subject to approval of the school board of the receiving district but not the school board of the sending district; and

WHEREAS, the four districts between which such transfer is permitted are among the eleven districts directly affected by the May 19, 1976 Opinion and the June 15, 1976 Order of the United States District Court for the District of Delaware in the case of **Evans v. Buchanan**. Civil Action Nos. 1816-1822; and

WHEREAS, the General Assembly believes it will serve the interest of the people and of the State to enact partial remedial legislation by providing for transfer between all eleven school districts directly affected by the Opinion in **Evans v. Buchanan** under the procedure presently applicable to the four school districts; and

WHEREAS, such legislation may serve both the school system and the students and citizens of the State well in that it will afford an opportunity to ascertain more information about the desires and needs of the students and citizens in acquiring a quality education, and provide more data on the results of increased integration in our school system.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware;

Section 1. Amend §602(a), Chapter 6, Title 14, Delaware Code by striking in its entirety the first sentence of said §602(a) and by substituting in lieu thereof a new first sentence of said §602(a) to read as follows:

“Except in the cases provided for in §603(c) of this Chapter, no pupil shall be transferred from one school district to another school district without the written approval of the School Board of both the sending and receiving districts.”

Section 2. Amend §603(c), Chapter 6, Title 14, Delaware Code by striking in its entirety said subsection (c) and by substituting in lieu thereof a new subsection (c) to read as follows:

“(c) Any student who resides in the Alexis I. du Pont School District, the Alfred I. du Pont School District, the Claymont School District, the Conrad Area School District, the De La Warr School District, the Marshallton-McKean School District, the Mount Pleasant School District, the New Castle-Gunning Bedford School District, the Newark School District, the Stanton School District, or the School District for the City of Wilmington, may attend a school in any of the other of said school districts provided (a) he shall have submitted an application on or before August 1 of 1976 or July 1 of any subsequent calendar year, to the school district in which he desires to attend school and (b) said school district to which he applies approves said application on or before August 20, 1976, in the case of application made on or before August 1, 1976, and on or before August 1 of the same calendar year in which the application is made, in the case of any calendar year subsequent to 1976. A school district which approved such application shall, at the time it notifies the applicant of its approval, send written notification of the approval to the school district in which the applicant last attended school. Transportation for students transferred under the provisions of this subsection shall be provided in accordance with Rules and Regulations adopted or to be adopted by the State Board of Education pursuant

to authority already given to it by the laws of the State of Delaware.”

Approved June 25, 1976

CHAPTER 487

FORMERLY HOUSE BILL NO. 1199
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT CONTINUING THE SPECIAL LEGISLATIVE COMMITTEE FORMED PURSUANT TO HOUSE CONCURRENT RESOLUTION NO. 51 OF THE 128th GENERAL ASSEMBLY TO ENABLE THE COMMITTEE TO CONTINUE TO STUDY THE JUDICIAL OPINIONS IN THE DESEGREGATION CASE OF EVANS v. BUCHANAN AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND FURTHER PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Special Legislative Committee formed pursuant to House Concurrent Resolution No. 51, of the 128th General Assembly, to study the function which the Legislature should assume in the desegregation case of **Evans v. Buchanan** is continued. The members of the Committee as of the effective date of this Act shall remain as Committee members, except as provided in the following sentence: In the event that any member of the Committee ceases to hold his or her present seat in the General Assembly, he or she will remain a member of the Committee until January, 1977, whereupon his or her replacement shall be named by the Speaker of the House or the President Pro Tempore of the Senate, as the case may be. The Committee shall continue to be composed of twelve members, six from the House of Representatives, including three from the majority party and three from the minority party, and six from the Senate including three from the majority party and three from the minority party.

Section 2. The Special Legislative Committee continued hereunder shall have, in addition to the duties set

forth in House Concurrent Resolution No. 51, the following powers and duties: (a) to study and analyze the judicial Opinions in **Evans v. Buchanan**; (b) to advise the General Assembly on its constitutional and legal prerogatives in light of **Evans v. Buchanan**; (c) to recommend to the General Assembly the course of action which will best serve the interests of the people of the State of Delaware; (d) to provide the General Assembly with a plan or plans which the Committee deems appropriate in light of the **Evans v. Buchanan** litigation and the 1974 Equal Education Opportunity Act; (e) to submit a report and recommendation to the General Assembly.

Section 3. The Committee shall have authority to engage the services of such personnel as it deems necessary to carry out its duties hereunder; however, any expenditures of funds herein appropriated shall be subject to the approval of Legislative Council. The Committee shall also have Subpoena power. The Committee shall have the power to request and direct the State Board of Education and Department of Public Instruction to provide such assistance as the Committee deems necessary in the performance of its duties hereunder.

Section 4. Any funds appropriated by House Concurrent Resolution No. 51, of the 128th General Assembly, to Legislative Council for the purpose of covering the expenditures of the Special Legislative Committee herein continued and remaining unexpended and unencumbered on June 30, 1976, shall be retained by Legislative Council for the purposes herein specified and shall not revert to the General Fund of the State of Delaware until December 31, 1978.

Approved June 25, 1976

CHAPTER 488

FORMERLY HOUSE BILL NO. 1128

**AN ACT TO AMEND CHAPTER 496, VOLUME 57,
LAWS OF DELAWARE AND CHAPTER 52, TI-
TLE 30, DELAWARE CODE, RELATING TO
REGISTRATION OF PRIVATE MOTOR CAR-
RIERS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Section 2, Chapter 496, Volume 57, Laws of Delaware, by striking said Section in its entirety.

Section 2. Amend §5224, Chapter 52, Title 30, Delaware Code by adding at the end thereof a new paragraph to read as follows:

“This Act shall not apply to any motor carrier owning or operating not more than one motor vehicle for its own use and not for hire except that said carrier shall not be exempt from the provisions of §5211 of this Chapter pertaining to registration marker and fee.”

Section 3. This Act shall take effect October 1, 1976.

Approved June 25, 1976

CHAPTER 489

FORMERLY SENATE BILL NO. 454
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT, BEING CHAPTER 63, VOLUME 12, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE ARTISANS' SAVINGS BANK" PASSED AT DOVER ON FEBRUARY 28, 1861, AS THE SAME HAS SINCE BEEN RENEWED, AMENDED AND CHANGED, BY AMENDING SECTION 3 THEREOF TO PROVIDE THAT THE SAVINGS BANK MAY MAKE UNSECURED LOANS, AND TO PROVIDE FURTHER THAT THE SAVINGS BANK BE PERMITTED TO CONDUCT GENERALLY CHECKING ACCOUNT SERVICES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Section 3, Chapter 63, Volume 12, Laws of Delaware, as amended, be and the same is hereby further amended, by adding to said section a subsection (b) to read as follows:

"(b) That said corporation shall be authorized to conduct generally checking account services and receive demand deposits of money for this purpose."

Approved June 25, 1976

CHAPTER 490

FORMERLY SENATE BILL NO. 507

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES FOR THE PURPOSE OF PAYING EMPLOYEES WHO FAILED TO RECEIVE THEIR ANNUAL INCREMENT.

WHEREAS, as a result of an audit of the PT-1 files of twenty-two employees by the Auditor of Accounts, State Personnel, and the Department Personnel Section revealed that they did not receive annual merit increases at the proper time dating back to July 1, 1969; and

WHEREAS, these employees are entitled statutorily and by regulation of the Personnel Department to annual increments, unless otherwise indicated in their personnel files which said Audits did not reveal; and

WHEREAS, Sherwin B. Willis, Jr. is entitled, as a result of the Audit, to back pay in the amount of \$1,112.34; and

WHEREAS, Robert L. Burns is entitled, as a result of the Audit, to back pay in the amount of \$231.00; and

WHEREAS, Lydia Ann Oberhotlzer is entitled, as a result of the Audit, to back pay in the amount of \$353.58; and

WHEREAS, Edward J. Pulley is entitled, as a result of the Audit, to back pay in the amount \$14.00; and

WHEREAS, Harriet E. Cunningham is entitled, as a result of the Audit, to back pay in the amount of \$1,862.50; and

WHEREAS, Lucy L. Delligatti, is entitled, as a result of the Audit, to back pay in the amount of \$80.68; and

WHEREAS, Marjorie D. Nabb is entitled, as result of the Audit, to back pay in the amount of \$557.14; and

WHEREAS, Kenneth Baynard is entitled, as a result of the Audit, to back pay in the amount of \$1,916.91; and

WHEREAS, Louis M. Stanford is entitled, as a result of the Audit, to back pay in the amount of \$1,239.64; and

WHEREAS, Andrew A. White is entitled, as a result of the Audit, to back pay in the amount of \$1,231.52; and

WHEREAS, Esther B. Ayers is entitled, as a result of the Audit, to back pay in the amount of \$846.00; and

WHEREAS, Mildred Pusey is entitled, as a result of the Audit, to back pay in the amount of \$297.77; and

WHEREAS, Elizabeth L. Thompson is entitled, as a result of the Audit, to back pay in the amount of \$366.00; and

WHEREAS, Mary DeShong is entitled, as a result of the Audit, to back pay in the amount of \$316.34; and

WHEREAS, Lizzie B. Williams is entitled, as a result of the Audit, to back pay in the amount of \$1,890.92; and

WHEREAS, Peter Rinaldi is entitled, as a result of the Audit, to back pay in the amount of \$1,202.06; and

WHEREAS, Alice R. Thornton is entitled, as a result of the Audit, to back pay in the amount of \$841.50; and

WHEREAS, Charles E. Stanford, is entitled as a

result of the Audit, to back pay in the amount of \$1,024.96; and

WHEREAS, Aaron J. Lynch is entitled, as a result of the Audit, to back pay in the amount of \$1,729.70; and

WHEREAS, Madeline Alexander is entitled, as a result of the Audit, to back pay in the amount of \$322.05; and

WHEREAS, William F. Brittingham is entitled, as a result of the Audit, to back pay in the amount of \$96.75; and

WHEREAS, John A. Stawicki is entitled, as a result of the Audit, to back pay in the amount of \$219.00.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$21,294.36 is hereby appropriated to the Department of Administrative Services for the purpose of paying these twenty-two (22) employees, who inadvertently were not given annual increments at the proper time, dating as far back as July 1, 1969.

Section 2. Funds appropriated herein shall be paid by the State Treasurer from the General Fund monies not otherwise appropriated.

Section 3. This is a supplementary appropriation act and funds appropriated herein which unexpended on June 30, 1976 shall revert to the General Fund.

Approved June 25, 1976

CHAPTER 491

FORMERLY SENATE BILL NO. 622

AN ACT TO AMEND PART II, TITLE 16, DELAWARE CODE BY ADDING A NEW CHAPTER TO BE DESIGNATED AS CHAPTER 6, TO PROVIDE ASSISTANCE FOR THE OPERATION OF A PROGRAM TO DETECT AND TREAT STREPTOCOCCAL INFECTIONS; AND TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO IMPLEMENT THE PROVISIONS OF THIS ACT.

Be it enacted by the General Assembly of the State of Delaware:

WHEREAS, the Delaware Heart Association has, as a demonstration project since 1962, financed through the infectious Disease Laboratory of the Wilmington Medical Center, a program for the early detection and treatment of "strep throat" (beta hemolytic streptococci), which is the cause of rheumatic fever and subsequent rheumatic heart disease; and

WHEREAS, rheumatic heart disease is the only type of heart disease which is clearly preventable through early detection; and

WHEREAS, during 1974-75, 61,431 Delawareans were suspected of having strep throat and through this program, 6,937 actually were found to carry the strep organism, who, when treated, were no longer carriers of this infectious disease and thus preventing untold additional numbers of Delawareans from contracting this disease; and

WHEREAS, the incidence of this disease is highest in the school age population (5-15); and

WHEREAS, the Strep Detection Program is now available through any physician in the State and through school nurses in Kent and Sussex County school systems; and

WHEREAS, to protect the health of the citizens of Delaware and to avoid unnecessary incidences of rheumatic fever and rheumatic heart disease, it is in the best interests of the citizens of Delaware to enact legislation providing for the continuation and expansion of this program.

NOW, THEREFORE:

Section 1. Amend Part II, Title 16 of the Delaware Code by adding a new Chapter to be designated as Chapter 6, to read as follows:

**“CHAPTER 6. STREPTOCOCCAL DETECTION
PROGRAM**

§601. Enumeration of Streptococcal Infections.

Streptococcal infections are declared to be contagious, infectious, communicable and dangerous to the public health.

§602. General Powers: Detection and Control.

The Secretary of the Department of Health and Social Services shall make such rules and regulations as in his judgment are necessary for providing for the detection of the disease and for the care, control, and treatment of persons infected therewith, as he from time to time deems advisable.

§603. Infectious Disease Laboratory; Operation of the Program.

The Secretary may operate the program through the Infectious Disease Laboratory of the Wilmington Medical Center and shall make it available to the general public through cooperating physicians and public school systems in the State."

"Section 2. Appropriations.

The sum of \$15,000 is hereby appropriated from the General Fund to the Department of Health and Social Services to be expended for the implementation of this Act for fiscal year 1976. This appropriation shall be considered as a supplementary appropriation and shall be paid by the State Treasurer from funds not otherwise appropriated. Any funds not expended as of June 30, 1976 shall revert to the General Fund."

Approved June 25, 1976

CHAPTER 492

FORMERLY SENATE BILL NO. 796
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT PROVIDING FOR THE INTERIM SCHOOL BOARD MANDATED BY THE MAY 19, 1976 OPINION AND THE JUNE 15, 1976 ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE IN EVANS v. BUCHANAN, CIVIL ACTION NOS. 1816-1822, TO CONSIST OF THIRTEEN MEMBERS.

WHEREAS, the United States District Court for the District of Delaware, in open Court on June 15, 1976 in a hearing on the form of Order to be entered pursuant to the May 19, 1976 Opinion in **Evans v. Buchanan**, Civil Actions Nos. 1816-1822, with regard to the size of the Interim Board mandated by the Opinion, stated that it is not "foreclosing" the General Assembly from providing for an Interim Board of larger numbers and that "It seems to us that the arguments about the size of the interim and permanent board should really to addressed to the General Assembly"; and

WHEREAS, at the same Hearing, the Court responded to an argument that a five-person Interim Board would result in between thirty and forty-seven per cent of the students being unrepresented on such a Board by stating, "Well, the Legislature can change that"; and

WHEREAS, the interest of the people and the State will be better served and the Interim Board will be more representative and more democratically determined by increasing the size of the Board to thirteen members to be selected by the school districts directly affected by the Court's Opinion of May 19, 1976 and Order of June 15, 1976; and

WHEREAS, without necessarily agreeing with or accepting as final the Court's decision of May 19, 1976 or its

Order thereon dated June 15, 1976, the General Assembly can provide for such a Board;

NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The Interim Board mandated by the May 19, 1976 Opinion and the June 15, 1976 Order of the United States District Court for the District of Delaware in the case of **Evans v. Buchanan**, Civil Actions Nos. 1816-1822, shall consist of thirteen members who shall at the time of their appointment be members of the school board which appoints them. There shall be two members appointed by the school board for the City of Wilmington School District, two members appointed by the Newark school board and one member each appointed by the school boards of the Alexis I. duPont School District, the Alfred I. duPont School District, the Claymont School District, the Conrad Area School District, the DeLaWarr School District, the Marshallton-McKean School District, the Mount Pleasant School District, the New Castle-Gunning Bedford School District and the Stanton School District.

Section 2. The State Board of Education shall by rule and regulation or directive provide the mechanics and timing for the selection by each of said school districts or boards of its original member or members on such Interim Board and shall provide for the Interim Board to be organized with sufficient speed to allow the duties assigned to the Interim Board by the Court's Opinion and Order to be made within a time frame which will allow review by the State Board of Education.

Section 3. The State Board of Education shall provide for the tenure of each of the original members of the Interim Board. The original members shall all have terms beginning on a date specified by the State Board of Education, and each original member shall have a term ending either one, two, three, four or five years from such beginning

date, provided that, no more than three original members shall have a term lasting the same number of years. The term of each successor to each original member shall be five years, except in the case of vacancies which are filled, in which case the provisions of Sections 4 or 5 hereof, as the case may be, shall apply. The terms of all members or of any member of the Board may be later lengthened or shortened by legislation.

Section 4. If a member of the Interim Board ceases to be a resident of the school district from which he has been appointed to the Interim board, he shall thereupon cease to be a member of the Interim Board.

Section 5. A vacancy in the Interim Board for any cause other than the expiration of term shall be filled by the school board of the district whose representative has left the Interim Board thereby creating the vacancy. The term of the new member shall conclude at the time specified for the member he is replacing.

Section 6. The existing boards of the City of Wilmington School District, the City of Newark School District, the Alexis I. duPont School District, the Alfred I. duPont School District, the Claymont School District, the Conrad Area School District, the DeLaWarr School District, the Marshallton-McKean School District, the Mount Pleasant School District, the New Castle-Gunning Bedford School District and the Stanton School District shall assist in the transfer of authority, and shall be liable together with the State Board of Education for the expenses of the New Board or its successor or successors, until such time as the New Board or its successors receive taxing authority; the expenses of the Interim Board shall be borne by the existing boards of the said eleven school districts and by the State Board of Education; the contribution of the existing Board of each of the said eleven school districts being assessed in proportion to the ratio which the assessed value of taxable property in that present school district bears to the total aggregate assessed value of taxable property in all of the eleven

districts; provided, however, that each existing local board's contribution shall be reduced from the aforesaid sum by virtue of the required contribution of the State Board of Education, which contribution shall equal the largest contribution required from any of the local boards.

Approved June 25, 1976

CHAPTER 493

FORMERLY SENATE BILL NO. 681
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND SUBCHAPTER 1 OF CHAPTER 7,
TITLE 7, DELAWARE CODE, RELATING TO
GAME ANIMALS.**

*Be it enacted by the General Assembly of the State of
Delaware.*

Section 1. Amend §701 of Subchapter 1, Chapter 7, Title 7, Delaware Code, by inserting immediately after the word "mink" and preceding the word "raccoon" the following:

"snapping turtle"

Section 2. Amend §704 (a), Subchapter 1, Chapter 7, Title 7 of the Delaware Code by inserting, immediately after the word "minks" and before the words "and otters", the following:

“,snapping turtles”

Section 3. Amend §721, Subchapter 1, Chapter 7, Title 7 of the Delaware Code by inserting, immediately after the word 'muskrat' and before the word 'and', the following:

“, the snapping turtle”

Approved June 28, 1976

CHAPTER 494

FORMERLY HOUSE BILL NO. 1111
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 9, TITLE 16,
DELAWARE CODE, SO AS TO IMPROVE AND EX-
PAND PROCEDURES FOR REPORTING IN-
CIDENTS OF CHILD ABUSE TO APPROPRIATE
STATE AGENCIES.**

WHEREAS, the Child Abuse Prevention and Treatment Act of 1974 authorizes the issuance of grants for investigation and prevention of child abuse; and

WHEREAS, the declared purpose of this Act is to aid in the prevention of child abuse; and

WHEREAS, eligibility of the State of Delaware for federal grants is made contingent upon compliance with the terms and provisions of the Child Abuse Prevention and Treatment Act of 1974.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 9, Title 16, Delaware Code, is hereby amended by striking said Chapter in its entirety and substituting in lieu thereof a new Chapter 9 to read as follows:

“CHAPTER 9

ABUSE OF CHILDREN

§901. Purpose.

It is the purpose of this Chapter to provide for comprehensive protection services for abused and neglected children found in the State by requiring that reports of such abused and neglected children be made to the appropriate authorities in an effort to prevent further abuse or neglect and to assist those children and their parents or those persons legally responsible for them, in their own home to aid in overcoming the problems leading to abuse and neglect, thereby strengthening parental care and supervision and enhancing such children's welfare and preserving the family life whenever feasible.

§902. Definition of Child Abuse and Neglect.

For purposes of this chapter the term "child abuse and neglect" means the physical injury by other than accidental means, injury resulting in a mental or emotional condition which is a result of abuse or neglect, negligent treatment, sexual abuse, maltreatment, mistreatment, nontreatment, exploitation or abandonment, of a child under the age of 18 or of an individual who appears to be mentally retarded.

§903. Reports Required.

Any physician, and any other person in the healing arts including any person licensed to render services in medicine, osteopathy, dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner or any other person who knows or reasonably suspects child abuse or neglect shall make a report in accordance with §904 of this Chapter.

§904. Nature and Content of Report: To Whom Made.

Any report required to be made under this chapter shall be made to the Division of Social Services of the Department of Health and Social Services. An immediate oral report, shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested,

shall be made in accordance with the rules and regulations of the Division of Social Services, or in accordance with the rules and regulations adopted by the Division.

§905. Duties of the Receiving Agency.

(a) Upon receipt of a report submitted pursuant to this chapter, the Division of Social Services shall immediately investigate and take necessary action and shall offer protective social services toward preventing further child abuse or neglect as defined in §902 of this chapter, safeguarding and enhancing the welfare of the abused or neglected person and preserving family life whenever possible. In performing any of these duties, the Division may utilize the facilities of any State or private agency and, whenever removal of the abused or neglected person appears necessary shall file an appropriate petition seeking removal of such person from the custody of his parent, guardian or other adult with whom he is living an authorization to place such child in a suitable facility. If the injury or abuse is so serious that criminal prosecution is indicated, the Division shall, in addition to taking such action under this section as it deems necessary, report its findings to the Department of Justice and the Family Court, and/or to the police.

(b) The division shall establish in each county a registry of child protection for the purpose of maintaining a registry of information concerning each case of abuse or neglect required to be reported in said county by this chapter. The files shall be confidential subject to the rules and regulations adopted by the Division.

(c) The Division shall keep in the manner prescribed and on forms furnished by it such information as shall be necessary in order to maintain a statewide central registry of all reports made in the State.

§906. Immunity from Liability.

Anyone participating in good faith in the making of a

report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise exist and such immunity shall extend to participation in any judicial proceeding resulting from such report.

**§907. Child under Treatment by Spiritual Means
Not Neglected.**

No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for purposes of this chapter.

§908. Evidence Not Privileged.

The physician-patient privilege, husband-wife privilege or any privilege except the attorney-client privilege, provided for by professions such as social work or nursing, covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of evidence, shall not pertain in any civil or criminal litigation in which a person's neglect, abuse, dependency, exploitation or abandonment is in issue nor in any judicial proceeding resulting from a report submitted pursuant to this chapter.

§909. Penalty.

Whoever knowingly and willfully violates this chapter shall be fined not more than \$100, shall be imprisoned not more than 15 days or both."

Approved June 28, 1976

CHAPTER 495

FORMERLY HOUSE BILL NO. 1017
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DELAWARE NATIONAL GUARD FOR THE RELIEF OF DOMINICK E. SCATASTI, INJURED WHILE ON DUTY.

WHEREAS, Dominick E. Scatasti rendered honorable, commendable and faithful duty to this State while serving as a Private First Class in the Delaware National Guard; and

WHEREAS, Private Scatasti received a back injury in a motor vehicle collision while on duty in support of civil authorities in the City of Wilmington on May 12, 1968; has thereby been permanently disabled so as to greatly limit his capacity to earn a living for his family and to enjoy life; is constantly in pain; and is, and will be fore the remainder of his life, in frequent need of medical treatment; and

WHEREAS, under Delaware Law, Dominick E. Scatasti is not entitled to a disability pension.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated to the Delaware National Guard the sum of \$18,000 to be used by the National Guard for the relief of Dominick E. Scatasti who suffered a permanent injury while on duty with the National Guard in support of civil authorities in the City of Wilmington on May 12, 1968.

Section 2. This shall be known as a supplemental

appropriation and the sum appropriated shall be paid by the State Treasurer from monies in the General Fund not otherwise appropriated. Any funds remaining unexpended as of June 30, 1976, shall revert to the General Fund.

Section 3. This appropriation to the National Guard for the relief of Dominick E. Scatasti is accepted by Dominick E. Scataski in full and complete payment of any claim which he may have against the National Guard or the State of Delaware and is not subject to diminution by any sums paid Dominick E. Scatasti by any insurance company.

Approved June 28, 1976

CHAPTER 496

FORMERLY SENATE BILL NO. 279

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF ADULT CORRECTIONS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR PAYMENT OF A PORTION OF SALARY EARNED BY PROMOTION.

WHEREAS, George T. Sharpe was certifiable for the position of Counsellor II since January 24, 1972, which promotion was ordered by the Director of the Division of Adult Corrections; and

WHEREAS, Division records indicate that Mr. Sharpe has been satisfactorily performing duties equivalent to Counsellor II since January, 1972, and because of an administrative oversight, his promotion was not effected when ordered; and

WHEREAS, the salary due the owing to Mr. Sharpe, retroactive to his date of promotion, amounts to \$3,207.95.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of three thousand two hundred seven dollars and ninety-five cents (\$3,207.95) is hereby appropriated to the Division of Adult Corrections of the Department of Health and Social Services. The funds so appropriated shall be used to reimburse George T. Sharpe, an employee of that Division, sums which are due and owing from the Division to the employee.

Section 2. This Act is a supplementary appropria-

tion act, and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds herein appropriated shall be expended only in the manner set forth herein, and any funds appropriated but unexpended by June 30, 1976, shall thereupon revert to the General Fund of the State Treasury.

Approved June 28, 1976

CHAPTER 497

FORMERLY SENATE BILL NO. 411

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE APPROXIMATELY 565 ACRES OF VALUABLE LANDS AND MARSH ADJACENT TO EXISTING STATE WILDLIFE AREAS.

WHEREAS, pursuant to the 1974-1975 Capital Improvement Act, being Chapter 223, Volume 59, Laws of Delaware, Section 19, the Department of Natural Resources and Environmental Control is prohibited from purchasing any land in which the value exceeds \$50,000 without prior approval of the Delaware General Assembly; and

WHEREAS, appraisals and surveys will be completed prior to purchase, which shall exceed \$50,000; and

WHEREAS, the Bureau of Outdoor Recreation has approved or is in the process of approving these projects for 50% reimbursement, and the remaining funds are presently available;

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Department of Natural Resources and Environmental Control is hereby granted approval by the 128th General Assembly of the State of Delaware pursuant to Section 19, Chapter 223, Volume 59, Laws of Delaware, to purchase the following tracts of land:

Betts Tract - 400 acres

Ennis Tract - 165 acres

Approved June 28, 1976

CHAPTER 498

FORMERLY SENATE BILL NO. 610

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF ECONOMIC DEVELOPMENT OF THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of five hundred dollars (\$500.00) is hereby appropriated to the Division of Economic Development of the Department of Community Affairs and Economic Development to be expended by the Bureau of Travel in assisting the Delaware Chapter of the National Campers and Hikers Association in providing a float representing the State of Delaware at the National Convention of the association.

Section 2. This Act is a supplementary appropriation act, and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds so appropriated shall be used for the purpose set forth in Section 1 of this Act, and any funds appropriated but unexpended by August 1, 1976, shall thereupon revert to the General Fund of the State Treasury.

Approved June 28, 1976

CHAPTER 499

FORMERLY SENATE BILL NO. 719

AN ACT AUTHORIZING THE PUBLIC SERVICE COMMISSION TO EXPEND FUNDS FROM THE PUBLIC SERVICE COMMISSION REGULATORY REVOLVING FUND TO EMPLOYEE CONSULTANTS TO ASSIST THE AUDITOR IN THE PREPARATION OF TECHNICAL PHASES OF FUEL ADJUSTMENT HEARINGS.

WHEREAS, the Public Utilities Act of 1974, enacted on June 28, 1974, provides for the funding of the operations of the Public Service Commission from a Regulatory Revolving Fund derived from a 2 (.002) mills annual assessment of utility operating revenues to be paid into the fund on or before April 1st of each year; and

WHEREAS, said assessments have been deposited in the fund; and

WHEREAS, the Public Service Commission requires additional funds for hearings resulting from the recent Fuel Adjustment Computation Legislation, and for rate relief hearings and related travel.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby authorized to be expended from the Public Service Commission Regulatory Revolving Fund the sum of \$26,000 in addition to those funds authorized in the approved Budget for its operations to June 30, 1976, in accordance with the provisions of Section 116, Chapter 1, Public Service Commission, Title 26, Delaware Code.

Section 2. The funds authorized shall be allocated to line items as follows:

30-08-011 Public Service Commission

<u>Category</u>	<u>Amount</u>
(1) Personal Services	\$25,000
(2) Travel	1,000
Total Authorization	\$26,000

(1) Consultants may be authorized by the Commission to assist the Commission's Auditor in preparation of certain technical phases of the Fuel Adjustment Hearings.

(2) The Commission may travel to various parts of the State for public hearings on the Fuel Adjustment.

Approved June 28, 1976

CHAPTER 500

FORMERLY HOUSE BILL NO. 1069

**AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE
DELAWARE CODE, RELATING TO FARM
TRUCKS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2113, Chapter 21, Title 21 of the Delaware Code by designating the existing paragraph as paragraph “(a)”.

Section 2. Amend §2113, Chapter 21, Title 21 of the Delaware Code by adding the following new paragraph (b).

“(b) The requirement for registration and inspection of motor vehicles, vehicles or trailers is waived for those motor vehicles, vehicles or trailers if they are:

- (1) not used for hire;
- (2) used exclusively as farm machinery or farm implements;
- (3) operated or towed upon the public highways or roads solely for the purpose of traveling from one farm, or portion thereof, to another farm or portion thereof, both owned or managed by the owner of the vehicles. Distance to be traveled on the public highways or roads is not to exceed two (2) miles;
- (4) operated or towed upon the public highways or roads only during the hours between sunrise and sunset; and

(5) properly equipped with a stop light, turn signals and brakes which are in a safe operating condition.”

Approved June 28, 1976

CHAPTER 501

FORMERLY SENATE BILL NO. 506

**AN ACT TO RELIEVE CERTAIN EMPLOYEES OF THE
STATE OF DELAWARE FROM THE OBLIGATION
OF REPAYING TO THE STATE CERTAIN EXCESS
SALARY PAYMENT UNKNOWNLY RECEIVED
BY SUCH EMPLOYEES.**

WHEREAS, during an audit of the Department of Administrative Services conducted by representation of the Auditor of Accounts during the early months of calendar 1975 and continuing to date it has been disclosed that a number of employees of the Department of Administrative Services have received salary and wage payments in excess of amounts which should have been paid to them; and

WHEREAS, such overpayments resulted from misinterpretations of the Merit System Rule pertaining to Supervisory Pay Differential and from administrative miscalculations; and

WHEREAS, the Director of State Personnel has acknowledged that the rule on supervisory pay was subject to a variety of misinterpretations; and

WHEREAS, the thirty (30) employees who received excess salary and wage payments were unaware that the payments received over extended periods of time were incorrect; and

WHEREAS, the salary rates of personnel involved have been adjusted to proper pay grade and step.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Notwithstanding the provisions of any other statute to the contrary any salary overpayments made to employees of the Department of Administrative Services disclosed as a result of and/or in connection with audits conducted in that Department during the early part of 1975 and terminating in mid 1975 shall not be subject to recovery.

Approved June 29, 1976

CHAPTER 502

FORMERLY SENATE BILL NO. 817

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF THE BUDGET, FOR SALARY INCREASES PROVIDED BY VOLUME 60, CHAPTER 187, LAWS OF DELAWARE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated the sum of \$1,855,700, to the Office of the Budget, to meet salary deficiencies for the various departments, agencies, and school districts:

Salary Contingency	\$1,855,700.
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Section 2. The sums appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended as of July 15, 1976, shall revert to the General Fund of the State.

Approved June 30, 1976

CHAPTER 503

HOUSE BILL NO. 1230
AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

**AN ACT AMENDING TITLES 2, 3, 7, 9, 17, 21, 23 and 29
OF THE DELAWARE CODE PROVIDING FOR
REORGANIZATION OF THE DEPARTMENT OF
HIGHWAYS AND TRANSPORTATION AND MAK-
ING AN APPROPRIATION FOR PRELIMINARY
EXPENSES FOR THE NEW DEPARTMENT OF
TRANSPORTATION FROM THE CAPITAL IN-
VESTMENT FUND.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 84, Title 29, Delaware Code by striking the title thereof and substituting in lieu thereof the title "Department of Transportation", and by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation", and by striking the words "Division of Transportation" wherever therein appearing and substituting in lieu thereof the words "Transportation Authority".

Section 2. Amend Chapter 84, Title 29, Delaware Code by deleting Section 8401 thereof and substituting in lieu thereof a new Section 8401 to read as follows:

"Section 8401. Establishment of Department.

(a) The Department of Transportation is hereby established. The Department through appropriate divisions, authorities, subdivisions, offices and administrations, shall have the power to perform and shall be responsible for the performance of all the powers, duties and functions vested by law in the Department of Highways and Transportation immediately prior to the effective date of this Act.

(b) The powers and duties of the Department of Transportation shall also include, but not be limited to, the following activities:

(1) Coordinating and developing, in cooperation with the Federal government, other states, Delaware State Agencies, counties, cities, councils, and agencies, comprehensive balanced transportation planning and policy for the movement of people and goods within the State:

(2) To be the lead agency for establishing and maintaining the continuing, comprehensive, cooperative transportation planning process pursuant to the existing and future provisions of Title 23, U.S. Code and the Urban mass Transportation Act of 1964 as amended;

(3) To be the supervising and responsible planning staff for all urban and rural transportation studies and programs in the State and enter into any contracts, agreements and stipulations as required;

(4) To provide the necessary staffing, coordination and liaison required by present and future federal and state acts for transportation planning, programs, grant applications and required administration;

(5) Planning, designing, constructing, operating and maintaining those highway and public transportation systems under its jurisdiction;

(6) Preparing an annual transportation needs plan directed at the achievement of a coordinated and balanced transportation system for the state that is consistent with the state's social, economic and environmental needs and goals;

(7) Establishing, in cooperation with State Planning Office, a rating formula for setting priorities for highway and public transportation projects considering but not limited to the following criteria; sufficiency rating, economic factors,

continuity of improvement, social factors, aesthetic and environmental factors, safety factors, availability of funds. The rating formula shall be used for the development of priority recommendations for the planning, design and construction of state transportation projects.”

Section 3. Amend Chapter 84, Title 29, Delaware Code by deleting Section 8402 and substituting in lieu thereof a new Section 8402 to read as follows:

“Section 8402. **Definitions.**

As used in this Chapter:

(a) “Corridor Route” as used in this chapter means any existing or proposed road in an urban or rural area which is classified as part of the “principal arterial highway system” as defined in the National Highway Functional Classification Studies on record with the Department and which serves traffic corridor movements of substantial statewide or interstate travel and as to which the concept of service of abutting land is subordinate to the provisions of travel service to major traffic movements.

(b) “Department” means the Department of Transportation.

(c) “Authority” or “Transportation Authority” means Delaware Transportation Authority.

(d) “Director” means the Director of the Transportation Authority and/or the Director of the Division of Highways.

(e) “Division” means the Division of Highways.

(f) “Secretary” means the Secretary of the Department of Transportation.”

Section 4. Amend Chapter 84, Title 29, Delaware Code by deleting subparagraphs (2) (b) and (2) (c) of Section 8404 thereof and substituting in lieu thereof a new subparagraph (2) (b) to read as follows and renumbering subparagraph (d) thereof as subparagraph (c):

“(b) A director of the Transportation Authority who shall be qualified by training and experience to perform the duties of his office.”

Section 5. Amend Chapter 84, Title 29, Delaware Code by deleting paragraph (4) of Section 8404 thereof and substituting in lieu thereof a new paragraph (4) to read as follows:

“(4) To collect and analyze statistical and planning information on all modes of transportation and make studies required to carry out state transportation programs; to coordinate and develop, in cooperation with federal, state, county, and local governmental agencies, comprehensive balanced transportation planning, programming and policy for the movement of people and goods within the state; to prepare a statewide master transportation plan that is consistent with the state's social, economic and environmental needs and goals; to develop a unified intermodal transportation planning program in cooperation with State Planning Office and other planning agencies to fulfill the transportation planning requirements of the federal government;”

Section 6. Amend Chapter 84, Title 29, Delaware code, by renumbering Sections 8411 through 8418 as Sections 8412 through 8419 respectively.

Section 7. Amend Chapter 84, Title 29, Delaware Code, by deleting Sections 8407, 8408, 8409, and 8410 thereof and substituting the following:

“Section 8407. **Transportation Authority.**

The Transportation Authority is hereby established and shall have the power to perform and shall be responsible for the performance of all the powers, duties, and functions heretofore vested in the Division of Transportation pursuant to Chapter 84, Title 29, unless otherwise transferred by this Chapter, as well as such other additional functions as are outlined in the Act. Solely for the purpose of carrying out the powers, duties, and authority contained in the provisions of this chapter, the status of the Authority shall be that of an independent, autonomous public entity and agency, in the nature of a specialized body politic, which is not subject to the supervision and regulation of any other department, commission, body or agency of this State, with the exception of the Department of Transportation and except to the extent and manner as provided by law. (17 Del. C. 1953, §603; 53 Del. Laws, c. 176.)

**Section 8408. Director, Chiefs of Divisions;
Acting Director; Appointment.**

(a) The administrator and head of the Authority shall be the Director of the Transportation Authority who shall be a person qualified by training and experience to perform the duties of his office and preference shall be given to a resident of this State provided that the person is acceptable and equally qualified. The Director shall be appointed by the Secretary, with the advice and consent of the Governor, and shall serve at the pleasure of the Secretary. The Director shall be paid an annual salary not in excess of \$33,500.

(b) In the event of death, resignation, temporary incapacity, removal or vacancy for whatever reason of the Director and prior to the appointment of his successor, the Secretary may appoint the chief of any administration and/or subdivision of the Authority to serve as Acting Director. The director may, during an absence from the State, appoint the chief of any administration and/or subdivision of the Authority to serve as Acting Director during such absence. In either case, the Acting Director shall have all the powers and shall perform all the duties and functions of the

Director during such absence or incapacity or until a successor is duly qualified and appointed.

(c) The Director shall have the following powers, duties and functions:

(1) To supervise, direct, and account for the administration and operation of the Authority, its divisions, subdivisions, administrations, offices, and functions and employees;

(2) To appoint, and fix the salary of, with the written approval of the Secretary, the following chiefs of administration and office heads, who may be removed from office by the Director with the written approval of the Secretary and who shall have such powers, duties and functions in the administration and operation of the Authority as may be assigned by the Director with the written approval of the Secretary;

(a) A chief of the Turnpikes Administration who shall be known as the Chief of Turnpikes and who shall be qualified by training and experience to perform the duties of the Office.

b. Such other Chiefs as the Secretary may from time to time require to oversee the operations of such other administrations as may from time to time be created by the Secretary with the written approval of the Governor (except pursuant to Chapter 16 and Chapter 17 of Title 2, Delaware Code).

(3) To delegate any of the Director's powers, duties or functions with the written approval of the Secretary;

(4) To establish and to promulgate such rules and regulations governing the administration and operation of the Authority with the written approval of the Secretary as

may be deemed necessary and which are not inconsistent with the laws of this State;

(5) To maintain such facilities throughout the State as may be required for the effective and efficient operation of the Authority;

(6) To adopt an official seal or seals for the Authority;

(7) To perform such additional duties as the Secretary may delegate.

(d) The Aeronautics Administration is hereby established having powers, duties, and functions as follows:

(1) The Aeronautics Administration shall have the power to perform, and shall be responsible for the performance of all the powers, duties, and functions heretofore vested in the Department of Highways and Transportation pursuant to Chapters 1, 3, 5, 7, and 9 of Title 2, Delaware Code.

(2) The Aeronautics Administration shall also have the power to perform and shall be responsible for the performance of any other functions as delegated by the Director of the Authority with the written approval of the Secretary.

(e) The Turnpike Administration is hereby established having powers, duties, and functions as follows:

(1) The Turnpikes Administration shall be responsible for operations and maintenance of the Delaware Turnpike;

(2) The Turnpikes Administration shall also have the power to perform and shall be responsible for the performance of any other functions as delegated by the Director of the Authority with the written approval of the Secretary.

(f) When created, a local transportation authority shall be a subdivision of this State pursuant to Chapter 16 of Title 2, exercising public powers and having all powers necessary and convenient to carry out and effectuate the provisions of Chapter 16, Title 2, and providing a public mass transportation system within its area of operations.

(g) When created a specialized transit administration shall be a subdivision of this State pursuant to Chapter 17 of Title 2, exercising public powers and having all powers necessary or convenient to carry out and effectuate the provisions of Chapter 17, Title 2, and providing specialized transportation services within its area of operations.

Section 8409. Council on Transportation.

(a) There is established a Council on Transportation.

(b) The Council on Transportation shall serve in an advisory capacity, except as otherwise provided, to the Director of Highways, to the Director of the Transportation Authority, to the Secretary, and the Governor, and shall:

(1) Consider matters relating to transportation in the State and other matters such as the budget and capital improvements programs which may be referred to it by the Governor or the Secretary of the Department.

(2) Study, research, plan, and advise on matters it deems appropriate to enable the Department to function in the best possible manner.

(3) Have final approval of and to adopt the six year highway improvement program, which shall be submitted annually to the Council by the Department;

(4) Have final approval of and to adopt all corridor route projects in connection with new road alignments,

which projects shall be submitted to the Council by the Department.

(c) The Council shall adopt all motions and approve all projects only by a majority vote of the entire membership of the Council. All voting under this provisions shall be done in person and at regular or special meetings of the Council. If the Council, for any reason, shall fail to approve and to adopt in writing within a reasonable period of time after receipt of this programs or projects referred to in subsection (b) (3) and (4) of this section, the Secretary of the Department may, with the approval of the Governor, upon 40 days prior written notice to the Chairman of the Council, give final approval to said programs or projects notwithstanding the absence of the Council's written comments.

(d) The Council shall organize itself into two subcouncils. The Chairperson of the Council on Transportation shall be designated by the Governor to serve at his pleasure. The Chairperson shall designate from the Council a Vice Chairperson for Highways and a Vice Chairperson for the Transportation Authority. The Chairperson and the two Vice Chairpersons shall designate the remaining membership to serve on one of the two Subcouncils. The Subcouncil on Highways shall have primary responsibility for considering matters related to the Division of Highways, and shall have final approval of and responsibility to adopt all corridor route projects in connection with new road alignments. The Subcouncil on the Transportation Authority shall have as primary responsibility matters related to the Transportation Authority including the fixing of turnpike tolls and the fares, schedules and services of the transit administrations.

“(e) The initial membership of the Council will consist of the appointed members of the Council on Highways which is eliminated by this Chapter and fifteen (15) members appointed by the Governor.

(f) Three (3) of the members appointed by the Governor shall be persons who reside in the City of Wilmington, three

(3) shall be persons who reside in New Castle County outside of the City of Wilmington, three (3) shall be persons who reside in Kent County, three (3) shall be persons who reside in Sussex County and three (3) shall be persons who are residents of the State of Delaware.

(g) Members of the Council on Highways shall be permitted to complete the existing term of their membership pursuant to the foregoing, but shall not be considered appointed members for purposes of subsection (h) herein. As the terms of the members of this Council on Highways expire, the membership of such Council shall be reduced to fifteen (15) members, and shall remain at fifteen (15) thereafter."

(h) After the membership is stabilized at 15, there shall not be more than a bare majority representation of 1 major political party over the other major political party. Any person who declines to announce his political affiliation shall be eligible for appointment.

(i) The terms of appointments shall be three (3) years.

(j) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(k) Failure to attend three (3) consecutive regular meetings of the Council shall be construed as a request by that member to resign from the Council and replacements may thereafter be appointed in his stead.

(l) Any replacement appointed to the Council to fill a vacancy prior to the expiration of a term shall be filled only for the remainder of the term.

(m) All meetings of the Council shall be open to the public.

Section 8410. Books; Records; Access; Annual Report.

(a) The Council on Transportation shall have access to all books, records, reports and other documents relating to the divisions and offices of the Delaware Department of Transportation unless otherwise prohibited by law.

(b) The Chairperson of the Council on Transportation shall make an annual report of the Council's operations to the Secretary, the Governor, and the General Assembly and render such other reports as the Secretary, the Governor, or the General Assembly may from time to time request or may be required by law.

Section 8411. Exemptions.

The following positions and administrations set forth in this Chapter shall be exempt from Chapter 59 of this Title:

(a) Secretary of the Department of Transportation

(b) Director of the Transportation Authority.

(c) Director of the Division of Highways.

(d) Chief of the Office of Administration.

(e) Chief of the Turnpikes Administration.

(f) Chiefs of such other Divisions or Administrations as may be established by the Secretary with the written approval of the Governor."

Section 8. Amend Part II, Title 2, Delaware Code, by adding a new Chapter 13, to read as follows:

**“CHAPTER 13. DELAWARE TRANSPORTATION
AUTHORITY**

SUBCHAPTER 1. DEFINITIONS AND PURPOSE

Section 1301. Definitions.

As used in this part:

(a) “Area” or “area of operation” means that part of the State for which a local transportation authority or specialized transportation authority shall be created.

(b) “Authority” means the Transportation Authority of the Department of Transportation.

(c) “Department” means the Department of Transportation.

(d) “Director” means the Director of the Transportation Authority.

(e) “Mass transportation” means the transportation of people, usually in groups, by means other than privately-owned automobile, and it also shall include the transportation of goods by rail.

(f) “Public utility” means any person (as defined in Section 302, Title 1) or his lessee, trustee, or receiver who operates within this State any railroad, railway, street railway, traction railway, motor bus, bus, taxi, electric trackless trolley coach, trolley, or monorail for transportation.

(g) “Secretary” means the Secretary of the Department of Transportation.

(h) "Railroad" means a road, the cars, carriages and coaches on which are propelled by steam power, electricity, cable, motor or any improved motive power.

Section 1302. Purpose.

(a) It is the purpose and intent of this part to establish the means whereby the full resources of this State can be used and applied in a coordinated and integrated manner to solve or assist in the solution of the problems of mass and specialized transportation; to promote and supply an economical, efficient, integrated and balanced mass and specialized transportation systems for all of the people in accordance with the need in various parts of the State; to prepare and implement comprehensive plans and programs for mass and specialized transportation development and improvement in this State; and to coordinate the mass and specialized transportation activities of state agencies, and other public agencies with mass and specialized transportation responsibilities within this State.

(b) The Authority shall be responsible for the coordination of all mass and specialized transportation facilities within this State so as to obtain for the citizens of this State economical, efficient and coordinated mass and specialized transportation systems in accordance with the need in various parts of the State.

(c) Whenever the Secretary determines that a need for mass or specialized transportation services exists in a part of this State which is not being met, or which will not be met in the future because of a projected reduction or termination of services, the Authority at the recommendation of the Secretary with the approval of the General Assembly shall undertake to provide such services pursuant to Chapters 15, 16 or 17, Title 2, or this Chapter as soon as possible in the manner provided in this part.

(d) This part shall be construed according to the fair im-

port of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

SUBCHAPTER II. JURISDICTION, POWERS, AND DUTIES.

Section 1321. **Powers and Duties.**

(a) The Secretary may:

(1) Develop, revise, and maintain a state comprehensive plan for the coordination, development and improvement of mass and specialized transportation. This shall be done in cooperation with any local or regional transportation agencies, including local transit authorities created pursuant to Chapters 15, 16 or 17, and in cooperation with the Council on Transportation;

(2) Develop programs designed to foster efficient and economical public mass and specialized transportation services in this State;

(3) Prepare plans for the preservation and improvement of commuter railroad and bus systems;

(4) Develop plans for more efficient public transportation service by bus operators; develop statistics, analyses, and other data of use to bus operators in the improvement of public transportation service; and facilitate more effective coordination between bus service and other forms of public transportation, particularly the commuter railroads;

(5) Coordinate transportation activities of the authority with those of the local transportation authorities, specialized transportation authorities, public utilities and public agencies.

(6) Cooperate with intra or interstate commission and

authorities, county governing bodies, state department, divisions, offices, councils, bureaus, commissions and other state agencies, appropriate federal agencies, municipalities and with interested private individuals and organizations in the coordination of plans and policies for the development of mass and specialized transportation facilities;

(7) Conduct public hearings on the need and economic feasibility of public mass and specialized transportation services in various parts of the State;

(8) Employ, in his/her discretion, in accordance with existing law, planning, architectural and engineering consultants, attorneys, accountants, construction, financial, transportation and traffic experts and consultants, superintendents, managers, and such other officers, employees, and agents as may be necessary in his judgment, and fix their compensation;

(9) Make grants of funds upon such terms and conditions as the Secretary shall deem best to transportation authorities created pursuant to Chapters 15, 16 and 17, Title 2, public agencies, and public utilities operating within this State to enable such authorities, agencies, and utilities to furnish, to continue to furnish, or expand mass and specialized transportation service to the citizens of this State in an economical manner;

(10) Make payments to any transportation authorities created pursuant to Chapters 15, 16 or 17, Title 2, or public utility out of funds appropriated to the Authority by the General Assembly for any purpose consistent with providing public and specialized transportation services within the local transportation authorities or public utility's areas of operation.

(11) Investigate any matters concerning any public utility operating a public mass and specialized transportation system, and in aid of such investigation the Department shall

have access to and the public utility shall make available its property, books, records, or documents;

(12) Call to his/her assistance and avail himself/herself of the services of such employees of any federal or state agency as he may require and as may be available to him/her for said purpose;

(13) Delegate any of his/her powers and duties to committees and commissions, administrations, divisions, offices, or employees of the Department;

(14) Create advisory boards; and

(15) Enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the implementation of the purpose of this chapter or to carry out any power or duty given in this part.

(16) Exercise exclusive authority to promulgate rules and regulations relative to the size, weight, load and passenger occupancy of buses operated by an transportation authorities created by Chapters 15, 16 or 17, Title 2, in any county, city, incorporated municipality, town or political subdivision of this State.

(b) The Secretary shall:

(1) Approve and join in on behalf of the State applications of subdivisions of the Authority and any transportation authorities created pursuant to Chapters 15, 16 or 17, Title 2, for grants from the federal government or any agency thereof, or from any county, municipality, foundation or person, and comply with the terms, conditions and limitations thereof, for any of the purposes of the Authority. Any money so received may be expended by the subdivisions of the Authority and any transportation authorities created pursuant to Chapters 15, 16 or 17, Title 2, subject to any limitations imposed in such grants, to effect any of the pur-

poses of this Chapter, as the case may be;

(2) Receive and expend such sums of money as may be appropriated to the Department by an appropriation act or bond authorization act of the General Assembly;

(3) Have exclusive original supervision and regulation of all public carriers other than a transportation authority created pursuant to Chapters 15, 16 or 17, Title 2, and also over their property, property rights, equipment, facilities, franchises, rates, fares, tariffs, regulations, practices, measurement and service, heretofore vested in the Dept. of Highways and Transportation under Paragraph (g), Section 132, Subchapter III, Chapter I, Title 17, Delaware Code;

(4) Make an annual report of the Authority's activities each year, to be included in the Department's report to the Governor and the General Assembly. Each such report shall set forth complete operational and financial statements covering the operations of each of the Authority's Administrations during the year.

Section 1322. Continuation of Employees.

All employees of any commission, board, department, division, authority, council, or agency, to the extent that the same are consistent with Chapter 84 of Title 29, Delaware Code, and in connection with a function transferred to the Authority, shall continue and be deemed to be employees of the Authority, shall continue and be deemed to be employees of the Authority. All benefits which were accrued as either merit employees or employees of established Authorities shall be retained."

Section 9. Amend Part II, Title 2, Delaware Code, by adding thereto a new Chapter 14 to read as follows:

"CHAPTER 14. DELAWARE TURNPIKE

Section 1401. Definitions.

As used in this part:

(a) "Authority" shall mean the Transportation Authority of the Department of Transportation of the State or the board, body, commission or authority succeeding to the principal functions, thereof.

(b) "Department" shall mean the Department of Transportation of the State or the board, body, commission or authority succeeding to the principal functions, thereof.

(c) "Turnpike" shall mean the express toll highway or such part or parts thereof as have been constructed pursuant to provisions of Chapter 6, Title 17, in effect immediately prior to the passage of this Act or any other Chapter of the Delaware Code or may be constructed under the provisions of this Chapter together with and including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, exits, approaches, connecting highways, service stations, restaurants, and administration, storage and other buildings and facilities which the Authority may deem necessary for the operation of the turnpike, together with all property, rights, easements, and interests which may be acquired by the Authority with the written approval of the Secretary of the Department of Transportation for the construction or the operation of the turnpike.

(d) The term "cost of the turnpike" shall embrace the cost of construction, the cost of acquisition of all land, right-of-way, property, rights, easements, and interests acquired by the Department for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of all machinery and equipment, financing charges, interest prior to and during the construction, and, if deemed advisable by the Department, for 1 year after commencement of operations, cost of traffic estimates and of engineering the legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the turnpike, ad-

poses of this Chapter, as the case may be;

(2) Receive and expend such sums of money as may be appropriated to the Department by an appropriation act or bond authorization act of the General Assembly;

(3) Have exclusive original supervision and regulation of all public carriers other than a transportation authority created pursuant to Chapters 15, 16 or 17, Title 2, and also over their property, property rights, equipment, facilities, franchises, rates, fares, tariffs, regulations, practices, measurement and service, heretofore vested in the Dept. of Highways and Transportation under Paragraph (g), Section 132, Subchapter III, Chapter I, Title 17, Delaware Code;

(4) Make an annual report of the Authority's activities each year, to be included in the Department's report to the Governor and the General Assembly. Each such report shall set forth complete operational and financial statements covering the operations of each of the Authority's Administrations during the year.

Section 1322. Continuation of Employees.

All employees of any commission, board, department, division, authority, council, or agency, to the extent that the same are consistent with Chapter 84 of Title 29, Delaware Code, and in connection with a function transferred to the Authority, shall continue and be deemed to be employees of the Authority, shall continue and be deemed to be employees of the Authority. All benefits which were accrued as either merit employees or employees of established Authorities shall be retained."

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Section 1401. Definitions.

As used in this part:

(a) "Authority" shall mean the Transportation Authority of the Department of Transportation of the State or the board, body, commission or authority succeeding to the principal functions, thereof.

(b) "Department" shall mean the Department of Transportation of the State or the board, body, commission or authority succeeding to the principal functions, thereof.

(c) "Turnpike" shall mean the express toll highway or such part or parts thereof as have been constructed pursuant to provisions of Chapter 6, Title 17, in effect immediately prior to the passage of this Act or any other Chapter of the Delaware Code or may be constructed under the provisions of this Chapter together with and including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, exits, approaches, connecting highways, service stations, restaurants, and administration, storage and other buildings and facilities which the Authority may deem necessary for the operation of the turnpike, together with all property, rights, easements, and interests which may be acquired by the Authority with the written approval of the Secretary of the Department of Transportation for the construction or the operation of the turnpike.

(d) The term "cost of the turnpike" shall embrace the cost of construction, the cost of acquisition of all land, right-of-way, property, rights, easements, and interests acquired by the Department for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of all machinery and equipment, financing charges, interest prior to and during the construction, and, if deemed advisable by the Department, for 1 year after commencement of operations, cost of traffic estimates and of engineering the legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the turnpike, ad-

ministrative expenses and such other expenses as may be necessary or incident to the construction of the turnpike in operation. Any obligation or expense incurred by the Department before or after August 24, 1961, from public funds or by the Delaware Interstate Highway Division for right-of-way, easements, traffic surveys, boring, preparation of plans and specifications, other engineering services, or any other funds whatsoever in connection with the construction of such express highways shall be regarded as part of the cost of the turnpike and shall be reimbursed to the State Treasurer.

(e) "Secretary" shall mean the Secretary of the Department of Transportation.

Section 1402. **Delaware Turnpike.**

The Authority may, with the written approval of the Secretary and subject to this Chapter, construct, reconstruct, maintain, repair, improve and operate at such location as it may approve a system of toll express highways, to be known as the "Delaware Turnpike", from a point in the vicinity of the westerly approach of the Delaware Memorial Bridge to points at or near the boundary lines between this State and the Commonwealth of Pennsylvania and State of Maryland or such parts thereof as it may determine.

Section 1403. **John F. Kennedy Memorial Highway.**

(a) That portion of the Delaware Turnpike leading from the Delaware Memorial Bridge to the Maryland State Line shall be known as the "John F. Kennedy Memorial Highway."

(b) The Authority shall designate such portions of the Turnpike as may be necessary to effectuate the intention of this section the "John F. Kennedy Memorial Highway" and shall cause to be erected suitable signs or markers to inform the public of the proper name.

Section 1404. Duties of Director of the Authority and Chief of Turnpikes Administration.

(a) The Director of the Authority shall be responsible for the supervision of all engineering work in the construction, repair, improvement and maintenance of the Turnpike.

(b) The Director of the Authority may appoint such deputies as may be necessary for the supervision of such construction, repair, improvement and maintenance of the Turnpike, subject to the provisions of Chapter 84, Title 29, Delaware Code.

(c) The Chief of the Turnpike Administration shall supervise the operations of the Turnpike Administration and shall perform such other duties as may be required by the Director of the Authority. The Chief of Turnpikes shall assume all duties which were previously vested in the General Manager.

Section 1405. General Grant of Powers.

With the written approval of the Secretary and in accordance with policy guidelines which shall be established by the Secretary and in order to carry out its duties under this Chapter, the Authority, in addition to any of its other powers and authority, may:

(a) Maintain a Turnpike Administration office or offices at such places within the State as it may determine.

(b) Construct, reconstruct, maintain, repair, improve, and operate the Turnpike, and necessary buildings and appurtenances or any part or parts thereof as it may determine.

(c) Acquire sites abutting on the Turnpike and construct or contract for the construction of buildings and appurtenances for gasoline stations, restaurants, lodging and

other services and lease or operate the same for the above purposes in such manner and under such terms as it may determine.

(d) Fix and revise from time to time and charge and collect tolls for transit over the Turnpike, and it shall upon request furnish a user of the Turnpike a toll receipt showing the amount of toll paid, the classification of the vehicle and the date and place of exit from said Turnpike.

(e) Establish rules and regulations for the use of the Turnpike and provide penalties for the violation of said rules and regulations.

(f) Acquire, hold and dispose of real and personnel property in the exercise of its powers and the performance of its duties under this Chapter.

(g) Acquire by purchase or otherwise, on such terms and conditions as it may deem proper, or by the exercise of the powers of eminent domain, such public lands, parks, playgrounds, reservations, cemeteries, highways or parkways, or parts thereof or rights therein, and any fee absolute or any lesser interest in such private property as it may deem necessary for the carrying out of the provisions of this Chapter, including any fee simple absolute in, easements upon or the benefit of restrictions upon abutting property to preserve and protect the Turnpike.

(h) Designate the locations, and establish, limit and control such points of ingress to and egress from the Turnpike as may be necessary or desirable in the judgement of the Authority to insure the proper operation and maintenance of the Turnpike, and to prohibit entrance to the Turnpike from any point or points not so designated.

(i) Make and enter into all contracts and agreements with the written approval of the Secretary necessary or incidental to the performance of its duties and the executing of

its powers under this Chapter.

(j) Employ in accord with existing law, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employes and agents as may be necessary to its judgement, and fix their compensation.

(k) Receive and accept grants from any federal agency for or in aid of the construction, reconstruction, maintenance, improvement, and/or operation of the Turnpike, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

(l) Do all acts and things necessary or convenient to carry out the powers expressly granted in this Chapter.

Section 1406. Incidental Powers.

(a) The Authority may construct, reconstruct, maintain or improve grade separations at intersections of the Turnpike with public highways and change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of the Turnpike.

(b) If the Authority shall find it necessary to change the location of any portion of any public highway, it shall, with the written approval of the Secretary, reconstruct the same at such location as the Authority shall deem most favorable, and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a

part of the cost of the Turnpike.

(c) Any public highway affected by the construction of the Turnpike may be vacated or relocated by the Authority with the written approval of the Secretary and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the Turnpike.

(d) In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damage resulting from such activities.

(e) The Authority with the written approval of the Secretary may make reasonable regulations including the authority to grant easements for the installation, construction, reconstruction, maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility, or of any corporation or person owning or operating pipelines in, on, along, over or located in, on, along, over or under the Delaware Turnpike, should be relocated or should be removed from the Delaware Turnpike, the public utility, corporation or person owning or operating such facilities shall relocate or remove the same in accordance with the order of the Authority, with the written approval of the Secretary. In case of any such relocation or removal of facilities, the public utility, corporation or person owning or operating the same, its successor or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former

location or locations, provided, however, that the cost of removal or relocation of such facilities, or of installing such facilities in a new location, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish such relocation, removal or installation, shall be ascertained and paid by the Authority as part of the cost of the Delaware Turnpike.

(f) The Authority may, in the process of constructing or reconstructing all or any part of the Turnpike or any extension thereof or additions thereto, take by eminent domain such land abutting the Turnpike as it may deem necessary or desirable for the purpose of removing or relocating all or any part of the facilities of any public utility, including rail lines, and may thereafter lease the same or convey an easement or any other interest therein to such utility company upon such terms as it, in its sole discretion, may determine. The relocation of the facilities of any public utility, including rail lines, in accordance with the provisions of this Section shall be valid upon the filing of the plans thereof with the Public Service Commission, and no general laws or other special laws or parts thereof shall be applicable to such relocation.

(g) Any other provisions of the Delaware Code to the contrary notwithstanding, the Authority may sell the building or other structures upon any lands taken by it, or may remove the same, and shall sell, if a sale be practicable, or if not, shall lease, if a lease is practicable, any lands or interests in lands or other property taken or purchased for the purposes of this Chapter, whenever the same shall, in the opinion of the Authority cease to be needed for such purpose. The proceeds of any such sale or lease shall be applied toward the cost of the Delaware Turnpike or deposited to the credit of the sinking fund for the transportation revenue bonds issued under the provisions of Title 2, Chapter 19. The Director of the Authority shall execute and deliver, in proper form, any documents required as a result of any sale or lease under this section.

(h) The Authority may place and maintain or may grant

permission by easement or otherwise to any corporation or person to place and maintain on or under or within the Turnpike, ducts, pipes, pipelines, wires or other structures, to be so located as not to interfere with the same and convenient operation and maintenance of the Turnpike, and may contract with any such person or corporation for such permission on such terms and conditions as may be fixed by the Authority. The construction, reconstruction, maintenance, improvement and repairs of such ducts, pipes, pipelines, wires or other structures shall be subject to such directions and regulations as the Authority may impose. The Director of the Authority shall execute, in proper form, any documents required as a result of any easement place, maintained or granted under this Section.

Section 1407. State Highways and Bridges.

(a) The Authority may, with the written approval of the Secretary, incorporate in the Turnpike as an integral part thereof any existing state highway or bridge or any partially completed state highways or bridge which it may deem necessary, and the actual cost thereof shall be reimbursed to the State Treasurer from the proceeds of transportation revenue bonds and shall be treated as a part of the cost of the Turnpike.

(b) In addition, and without any such reimbursement to the State Treasurer, the Authority may, with the written approval of the Secretary, incorporate in the Turnpike, for purpose of maintenance, repair and improvement only, such state highways and bridges as the Authority may deem necessary to assure the economic feasibility and management of the Turnpike and may expend funds for these purposes arising from Turnpike revenue as authorized by this Chapter.

Section 1408. Maintenance and Operation of Delaware Turnpikes, Damage to Private Property; Lease, Loan or Grant of Municipal Real Property, Arrest for Nonpayment of

Tolls; Annual Report; Unclaimed Property.

(a) The Delaware Turnpike shall be maintained and kept in good condition and repaired by the Authority. The Delaware Turnpike shall also be policed and operated by such force of police, tolltakers and other operating employees as the Authority may, in its discretion and in accord with existing law employ and the Authority may contract, with the written approval of the Secretary, for any or all accounting, administrative, policing, maintenance or other services with any private or public agency provided that all existing laws are complied with.

(b) All private property damaged or destroyed in carrying out the powers granted by this Chapter shall be restored or repaired and placed in its original condition as nearly as practicable, or adequate compensation made therefor out of funds provided under the authority of this Chapter.

(c) All counties, cities, towns and other political subdivisions and all public agencies and commissions of the State, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use. Provided that any city, town or municipality shall exercise the power and authority granted in this Chapter only by consent of its council or chief legislative body, which consent shall be exercised by ordinance.

(d) Any operator of a vehicle using the Delaware Turnpike who refuses to pay the toll prescribed by the Authority,

or who evades or attempts to evade payment of the toll prescribed by the Authority, may be arrested without a warrant. The fine for such offense to be not less than \$10.00 and not more than \$50.00 in addition to costs.

(e) The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants, and the cost thereof may be treated as part of the cost of construction or operation of the Delaware Turnpike.

(f) If money, goods, or the property which has been abandoned, mislaid or lost on the premises of the Delaware Turnpike comes into the possession of said Authority and remains unclaimed in its possession for a period of one hundred twenty (120) days, the Authority may sell the same, excepting money so unclaimed, at public auction after notice of such sale has been published for three (3) successive weeks in a newspaper with general circulation in the county where such sale is to take place. The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale, and all money so unclaimed, shall be paid into and become the property of the Authority. If, the opinion of the Authority, any property so abandoned, mislaid, or lost which comes into the possession of the Authority and remains unclaimed in its possession for a period of one hundred twenty (120) days, is of value of \$3.00 or less, the Authority may donate the same to a charitable organization.

Section 1409. **Budget.**

The Turnpike Administration shall have prepared before September 1 of each year a budget for the next fiscal year which shall commence on the following July 1st. This budget will be used and considered in preparation of the Authority, and the Department of Transportation overall budget.

Section 1410. **Transfer to State.**

When all bonds constituting the original capitalization for the Turnpike and interest thereon have been paid, the Turnpike, if in good condition and repair, shall come under the exclusive jurisdiction and control of the Authority.

Section 1411. Non-Annexation.

The Turnpike shall not be subject to annexation by any County, City, Town or any other political subdivision, except as provided in 14 Delaware Code, §4910 herein.

Section 1412. Construction.

This Chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

Section 1413. Severability.

The provisions of this Chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 1414. Audit.

(a) The books, records, and accounts of the turnpike administration shall be audited annually by a certified public accountant licensed to practice in this State. Copies of this audit shall be furnished to the Secretary, the Director, the Auditor of Accounts, the proper State Legislative committees and other interested parties.

(b) The Auditor of Accounts may also audit the books, records, and accounts of an administration.

Section 10. Add a new Chapter to Title 2, Delaware Code, to be designated as Chapter 19 and which shall read as

follows:

**“CHAPTER 19. DELAWARE TRANSPORTATION
AUTHORITY FINANCING.**

Section 1901. Definitions.

As used in this Chapter, unless the context clearly indicates a different intent:

(a) “Airport Facilities” shall mean any one or more or combination of lands, airfield improvements, terminal improvements, general aviation facilities, air cargo facilities, general site improvements, utilities, roads, streets, parking lots, and all other facilities necessary or useful in connection with the operation of a modern airport and every and all other appurtenances and equipment now in use or hereafter designed for use in the handling of air carrier service, general aviation activities and others at any location within the State.

(b) The term “revenue bonds of prior issues” shall mean all “Delaware Turnpike Revenue Bonds” issued and sold under the provisions of Section 613, Title 17 of the Delaware Code.

(c) “Code” shall mean the 1974 Edition of the Annotated Code of Delaware as replaced, amended and supplemented from time to time.

(d) The term “cost” as applied to transportation facilities or any transportation facility project shall mean the cost of construction, reconstruction, acquisition, improvement, extension, alteration, modernization, planning, maintenance and repair of any such transportation facility or project, including the cost of all interests in property acquired in connection therewith, any financing charges and interest prior to, during and for one year after completion of construction, financial, architectural, consulting, engineering

and legal services, plans, specifications, surveys, estimates, feasibility reports, direct and indirect labor, materials, equipment and administrative expenses, and all other expenses which may be incident to the construction, reconstruction, acquisition, improvement, extension, alteration, modernization, maintenance or repair of transportation facilities or any transportation facility project or the financing thereof.

(e) "Authority" and "Director" shall mean respectively, the Transportation Authority and the Director of the Transportation Authority. Unless expressly provided otherwise, the Director shall be responsible for the exercise of all powers, duties and functions conferred upon the Authority by the provisions of this Article.

(f) "Turnpike Facilities" shall mean the express toll highways or such part or parts thereof as have been constructed pursuant to provisions of Chapter 6, Title 17, or any Chapter of the Delaware Code or may be constructed under the provisions of this Chapter together with and including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, exits, approaches, connecting highways, service stations, restaurants, lodging and administration, storage and other buildings and facilities which the Authority may deem necessary for the operation of the turnpike, together with all property, rights, easements, and interests which may be acquired by the Authority for the construction or the operation of the turnpike.

(g) The term "outstanding and unpaid" shall not include bonds purchased and held by or for the Authority in sinking funds, nor matured bonds not presented for payment, nor bonds called for redemption but not presented for redemption, if the monies for such payment or redemption have been provided.

(h) "Port Facilities" shall include any one or more or combination of lands, piers, docks, wharves, warehouses, sheds, transit sheds, elevators, compressors, refrigeration

storage plants, buildings, structures and other facilities, appurtenances, and equipment necessary or useful in connection with the operation of a modern port and every kind of terminal or storage structure or facility now in use or hereafter designed for use in the handling, storage, loading or unloading of freight or passengers at stemship terminals, and every kind of transportation facility now in use or hereafter designed for use in connection therewith.

(i) The term "refunding" shall mean the retirement and cancellation of bonds, including revenue bonds of prior issues, after their acquisition by or for the Authority, whether before, at or after maturity, either in exchange for other bonds or by payment, purchase or redemption with the proceeds of the sale of other bonds.

(j) "Transit Facilities" shall include any one or more or any one or more or any combination of real or personal property necessary or useful in rendering transit service by any means whatever, including tracks, rights-of-way, bridges, tunnels, subways, rolling stock for rail, motor vehicle, or other modes of transportation, stations, terminals and ports, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service.

(k) "Transportation Facilities" shall include turnpike facilities, port facilities, airport facilities and transit facilities, or any combination thereof.

(l) The term "transportation facilities project" shall include any such project hereafter authorized by the Authority to be acquired or constructed, and shall also include any additions, improvements or enlargements to any such project heretofore or hereafter authorized.

(m) "Secretary" means the Secretary of the Department of Transportation.

(a) To provide for the preliminary expenses in carrying out this Chapter, the sum of \$700,000 is appropriated from the Capital Investment Fund, which sum shall be repaid to the Capital Investment Fund within five (5) years from the date of said appropriation with interest computed annually at the average rate of interest received by the State in its cash management activities.

(b) The Authority shall make such surveys and studies of the transportation facilities and transportation facility projects as may be necessary to effect the financing authorized by this Chapter at the earliest practicable time, and for this purpose shall employ such consultants, legal and financial experts and such other employees and agents as it may deem necessary.

(c) Unobligated and unspent bond authorization acts of the General Assembly which were approved for "Transit Projects" to the Department of Highways and Transportation shall be transferred to the Authority. These bond authorizations shall carry all the conditions and limitations under which they were originally authorized by the General Assembly.

(d) The cost of amortizing all State Capital Improvement Bonds which were, or will be, sold to finance designated "Transit Projects" shall be borne by the Authority. The Authority shall transfer to the State Treasurer on a regular agreed schedule the funds necessary to meet this obligation of the Authority.

(e) Except where specifically exempted elsewhere, all employees of the Authority shall be considered State employees subject to all the provisions of Part V, Title 29, Delaware Code. The Authority shall be obligated for the total cost of all payments for wages and payments for wages and fringe benefits to these employees and shall transfer to the State Treasurer on a regular agreed schedule the funds necessary to meet these obligations.

Section 1903. Revenue Bonds.

The Authority is hereby authorized and empowered to finance the cost of transportation facilities and transportation facilities projects, in the name of the State, by the issuance of revenue bonds of the Authority, payable solely from the revenues of the transportation facilities or transportation facility projects. The bonds shall be known as "Transportation Revenue Bonds".

Section 1904. Revenues.

(a) Pursuant to and consistent with Section 1405, Title 2, Delaware Code; the Authority may make and enforce such rules and regulations and establish, fix, revise, change, collect (or authorize by contract, franchise, lease or otherwise, the establishment, fixing, revising, changing, levying and collecting of) such tolls, fares, rents, rates and other charges for the use of any transportation facility or transportation facility project operated by the Authority, the different parts or sections thereof, and any improvements or extensions thereof as it may deem necessary, proper, desirable and reasonable. The Director may, with written approval of the Secretary of the Department of Transportation, contract with any person, partnership, association, or corporation desiring the use of any part of the transportation facilities, or transportation facility project including right-of-way, for placing thereon, telephone, telegraph, electric light or power lines, gas stations, garages, restaurants, and advertisements, or for any other purposes, and fix the terms, conditions, rents, and rates of charges for such use. Such tolls, fares, rents, rates and other charges shall be so fixed and adjusted from time to time in respect to the aggregate of tolls, fares, rents, rates and other charges from the transportation facilities or transportation facility projects as to provide a fund sufficient with other revenues, if any, (a) to pay the cost of transportation facilities and transportation facility projects; (b) to pay the principal and interest upon bonds issued under the provisions of this Chapter, including bonds issued to refund such bonds at or prior to maturity thereof and

financing costs; (c) to provide operating and debt service reserve funds of such character and amount as the Authority shall determine to be necessary to insure proper maintenance of the transportation facilities and transportation facility project and to protect the holders of bonds issued under the provisions of this Chapter; and (d) to provide a surplus after paying and providing for the requirements set out in terms (a) to (c) inclusive.

(b) With the exception that the Department shall have power to review and revise such tolls, fares, rents, rates and other charges shall not be subject to supervision or regulation by any department, division, commission, board, council, bureau or agency of the State or any political subdivision thereof. The Authority will consider the general welfare of the State in establishing tolls, fares, rents, rates, and other charges.

(c) The tolls, fares, rents, rates, other charges, and all other revenues derived from the transportation facilities or transportation facility projects, except such part thereof as may be necessary to pay the cost of transportation facilities or transportation facility projects and provide such reserves therefore as may be provided for in the order authorizing the issuance of transportation revenue bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such order or such trust agreement in a sinking fund which is pledged to, and charged with, the payment of the principal of and the interest on bonds issued under the provisions of this Chapter as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls, fares, rents, rates, other charges, other revenues, or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties

have notice thereof. Neither the order nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the order authorizing the issuance of the transportation revenue bonds or of such trust agreement. Except as may otherwise be provided in such order or such trust agreement, such sinking fund shall be a fund for all bonds issued under the provisions of this Chapter without distinction or priority of one over another.

(d) Provided, however, that nothing herein contained shall be deemed to permit the exercise of any authority or the undertaking of any activity that would conflict with the provisions and limitations of the Urban Mass Transportation Act as it may be amended from time to time.

(e) Without in any way limiting or restricting the effect or application thereof, the provisions of this subheading are intended and shall be construed to authorize the Authority with the written approval of the Secretary to finance any transportation facility or facilities or transportation facility project or projects or any combination of such projects by any combination of issues or series of bonds which shall be secured by the pledge of the net or gross (or combination thereof) rentals, rates, fees, tolls and other charges and revenues, from any transportation facility or facilities or transportation facility project or projects or combination of such projects, designated by the resolution authorizing the issuance of such bonds or by any trust agreement securing such bonds.

Section 1905. Exemption from Taxation.

The exercise of the power granted by this chapter will be in all respects for the benefit of the people of the State for the increase of their commerce and prosperity and for the improvement of their safety, health and living conditions. As the operation and maintenance of the Transportation Facilities by the Authority will constitute the performance of

essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the Transportation Facilities or any property acquired or used by the Authority under the provisions of this chapter or upon the income therefrom, and the bonds issued under the provisions of this chapter, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the State.

Section 1906. Transportation Revenue Bonds.

(a) The Authority may, with the written approval of the Secretary of the Department of Transportation, provide by resolution, at one time or from time to time, for the issuance of transportation revenue bonds of the Authority for the purpose of paying all or any part of the cost of transportation facilities or transportation facility projects or any part or parts thereof or refunding any bonds of prior issue then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The principal of and the interest on such bonds shall be payable solely from the funds provided by this Chapter for such payment. The bonds shall be dated, shall bear interest at such rate or rates, as may be determined by the Authority, shall mature at such time or times, not exceeding forty (40) years from their date or dates, as may be determined by the Authority and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the Director of the Authority and the Secretary of the Department, or shall bear their facsimile signatures, and shall bear a facsimile of the official seal of the Authority attested by the Secretary of State, and any coupons attached thereto shall bear the facsimile signature of the Director of the Authority

and the Secretary of the Department. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under this Chapter shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal interest for the reconversion into coupon bonds of any bonds registered as to both principal and interest and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the Authority.

(b) The proceeds of the bonds shall be used solely for the payment of the cost of the transportation facilities and transportation facility projects and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in Section 1509 of this title securing the same. If the proceeds of the bonds initially issued, by error of estimates or otherwise shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

(c) Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, which such bonds shall have been ex-

ecuted and be available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happenings of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Chapter.

Section 1907. Transportation Revenue Refunding Bonds.

The Authority may, with the written approval of the Secretary of the Department of Transportation, provide by resolution for the issuance of Transportation revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds and, if deemed, advisable by the Authority for the additional purpose of financing any additional costs of transportation facilities or transportation facility projects. The issuance of such bonds, the maturities and other details thereof, the right of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by this Chapter insofar as the same may be applicable. The issuance of transportation revenue bonds or transportation revenue refunding bonds under this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

Section 1908. Credit of State Not Pledged.

(a) Revenue bonds or revenue refunding bonds issued under the provisions of this Chapter shall not constitute a borrowing of money by a debt of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but such bonds

shall be payable solely from the funds provided therefore by this Chapter from revenues. All such revenue or revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the State nor the Authority shall pay the same or the interest thereon except from revenues of the transportation facilities or transportation facility projects and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

(b) The issuance of bonds under the provisions of this Chapter shall not directly or indirectly or contingently obligate this State to levy or pledge any form of taxation whatever therefore, or to make any appropriation for their payment, and shall not pledge interests subject to equitable liens of the federal government.

(c) All expenses incurred in carrying out this Chapter shall be payable solely from funds provided under the authority of this Chapter and no liability or obligation shall be incurred by the Authority under this Chapter beyond the extent to which moneys shall have been provided.

Section 1909. **Agreement.**

(a) In the discretion of the Authority, each and any issue of such bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this State.

(b) Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues of the transportation facilities or transportation facility projects but shall not create a security interest in or convey or mortgage any property owned, operated or maintained by the transportation facilities or transportation facility projects. Either the resolution providing for the issuance of the bonds or such trust agreement may contain such provisions

specifying, defining, protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of any transportation facilities or transportation facility projects or additions thereto, and the custody, safeguarding the application of all moneys.

(c) It shall be lawful for any bank or trust company incorporated under the laws of this State to act as depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust agreements securing bonds and debentures of corporations.

(d) In addition to the foregoing, such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement resolution may be treated as part of the cost of maintenance operations and repairs of any transportation facility or transportation facility project.

**Section 1910. Bonds as Legal Investments for
Institutions and Fiduciaries, and
Legal Deposit.**

Bonds issued pursuant to this Chapter are securities in which all State and municipal officers and administrative departments, boards and commissions of this State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business and all administrators, executors, guar-

dians, trustees, and other fiduciaries, and all other persons whatsoever who are now or may, on and after enactment of this Chapter, be authorized to invest in bonds or other obligations of this State, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds are securities which may properly and legally be deposited with and received by any State, county or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now, or may on and after enactment of this Chapter, be authorized by law.

Section 1911. Moneys as Trust Funds.

All moneys received pursuant to the authority of this Chapter, whether as proceeds from the sale of bonds, or grants or other contributions, or as fares and revenues, shall be trust funds, to be held and applied solely as provided in this Chapter. The resolution authorizing the bonds or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such money and shall hold and apply the same for the purposes hereof subject to such regulations as this Chapter and such resolution or trust agreement may provide.

Section 1912. Remedies of Bondholders and Trustees.

Any holder of bonds issued under this Chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by this Chapter may be restricted by such trust agreement, may either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted by this Chapter or under such trust agreement or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Chapter or by such trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of

tolls, fares, or charges, for the use of any transportation facilities.

Section 1913. **Grants.**

The Authority, its offices, division and subdivisions, may receive and accept grants from any government agency, or from any source whatsoever, of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made. Consistent with providing a coordinated system of transportation for the State, the Authority may make grants upon such terms and conditions as may be determined to any agency or organization, public or private.

Section 1914. **Short Term Financing.**

The Authority may without the issue of bonds as authorized by this chapter, pledge, encumber, mortgage or create a security interest in any assets of the Authority as security for loans to the Authority in order to enable it to acquire, initiate, operate, and improve transportation facilities.

Section 1915. **Construction.**

This Chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

“Section 1916. **Severability.**

The provisions of this Chapter are severable, and if any of its provisions shall be held unconstitutional by any Court of Competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 11. Amend Title 2, Delaware Code, by adding thereto a new Chapter 18 to read as follows:

“CHAPTER 18. PUBLIC CARRIER

Section 1801. **Definitions.**

As used in this Chapter:

(a) “Department” means the Delaware Department of Transportation.

(b) “Secretary” means the Secretary of the Department of Transportation.

(c) “Authority” shall mean the Transportation Authority.

(d) “Director” means the Director of the Transportation Authority.

(e) “Public Carrier” includes every individual, partnership, association, corporation, joint stock company, agency, or department of this State, or any association of individuals engaged in the prosecution in common of a productive enterprise (commonly called a “cooperative”), their lessees, trustees or receivers appointed by any court whatsoever, that now operates or hereafter may operate, within this State, any railroad, street railway, traction railway, motor bus or electric trackless trolley coach service, system plan or equipment for public use other than transportation authorities created pursuant to Chapters 15, 16 or 17, Title 2.

(f) “Railroad” means a road, the cars, carriages and coaches on which are propelled by steam power, electricity, cable, motor or any improved motive power.

(g) “Limousine service” means the use of a motor vehicle having a passenger capacity of eleven persons or less exclusive of the driver to transport such passengers between termini over regular or irregular routes where at least one of

the termini is fixed.

(h) "Intrastate public carrier business" means all that portion of the business of a public carrier which is carried on in this State and over which the Department has jurisdiction under the provisions of this Act.

(i) "Gross revenue" means all revenue which (a) is collected by a public carrier subject to regulation by the Department; and (b) is derived from the intra-state public carrier business of such a carrier.

(j) "Motor bus" means a motor vehicle having a passenger capacity of twelve (12) persons or more exclusive of the driver who sits in a compartment separated from the passengers.

(k) "Public use" means the use of transportation or transportation related services offered by any railroad, street railway, traction railway, motor bus, electric trolley coach or limousine service, system or plant by any individual or group for any purpose except: (a) transportation to and from any school or school sponsored event when such transportation is under the regulation of the Department of Public Instruction; and (b) transportation to and from a church, synagogue or other place of worship.

Section 1802. Regulatory Duties and Functions.

(a) The Authority shall make and impose charges and fees for filing, copying, inspection and other services rendered pursuant to the powers granted by this act in accordance with such rules and regulations as it may from time to time adopt.

(b) The Authority, with the written approval of the Secretary, shall prepare proposed rules and practices covering the responsibilities of both itself and the public carriers it regulates. The rules and practices shall be reviewed by the

Authority at a public hearing following public notice. The rules and practices, as they may be amended by the Authority, shall have the effect of law upon the completion of the public hearing and adoption by the Authority, with the written approval of the Secretary. The Authority may, after public hearing, amend or establish additional rules and practices which shall have the effect of law.

No public carrier subject to the regulation of the Authority shall commence or continue operations, nor shall any public carrier begin any extension of its operations without having first obtained from the Authority a Certificate of Public Convenience and Necessity showing that the public need for such operations exists. The Authority, after hearing, may impose such terms and conditions upon the Certificate as may be required by public convenience and necessity.

(c) Whenever the Authority, in a proceeding upon its own initiative or upon complaint or upon written application to it shall deem it necessary in order to carry out its statutory duties, to investigate the operations, services, practices, accounting records and/or procedures, rates, charges, rules and regulations, of any public carrier and/or to make valuations or reevaluations of the property of any public carrier, and/or to enter into and hold a hearing or hearings in connection therewith, such public carrier shall be charged with and pay such portion of the expenses of the Authority, and the compensation and expenses of its agents, representatives, consultants and employees, including but not limited to those temporarily employed or retrained, as is reasonably attributable to such investigation, valuation and reevaluation, hearing or hearings, provided that the notice of the Authority's intent so to charge such public carrier shall be given to such public carrier or to its counsel of record at such time as the Authority determines that such charge will be required. No charge shall be made for the compensation of full-time employees of the Authority except compensation thereof attributable to time spent with respect to proceedings whereby a public carrier seeks to establish or change its rates. The Authority shall have the power to subpoena such records and witnesses as it may require to carry on an in-

vestigation, valuation, reevaluation, and hearing as provided by this Title.

From time to time as the investigation, valuation, reevaluation, hearing or hearing progresses, or upon completion thereof, the Authority shall ascertain its costs incurred in connection therewith, including but not limited to the expenses of the Authority and the compensation and expenses of its agents, representative, consultants and employees, including those temporarily employed or retained, and shall determine the amount thereof to be paid by the public carrier and shall render a bill therefor by certified mail to the public carrier. The Authority shall furnish the public carrier such itemization of said bill as may be requested by said public carrier. The public carrier shall have the right to audit said bill within a reasonable period after its rendition by the Authority and shall have the opportunity to be heard as to any or all of the items included in the bill. The amount of such bill as finally determined by the Authority following such hearing shall be paid by such public carrier to the Authority within thirty (30) days from the date of its determination. If any amount so assessed against a public carrier is not paid within thirty (30) days after the date of rendition of the bill with respect thereto, the carrier shall pay a penalty to the Authority of one percent (1%) of the amount due for each month or fraction thereof that such amount is unpaid.

The expenses of the Authority and the compensation and expenses of its agents, representatives, consultants, and employees, including but not limited to those temporarily employed or retained, reasonably attributable to any appellate court proceedings in either or both the Superior or Supreme Court of the State growing out of any order, opinion, decision or findings of the Authority shall also be ascertained, charged, billed to and paid for by the public carrier in accordance with the foregoing conditions and procedures. This section shall not apply to any appellate court proceedings from which a decision is rendered in favor of the public carrier and against the Authority.

Whenever the investigation, valuation, reevaluation,

hearing, hearings, or appellate court proceedings involves the affairs and operations of two or more public carriers jointly, the charges made under this section for such investigation, valuation, revaluation, hearing, hearings or appellate court proceedings shall be prorated among such public carriers upon the basis of their gross intrastate operating revenues for the last preceding calendar year. This section shall not apply to any appellate court proceedings from which a decision is rendered in favor of the public carriers and against the Authority.

The total aggregate amount to be charged by the Authority to any public carrier under authority of this subsection (1) in any calendar year shall not exceed one percent (1%) of such public carrier's gross operating revenues derived from intrastate carrier operations in the last preceding calendar year.

(d) It is declared to be the public policy of this State that in order to maintain and foster the effective regulation of public carriers under this Title, in the interests of the people of this State and the public carriers as well, the public carriers subject to regulation of the Authority which enjoy the privilege of operating as public carriers in this State, shall bear the expense of regulation by means of an assessment on such privilege measured by the annual gross revenue of such public carriers in the manner hereinafter provided. This assessment shall be in addition to all other fees and charges imposed by the Authority pursuant to this title and is imposed upon each public carrier subject to regulation by the Authority in an amount equal to the product of .002 (2 mills) multiplied by its gross operating revenue for each calendar year, commencing with the pro-rata year beginning July 1, 1975. Whenever a public carrier commences operations during a year so that it has not operated for a full year prior to the date when its assessment is due, such carrier's assessment shall be pro-rated, based on the portion of the year during which the carrier operated.

(e) On or before March 31 of each year, each public car-

rier subject to the provisions of this title shall file with the Authority an annual gross revenue return containing a statement of the amount of its gross revenue for the immediately preceding calendar year, and a statement of the amount of assessment due for such calendar year accompanied by a check in payment thereof. Forms for such return and amended shall be devised and supplied by the Authority.

(f) All returns (which term shall be deemed to include the accompanying check) submitted to the Authority by a public carrier, as provided in this section, shall be sworn to by an appropriate officer of the public carrier. The Authority may audit each such return submitted and may take such measures as are necessary to ascertain the correctness of the returns submitted. The Authority has the power to direct the filing of an amended return by any carrier which has filed an incorrect return and to direct the filing of a return by any carrier which has failed to submit a return. All returns will be used for the regulatory purposes as set out by this act, and shall not be open to public inspection, except as otherwise provided by law. In default of compliance with this section, the public carrier affected shall be subject to the penalties provided by subsection (q) of this section.

(g) Each payment of the assessment imposed by subsection (m) of this section becomes delinquent at midnight of the date that it is due. If upon filing a return or an amended return it shall appear that a public carrier has failed to pay, or has underpaid, the proper amount, it shall pay a penalty to the Authority of one percent (1%) of the amount due for each month or fraction thereof that such amount is unpaid. The Authority may enforce the collection of any delinquent installment of payment, or portion thereof, by legal action or in any other manner by which the collection of debts due the State of Delaware may be enforced under the laws of this State.

(h) There is hereby created within the State Treasury a special fund to be designated as the Delaware Transportation Authority Regulatory Revolving Fund which shall be used in the operation of the Authority in the performance of the

various regulatory functions and duties required of it by law.

(i) All fees, licenses, assessments and other charges collected by the Authority pursuant to this Title shall be deposited in the State Treasury to the credit of said Delaware Transportation Authority Regulatory Revolving Fund to be used by the Authority in the performance of its various regulatory functions and duties required of it by law, subject always to annual appropriations by the General Assembly for salaries and other routine operating expenses of the Authority. All penalties or fines assessed and collected by the Authority shall not be deposited in said fund but shall be deposited in the General Fund of the State.

(j) In default of compliance with the rules and practices or any order of the Authority when the same becomes effective, the public carrier affected thereby shall be subject to: (a) a penalty of up to \$100 per day for every day during which such default continues, to be recovered in an action in the name of the State; and (b) the suspension, for a duration not to exceed one year, or revocation of the public carrier's Certificate of Public Convenience and Necessity. The observance of the rules and practices and orders of the Authority may be compelled by mandamus or injunction. Within ten days of receiving notice that it is in default of compliance, the public carrier may appeal to the Authority for a hearing. Should the Authority, after such hearing, determine that the public carrier remains in default of compliance, the public carrier may appeal to the Superior Court. Such an appeal will be on record only and shall be taken as provided in Superior Court Rules for Appeals on the record below. The burden of proof of any such appeal is on the public carrier.

(k) Whoever knowingly performs, commits, or does, or participates in performing, committing or doing, or knowingly causes, participates or joins with others in causing any public carrier to do, perform or commit, or advises, solicits, persuades, or knowingly instructs, directs or orders any officer, agent or employee of any public carrier to perform, commit or do any act or thing forbidden or prohibited by

this Chapter, shall be fined not more than \$1,000 or imprisoned not more than six (6) months or both.

(1) The Authority is authorized to hire sufficient staff to carry out the provisions of this act subject only to the funding granted by the General Assembly."

Section 12. Amend Section 707, Chapter 7, Title 17, Delaware Code by redesignating it as Section 1803, Chapter 18, Title 2, Delaware Code, and by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the word "Department".

Section 13. Amend Section 708, Chapter 7, Title 17, Delaware Code, by redesignating it as Section 1804, Chapter 18, Title 2, Delaware Code.

Section 14. Amend Section 709, Chapter 7, Title 17, Delaware Code, by redesignating it as Section 1805, Chapter 18, Title 2, Delaware Code.

Section 15. Amend Section 710, Chapter 7, Title 17, Delaware Code, by redesignating it as Section 1806, Chapter 18, Title 2, Delaware Code, and by substituting the word "Authority" for "Department of Highways and Transportation" therein.

Section 16. Amend Section 711, Chapter 7, Title 17, Delaware Code, by redesignating it as Section 1807, Chapter 18, Title 2, Delaware Code, and by substituting the word "Authority" for "Department of Highways and Transportation" therein.

Section 17. Amend Chapter 14, Title 17, Delaware Code, by redesignating Sections 1401 through 1411 as Sections 1808 through 1818, Chapter 18, Title 2, Delaware Code, and by substituting the word "Authority" for the word "Department" wherever therein appearing.

Section 18. Amend Chapters 1, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14, and 15, Title 17, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof and the words "Department of Transportation".

Section 19. Amend Chapter 1, 3, 4, 5, 7, 8, 9, 11, 12, 13 and 14, Title 17, Delaware Code, by striking the words "Secretary of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Secretary of Transportation".

Section 20. Amend Section 2304, Chapter 23, Title 3, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 21. Amend Sections 4191 and 4193, Chapter 41, Title 7, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 22. Amend Chapters 5, 48, and 68, Title 9, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 23. Amend Chapter 5, Title 21, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 24. Amend Sections 4504 and 4505, Chapter 45, Title 21, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein

appearing and substituting in lieu thereof the words "Department of Transportation".

Section 25. Amend Chapter 1, Title 2, Delaware Code, by striking the words "Department of Highways and Transportation" and the words "Secretary of Highways and Transportation" and substituting in lieu thereof the words "Department of Transportation" and the words "Secretary of Transportation" respectively.

Section 26. Amend Chapter 9, Title 2, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 27. Amend Chapter 17, Title 23, Delaware Code, by striking the words "Department of Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Department of Transportation".

Section 28. Amend Chapter 15 and 16, Title 2, Delaware Code, by striking the word "Secretary" and the words "Highways and Transportation" wherever therein appearing and substituting in lieu thereof the words "Director" and the words "Transportation Authority" respectively.

Section 29. If any provision of this Act, or of any rule, regulation, or order thereunder or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act and application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid, shall not be affected hereby.

Section 30. All other laws or parts of laws now in effect inconsistent with the provisions of this Act are repealed, superseded, modified or amended so far as necessary to con-

form to, and give full force and effect to, said provisions.

Section 31. The effective date of this Act shall be July 1, 1976.

Approved June 30, 1976

CHAPTER 504

HOUSE BILL NO. 1098

**AN ACT TO AMEND CHAPTER 11, TITLE 30,
DELAWARE CODE, RELATING TO THE LIMITA-
TION ON ITEMIZED DEDUCTIONS AND PER-
SONAL EXEMPTIONS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1126, Chapter 11, Title 30,
Delaware Code by striking the second sentence of said Sec-
tion in its entirety.

Approved June 30, 1976

CHAPTER 505

FORMERLY HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 915

**AN ACT TO AMEND CHAPTER 29, PART III, TITLE 30
OF THE DELAWARE CODE BY REQUIRING A
SPECIAL LICENSE FOR A TRANSIENT
RETAILER AND PROVIDING FOR AN ADDI-
TIONAL FEE ON AGGREGATE GROSS
RECEIPTS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2901, Title 30 of the Delaware Code by redesignating paragraph (6) as paragraph (7), and by inserting the following new paragraph (6) to read as follows:

“(6) ‘Transient Retailer’, for purposes of this Chapter, includes any retailer who for ten days or less during any year locates within the State without any intention of becoming a permanent retailer.”

Section 2. Amend §2905, Title 30 of the Delaware Code by inserting a semi-colon in place of the period at the end of the title §2905 and adding the following words:

“Transient retailer license requirements; license fee.”

Section 3. Amend §2905, Title 30 of the Delaware Code by adding the following new subsection (f) to read as follows:

“(f) Any person desiring to engage in business in this State as a transient retailer shall obtain a license upon making application to the Division of Revenue and paying a fee of \$10.”

Section 4. Amend §2905, Title 30 of the Delaware Code by adding the following new subsection (g) to read as follows:

“(g) In addition to the license fee required by subsection (f) of this Section, every transient retailer shall pay a license fee at the rate of 55/100 of 1 percent of the aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State which exceed \$3,000.00. Unless a transient retailer exceeds \$3,000.00 of aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State during any year, said transient retailer shall not be required to file any return or certified statement with the Department of Finance; provided, however, that every transient retailer who exceeds \$3,000.00 of aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State during any year shall file a return accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.”

Approved June 30, 1976

CHAPTER 506

HOUSE BILL NO. 818
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 53, PART IV, TITLE
30, DELAWARE CODE, RELATING TO TOBACCO
PRODUCTS TAX LICENSES AND FEES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Section 5308 (c), Title 30, Delaware Code, by striking the words "fee of \$10.00" as the same appears therein and substituting in lieu thereof the words "fee of \$3.00."

Section 2. Amend Section 5311, Title 30, Delaware Code, by striking the words "first day of June" as the same appear therein and substituting in lieu thereof the words "last day of December."

Section 3. To implement the change in expiration date on licenses set forth in Section 2 of this Act, all licensees shall pay one-half of the respective license fees set forth in Section 5308, Chapter 53, Title 30, Delaware Code on or before July 1, 1976, which shall extend such licenses to December 31, 1976.

Section 4. Section 1 of this bill shall become effective on January 1, 1977.

Approved June 30, 1976

CHAPTER 507

HOUSE BILL NO. 1035
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 23, TITLE 30, DELAWARE CODE, RELATING TO OCCUPATIONAL LICENSE REQUIREMENTS AND FEES, TO REQUIRE LESSORS OF COMMERCIAL PROPERTY TO BE LICENSED THEREUNDER, AND TO REPEAL THE PROVISION IN CHAPTER 54, TITLE 30, DELAWARE CODE, RELATING TO THE REALTY TRANSFER TAX ON LEASES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2301(a), Chapter 23, Title 30, Delaware Code, by adding to the end thereof a new paragraph to read as follows:

“(88) Commercial Lessor, \$50. Commercial Lessor includes every person who, as lessor or sub-lessor, receives rental income pursuant to any agreement transferring a title interest or possessory interest in real property under a lease of a commercial unit for any term. For this purpose, ‘commercial unit’ means a structure or that part of a structure which is used for purposes other than a dwelling unit or farm unit.”

Section 2. Amend §2301(e), Chapter 23, Title 30, Delaware Code, by adding to the end thereof a new sentence to read as follows:

“Gross receipts to commercial lessors as defined in paragraph 88 shall consist of the rental payment received for a commercial unit; provided, however, that (1) nothing in this Section shall be interpreted to impair a commercial lessor’s right under an existing or future lease to require the

lessee therein to pay or to reimburse the lessor for the license fees herein imposed as part of the lessee's specific or general obligation to pay or reimburse lessor for gross receipts tax, real estate taxes or other governmental assessments, charges or fees; (2) every commercial lessor, who is also a sublessor, shall exclude from gross receipts the amount said lessor pays to another lessor as rent for the same commercial unit; and (3) any rental income received by a commercial lessor who has paid the transfer tax pursuant to Section 5402 (d), Chapter 54, Title 30 of the Delaware Code shall not be included as gross receipts received by the commercial lessor."

Section 3. Amend §5401(4), Chapter 54, Title 30, Delaware Code, by striking paragraphs (b) and (d) in their entirety and be redesignating paragraph (c) as paragraph (b).

Approved June 30, 1976

CHAPTER 508

HOUSE BILL NO. 1231

AN ACT PROVIDING A SUPPLEMENTARY APPROPRIATION TO DIVISION OF HISTORICAL AND CULTURAL AFFAIRS OF THE DEPARTMENT OF STATE FOR THE PURPOSE OF COMPENSATING HARVEY SHOCKLEY, JR. FOR OVERTIME AND HOLIDAY WORK TIME.

WHEREAS, Harvey Shockley, Jr. was an employee of the State of Delaware, more specifically, an employee of the Division of Historical and Cultural Affairs, during the period from January 1, 1972 through June 30, 1974; and

WHEREAS, during that time period, Mr. Shockley worked overtime and during several holidays and was entitled to overtime compensation for which he did not apply; and

WHEREAS, an additional compensation of \$2,831.25 is due Mr. Shockley for the overtime and holiday work he performed for the State.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$3,396.08 is hereby appropriated to the Division of Historical and Cultural Affairs of the Department of State for the purpose of compensating Harvey Shockley, Jr. for overtime and holiday work.

Section 2. The amount of \$3,396.08 shall be allocated as follows:

Harvey Shockley, Jr. - wages	\$2,831.25
FICA	165.63
Pension	399.20
	<u>\$3,396.08</u>

Section 3. This Act is a supplementary appropriation for fiscal year 1976 and the funds hereby appropriated shall be paid from the General Fund of the State of Delaware from moneys not otherwise appropriated.

Section 4. The funds hereby appropriated shall be used only for the purposes specified herein, and any funds appropriated but unexpended on June 30, 1977 shall revert to the General Fund.

Approved June 30, 1976

CHAPTER 509

SENATE BILL NO. 247
AS AMENDED BY SENATE AMENDMENT NO. 2 &
HOUSE AMENDMENT NO. 4**AN ACT TO AMEND TITLE 21 OF THE DELAWARE
CODE RELATING TO CERTAIN PENALTY
ASSESSMENTS PAYABLE BY MAIL.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 7, Part I, Title 21 of the Delaware Code by adding thereto a new section to be designated as §709 which new section shall read as follows:

“§709. Motor Vehicle Fines Payable by Mail.**(a) Applicability**

Any duly constituted peace officer in the State, who charges any person with any of the offenses hereinafter designated ‘Motor Vehicle Offenses Subject to Voluntary Assessment’ may, in addition to issuing a summons for any such offenses, provide the offending operator with a voluntary assessment form which, when properly executed by the officer and the offender, allows the offender to dispose of the charge without the necessity of personally appearing in the court to which the summons is returnable. The court to which the summons is returnable shall be determined by the provision of Section 703 of this Title.

(b) Definition

(1) ‘Payment’ as used in this Section shall mean the total amount of the fine and the costs as herein provided and of

the penalty assessment added to the fine pursuant to the Delaware Victim Compensation Law, Chapter 90, Title 11.

(2) 'voluntary assessment form' as used in this Section means the written agreement or document signed by the violator wherein he agrees to pay by mail the fine for the offense described therein together with costs and penalty assessment.

(c) Places and Time of Payment

Payments made pursuant to this Section shall be remitted to the court to which the summons is returnable and shall be disbursed in accordance with Section 706 of this Chapter. The payment must be received by the court within ten days from the date of arrest (excluding Saturday and Sunday) and shall be paid only by check or money order.

(d) Jurisdiction

This section shall apply to any licensed resident of the State of Delaware and to residents of those jurisdictions with which the State of Delaware has entered a reciprocal agreement pursuant to the provisions of Chapter 4 of this Title.

(e) Offenses designated as "Motor Vehicle Offenses Subject to Voluntary Assessment", Exceptions

All offenses, as now or hereafter set forth in Title 21, are hereby designated as Motor Vehicle Offenses Subject to Voluntary Assessment except the following offenses:

(1) Violation of §2701, Title 21;

(2) Violation of §2756, Title 21;

(3) Violation of §4103; Title 21;

- (4) Violation of §4175, Title 21;
- (5) Violation of §4177, Title 21;
- (6) Violation of §4201, Title 21;
- (7) Violation of §4202, Title 21;
- (8) Any violation of the provisions of Chapter 67, Title 21.

(f) Offer and Acceptance of Voluntary Assessment; Effect; Withdrawal of Acceptance; Request for Hearing

(1) At the time of making an arrest for any offense subject to the provisions of this Section, the arresting officer may offer the alleged violator the option of accepting a voluntary assessment. The alleged violator's signature on the voluntary assessment form constitutes an acknowledgement of guilt of the offense stated in the form, and an agreement to pay the fine as herein provided, together with costs and penalty assessment, within ten days from the date of arrest (excluding Saturday and Sunday), during which time payment must be received by the Court.

(2) The alleged violator, after signing and receiving the voluntary assessment form, may withdraw his acceptance of the voluntary assessment and request a hearing on the charge stated in such form, provided that the alleged violator, within 10 days from the date of arrest (excluding Saturday and Sunday), personally or in writing notifies the Court to which payment of the penalty assessment was to be made that he wishes to withdraw his acceptance of the voluntary assessment and requests a hearing on the charge stated in the voluntary assessment form. If the alleged violator notifies the Court of such withdrawal and request for hearing as aforesaid, he shall be prosecuted for the charge stated in the voluntary assessment form as if such form had not been issued.

(g) Penalty

If an alleged violator elects the option of accepting a violation assessment in accordance with subsection (f) of this Section, the penalty for offenses designated as Motor Vehicle Offenses Subject to Voluntary Assessment shall be the minimum fine for each specific offense charged, and fines shall be cumulative if more than one offense is charged.

(h) Court Costs and Applicability of Delaware Victim Compensation Law

In lieu of any other court costs, and provided the offense is not subject to other proceedings under this Section, each fine for an offense under this Section shall be subject to court costs of \$8.50. Each fine for an offense under this Section shall be subject also to the penalty assessment which is or may be provided for in the Delaware Victim Compensation Law, Chapter 90, Title 11.

(i) Agreement to Accept Voluntary Assessment;
Procedure

Whenever a person is arrested for commission of an offense subject to the provisions of this Section and has elected to make payment as herein provided, the arresting officer, using the uniform traffic citation, shall complete the information section and prepare the voluntary assessment form indicating the amount of the fine, have the arrested person sign the voluntary assessment form, give a copy of the citation and form to the arrested person, and release him from custody. The arresting officer shall also inform the arrested person of the court to which payment shall be submitted. No officer shall receive or accept custody of a payment. If the person declines to accept the voluntary assessment, the arresting officer shall follow the procedure for arrest as set forth in Chapter 19 of Title 11.

(j) Payment of Fine As Complete Satisfaction, Repeat Offenders

(1) Payment of the prescribed fine, costs and penalty assessment is a complete satisfaction of the violation, except as provided in subsection (2) of this section, but does not waive any administrative penalty in the nature of points which may be lawfully charged to the violator's driving record by the Department of Public Safety.

(2) In the event that following compliance with the payment provisions of this Section, it is determined that within the two-year period immediately preceding the violation, the violator was convicted of or made a payment pursuant to this Section in satisfaction of a violation of the same section of this title, personal appearance before the court to which the summons is returnable shall be required. Notice of the time and place for the required court appearance shall be given to the violator by the court to which the summons for the offense would be returnable.

(k) Removal From Applicability of Section

(1) If a payment due pursuant to this Section is not received by the court to which the summons is returnable within ten days from the date of arrest (excluding Saturday and Sunday), the violator shall be prosecuted for the offense charged on the voluntary assessment form in a manner as if a voluntary assessment form had not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided by this title or other law relating to motor vehicles for the particular violation charged, and the provisions of this Section as to payment of fines under voluntary assessments shall not apply.

(2) In addition to the penalties provided for in Subsection (k) (1) above, it is a class B misdemeanor punishable as provided by Title 11, for any person, who has elected to make payment pursuant to this Section to fail to do so within

ten days (excluding Saturday and Sunday) from the date of arrest.

(l) Non-Exclusive Procedure

The procedure prescribed is not exclusive of any other method prescribed by law for the arrest and prosecution of person violating any of the provisions of Title 21.

Section 2. This act shall become effective July 1, 1976.

Approved June 30, 1976

CHAPTER 510

FORMERLY SENATE BILL NO. 833

AN ACT TO AMEND CHAPTER 113, VOLUME 60, LAWS OF DELAWARE, IT BEING THE 1976 BUDGET APPROPRIATION ACT, ORIGINALLY DESIGNATED AS SENATE BILL NO. 431 OF THE 128TH GENERAL ASSEMBLY, AS AMENDED BY CHAPTER 289, VOLUME 60. LAWS OF DELAWARE.

WHEREAS, the State of Delaware and the Board of Public Education in Wilmington have constructed the Howard Career Center as a second of three vocational schools in New Castle County; and

WHEREAS, this facility has opened with 886 youths of New Castle County in attendance and it is most essential that operational funds, in addition to those provided in the Senate Budget Act be appropriated; and

WHEREAS, the Board of Public Education in Wilmington has reverted 2 per centum, or \$242,087, in compliance with Section 54 of Senate Bill No. 431; and

WHEREAS, if \$225,000 of an estimated \$592,534 in related savings in Division I appropriation to the Wilmington Public Schools in appropriation for the general operation of the Howard Career Center, a reversion of \$142,534 may still occur on June 30, 1976.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$225,000 is hereby ap-

propriated to the Board of Public Education in Wilmington to supplement the appropriation in the Budget Act for Fiscal 1976 for the general operation of the Howard Career Center during the fiscal year ending June 30, 1976.

Section 2. This is a supplementary appropriation and funds hereby appropriated shall be paid by the State Treasurer out of surplus Division I funds of Wilmington (95-25-000) Public Schools in Chapter 113, Volume 60, Laws of Delaware.

Section 3. The funds herein appropriated remaining unexpended on June 30, 1976, shall revert to the General Fund of the State of Delaware.

Approved June 30, 1976

CHAPTER 511

HOUSE BILL NO. 1274
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1977, AND TO AMEND CERTAIN PERTINENT STATUTORY PROVISIONS.***Be it enacted by the General Assembly of the State of Delaware.*

Section 1. The several amounts named in this Act, or such part thereof as may be necessary and essential to the proper conduct of the business of the agencies named herein, during the Fiscal Year ending June 30, 1977, are hereby appropriated and authorized to be paid out of the Treasury of the State by the respective departments and divisions of State Government, and other specified spending agencies, subject to the limitations of this Act and to the provisions of Part VI, Title 29, Delaware Code, as amended or qualified by this Act, all other provisions of the Delaware Code, notwithstanding. All parts or portions of the several sums appropriated by this Act which, on the first day of July, 1977, shall not have been paid out of the State Treasury, shall revert to the General Fund, provided, however, that no funds shall revert which are encumbered pursuant to Section 6521, Title 29, Delaware Code.

The several amounts hereby appropriated are as follows:

TABLE OF CONTENTS

	Page
LEGISLATIVE	3

JUDICIAL	5
EXECUTIVE OFFICES	9
OTHER ELECTIVE OFFICES	12
LEGAL	14
DEPARTMENT OF STATE	16
DEPARTMENT OF FINANCE.....	21
DEPARTMENT OF ADMINISTRATIVE SERVICES ..	23
DEPARTMENT OF HEALTH AND SOCIAL SERVICES.....	28
DEPARTMENT OF CORRECTIONS.....	40
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	46
DEPARTMENT OF PUBLIC SAFETY	53
DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT	56
DEPARTMENT OF TRANSPORTATION.....	59
DEPARTMENT OF LABOR.....	61
DEPARTMENT OF AGRICULTURE	64
DEPARTMENT OF ELECTIONS	65
FIRE PREVENTION COMMISSION.....	67
DELAWARE NATIONAL GUARD.....	68

ADVISORY COUNCIL FOR EXCEPTIONAL CHILDREN.....	68
HIGHER EDUCATION:.....	69
UNIVERSITY OF DELAWARE	69
STATE GEOLOGIST	69
DELAWARE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH.....	69
DELAWARE STATE COLLEGE	69
DELAWARE TECHNICAL AND COMMUNITY COLLEGE	70
DELAWARE POST SECONDARY EDUCATION COMMISSION	72
DELAWARE HIGHER EDUCATION LOAN PROGRAM	72
PUBLIC EDUCATION	73
EPILOG	111

Year Ending June 30, 1977

(01-00-000) LEGISLATIVE

(01-01-000) General Assembly - House

Salaries - House Members	\$	384,643
Salary of Chief Clerk		8,970
Salary of Assistant Chief Clerk		7,728
Salaries - Attaches		142,040
Salaries - Administrative Assistants (2)		30,000
F.I.C.A. - Employer's Share		2,732

Year Ending June 30, 1977

Pensions	48,746
Health Insurance	1,643
Travel - Mileage	37,500
Travel - Legislative	4,000
Expenses - Legislators	<u>61,500</u>
TOTAL -- General Assembly - House	\$ 729,502
(01-02-000) General Assembly - Senate	
Salaries - Senate Members	\$ 208,500
Salary of Secretary of the Senate	8,970
Salary of Assistant Secretary of the Senate	7,728
Salaries - Attaches	109,740
Salaries - Administrative Assistants (2)	30,000
Salary of MT/ST Operator	8,340
F.I.C.A. - Employer's Share	3,220
Pensions	29,783
Health Insurance	1,920
Personal Services	500
Chaplains and Attorneys	23,220
Travel - Mileage	25,000
Travel - Legislative	4,000
Expenses - Legislators	<u>31,500</u>
TOTAL -- General Assembly - Senate	\$ 492,421
(01-05-000) Commission on Interstate Cooperation	
Travel	
Legislative Travel	\$ 18,000
Other Travel	2,000
Contractual Services	
Council on State Governments	15,410
Delaware River Basin Advisory Committee	120,080
National Conference of State Legislatures	11,200
Other Contractual Services	4,700
Supplies and Materials	<u>100</u>
TOTAL -- Comission on Interstate Cooperation	\$ 171,490

Year Ending June 30, 1977

(01-08-000) Legislative Council	
(01-08-001) Office of Research Director	
Salary of Research Director	\$ 21,000
Salaries - Casual and Seasonal	18,000
Salaries and Wages of Employees (13)	156,460
Salaries - Overtime	3,011
F.I.C.A. - Employer's Share	11,180
Pensions	20,107
Health Insurance	2,871
Personal Services	500
Travel	1,500
Contractual Services	
Printing and Binding Session Laws and Journals	43,000
Printing Code Pocket Parts	40,000
Other Contractual Services	60,800
Supplies and Materials	
House	5,500
Senate	4,500
Other Supplies and Materials	45,000
Capital Outlay	
House	1,200
Senate	1,200
Other Capital Outlay	13,000
Contingency - DeSeg Committee	75,000
Contingency - Hearing Fund	1,000
Central Data Processing Services	4,000
Sub-Total	
	\$ 528,829
Code Revisors	
Personal Services	10,000
Travel	175
Contractual Services	200
Supplies and Materials	200
Debt Service	
Principal	12,000
Interest	12,168

Year Ending June 30, 1977

TOTAL -- Office of Research Director \$ 563,572

(01-08-002) Office of Controller General

Salary of Controller General	\$ 26,724
Salaries - Casual and Seasonal	5,000
Salaries and Wages of Employees (7)	95,703
Salaries - Overtime	1,720
F.I.C.A. - Employer's Share	6,041
Pensions	14,028
Health Insurance	1,848
Personal Services	25,000
Travel	1,780
Contractual Services	3,676
Supplies and Materials	2,625
Capital Outlay	800
Central Data Processing Services	<u>8,000</u>

TOTAL -- Office of Controller General \$ 192,945

TOTAL -- Legislative Council 756,517

TOTAL -- LEGISLATIVE 2,149,930

(02-00-000) JUDICIAL

(02-01-000) Supreme Court

Salary of Chief Justice	\$ 42,500
Salaries of Associate Justices (2)	84,000
Salaries and Wages of Employees (10)	114,746
F.I.C.A. - Employer's Share	8,478
Pensions	12,966
Health Insurance	2,773
Personal Services	
Censor Committee	2,000
Travel	2,500
Contractual Services	12,915
Supplies and Materials	8,165
Capital Outlay	<u>3,400</u>

Year Ending June 30, 1977

Sub-Total	\$ 294,443
Debt Service	
Principal	20,000
Interest	<u>8,725</u>
TOTAL -- Supreme Court	\$ 323,168
(02-02-000) Court of Chancery	
Salary of Chancellor	\$ 39,500
Salaries of Vice-Chancellors (2)	78,000
Salaries and Wages of Employees (10)	119,748
F.I.C.A. - Employer's Share	8,415
Pensions	13,532
Health Insurance	3,082
Personal Services	500
Travel	1,745
Contractual Services	9,410
Supplies and Materials	5,210
Capital Outlay	2,100
Contingency - Public Guardian	<u>11,522</u>
TOTAL -- Court of Chancery	292,764
(02-03-000) Superior Court	
Salary of President Judge	\$ 39,500
Salaries of Associate Judges (12)	468,000
Salaries of Jury Commissioners (6)	6,000
Salaries and Wages of Employees (82)	899,778
F.I.C.A. - Employer's Share	58,585
Pensions	101,675
Health Insurance	16,641
Personal Services	
Lawyers - Involuntary Commitments	9,000
Medical Witnesses - Involuntary Commitments	8,000
Other Personal Services	7,000
Travel	<u>9,500</u>

Year Ending June 30, 1977

Contractual Services	58,800
Supplies and Materials	18,110
Capital Outlay	<u>15,000</u>

TOTAL -- Superior Court \$ 1,715,589

(02-06-000) Court of Common Pleas

Salary of Chief Judge	\$ 38,500
Salaries of Associate Judges (4)	152,000
Salaries - Casual and Seasonal	5,000
Salaries and Wages of Employees (33)	335,775
F.I.C.A. - Employer's Share	23,587
Pensions	37,945
Health Insurance	7,396
Personal Services	22,500
Travel	2,980
Contractual Services	
Rent	6,180
Other Contractual Services	24,090
Supplies and Materials	5,400
Capital Outlay	<u>5,000</u>

TOTAL -- Court of Common Pleas \$ 666,353

(02-08-000) Family Court of Delaware

Salary of Chief Judge	\$ 38,500
Salaries of Associate Judges (10)	380,000
Salary of Administrator	28,890
Salary of Chief Supervisors (3)	57,172
Salaries - Casual and Seasonal	20,000
Salary - Pre-Sentence Officer (1)	11,500
(7) Salaries and Wages of Employees (161)	1,518,483
Salaries - Non-professional Community Workers (2)	15,972
Salaries - Overtime	8,602
F.I.C.A. - Employer's Share	102,858
Pensions	181,604
Health Insurance	24,848

Year Ending June 30, 1977

Personal Services	
Masters	25,500
Other Personal Services	20,000
Travel	16,850
Contractual Services	130,000
Supplies and Materials	44,150
Capital Outlay	<u>20,000</u>

Sub-Total \$ 2,644,929

Debt Service	
Principal	12,000
Interest	<u>8,616</u>

TOTAL -- Family Court of Delaware \$ 2,665,545

(02-09-000) Kent County Law Library	
Salaries - Casual and Seasonal	\$ 2,495
Salary and Wage of Employee (1)	10,229
F.I.C.A. - Employer's Share	599
Pensions	1,156
Health Insurance	308
Contractual Services	2,295
Supplies and Materials	420
Capital Outlay	<u>18,250</u>

TOTAL -- Kent County Law Library \$ 35,752

(02-10-000) Sussex County Law Library	
Salary and Wage of Employee (1)	\$ 8,988
F.I.C.A. - Employer's Share	526
Pensions	1,015
Health Insurance	308
Contractual Services	2,940
Supplies and Materials	130
Capital Outlay	<u>13,700</u>

Year Ending June 30, 1977

TOTAL -- Sussex County Law Library \$ 27,607

(02-11-000) New Castle County Law Library

Salaries - Casual and Seasonal	\$ 2,500
Salary and Wage of Employee (1)	10,229
F.I.C.A. - Employer's Share	599
Pensions	1,156
Health Insurance	308
Personal Services	500
Travel	130
Contractual Services	1,910
Supplies and Materials	265
Capital Outlay	<u>26,500</u>

TOTAL -- New Castle County Law Library \$ 44,097

(02-13-000) Justice of the Peace Courts

Salary of Deputy Administrator	\$ 28,620
Salaries of Assistant Deputy Administrators (2)	35,400
Salaries of Justices of Peace (53)	675,330
Salaries of Constables (25)	206,216
Salaries of Chief Clerks (14)	111,240
Salaries of Deputy Clerks (50)	349,898
Salaries of Bailiffs (6)	47,520
Salaries - Pre-sentence Officers (3)	29,440
Salaries - Administrative Assistants (2)	15,205
Salaries - Capias Control Clerks (3)	23,523
Salaries and Wages of Employees (7.5)	62,550
Salaries - Casual and Seasonal	10,000
F.I.C.A. - Employer's Share	92,307
Pensions	180,457
Health Insurance	35,440
Personal Services	5,700
Travel	
Constable Travel	60,000
Other Travel	6,500
Contractual Services	

Year Ending June 30, 1977

Rent	85,000
Other Contractual Services	103,000
Supplies and Materials	38,150
Capital Outlay	<u>18,550</u>

TOTAL -- Justice of the Peace Courts \$ 2,220,046

(02-17-000) Administrative Office of the Courts

(02-17-001) Office of Director

Salary of Director	\$ 29,214
Salary of Superior Court Administrator	19,062
Salary of Assistant Administrator	15,120
Salaries and Wages of Employees (5)	40,329
F.I.C.A. - Employer's Share	5,030
Pensions - All Others	11,878
Pensions - Judiciary	120,000
Health Insurance	1,233
Personal Services	
Jury Costs	450,000
Witness Fees	25,000
Travel	1,800
Contractual Services	
Rent - Family Court	240,000
Rent - Wilmington	11,000
Rent - Other Courts	739,530
Rent - Office	9,000
Other Contractual Services	23,640
Supplies and Materials	3,200
Capital Outlay	17,500
National Center for State Courts	1,000
Council on Administration of Justice	750
Court of the Judiciary	2,000
Central Data Processing Services	<u>50,000</u>

TOTAL -- Office of Director \$ 1,816,286

(02-17-002) Violent Crimes Compensation Board

Year Ending June 30, 1977

Salaries - Board Members	\$ 10,500
Salary - Executive Secretary	16,120
Salaries and Wages of Employees (4)	37,347
Salaries - COLA	3,208
F.I.C.A - Employer's Share	3,261
Pensions	7,902
Health Insurance	924
Travel	9,560
Contractual Services	
Rent	6,780
Other Contractual Services	5,812
Supplies and Materials	1,178
Capital Outlay	536
Special Items	<u>235,992</u>

TOTAL - Violent Crimes Compensation Board	\$ 339,120*
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(*) Special Funds appropriated per Chapter 90,
Title 11, Delaware Code.

TOTAL -- Administrative Office of the Courts	\$ 1,816,286
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TOTAL - JUDICIAL	\$ 9,807,207
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(10-00-000) EXECUTIVE

(10-01-001) Office of the Governor

Salary of Governor	\$ 35,000
Salaries and Wages of Employees (16)	234,378
F.I.C.A. - Employer's Share	12,518
Pensions	30,443
Health Insurance	2,658
Personal Services	5,500
Travel	
Governor's Conference	800

Year Ending June 30, 1977

Other Travel	6,300
Contractual Services	64,260
Supplies and Materials	13,500
Capital Outlay	1,200
Contingency - Other Expenses	7,200
Commission on Modernization of State Laws	2,400
Governor's Committee on Employment of Handicapped	2,000
Central Data Processing Services	<u>2,500</u>

TOTAL -- Office of the Governor \$ 420,657

(10-02-000) Office of the Budget

(10-02-001) Budget Office

Salary of Budget Director	\$ 26,724
Salaries - Casual and Seasonal	1,000
Salaries and Wages of Employees (10)	137,816
Salaries - Overtime	1,720
F.I.C.A. - Employer's Share	7,830
Pensions	18,787
Health Insurance	3,160
Personal Services	4,000
Travel	2,825
Contractual Services	13,600
Supplies and Materials	1,875
Capital Outlay	11,700
Contingency - Salaries and Employee Benefits	14,807,000
Central Data Processing Services	<u>15,000</u>

TOTAL -- Budget Office \$15,053,037

(10-02-006) Budget Commission

Contingency Funds	\$ 200,000
Accrued Vacation and Sick Leave	<u>25,000</u>

TOTAL -- Budget Commission \$ 225,000

Year Ending June 30, 1977

TOTAL -- Office of the Budget	\$ 15,278,037
(10-03-000) State Planning Office	
Salary of Director	
(State Funds -\$12,500)	
(All Other Funds - \$12,500)	12,500
(11) Salaries and Wages of Employees (19)	209,575
F.I.C.A. - Employer's Share	12,301
Pensions	25,097
Health Insurance	3,400
Personal Services	500
Travel	500
Contractual Services	22,374
Supplies and Materials	3,203
Capital Outlay	300
Central Data Processing Services	1,000
	<hr/>
TOTAL -- State Planning Office	\$ 290,750
(10-04-000) Office of State Personnel	
Salaries of Commissioners (5)	\$ 2,250
Salary of Director	25,100
Salary of Deputy Director - Labor Relations	25,000
Salaries - Casual and Seasonal	2,500
(9.5) Salaries and Wages of Employees (24)	241,164
Salaries - Overtime	860
F.I.C.A. - Employer's Share	16,114
Pensions	33,010
Health Insurance	6,958
Personal Services	500
Travel	1,250
Contractual Services	19,289
Supplies and Materials	6,030
Capital Outlay	2,000
Central Data Processing Services	40,000
Contingency	100,000
	<hr/>
TOTAL -- Office of State Personnel	\$ 522,025

Year Ending June 30, 1977

(10-06-000) Federal-State Highway Safety Coordinator

Salary of Director

(State Funds - \$8,950)

(All other Funds - \$10,344)

\$ 8,950

(5.37) Salaries and Wages of Employees (1.63) 21,197

F.I.C.A. - Employer's Share 1,588

Pensions 1,766

Health Insurance 308

Contractual Services 2,854

Supplies and Materials 1,785

TOTAL -- Federal-State Highway

Safety Coordinator

\$ 38,448

(10-07-000) Delaware Agency to Reduce Crime

Salary of Executive Director

(State Funds -\$12,975)

(All Other Funds - \$12,975)

\$ 12,975

(29) Salaries and Wages of Employees (2) 39,515

F.I.C.A. - Employer's Share 2,223

Pensions 5,932

Health Insurance 770

Program Grants

State Agencies 230,085

Local "Buy In" 29,480

Aid to Local Law Enforcement Agencies 300,000

TOTAL -- Delaware Agency to

Reduce Crime

\$ 620,980

TOTAL -- EXECUTIVE

\$17,170,897

(12-00-000) OTHER ELECTIVE OFFICES

(12-01-000) Lieutenant Governor

Salary of Lieutenant Governor

\$ 12,000

Salary and Wage of Employee (1) 8,654

F.I.C.A. - Employer's Share 1,208

Pensions 2,334

Year Ending June 30, 1977

Travel	1,750
Contractual Services	900
Supplies and Materials	<u>100</u>
TOTAL -- Lieutenant Governor	\$ 26,946
(12-02-000) Auditor of Accounts	
Salary of Auditor	18,000
Salaries - Casual and Seasonal	2,400
(5) Salaries and Wages of Employees (28)	351,473
F.I.C.A. - Employer's Share	20,873
Pensions	41,754
Health Insurance	7,087
Personal Services	40,000
Travel	600
Contractual Services	9,450
Supplies and Materials	8,662
Capital Outlay	<u>1,250</u>
TOTAL -- Auditor of Accounts	\$ 501,549
(12-03-000) Insurance Commissioner	
Salary of Commissioner	\$ 18,000
Salary of Deputy Commissioner	14,330
Salaries and Wages of Employees (17)	187,010
F.I.C.A. - Employer's Share	12,072
Pensions	24,788
Health Insurance	4,622
Personal Services	980
Travel	2,940
Contractual Services	
Insurance Premiums	1,188,000
Other Contractual Services	16,490
Supplies and Materials	8,448
Capital Outlay	1,618
Self Insurance Fund	330,270
Central Data Processing Services	12,000
Contingency - Wilmington Office	35,000
Contingency - Malpractice Insurance	30,000

Year Ending June 30, 1977

TOTAL -- Insurance Commissioner	\$1,886,568
(12-05-000) State Treasurer	
(12-05-001) Administration	
Salary of Treasurer	\$ 18,000
Salaries - Casual and Seasonal	2,000
(1) Salaries and Wages of Employees (21)	209,946
F.I.C.A. - Employer's Share	13,024
Pensions	25,760
Health Insurance	3,698
Travel	500
Contractual Services	24,938
Supplies and Materials	10,000
Capital Outlay	675
Lost and Outdated Checks	1,000
Health Insurance Retirees	610,000
Central Data Processing Services	80,000
Contingency - Collateralization Program	50,000
Municipal Street Aid	<u>2,000,000</u>
TOTAL -- Administration	\$ 3,049,541
(12-05-002) Pensions	
Salaries of Board Members	\$ 3,000
Salaries and Wages of	
Employees (10)	121,885
Salaries - Casual and Seasonal	3,500
Salaries - Overtime	350
Salaries - COLA	7,334
F.I.C.A. - Employer's Share	7,089
Pensions	14,641
Health Insurance	1,849
Personal Services	417,500
Travel	1,500
Contractual Services	19,300
Supplies and Materials	2,600
Capital Outlay	1,975
Central Data Processing Service	45,000
Pensions - Paraplegic Veterans	<u>\$ 15,600</u>

Year Ending June 30, 1977

TOTAL -- Pensions	\$647,523*	\$ 15,600
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(*) All administrative expenses are paid out of
State Employee's Retirement Fund.

(12-05-003) Debt Service and Investments

Expense of Issuing Bonds	\$ 70,000
Debt Service - Principal	130,600
Debt Service - Interest	1,955,932
Principal - Local Schools	851,500
Interest - Local Schools	929,255
Principal - Employees Retirement	1,000,000
Interest - Employees Retirement	318,500
Interest - Revenue Anticipation Notes	1,050,000
Interest - Bond Anticipation Notes	2,550,000

TOTAL -- Debt Service and Investments	\$ 8,855,787
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(12-05-005) Revenue Refunds

Revenue Refunds	\$ 18,000,000
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TOTAL -- Revenue Refunds	\$ 18,000,000
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TOTAL -- State Treasurer	\$ 29,920,928
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TOTAL -- OTHER ELECTIVE OFFICES	\$ 32,335,991
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(15-00-000) LEGAL

(15-01-000) Department of Justice

(15-01-001) Office of Attorney General

Salaries of Attorney General	\$ 30,000
Salary of Chief Deputy Attorney General	27,000

(2) Salaries of Deputies (32)

Salary of State Solicitor	543,458
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Salary of State Prosecutor	26,000
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Salaries of State Detectives (4)	26,000
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Salaries of Investigators (2)	36,160
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Salaries - Casual and Seasonal - Law Clerks	30,000
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(2) Salaries and Wages of Employees (36)	8,000
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	305,696
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Year Ending June 30, 1977

F.I.C.A. - Employer's Share	56,781
Pensions	119,997
Health Insurance	16,460
Personal Services	
Lawyers	2,000
Other Personal Services	5,558
Travel	
Extradition	10,000
Other Travel	700
Contractual Services	
Rent	132,003
Other Contractual Services	45,966
Supplies and Materials	14,077
Capital Outlay	
Law Books	3,500
Other Capital Outlay	8,413
Central Data Processing Services	<u>25,000</u>

TOTAL -- Office of Attorney General \$ 1,472,769

(15-01-002) Securities Commissioner

Salary of Commissioner	\$ 18,500
Salary and Wage of Employee (1)	9,121
F.I.C.A. - Employer's Share	1,358
Pensions	3,122
Health Insurance	239
Personal Services	795
Travel	350
Contractual Services	1,260
Supplies and Materials	735
Capital Outlay	<u>600</u>

TOTAL -- Securities Commissioner \$ 36,080

TOTAL -- Department of Justice \$ 1,508,849

(15-02-000) Public Defender

Salary of Public Defender	19,450
Salary of Chief Deputy Public Defender	24,750

Year Ending June 30, 1977

Salaries of Assistant Public Defenders (11)	184,655
Salaries and Wages of Employees (12)	126,275
F.I.C.A. - Employer's Share	19,968
Pensions	40,130
Health Insurance	7,087
Personal Services	
Lawyers	105,000
Other Personal Services	45,000
Travel	2,330
Contractual Services	
Rent	20,000
Other Contractual Services	20,000
Supplies and Materials	8,400
Capital Outlay	8,290

TOTAL -- Public Defender	\$ 631,335
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(15-03-000) Board of Parole	
Salaries of Board Members (4)	\$ 8,000
Salary of Board Chairman	19,950
Salaries and Wages of Employees (4)	40,711
F.I.C.A. - Employer's Share	3,847
Pensions	6,855
Health Insurance	1,233
Travel	1,600
Contractual Services	
Rent	7,330
Other Contractual Services	4,200
Supplies and Materials	2,000
Capital Outlay	500

TOTAL -- Board of Parole	\$ 96,226
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(15-04-000) Board of Pardons	
Salary of President	\$ 275
Personal Services	100
Travel	125

Year Ending June 30, 1977

TOTAL -- Board of Pardons	\$	500
TOTAL -- LEGAL	\$	2,236,910
(20-00-000) DEPARTMENT OF STATE		
(20-01-000) Office of the Secretary of State		
Salary of Secretary of State	\$	19,900
Salary - Assistant to Secretary of State		16,550
Salaries and Wages of Employees (5)		48,807
F.I.C.A. - Employer's Share		4,470
Pensions		9,634
Health Insurance		924
Travel		1,696
Contractual Services		17,000
Supplies and Materials		1,665
Capital Outlay		<u>900</u>
TOTAL -- Office of the Secretary of State	\$	121,546
(20-04-000) State Building Commission		
Debt Service		
Principal	\$	146,000
Interest		<u>91,098</u>
TOTAL -- State Building Commission	\$	237,098
(20-05-000) Division of Corporations		
(20-05-001) Incorporating Section		
Salaries and Wages of Employees (25.5)	\$	199,703
F.I.C.A. - Employer's Share		11,541
Pensions		22,568
Health Insurance		7,858
Travel		1,000
Contractual Services		43,550
Supplies and Materials		14,250
Capital Outlay		<u>2,200</u>

Year Ending June 30, 1977

TOTAL -- Incorporating Section	\$ 302,670
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(20-05-002) Franchise Tax Section

Salaries - Casual and Seasonal	\$ 5,000
Salaries and Wages of Employees (19)	145,000
Salaries - Overtime	2,581
F.I.C.A. - Employer's Share	8,926
Pensions	16,677
Health Insurance	5,855
Travel	100
Contractual Services	10,500
Supplies and Materials	13,500
Capital Outlay	1,200
Central Data Processing Services	<u>100,000</u>

TOTAL -- Franchise Tax Section	\$ 309,339
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(20-05-003) Uniform Commercial Code Section

Salaries and Wages of Employees (2)	\$ 19,490
F.I.C.A. — Employer's Share	1,140
Pensions	2,202
Health Insurance	616
Contractual Services	1,776
Supplies and Materials	1,500
Capital Outlay	<u>600</u>

TOTAL -- Uniform Commercial Code Section	\$ 27,324
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TOTAL -- Division of Corporations	\$ 639,333
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(20-06-000) Division of Historical and Cultural Affairs

(20-06-001) Office of the Director

Salary of Director	\$ 23,000
Salaries and Wages of Employees (17)	161,330
Salaries - Casual and Seasonal	8,500
F.I.C.A. - Employer's Share	10,599

Year Ending June 30, 1977

Pensions	20,831
Health Insurance	4,262
Personal Services	500
Travel	400
Contractual Services	13,355
Supplies and Materials	14,170
Capital Outlay	14,905
Historical Society of Delaware	<u>15,000</u>

Sub-Total \$ 286,852

Debt Service	
Principal	85,000
Interest	<u>64,046</u>

TOTAL -- Office of the Director \$ 435,898

(20-06-002) Historic Preservation	
(5) Salaries and Wages of Employees (5)	\$ 59,862
F.I.C.A. - Employer's Share	3,502
Pensions	6,765
Health Insurance	1,233
Travel	189
Contractual Services	3,748
Supplies and Materials	2,295
Capital Outlay	<u>675</u>

TOTAL -- Historic Preservation \$ 78,269

(20-06-003) State Museum	
Salaries and Wages of Employees (9.5)	\$ 73,550
Salaries - Casual and Seasonal	1,050
Salaries - Overtime	225
F.I.C.A. - Employer's Share	4,377
Pensions	8,337
Health Insurance	2,157
Travel	100

Year Ending June 30, 1977

Contractual Services	7,075
Supplies and Materials	2,100
Capital Outlay	<u>200</u>
TOTAL -- State Museum	\$ 99,171
(20-06-004) John Dickinson Mansion	
Salaries and Wages of Employees (3)	\$ 23,406
Salaries - Casual and Seasonal	5,587
F.I.C.A. -- Employer's Share	1,696
Pensions	2,645
Health Insurance	924
Contractual Services	2,255
Supplies and Materials	875
Capital Outlay	<u>200</u>
TOTAL -- John Dickinson Mansion	37,588
(20-06-005) Fort Christina Monument	
Salaries and Wages of Employees (2)	\$ 12,816
Salaries - Casual and Seasonal	2,547
F.I.C.A. - Employer's Share	899
Pensions	1,448
Health Insurance	616
Contractual Services	1,852
Supplies and Materials	525
Capital Outlay	<u>200</u>
TOTAL -- Fort Christina Monument	\$ 20,903
(20-06-008) Fine Arts Section	
Personal Services	\$ 3,500
Travel	<u>25</u>
TOTAL -- Fine Arts Section	\$ 3,525
(20-06-009) Zwaanendael Museum	

Year Ending June 30, 1977

Salaries and Wages of Employees (2)	\$ 16,066
Salaries - Casual and Seasonal	3,183
F.I.C.A. - Employer's Share	1,126
Pensions	1,815
Travel	25
Contractual Services	3,490
Supplies and Materials	635
Capital Outlay	<u>250</u>

Sub-Total \$ 26,590

Debt Service	
Principal	1,000
Interest	<u>445</u>

TOTAL -- Zwaanendael Museum \$ 28,035

(20-06-010) New Castle Historical Buildings

Salaries and Wages of Employees (4)	\$ 28,040
Salaries - Casual and Seasonal	1,000
F.I.C.A. - Employer's Share	1,699
Pensions	3,169
Health Insurance	616
Contractual Services	9,947
Supplies and Materials	1,470
Capital Outlay	<u>450</u>

TOTAL -- New Castle Historical Buildings \$ 46,391

(20-06-011) Delaware Bay Commission

Contractual Services	\$ 725
Supplies and Materials	<u>200</u>

TOTAL -- Delaware Bay Commission \$ 925

(20-06-012) Archaeological Section

Year Ending June 30, 1977

Salaries and Wages of Employees (5)	\$ 50,295
Salaries - Casual and Seasonal	6,500
F.I.C.A. - Employer's Share	3,323
Pensions	5,684
Health Insurance	1,233
Travel	300
Contractual Services	10,895
Supplies and Materials	4,105
Capital Outlay	<u>1,102</u>
Sub-Total	\$ 83,437
Debt Service	4,000
Principal	4,247
Interest	
TOTAL -- Archaeological Section	\$ 91,684
(20-06-013) Fisher House	
Contractual Services	\$ 2,300
Supplies and Materials	<u>470</u>
TOTAL -- Fisher House	\$ 2,770
(20-06-014) Octagonal Schoolhouse	
Salaries and Wages of Employees (1)	\$ 5,978
F.I.C.A. - Employer's Share	350
Pensions	676
Contractual Services	1,428
Supplies and materials	<u>265</u>
TOTAL -- Octagonal Schoolhouse	\$ 8,697
(20-06-015) Prince George Chapel	
Salaries and Wages of Employees (1)	\$ 5,740
F.I.C.A. - Employer's Share	336

Year Ending June 30, 1977

Pensions	648
Contractual Services	1,523
Supplies and Materials	<u>578</u>
TOTAL -- Prince George Chapel	\$ 8,825
(20-06-016) Delaware Arts Council	
Salaries and Wages of Employees (2.5)	\$ 29,650
F.I.C.A. - Employer's Share	1,717
Pensions	3,350
Health Insurance	616
Travel	750
Contractual Services	2,980
Supplies and Materials	1,000
Capital Outlay	300
Grants-in-Aid	<u>26,000</u>
TOTAL -- Delaware Arts Council	\$ 66,363
(20-06-017) Hale-Byrnes House	
Contractual Services	\$ 2,289
Supplies and Materials	200
Capital Outlay	<u>200</u>
TOTAL -- Hale-Byrnes House	\$ 2,689
(20-06-018) Old State House - Dover	
Salaries - Casual and Seasonal	\$ 7,500
Salaries and Wages of Employees (1)	5,978
F.I.C.A. - Employer's Share	789
Pensions	<u>676</u>
TOTAL -- Old State House - Dover	14,943
TOTAL -- Division of Historical and Cultural Affairs	\$ 946,676

Year Ending June 30, 1977

TOTAL -- DEPARTMENT OF STATE \$ 1,944,653

(25-00-000) DEPARTMENT OF FINANCE

(25-01-000) Office of the Secretary

Salary of Secretary	\$ 32,000
Salaries and Wages of Employees (8)	124,356
Salaries - Overtime	172
F.I.C.A. - Employer's Share	7,095
Pensions	17,690
Health Insurance	1,849
Personal Services	125,000
Travel	2,400
Contractual Services	32,385
Supplies and Materials	787
Capital Outlay	4,150
Contingency	
Governor's Tax Study Committee	25,000
Econometric Model	25,000

TOTAL -- Office of the Secretary \$ 397,884

(25-05-000) Division of Accounting

Salary of Director	\$ 25,000
Salaries - Casual and Seasonal	1,000
Salaries and Wages of Employees (21)	185,271
Salaries - Overtime	1,290
F.I.C.A. - Employer's Share	11,184
Pensions	23,433
Health Insurance	6,780
Personal Services	300
Travel	212
Contractual Services	17,325
Supplies and Materials	
Data Processing Forms	31,500
Other Supplies and Materials	23,710
Capital Outlay	6,150
Contingency - Prior Year's Obligation	10,000
Central Data Processing Services	325,000

Year Ending June 30, 1977

Personnel and Payroll Control System	<u>50,000</u>
TOTAL -- Division of Accounting	\$ 718,155
(25-06-000) Division of Revenue	
Salaries of Board Members (5)	\$ 23,000
Salary of Director	28,100
Salaries - Casual and Seasonal	75,000
Salaries and Wages of Employees (192)	1,701,761
Salaries - Overtime	12,903
F.I.C.A. - Employer's Share	98,625
Pensions	196,387
Health Insurance	28,351
Personal Services	58,500
Travel	10,000
Contractual Services	
Rent	129,547
Other Contractual Services	281,688
Supplies and Materials	94,500
Capital Outlay	40,632
Central Data Processing Services	<u>350,000</u>
Sub-Total	\$ 3,128,994
Debt Service	
Principal	245,000
Interest	<u>153,250</u>
TOTAL -- Division of Revenue	\$ 3,527,244
(25-07-000) Delaware State Lottery	
() Salaries and Wages of Employees	\$ ---
Central Data Processing Services	
(State Funds) \$ - 0 -	
All Other Funds - \$50,000	<u>---</u>
TOTAL -- Delaware State Lottery	\$ ---

Year Ending June 30, 1977

(★) Special Funds appropriated per Chapter 48,
Title 29, Delaware Code.

TOTAL -- DEPARTMENT OF FINANCE \$ 4,643,283

(30-00-000) DEPARTMENT OF
ADMINISTRATIVE SERVICES

(30-01-000) Office of the Secretary

Salary of Secretary	\$ 28,700
Salaries and Wages of Employees (5)	52,448
Salaries - Casual and Seasonal	375
Salaries - Overtime	300
F.I.C.A. - Employer's Share	3,926
Pensions	9,068
Health Insurance	2,158
Travel	200
Contractual Services	4,088
Supplies and Materials	1,000
Capital Outlay	<u>1,000</u>

TOTAL -- Office of the Secretary \$ 103,263

(30-03-000) Division of Alcohol Beverage Control

Salaries of Board Members (5)	\$ 9,600
Salary of Executive Secretary	20,382
Salaries - Casual and Seasonal	1,500
Salaries and Wages of Employees (17.8)	185,960
Salaries - Overtime	430
Salaries - Shift Differential	3,846
F.I.C.A. - Employer's Share	12,528
Pensions	23,919
Health Insurance	3,082
Personal Services	15,000
Travel	5,500
Contractual Services	
Rent	26,016
EDP Rental	18,508
Other Contractual Services	16,455

Year Ending June 30, 1977

Supplies and materials	4,725
Capital Outlay	<u>11,200</u>

TOTAL -- Division of Alcohol Beverage Control	\$ 358,651
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(30-04-000) Division of Facilities Management

Salary of Director	\$ 22,700
Salaries and Wages of Employees (4)	46,065
Salaries - Overtime	129
F.I.C.A. - Employer's Share	3,247
Pensions	7,787
Health Insurance	1,233
Personal Services	1,000
Travel	530
Contractual Services	
Rent	91,600
Other Contractual Services	4,728
Supplies and Materials	2,500

Sub-Total	\$ 181,519
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Debt Service	
Principal	363,018
Interest	<u>390,314</u>

TOTAL -- Division of Facilities Management	\$ 934,851
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(30-05-000) Division of Maintenance and Communications

Salary of Director	\$ 18,950
Salaries - Casual and Seasonal	21,800
Salaries and Wages of Employees (124.2)	913,289
Salaries - Overtime	18,065
Salaries - Shift Differential	18,133
F.I.C.A. - Employer's Share	57,125
Pensions	109,796

Year Ending June 30, 1977

Health Insurance	22,496
Personal Services	467
Travel	412
Contractual Services	
Messenger Service	37,000
Other Contractual Services	1,202,650
Supplies and Materials	101,275
Capital Outlay	15,000
Central Data Processing	<u>30,000</u>

TOTAL -- Division of Maintenance and Communications \$ 2,566,458

(30-06-000) Division of Purchasing	
Salary of Director	\$ 18,950
(5) Salaries and Wages of Employees (14.5)	153,197
Salaries - Overtime	9,032
F.I.C.A. - Employer's Share	10,185
Pensions	20,475
Health Insurance	3,699
Personal Services	100
Travel	500
Contractual Services	27,910
Supplies and Materials	14,895
Capital Outlay	<u>500</u>

Sub-Total \$ 259,443

Debt Service	
Principal	1,000
Interest	<u>525</u>

TOTAL -- Division of Purchasing \$ 260,968

(30-07-000) Division of Central Data Processing	
Salary of Director	\$ 23,800
Salaries - Casual and Seasonal	3,000

Year Ending June 30, 1977

Salaries and Wages of Employees (109)	1,205,704
Salaries - Overtime	6,000
Salaries - Shift Differential	9,300
Salaries - COLA	73,260
F.I.C.A. - Employer's Share	72,176
Pensions	148,955
Health Insurance	20,955
Personal Services	20,176
Travel	5,000
Contractual Services	
Rental - EDP Equipment	813,934
Other Contractual Services	41,700
Supplies and Materials	111,740
Capital Outlay	<u>5,700</u>

TOTAL -- Division of Central Data Processing	\$2,561,400
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Allocation of Central Data Processing Services

	General Fund	Special Fund
01 Legislative	\$ 12,000	\$ --
02 Judicial	50,000	--
10 Executive	58,500	--
12 Other Elective Offices	92,000	45,000
15 Legal	25,000	--
20 State	100,000	--
25 Finance	675,000	50,000
30 Administrative Services	30,000	--
35 Health and Social Services	340,000	110,000
40 Nat. Res. and Env. Ctrl.	25,000	5,000
45 Public Safety	630,000	40,900
50 Comm. Aff. and Econ. Dev.	--	--
55 Transportation	100,000	25,000
60 Labor	--	80,000
65 Agriculture	1,000	--
70 Elections	37,000	--
75 Fire Prevention	--	--

Year Ending June 30, 1977

76 Delaware National Guard	--	--
77 Adv. Coun. on Excep. Child.	--	--
90 Higher Education	--	--
95 Public Education	30,000	--

Sub-Total	\$ 2,205,500	\$ 355,900
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TOTAL -- Central Data Processing Services		\$ 2,561,400
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(30-08-000) Division of Business and Occupational Regulation

(30-08-001) Office of Director

Salaries of Board Members (34)	\$ 5,367
Salary of Executive Secretary	18,500
Salaries - Casual and Seasonal	4,000
(4) Salaries and Wages of Employees (13)	119,529
Salaries - Overtime	430
F.I.C.A. - Employer's Share	8,455
Pensions	15,647
Health Insurance	1,849
Personal Services	1,000
Travel	11,300
Contractual Services	
Rent	7,184
Other Contractual Services	24,660
Supplies and Materials	7,800
Capital Outlay	5,000

TOTAL -- Office of Director	\$ 230,721
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(30-08-005) Office of Health-Related Professional Licensing

Salaries of Board Members	\$ 20,000
Salaries and Wages of Employees (6)	70,103
F.I.C.A. - Employer's Share	3,856
Pensions	7,923

Year Ending June 30, 1977

Health Insurance	1,541
Personal Services	3,180
Travel	8,500
Contractual Services	
Rent	700
Other Contractual Services	20,000
Supplies and Materials	1,000
Capital Outlay	<u>450</u>

TOTAL -- Office of Health-Related
Professional Licensing \$ 137,253

(30-08-014) Delaware Standardbred Development Fund

Salary of Director	\$ 14,715
Salary and Wage of Employee (1)	7,230
Salaries - COLA	1,320
F.I.C.A. - Employer's Share	1,361
Pensions	2,668
Health Insurance	617
Personal Services	3,000
Travel	400
Contractual Services	43,075
Supplies and Materials	1,100
Development Stakes - Purses	<u>475,000</u>

TOTAL -- Delaware Standardbred
Development Fund \$550,486*

(*) Special Funds Total Budget Appropriated per
Chapter 5, Title 28, Delaware Code.

TOTAL -- Division of Business and
Occupational Regulations \$ 367,974

(30-10-000) Division of Graphics and Printing

Salary of Director	\$ 16,750
(6) Salaries and Wages of Employees (13)	118,603

Year Ending June 30, 1977

F.I.C.A. - Employer's Share	7,833
Pensions	15,297
Health Insurance	2,774
Capital Outlay	<u>25,000</u>

TOTAL -- Division of Graphics and Printing \$ 186,257

(30-11-000) Division of Public Utilities Control

Salaries of Board Members (5)	\$ 30,000
Salary of Director	18,400
Salaries - Casual and Seasonal	500
Salaries and Wages of Employees (12)	140,549
Salaries - Overtime	500
Salaries - COLA	8,600
F.I.C.A. - Employer's Share	10,509
Pensions	20,889
Health Insurance	2,157
Personal Services	297,000
Travel	9,700
Contractual Services	
Rent	17,000
Other Contractual Services	11,700
Supplies and Materials	4,050
Capital Outlay	<u>9,200</u>

TOTAL -- Division of Public Utilities
Control \$ 580,754*

(*) Special Funds Total Budget Appropriated per
Chapter 1, Title 26, Delaware Code.

(30-15-000) Division of State Banking Commissioner

Salary of Bank Commissioner	\$ 25,000
Salaries and Wages of Employees (9)	107,721
F.I.C.A. - Employer's Share	7,191
Pensions	15,000
Health Insurance	2,466

Year Ending June 30, 1977

Travel	4,800
Contractual Services	9,056
Supplies and Materials	3,570
Capital Outlay	<u>8,000</u>

TOTAL -- Division of State Banking
Commissioner \$ 182,804

TOTAL -- DEPARTMENT OF
ADMINISTRATIVE SERVICES \$4,961,226

(35-00-000) DEPARTMENT OF HEALTH AND SOCIAL
SERVICES

(35-01-000) Office of the Secretary

Salary of Secretary	\$ 33,000
(10) Salaries and Wages of Employees (13.5)	155,948
F.I.C.A. - Employer's Share	10,013
Pensions	21,353
Health Insurance	1,233
Travel	1,000
Contractual Services	5,250
Supplies and Materials	2,100
Capital Outlay	6,800
Adolescent Program	<u>150,000</u>

TOTAL -- Office of the Secretary \$ 386,697

(35-02-000) Office of Business Administration,
General Services and Education

(35-02-001) Business Administration & General Services

Salary of Director (State Funds - \$22,700)	
(All Other Funds - \$4,320)	\$ 22,700
(32.6) Salaries and Wages of Employees (54.04)	542,586
Salaries - Overtime	1,290
F.I.C.A. - Employer's Share	31,565
Pensions	64,023
Health Insurance	<u>16,700</u>

Year Ending June 30, 1977

Travel	500
Contractual Services	62,750
Supplies and Materials	10,450
Capital Outlay	3,000
Central Data Processing Services	
(State Funds - \$340,000)	
(All Other Funds - \$110,000)	<u>340,000</u>

TOTAL -- Business Administration &
General Services \$ 1,095,564

(35-02-002) Office of Education

Salary of Administrative Assistant (1)	\$ 17,947
Salaries of Supervisors (2)	33,055
Salaries of Clerical (2)	23,381
Salaries of Teachers (21)	233,001
Salaries of Aides and Attendants (11)	95,962
Salaries of Substitute Teachers	1,716
F.I.C.A. - Employer's Share	23,277
Pensions	45,583
Health Insurance	11,556
Travel	200
Contractual Services	4,000
Supplies and Materials	12,000
Capital Outlay	<u>1,800</u>

TOTAL -- Office of Education \$ 503,478

(35-02-003) Bureau of Child Support Enforcement

(31.5) Salaries and Wages of Employees (10.5)	\$ 105,206
F.I.C.A. - Employer's Share	5,930
Pensions	11,890
Health Insurance	3,236
Travel	500
Contractual Services	
Rent	7,000
Other Contractual Services	29,000
Supplies and Materials	1,500

Capital Outlay	<u>3,000</u>
TOTAL -- Bureau of Child Support Enforcement	\$ 167,262
TOTAL -- Office of Business Administration General Services and Education	\$ 1,766,304
(35-03-000) Office of Planning, Research and Evaluation	
(14) Salaries and Wages of Employees (11)	\$ 116,019
F.I.C.A. - Employer's Share	6,598
Pensions	13,112
Health Insurance	3,079
Travel	550
Contractual Services	
Rent	3,000
Other Contractual Services	4,700
Supplies and Materials	<u>1,500</u>
TOTAL -- Office of Planning, Research and Evaluation	\$ 148,558
(35-04-000) Office of the Medical Examiner	
Salary of Chief Medical Examiner	\$ 37,800
Salaries and Wages of Employees (26.5)	332,539
Salaries - Overtime	6,452
F.I.C.A. - Employer's Share	15,980
Pensions	40,854
Health Insurance	5,855
Personal Services	7,850
Travel	1,650
Contractual Services	47,450
Supplies and Materials	35,400
Capital Outlay	2,700
Indigent Burial Expense	<u>7,000</u>
Sub-Total	\$ 541,530

Year Ending June 30, 1977

Debt Service	
Principal	67,000
Interest	<u>59,130</u>
 TOTAL -- Office of Medical Examiner	 \$ 667,660
 (35-05-000) Division of Public Health	
(35-05-001) Office of the Director	
Salary of Director	\$ 40,925
F.I.C.A. - Employer's Share	890
Pensions	4,625
Health Insurance	<u>309</u>
 TOTAL -- Office of the Director	 \$ 46,749
 (35-05-002) Community Health	
Salaries of Health Screening (59)	\$ 703,142
Salaries of Licensed Nursing Homes (5)	50,781
Salaries for Sickle Cell Anemia (3)	36,980
Salaries for Center City Personal Health Services (8)	100,441
Salaries for Cervical Cancer Control (5)	44,645
(176.8) Salaries and Wages of Employees (182.6)	2,031,164
F.I.C.A. - Employer's Share	154,691
Pensions	335,318
Health Insurance	48,074
Personal Services	
Health Screening	29,550
Family Planning	13,843
Cervical Cancer Control	1,595
Other Personal Services	58,862
Travel	
Health Screening	500
Family Planning	170
Licensed Nursing Homes	200
Cervical Cancer Control	200
Other Travel	4,630
Contractual Services	

Year Ending June 30, 1977

New Jersey Virus Lab	15,000
Health Screening	24,202
Family Planning	136,671
Licensed Nursing Homes	1,000
Renal Disease	30,252
Cervical Cancer Control	1,500
Electricity	6,534
Heating Fuel	6,500
Rent	12,167
Other Contractual Services	146,824
Supplies and Materials	
Glasses - Optometry Division	4,217
Health Screening	40,064
Family Planning	7,950
Licensed Nursing Homes	2,676
Renal Disease	16,056
Cervical Cancer Control	2,526
Other Supplies and Materials	66,061
Capital Outlay	20,000
Long Term Birth Defects Program	20,000
Contingency - Immunization	45,000
Contingency - Geriatric Drug Program	10,000
(H.B. 757)	

Sub-Total \$ 4,229,986

Debt Service	
Principal	1,115,750
Interest	886,612

TOTAL -- Community Health \$ 6,232,348

(35-05-003) Emily P. Bissel Hospital	
Salaries - Casual and Seasonal	\$ 8,000
(2) Salaries and Wages of Employees (207.3)	1,514,383
Salaries - Overtime	24,086
Salaries - Shift Differential	8,200
F.I.C.A. - Employer's Share	82,954

Year Ending June 30, 1977

Pensions	167,793
Health Insurance	36,224
Personal Services	14,900
Travel	1,800
Contractual Services	
Electricity	38,906
Gas	3,095
Heating Fuel	44,800
Other Contractual Services	92,524
Supplies and Materials	
Food	154,984
Drugs and Medical Supplies	114,338
Building Alterations and Repairs	4,843
Other Supplies and Materials	42,835
Capital Outlay	<u>5,400</u>

Sub-Total \$ 2,360,065

Debt Service	
Principal	20,000
Interest	<u>18,493</u>

TOTAL -- Emily P. Bissell Hospital 2,398,558

(35-05-004) Delaware Hospital for the Chronically Ill

Salaries and Wages of Employees (669)	\$ 5,071,056
Salaries - Overtime	133,334
Salaries - Shift Differential	55,000
F.I.C.A. - Employer's Share	323,824
Pensions	630,759
Health Insurance	128,503
Personal Services	13,500
Travel	2,000
Contractual Services	
Repairs and Service - Buildings & Grounds	38,326
Electricity	80,180
Gas	7,691
Heating Fuel	157,502

Year Ending June 30, 1977

Other Contractual Services	89,251
Supplies and Materials	
Drugs and Medical Supplies	99,236
Food	455,742
Building Alterations & Repairs	33,612
Other Supplies and Materials	97,560
Capital Outlay	<u>9,750</u>

Sub-Total \$ 7,426,826

Debt Service	
Principal	283,500
Interest	<u>150,642</u>

TOTAL -- Delaware Hospital for the
Chronically Ill \$ 7,860,968

(35-05-006) Controlled Substances Program

Salaries and Wages of Employees (6)	\$ 79,372
Salaries - Overtime	2,065
F.I.C.A. - Employer's Share	4,462
Pensions	9,315
Health Insurance	1,849
Travel	530
Contractual Services	2,850
Supplies and Materials	1,710
Capital Outlay	<u>1,350</u>

TOTAL -- Controlled Substances Program \$ 103,503

(35-05-019) Rodent Control

Salaries and Wages of Employees (6)	\$ 50,006
F.I.C.A. - Employer's Share	2,925
Pensions	5,651
Health Insurance	617
Travel	100
Contractual Services	2,110
Supplies and Materials	<u>5,675</u>

Year Ending June 30, 1977

TOTAL -- Rodent Control	\$ 67,084
TOTAL -- Division of Public Health	\$ 16,709,210
(35-06-000) Division of Mental Health	
(35-06-001) Office of the Director	
Salary of Director	\$ 40,925
(1.5) Salaries and Wages of Employees (5.5)	64,366
F.I.C.A. - Employer's Share	4,546
Pensions	11,898
Health Insurance	1,512
Contractual Services	6,000
Supplies and Materials	1,500
	<hr/>
TOTAL -- Office of the Director	\$ 130,747
(35-06-002) Delaware State Hospital	
(13.5) Salaries and Wages of Employees (798.5)	\$ 6,986,290
Salaries - Overtime	163,442
Salaries - Shift Differential	48,000
F.I.C.A. - Employer's Share	378,396
Pensions	813,424
Health Insurance	133,125
Personal Services	
Payments to Patients	23,000
Other Personal Services	148,300
Travel	1,500
Contractual Services	
Electricity	145,898
Heating Fuel	415,802
Repair and Service - Buildings & Grounds	81,900
Other Contractual Services	131,250
Supplies and Materials	
Food	568,847
Drugs and Medical Supplies	144,600
Building Alterations & Repairs	38,010
Other Supplies and Materials	177,393

Year Ending June 30, 1977

Capital Outlay	<u>50,000</u>
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Sub-Total	\$ 10,449, 177
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Debt Service	
Principal	667,500
Interest	<u>289,971</u>

TOTAL -- Delaware State Hospital	\$ 11,406,648
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(35-06-003) Mental Hygiene Clinics

Salaries and Wages of Employees (51.5) \$	680,597
F.I.C.A. - Employer's Share	33,070
Pensions	76,915
Health Insurance	15,716
Travel	500

Contractual Services	
Electricity	1,758
Rent	17,574
Other Contractual Services	14,368

Supplies and Materials	
Drugs and Medical Supplies	60,000
Other Supplies and Materials	4,250
Capital Outlay	15,000
West End Neighborhood House	<u>28,522</u>

Sub-Total	\$ 948,270
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Debt Service	
Principal	9,000
Interest	<u>2,273</u>

TOTAL -- Mental Hygiene Clinics	\$ 959,543
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(35-06-004) Governor Bacon Health Center

(9) Salaries and Wages of Employees (240.25) \$	2,059,160
Salaries - Overtime	43,011

Year Ending June 30, 1977

F.I.C.A. - Employer's Share	116,580
Pensions	237,424
Health Insurance	51,711
Personal Services	
Payments to Patients	2,250
Other Personal Services	20,550
Travel	550
Contractual Services	
Electricity	131,170
Heating Fuel	57,852
Gas	1,575
Repair and Service - Buildings & Grounds	29,819
Hospital Contracts	3,339
Other Contractual Services	42,995
Supplies and Materials	
Drugs and Medical Supplies	21,275
Food	87,937
Building Alterations & Repairs	28,224
Other Supplies and Materials	41,764
Capital Outlay	15,000
Sub-Total	\$ 2,992,186
Debt Service	
Principal	179,000
Interest	148,525

TOTAL -- Governor Bacon Health Center 3,319,711

(35-06-005) Community Mental Health Center

(9.1) Salaries and Wages of Employees (49)	\$ 556,441
Salaries - Overtime	3,957
Salaries - Shift Differential	2,750
F.I.C.A. - Employer's Share	27,316
Pensions	62,809
Health Insurance	15,253
Personal Services	4,500
Travel	250

Year Ending June 30, 1977

Contractual Services	
Repair and Service - Buildings & Grounds	5,250
Electricity	7,500
Gas	3,100
Other Contractual Services	13,100
Supplies and Materials	
Drugs and Medical Supplies	21,630
Food	21,195
Building Alterations & Repairs	1,531
Other Supplies and Materials	7,694
Capital Outlay	<u>4,800</u>

TOTAL -- Community Mental Health Center \$ 759,076

(35-06-007) Terry Children's Psychiatric Center	
(43.5) Salaries and Wages of Employees (48.5)	\$ 483,794
Salaries - Overtime	6,241
Salaries - Shift Differential	3,875
F.I.C.A. - Employer's Share	26,488
Pensions	54,494
Health Insurance	11,710
Personal Services	1,200
Travel	500
Contractual Services	
Repair and Service - Buildings & Grounds	4,825
Electricity	38,861
Other Contractual Services	16,514
Supplies and Materials	
Drugs and Medical Supplies	3,728
Food	26,522
Building Alterations & Repairs	4,020
Other Supplies and Materials	10,480
Capital Outlay	<u>4,000</u>
Sub-Total	\$ 697,252
Debt Service	
Principal	56,000

Year Ending June 30, 1977

Interest	<u>21,986</u>
TOTAL -- Terry Children's Psychiatric Center	775,238
(35-06-008) Bureau of Substance Abuse	
Salary of Chief	\$ 21,450
(73.8) Salaries and Wages of Employees (79.5)	732,467
Salaries - Overtime	4,043
Salaries - Shift Differential	2,500
F.I.C.A. - Employer's Share	43,304
Pensions	86,043
Health Insurance	17,559
Personal Services	7,500
Travel	8,375
Contractual Services	
Crittenton Home - Education Program	6,000
1212 Program	5,000
Forward Step	5,000
Rent	12,240
Other Contractual Services	239,484
Supplies and Materials	57,900
Capital Outlay	<u>2,000</u>
TOTAL -- Bureau of Substance Abuse	\$ 1,250,865
TOTAL -- Division of Mental Health	\$ 18,601,828
(35-07-000) Division of Social Services	
(35-07-002) Public Welfare	
Salary of Director (State Funds - \$10,375)	
(All Other Funds - \$16,675)	\$ 10,375
(263.4) Salaries and Wages of Employees (140.3)	1,405,275
F.I.C.A. - Employer's Share	80,931
Pensions	159,985
Health Insurance	27,519
Personal Services	5,500
Travel	1,700

Year Ending June 30, 1977

Contractual Services	142,000
Health Insurance Contract	183,750
Supplies and Materials	22,500
Capital Outlay	25,912
General Assistance Grants	1,468,191
S.S.I. Supplementation	706,980
Adult Foster Care	392,767
Purchase Homemaker Service	54,496
Aid to Families with Dependent Children	11,783,000
Child Care	981,917
Child Foster Care	1,834,220
Head Start Program	150,000
Medical Aid Program - Drugs	671,130
Emergency and Disaster Assistance	150,000
Title XIX Federal Programs	
Other Than State Institutions	7,357,973
State Institutions	1,457,263
Hospital Care - Indigent Patients	441,863
Adult Educable Mentally Retarded Work Study Program	<u>15,000</u>

Sub-Total \$ 29,530,247

Debt Service	
Principal	2,000
Interest	<u>975</u>

TOTAL -- Public Welfare \$ 29,533,222

(35-07-003) Bureau for the Visually Impaired	
(23.6) Salaries and Wages of Employees (14.40) \$	154,113
F.I.C.A. - Employer's Share	8,854
Pensions	17,417
Health Insurance	2,589
Personal Services	6,800
Travel	2,234
Contractual Services	60,000
Supplies and Materials	28,000

Year Ending June 30, 1977

Capital Outlay	1,500
Vending Stand Construction	<u>12,000</u>

TOTAL -- Bureau for the Visually Impaired	\$ 293,507
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(35-07-005) Food Stamp Program	
Salary of Chief	\$ 20,000
(32.5) Salaries and Wages of Employees (32.5)	259,664
F.I.C.A. - Employer's Share	17,253
Pensions	40,602
Health Insurance	6,273
Personal Services	200
Travel	500
Contractual Services	142,400
Supplies and Materials	8,100
Capital Outlay	<u>5,500</u>

TOTAL -- Food Stamp Program	\$ 500,492
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TOTAL -- Division of Social Services	\$ 30,327,221
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(35-10-000) Division of Services to Children and Youth	
Salary of Director	\$ 17,200
(15) Salaries and Wages of Employees	----
F.I.C.A. - Employer's Share	883
Pensions	<u>1,944</u>

TOTAL -- Division of Services to Children and Youth	\$ 20,027
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(35-11-000) Division of Mental Retardation Services	
(35-11-002) Hospital for the Mentally Retarded	
(7) Salaries and Wages of Employees (447)	\$ 3,409,794
Salaries - Overtime	172,044
Salaries - Shift Differential	31,000

Year Ending June 30, 1977

F.I.C.A. - Employer's Share	211,349
Pensions	408,250
Health Insurance	100,409
Personal Services	
Payments to Patients	25,000
Other Personal Services	28,000
Travel	1,200
Contractual Services	398,350
Supplies and Materials	504,850
Capital Outlay	50,000
	<hr/>
Sub-Total	\$ 5,340,246
Debt Service	
Principal	273,000
Interest	175,656
	<hr/>
TOTAL -- Hospital for the Mentally Retarded	\$ 5,788,902
(35-11-003) Community Mental Retardation Programs	
Salaries - Casual and Seasonal	\$ 8,800
(31) Salaries and Wages of Employees (52)	375,321
Salaries - Overtime	2,839
F.I.C.A. - Employer's Share	21,773
Pensions	42,489
Health Insurance	10,786
Travel	400
Contractual Services	
Rent	17,000
Other Contractual Services	39,200
Supplies and Materials	54,050
Capital Outlay	36,000
Small Group Living Centers	15,000
	<hr/>
Sub-Total	\$ 623,658
Debt Service	

Year Ending June 30, 1977

Principal	4,000
Interest	<u>1,010</u>
TOTAL -- Community Mental Retardation Programs	\$ 628,668
TOTAL - Division of Mental Retardation Services	\$ 6,417,570
(35-12-000) State Service Centers	
Salary of Director	\$ 17,500
(15) Salaries and Wages of Employees (39)	332,951
F.I.C.A. - Employer's Share	20,503
Pensions	39,605
Health Insurance	11,710
Personal Services	6,900
Travel	1,150
Contractual Services	301,200
Supplies and Materials	31,500
South Wilmington Medical Center	<u>20,000</u>
Sub-Total	\$ 783,019
Debt Service	
Principal	71,000
Interest	<u>62,730</u>
TOTAL -- State Service Centers	\$ 916,749
(35-14-000) Division of Aging	
Salary of Director (State Funds - \$4,413)	
(All Other Funds - \$12,237)	4,413
(22.5) Salaries and Wages of Employees (3.29)	41,232
F.I.C.A. - Employer's Share	2,644
Pensions	5,158
Health Insurance	1,519
Travel	530

Year Ending June 30, 1977

Contractual Services	
Community Legal Aid Services	10,000
Other Contractual Services	5,950
Supplies and Materials	1,000
Capital Outlay	1,200
Old American Act Grants	188,000
Nutrition Program	110,000
Bi-County Adult Center	15,000
Cape Henlopen Social Center	10,000
East Side Senior Service Bureau	10,000
Jimmy Jenkins Senior Center	20,000
Julia Tallman Golden Age Center	5,000
Laurel Senior Center	20,000
Modern Maturity Center	20,000
M.O.T. Senior Center	30,000
Nanticoke Senior Center	10,000
Newark Senior Center	15,000
South Wilmington Senior Citizens Center	10,000
St. Patrick's Senior Center	25,000
St. Peter's Adult Center	20,000
St. Anthony's Community Center	30,000
Canby Park - Fraim Senior Center	30,000
Kent County Information and Referral Service	10,000
Absolom Jones Senior Center	30,000
St. Hedwig's Senior Center	42,000
West Center City Senior Activity Center	20,000
West Center City Senior Activity Center - Minibus	15,000
Wilmington Senior Center	66,138
Brandywine Senior Center	10,000
Mount Joy Senior Service Center	10,000
Recreational Opportunities for Nursing Home Residents	10,000
Sussex County Home Services	10,000
Kent County Office of Aging - Contingency	30,000
Martin Luther King, Jr., Memorial Foundation	20,000
TOTAL -- Division of Aging	\$ 914,784

Year Ending June 30, 1977

TOTAL -- DEPARTMENT OF HEALTH
AND SOCIAL SERVICES \$ 76,876,608

(38-00-000) DEPARTMENT OF CORRECTIONS

(38-01-000) Office of the Commissioner

(38-01-001) Commissioner's Office

Salary of Commissioner	\$	30,000
Salaries and Wages of Employees (2)		25,843
F.I.C.A. - Employer's Share		2,225
Pensions		6,310
Health Insurance		612
Travel		750
Contractual Services		2,000
Supplies and Materials		950
Capital Outlay		6,100
Contingency - Training Correctional Officers		<u>100,000</u>

TOTAL -- Commissioner's Office \$ 174,790

(38-01-002) Administration

Salaries and Wages of Employees (29)	\$	406,380
F.I.C.A. - Employer's Share		19,750
Pensions		45,926
Health Insurance		7,650
Travel		750
Contractual Services		
Basic Family Coverage		103,500
Contracts with Institutions		45,625
Other Contractual Services		11,000
Supplies and Materials		4,000
Capital Outlay		<u>2,100</u>

TOTAL -- Administration \$ 646,681

(38-01-003) Education

Salary of Administrative Assistant (1)	\$	17,534
Salary of Supervisor (1)		16,887
Salary of Clerical (1)		10,437

Year Ending June 30, 1977

Salaries of Teachers (35)	508,604
Salaries - Hazardous Duty	11,400
F.I.C.A. - Employer's Share	31,798
Pensions	63,829
Health Insurance	11,682
Travel	200
Contractual Services	4,200
Supplies and Materials	12,700
Capital Outlay	<u>1,800</u>

TOTAL - Education	\$ 691,071
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TOTAL -- Office of the Commissioner	\$ 1,512,542
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(38-08-000) Bureau of Adult Corrections

(38-08-001) Office of the Bureau Chief

Salary of Chief	\$ 26,800
Salaries and Wages of Employees (1)	11,426
F.I.C.A. - Employer's Share	1,558
Pensions	4,320
Health Insurance	612
Travel	200
Contractual Services	3,000
Supplies and Materials	<u>650</u>

Sub-Total	\$ 48,566
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Debt Service

Principal	603,375
Interest	<u>343,001</u>

TOTAL -- Office of the Bureau Chief	\$ 994,942
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(38-08-003) Delaware Correctional Center

Salaries and Wages of Employees (255)	\$ 2,494,177
Premium Pay - Extended Work Week	224,600
Salaries - Overtime	70,538

Year Ending June 30, 1977

Salaries - Hazardous Duty	153,000
Salaries - Shift Differential	89,850
F.I.C.A. - Employer's Share	165,282
Pensions	342,635
Health Insurance	79,866
Personal Services	
Medical, Dental and Psychiatric	35,000
Payments to Inmates	25,000
Other Personal Services	1,000
Travel	1,000
Contractual Services	
Contracts with Institutions	35,000
Other Contractual Services	425,000
Supplies and Materials	535,000
Capital Outlay	12,933
	<hr/>
TOTAL -- Delaware Correctional Center	\$ 4,689,881
(38-08-004) Sussex Correctional Center	
Salaries and Wages of Employees (64)	\$ 677,460
Premium Pay - Extended Work Week	58,218
Salaries - Overtime	17,419
Salaries - Hazardous Duty	38,400
Salaries - Shift Differential	22,900
F.I.C.A. - Employer's Share	39,008
Pensions	92,292
Health Insurance	18,172
Personal Services	
Medical, Dental and Psychiatric	8,500
Payments to Inmates	14,000
Other Personal Services	1,000
Travel	450
Contractual Services	
Contracts with Institutions	10,000
Other Contractual Services	62,500
Supplies and Materials	154,250
Capital Outlay	1,125
	<hr/>

Year Ending June 30, 1977

TOTAL -- Sussex Correctional Center \$ 1,215,694

(38-08-005) Women's Correctional Institution

Salaries and Wages of Employees (14)	\$ 153,870
Premium Pay - Extended Work Week	16,380
Salaries - Overtime	3,484
Salaries - Hazardous Duty	8,400
Salaries - Shift Differential	4,900
F.I.C.A. - Employer's Share	9,299
Pensions	21,135
Health Insurance	4,000
Personal Services	
Medical, Dental, and Psychiatric	2,500
Payments to Inmates	1,400
Other Personal Services	1,000
Travel	120
Contractual Services	
Contracts with Institutions	2,500
Other Contractual Services	16,500
Supplies and Materials	26,000
Capital Outlay	<u>8,400</u>

TOTAL -- Women's Correctional Institution \$ 279,888

(38-08-006) Pre-Trial Release

Salaries - Casual and Seasonal	\$ 4,000
Salaries and Wages of Employees (11.5)	110,766
F.I.C.A. - Employer's Share	6,395
Pensions	12,518
Health Insurance	2,775
Travel	1,000
Contractual Services	
Rent	3,245
Other Contractual Services	5,000
Supplies and Materials	<u>1,200</u>

TOTAL -- Pre-Trial Release \$ 146,899

Year Ending June 30, 1977

(38-08-007) Probation and Parole

Salaries and Wages of Employees (56)	\$ 595,322
F.I.C.A. - Employer's Share	33,774
Pensions	67,586
Health Insurance	16,940
Travel	2,850
Contractual Services	
Rent	31,500
Other Contractual Services	12,500
Supplies and Materials	9,000
Capital Outlay	<u>13,600</u>

TOTAL -- Probation and Parole \$ 783,072

(38-08-008) Work Programs

Salaries - Casual and Seasonal	\$ 3,000
Salaries and Wages of Employees (3)	29,375
F.I.C.A. - Employer's Share	1,895
Pensions	3,320
Health Insurance	924
Travel	400
Contractual Services	3,550
Supplies and Materials	<u>800</u>

TOTAL -- Work Programs \$ 43,264

(38-08-009) Work Education Release Programs

Salaries - Casual and Seasonal	\$ 1,500
Salaries and Wages	
of Employees (21)	143,332
Salaries - Overtime	7,500
Salaries - Hazardous Duty	8,400
Salaries - Shift Differential	925
Salaries - COLA	9,150
F.I.C.A. - Employer's Share	9,992
Pensions	19,132
Health Insurance	2,959
Personal Services	1,000

Year Ending June 30, 1977

Travel	600
Contractual Services	21,369
Supplies and Materials	3,102
State Personnel Charges	600
Workman's Compensation	2,109
Petty Cash	<u>400</u>

TOTAL -- Work Education
Release Programs \$232,070 ★

(★) Source of Funds:

D.A.R.C. - Federal Matching	\$157,000
D.A.R.C. - Cash Matching	17,270
Subgrantee - Cash Matching	<u>57,800</u>

TOTAL -- Source of Funds \$232,070

TOTAL -- Bureau of Adult Corrections \$8,153,640

(38-13-000) Bureau of Juvenile Corrections

(38-13-001) Office of Bureau Chief

Salary of Bureau Chief	\$ 26,800
(1) Salary and Wage of Employee (1)	10,920
F.I.C.A. - Employer's Share	1,522
Pensions	4,261
Health Insurance	616
Travel	400
Contractual Services	2,000
Supplies and Materials	500
Capital Outlay	<u>500</u>

Sub-Total \$ 47,519

Debt Service

Principal	252,500
Interest	<u>175,389</u>

TOTAL -- Office of Bureau Chief \$ 475,408

Year Ending June 30, 1977

(38-13-002) Ferris School for Boys

Salaries - Casual and Seasonal	\$ 9,750
Salaries and Wages of Employees (88.5)	836,570
Salaries - Overtime	43,011
Salaries - Shift Differential	9,000
Salaries - Hazardous Duty	42,000
F.I.C.A. - Employer's Share	54,365
Pensions	104,904
Health Insurance	20,339
Personal Services	19,500
Travel	750
Contractual Services	143,200
Supplies and Materials	126,600
Capital Outlay	<u>850</u>

Sub-Total \$ 1,410,839

Debt Service

Principal	24,000
Interest	<u>21,708</u>

TOTAL - Ferris School for Boys \$ 1,456,547

(38-13-003) Woods Haven-Kruse School for Girls

Salaries - Casual and Seasonal	\$ 5,700
Salaries and Wages of Employees (48)	477,480
Salaries - Overtime	8,602
Salaries - Shift Differential	6,000
Salaries - Hazardous Duty	23,400
F.I.C.A. - Employer's Share	29,948
Pensions	58,114
Health Insurance	13,251
Personal Services	13,150
Travel	750
Contractual Services	
Boiler Repairs	4,400
Other Contractual Services	92,900
Supplies and Materials	<u>52,100</u>

Year Ending June 30, 1977

Capital Outlay	<u>1,850</u>
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Sub-Total	\$ 787,645
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Debt Service	
Principal	7,000
Interest	<u>5,680</u>

TOTAL -- Woods Haven-Kruse School for Girls	\$ 800,325
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(38-13-004) Bridge House Detention Center	
Salaries - Casual and Seasonal	\$ 10,500
Salaries and Wages of Employees (19)	199,489
Salaries - Overtime	11,398
Salaries - Shift Differential	3,300
Salaries - Hazardous Duty	9,600
F.I.C.A. - Employer's Share	13,536
Pensions	25,284
Health Insurance	5,239
Personal Services	2,000
Travel	230
Contractual Services	19,000
Supplies and Materials	34,100
Capital Outlay	<u>500</u>

TOTAL -- Bridge House Detention Center	\$ 334,176
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(38-13-005) Stevenson House Detention Center	
Salaries - Casual and Seasonal	\$ 8,000
Salaries and Wages of Employees (18)	182,890
Salaries - Overtime	9,376
Salaries - Shift Differential	4,000
Salaries - Hazardous Duty	9,000
F.I.C.A. - Employer's Share	12,664
Pensions	23,195

Year Ending June 30, 1977

Health Insurance	5,239
Personal Services	1,100
Travel	230
Contractual Services	22,000
Supplies and Materials	<u>24,000</u>

TOTAL -- Stevenson House Detention Center	\$ 301,694
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(38-13-006) Delaware Youth Center	
Salaries - Casual and Seasonal	\$ 13,500
Salaries and Wages of Employees (35)	322,360
Salaries - Overtime	17,204
Salaries - Shift Differential	5,000
Salaries - Hazardous Duty	18,600
F.I.C.A. - Employer's Share	21,768
Pensions	40,970
Health Insurance	6,163
Personal Services	11,000
Travel	500
Contractual Services	25,000
Supplies and Materials	<u>59,000</u>

Sub-Total	\$ 541,065
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Debt Service	
Principal	9,000
Interest	<u>8,728</u>

TOTAL -- Delaware Youth Center	\$ 558,793
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(38-13-010) Community Services	
Salaries and Wages of Employees (32)	\$ 359,190
Salaries - Overtime	860
F.I.C.A. - Employer's Share	20,534
Pensions	40,685
Health Insurance	<u>5,547</u>

Year Ending June 30, 1977

Personal Services	1,200
Travel	2,000
Contractual Services	
Rent	8,700
Other Contractual Services	35,000
Supplies and Materials	14,300
Capital Outlay	4,000

TOTAL -- Community Services \$ 492,016

TOTAL -- Bureau of Juvenile Corrections \$ 4,418,959

TOTAL -- DEPARTMENT OF
CORRECTIONS \$14,085,141

(40-00-000) DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

(40-01-000) Office of the Secretary	
Salary of Secretary	\$ 31,000
(13) Salaries and Wages of Employees (22)	260,084
F.I.C.A. - Employer's Share	15,242
Pensions	32,896
Health Insurance	7,088
Personal Services	5,000
Travel	2,950
Contractual Services	51,917
Supplies and Materials	7,616
Capital Outlay	3,760
Contingency - Enforcement Program	1,000
Central Data Processing Services	
(State Funds - \$25,000	
All Other Funds - \$5,000)	25,000
Sub-Total	\$ 443,553

Debt Service	
Principal	895,000
Interest	1,116,677

Year Ending June 30, 1977

TOTAL -- Office of the Secretary	\$2,455,230
(40-05-000) Division of Fish and Wildlife	
(40-05-001) Office of the Director	
Salary of Director (State Funds - \$10,825	
All Other Funds - \$10,825) \$	10,825
(4) Salaries and Wages of Employees (2)	19,266
F.I.C.A. - Employer's Share	1,571
Pensions	3,401
Health Insurance	770
Travel	530
Contractual Services	5,800
Supplies and Materials	130
Contingency - Sport Fishermen's	
Tournament	4,031
TOTAL -- Office of the Director	\$ 46,324
(40-05-002) Wildlife	
(22.66) Salaries and Wages of Employees (12)	\$ 136,202
Salaries - Overtime	10,000
F.I.C.A. - Employer's Share	8,553
Pensions	16,522
Health Insurance	3,698
Travel	50
Contractual Services	
Delaware S.P.C.A.	94,000
Kent County Dog Control	15,000
Other Contractual Services	10,520
Supplies and Materials	12,960
Capital Outlay	25,100
Sub-Total	\$ 332,605
Debt Service	
Principal	5,000
Interest	6,445

Year Ending June 30, 1977

TOTAL -- Wildlife	\$ 344,050
(40-05-003) Fisheries	
(6) Salaries and Wages of Employees (28.5) \$	269,905
Salaries - Overtime	5,000
F.I.C.A. - Employer's Share	15,978
Pensions	31,067
Health Insurance	8,783
Travel	515
Contractual Services	
Rent	3,565
Boat Repairs	12,000
Co-op Fisheries Study	7,000
Seed Oysters to Public Beds	4,000
Other Contractual Services	17,000
Supplies and Materials	41,460
Capital Outlay	18,500
Sub-Total	\$ 434,773
Debt Service	
Principal	36,500
Interest	26,122
TOTAL -- Fisheries	\$ 497,395
(40-05-004) Mosquito Control	
Salaries - Casual and Seasonal \$	12,600
Salaries and Wages of Employees (17)	154,189
Salaries - Overtime	2,581
F.I.C.A. - Employer's Share	9,554
Pensions	17,717
Health Insurance	5,239
Personal Services	50
Travel	250
Contractual Services	
Research Contracts - University of Del	20,000

Year Ending June 30, 1977

University of Delaware - Marsh	
Gnat Control Project	15,000
Spraying	97,000
Other Contractual Services	17,713
Supplies and Materials	
Insecticides	68,654
Other Supplies and Materials	<u>16,556</u>
 TOTAL -- Mosquito Control	 \$ 437,103
 TOTAL -- Division of Fish and Wildlife	 \$ 1,324,872
 (40-06-000) Division of Parks and Recreation	
(40-06-001) Office of Director	
Salary of Director	\$ 21,850
Salaries and Wages of Employees (1)	11,427
F.I.C.A. - Employer's Share	1,552
Pensions	3,760
Health Insurance	616
Travel	250
Contractual Services	1,620
Supplies and Materials	1,200
Capital Outlay	<u>373</u>
 TOTAL -- Office of Director	 \$ 42,648
 (40-06-002) Parks	
(8.8) Salaries and Wages of Employees (47)	\$ 462,582
Salaries - Overtime	1,404
F.I.C.A. - Employer's Share	26,632
Pensions	52,435
Health Insurance	14,484
Travel	300
Contractual Services	63,200
Supplies and Materials	24,000
Capital Outlay	33,200
Fort Delaware Repairs	10,000

Year Ending June 30, 1977

Operations - Dewey Beach & Fenwick Island	20,000
Operations - Killens Pond	<u>10,000</u>
Sub-Total	\$ 718,237
Debt Service	
Principal	419,500
Interest	<u>328,045</u>
TOTAL -- Parks	1,465,782
(40-06-004) Recreation	
Salaries and Wages of Employees (3)	\$ 38,446
F.I.C.A. - Employer's Share	2,004
Pensions	4,345
Health Insurance	924
Travel	150
Contractual Services	3,135
Supplies and Materials	1,677
Capital Outlay	100
Recreation Assistance Funds - Local	
Government	226,000
Youth Conservation Program	<u>30,000</u>
TOTAL -- Recreation	\$ 306,781
(40-06-005) Technical Services	
Salaries and Wages of Employees (4)	\$ 57,425
F.I.C.A. - Employer's Share	2,761
Pensions	6,490
Health Insurance	1,233
Travel	200
Contractual Services	3,934
Supplies and Materials	3,250
Capital Outlay	<u>2,265</u>

Year Ending June 30, 1977

TOTAL -- Technical Services	\$ 77,558
TOTAL -- Division of Parks and Recreation	\$ 1,892,769
(40-07-000) Division of Soil and Water Conservation	
(40-07-001) Office of the Director	
Salary of Director	\$ 19,300
Salaries and Wages of Employees (1)	6,234
F.I.C.A. - Employer's Share	1,248
Pensions	2,885
Health Insurance	616
Travel	200
Contractual Services	2,100
Supplies and Materials	570
Capital Outlay	<u>450</u>
TOTAL -- Office of the Director	\$ 33,603
(40-07-002) Drainage	
Salaries and Wages of Employees (6)	\$ 76,247
F.I.C.A. - Employer's Share	4,265
Pensions	8,617
Health Insurance	1,849
Contractual Services	
Rent	7,780
Highway Crossings	105,000
Other Contractual Services	2,911
Supplies and Materials	
Highway Crossings	92,594
Other Supplies and Materials	1,992
Capital Outlay	1,000
Tax Ditches - Sussex County ★	30,000
Tax Ditches - Kent County ★	30,000
Tax Ditches - New Castle County ★	<u>30,000</u>

★ Pursuant to Section 3921, Title 7, Delaware Code

Year Ending June 30, 1977

Sub-Total	\$ 392,255
Debt Service	
Principal	106,750
Interest	<u>49,430</u>
TOTAL -- Drainage	\$ 548,435
(40-07-003) Beach Preservation	
Salaries and Wages of Employees (9)	\$ 79,517
F.I.C.A. - Employer's Share	4,652
Pensions	8,986
Health Insurance	2,774
Personal Services	1,000
Travel	100
Contractual Services	5,355
Supplies and Materials	<u>7,455</u>
Sub-Total	\$ 109,839
Debt Service	
Principal	144,000
Interest	<u>108,458</u>
TOTAL -- Beach Preservation	\$ 362,297
TOTAL -- Division of Soil and Water Conservation	\$ 944,335
(40-08-000) Division of Environmental Control	
(40-08-001) Office of the Director	
Salary of Director	
(State Funds - \$15,000)	
(All Other Funds - \$15,000)	\$ 15,000
(.5) Salaries and Wages of Employees (2)	16,211
F.I.C.A. Employer's Share	1,390
Pensions	<u>3,526</u>

Year Ending June 30, 1977

Health Insurance	770
Travel	1,335
Contractual Services	2,407
Supplies and Materials	<u>693</u>
TOTAL -- Office of the Director	\$ 41,332
(40-08-002) Air Resources	
(9.62) Salaries and Wages of Employees (8)	\$ 102,615
F.I.C.A. - Employer's Share	5,857
Pensions	11,597
Health Insurance	2,465
Personal Services	500
Travel	300
Contractual Services	
Rent	9,550
Other Contractual Services	19,713
Supplies and Materials	1,650
Capital Outlay	<u>3,400</u>
TOTAL -- Air Resources	\$ 157,647
(40-08-003) Water Resources	
(38.38) Salaries and Wages of Employees (15)	\$ 216,080
F.I.C.A. - Employer's Share	11,250
Pensions	24,645
Health Insurance	4,623
Personal Services	2,000
Travel	285
Contractual Services	
Rent	475
Other Contractual Services	41,059
Supplies and Materials	8,821
Capital Outlay	10,350
Contingency - Oil Spill	<u>5,000</u>
Sub-Total	\$ 324,588

Year Ending June 30, 1977

Debt Service	
Principal	385,000
Interest	314,015
TOTAL -- Water Resources	\$ 1,023,603
 (40-08-004) Technical Services	
(11) Salaries and Wages of Employees (12)	\$ 172,877
Salaries - Overtime	3,011
F.I.C.A. - Employer's Share	9,216
Pensions	19,877
Health Insurance	3,698
Travel	297
Contractual Services	2,379
Supplies and Materials	11,421
Capital Outlay	<u>3,520</u>
TOTAL -- Technical Services	\$ 226,296
 (40-08-005) Wetlands	
Salaries and Wages of Employees (3)	\$ 37,019
F.I.C.A. - Employer's Share	2,127
Pensions	4,184
Health Insurance	924
Personal Services	4,000
Travel	1,840
Contractual Services	5,571
Supplies and Materials	<u>2,699</u>
TOTAL -- Wetlands	\$ 58,364
 (40-08-006) Delaware River Basin Commission	
(7.66) Salaries and Wages of Employees	\$ -----
 (40-08-007) Solid Waste	
(1) Salaries and Wages of Employees (2)	\$ 20,471
F.I.C.A. - Employer's Share	1,198

Year Ending June 30, 1977

Pensions	2,313
Health Insurance	616
Personal Services	1,350
Travel	500
Contractual Services	4,560
Supplies and Materials	1,307
Capital Outlay	500
Solid Waste Authority	<u>60,000</u>

Sub-Total \$ 92,815

Debt Service	
Principal	50,000
Interest	<u>36,413</u>

TOTAL -- Solid Waste \$ 179,228

TOTAL -- Division of Environmental Control \$ 1,686,470

TOTAL -- DEPARTMENT OF NATURAL
RESOURCES AND ENVIRON-
MENTAL CONTROL \$ 8,303,676

(45-00-000) DEPARTMENT OF PUBLIC SAFETY

(45-01-000) Office of Secretary

Salary of Secretary	\$ 31,000
Salaries and Wages of Employees (1)	10,719
F.I.C.A. - Employer's Share	1,510
Pensions	4,714
Health Insurance	617
Travel	500
Contractual Services	2,500
Supplies and Materials	<u>500</u>

TOTAL -- Office of Secretary \$ 52,060

Year Ending June 30, 1977

(45-04-000) Division of Motor Fuel Tax		
Salary of Director	\$	17,000
Salaries - Casual and Seasonal		2,500
Salaries and Wages of Employees (11)		103,161
F.I.C.A. - Employer's Share		6,924
Pensions		13,580
Health Insurance		2,157
Travel		9,250
Contractual Services		19,400
Supplies and Materials		39,000
Capital Outlay		1,400
Central Data Processing Services		30,000

TOTAL -- Division of Motor Fuel Tax \$ 244,372

(45-05-000) Division of Administration and Intergovernmental Services		
(45-05-001) Office of Administration		
Salary of Director	\$	15,000
Salaries and Wages of Employees (5)		60,113
F.I.C.A. - Employer's Share		4,292
Pensions		8,488
Health Insurance		1,848
Contractual Services		2,750
Supplies and Materials		850
Capital Outlay		140

TOTAL -- Office of Administration \$ 93,481

(45-05-002) Communications Section		
Salaries and Wages of Employees (20)	\$	231,732
Salaries - Overtime		430
F.I.C.A. - Employer's Share		13,171
Pensions		26,234
Health Insurance		4,006
Travel		850
Contractual Services		
School Contracts		840

Year Ending June 30, 1977

Other Contractual Services	11,300
Supplies and Materials	
Materials for Resale	20,000
Other Supplies and Materials	8,325
Capital Outlay	<u>7,500</u>

Sub-Total	\$ 324,388
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Debt Service	
Principal	27,000
Interest	<u>21,795</u>

TOTAL -- Communications Section	\$ 373,183
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TOTAL -- Division of Administration and Intergovernmental Services	\$ 466,664
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45-06-000) Division of State Police	
Salary of Superintendent	\$ 24,500
Salary of Assistant Superintendent	22,000
(10) Salaries of Uniformed Division (438)	5,446,479
(4) Salaries and Wages of Employees (127)	956,855
Salaries - Overtime - Uniformed Division	94,625
Salaries - Overtime - Other Employees	4,301
F.I.C.A. - Employer's Share	58,689
Pensions - All Others	106,874
Pensions - State Police	1,800,000
Health Insurance	160,551
Personal Services	1,000
Travel	9,000
Contractual Services	
Rent	500
Other Contractual Services	413,500
Supplies and Materials	583,000
Capital Outlay	
Vehicles and Related Equipment	468,000
Other Capital Outlay	17,450

Year Ending June 30, 1977

Crime Reduction Fund	30,000
Drug Control Program	20,000
Central Data Processing Services	
(State Funds - \$350,000	
All Other Funds - \$40,900	350,000
Advanced Schooling/Training and Library	<u>55,000</u>

Sub-Total \$ 10,622,324

Debt Service	
Principal	129,000
Interest	<u>107,662</u>

TOTAL -- Division of State Police \$ 10,858,986

(45-07-000) Division of Motor Vehicles

Salary of Director	\$ 22,000
Salaries - Casual and Seasonal	18,400
Salaries and Wages of Employees (184)	1,525,827
F.I.C.A. - Employer's Share	89,519
Pensions	172,610
Health Insurance	34,823
Travel	530
Contractual Services	111,500
Supplies and Materials	
Tags, Stickers and Numerals	200,670
Other Supplies and Materials	144,000
Capital Outlay	7,800
Central Data Processing Services	<u>250,000</u>

Sub-Total \$ 2,577,679

Debt Service	
Principal	72,500
Interest	<u>60,597</u>

TOTAL -- Division of Motor Vehicles \$ 2,710,776

Year Ending June 30, 1977

(45-08-000) Division of Emergency Planning and Operations	
Salary of Director (State Funds - \$7,525	
All Other Funds - \$7,525) \$	7,525
(11) Salaries and Wages of Employees (7)	67,217
F.I.C.A. - Employer's Share	4,372
Pensions	8,446
Health Insurance	1,849
Travel	1,135
Contractual Services	16,560
Supplies and Materials	2,825
Capital Outlay	2,200
Salem Nuclear Warning	800
	<hr/>
Sub-Total	\$ 112,929
Debt Service	
Principal	7,000
Interest	2,835
	<hr/>
TOTAL -- Division of Emergency Planning and Operations	\$ 122,764
(45-09-000) Division of Boiler Safety	
Salary of Director	\$ 14,600
Salaries and Wages of Employees (6)	57,658
F.I.C.A. - Employer's Share	4,210
Pensions	8,166
Health Insurance	1,233
Travel	6,000
Contractual Services	
Rent	3,600
Other Contractual Services	2,500
Supplies and Materials	1,000
	<hr/>
TOTAL -- Division of Boiler Safety	\$ 98,967

Year Ending June 30, 1977

TOTAL -- DEPARTMENT OF
PUBLIC SAFETY \$ 14,554,589

(50-00-000) DEPARTMENT OF COMMUNITY AFFAIRS
AND ECONOMIC DEVELOPMENT

(50-01-000) Office of the Secretary

(50-01-001) Administration

Salary of Secretary	\$ 28,700
Salary - Council for Women —	
Administrative Ass't (.5)	5,000
Salaries and Wages of Employees (7)	65,243
Salaries - Overtime	400
F.I.C.A. - Employer's Share	5,016
Pensions	11,225
Health Insurance	1,541
Travel	850
Contractual Services	
Rent	5,542
Other Contractual Services	6,000
Supplies and Materials	2,200
Capital Outlay	570
Council for Women	7,500
Retired Senior Volunteer Program	<u>37,500</u>

TOTAL -- Administration \$ 177,287

(50-01-002) Foster Grandparent Program	
(2.5) Salaries and Wages of Employees (4.4)	\$ 48,645
Salaries - Overtime	86
F.I.C.A. - Employer's Share	2,803
Pensions	5,507
Health Insurance	663
Personal Services	1,300
Travel	1,600
Contractual Services	5,787
Supplies and Materials	315
Capital Outlay	650
Stipends	<u>260,000</u>

Year Ending June 30, 1977

TOTAL -- Foster Grandparent Program \$ 327,356

(50-01-003) Economic Opportunity		
Salaries and Wages of Employees (1.2)	\$	14,213
F.I.C.A. - Employer's Share		764
Pensions		1,606
Health Insurance		216
Travel		550
Contractual Services		
Rent		5,882
Other Contractual Services		1,280
Supplies and Materials		389
Opportunities Industrialization Center		160,000

TOTAL -- Economic Opportunity \$ 184,900

TOTAL -- Office of the Secretary \$ 689,543

(50-04-000) Office of Minority Business Enterprise		
Salaries and Wages of Employees (5)	\$	65,107
Salaries - COLA		3,906
F.I.C.A. - Employer's Share		3,756
Pensions		7,798
Travel		3,230
Contractual Services		
Rent		934
Other Contractual Services		3,465

TOTAL -- Office of Minority Business Enterprise \$ 88,196*

(*) Federal Funds - U.S. Department of Commerce

(50-06-000) Office of Human Relations		
Salary of Director	\$	19,450
Salaries and Wages of Employees (9)		83,124
Salaries - Overtime		172

Year Ending June 30, 1977

F.I.C.A. - Employer's Share	5,762
Pensions	11,612
Health Insurance	1,233
Personal Services	530
Travel	5,300
Contractual Services	
Rent	4,868
Other Contractual Services	8,497
Supplies and Materials	2,995
Capital Outlay	800

TOTAL -- Office of Human Relations \$ 144,343

(50-08-000) Division of Economic Development

Salary of Director	\$ 19,450
(2.5) Salaries and Wages of Employees (9.5)	103,337
Salaries - Overtime	172
F.I.C.A. - Employer's Share	6,944
Pensions	13,896
Health Insurance	1,234
Personal Services	13,150
Travel	7,400
Contractual Services	
Rent	3,176
Other Contractual Services	97,725
Supplies and Materials	7,465
Capital Outlay	4,465
Delmarva Advisory Council Grant	13,000
Special Projects	50,000
Miss Delaware Pageant	1,000
Delaware Day Commission	925
Contingency - Mother-of-the-Year Travel	500

TOTAL -- Division of Economic Development \$ 343,839

(50-09-000) Division of Housing

Salary of Director \$ 26,860

Year Ending June 30, 1977

(5) Salaries and Wages of Employees (4)	45,845
Salaries - Overtime	129
F.I.C.A. — Employer's Share	3,579
Pensions	8,231
Health Insurance	1,233
Personal Services	
Lawyers	8,400
Other Personal Services	2,500
Travel	2,338
Contractual Services	7,575
Supplies and Materials	3,435
Capital Outlay	<u>525</u>
Sub-Total	\$ 110,650
Debt Service	
Principal	24,000
Interest	<u>20,174</u>
TOTAL -- Division of Housing	\$ 154,824
(50-10-000) Division of Libraries	
Salary of State Librarian	
(State Funds - \$10,158	
All Other Funds - \$5,991)	\$ 10,158
(7) Salaries and Wages of Employees (10)	97,209
Salaries - Overtime	350
F.I.C.A. - Employer's Share	5,550
Pensions	11,027
Health Insurance	2,773
Travel	300
Contractual Services	26,258
Supplies and Materials	11,270
Capital Outlay	20,000
Public Library Grants	<u>33,384</u>
TOTAL -- Division of Libraries	\$ 218,279

Year Ending June 30, 1977

(50-11-000) Division of Consumer Affairs

Salaries of Board Members (3)	\$	3,500
Salary of Director		19,450
Salaries and Wages of Employees (10)		97,225
Salaries - Overtime		129
F.I.C.A. - Employer's Share		6,590
Pensions		13,200
Health Insurance		2,157
Personal Services		2,000
Travel		2,500
Contractual Services		
Rent		12,134
Other Contractual Services		7,510
Supplies and Materials		2,970
Capital Outlay		670

TOTAL -- Office of Consumer Affairs \$ 170,035

TOTAL -- DEPARTMENT OF COMMUNITY
AFFAIRS AND ECONOMIC
DEVELOPMENT

\$1,720,863

(55-00-000) DEPARTMENT OF
TRANSPORTATIONSpecial
FundsGeneral
Funds

(55-01-000) Office of the Secretary

Salary of Secretary		\$	32,000
Salaries and Wages of Employees (30.5)	434,493	(1.5)	30,920
Salaries - COLA	26,000		
F.I.C.A. - Employer's Share	25,285		1,273
Pensions	52,036		7,110
Health Insurance	8,321		616
Travel	500		200
Contractual Services	131		4,000
Supplies and Materials	131		1,000
Capital Outlay	8,500		-0-

Year Ending June 30, 1977

TOTAL--Office of the Secretary	\$ 555,766	\$ 77,119
(55-02-000)Administration	Special Funds	General Funds
Salary of Chief		\$ 23,800
Salaries and Wages of Employees (35.5)-(28.5)		287,456
Salaries - Overtime		301
F.I.C.A. - Employer's Share		16,416
Pensions		35,205
Health Insurance		6,009
Personal Services		2,000
Travel	300	350
Contractual Services	51,500	28,800
Supplies and Materials	1,000	4,565
Capital Outlay	1,200	1,000
Central Data Processing Services		
(State Funds - \$100,000)		<u>100,000</u>
(All Other Funds - \$25,000)		
TOTAL --Administration		\$505,902
(55-05-000)Division of Highways		
Salary of Director		\$ 30,150
Salaries and Wages of Employees (452)--(773)		6,810,541
Salaries - Overtime		94,624
F.I.C.A. - Employer's Share		376,369
Pensions		783,691
Health Insurance		193,216
Capital Outlay		475,000
Operations		<u>4,018,212</u>
Sub-Total		\$12,781,803
Debt Service		
Principal		14,301,000
Interest		<u>7,602,924</u>
TOTAL -- Division of Highways		\$34,685,727

Year Ending June 30, 1977

	Special Funds	General Funds
(55-06-000) Delaware Transportation Authority		
Authority Operations	\$ 186,916	
Transit Planning Studies		
Statewide Rail Service Plan	20,000	
Airport Master Plan	10,000	
Kent and Sussex Transportation	80,000	
SEPTA Subsidy	8,000	
Council Subsidy	15,000	
Turnpike Operations	2,193,000	
DART Operations	1,037,288	
DAST Operations	<u>215,000</u>	
Sub-Total	\$ 3,765,204	
Debt Service		
Principal - State Obligations	48,000	
Interest - State Obligations	53,630	
Principal - Authority Obligations	3,249,000	
Interest - Authority Obligations	<u>700,000</u>	
TOTAL -- Delaware Transportation Authority	\$7,815,834	
TOTAL -- DEPARTMENT OF TRANSPORTATION		\$35,268,748

(60-00-000) DEPARTMENT OF LABOR

(60-01-000) Office of the Secretary

Salary of Secretary (State Funds - \$10,550)		
(All Other Funds - \$19,595)	\$	10,550
(3.2) Salaries and Wages of Employees (1.5)		18,813
F.I.C.A. - Employer's Share		1,717
Pensions		3,818
Health Insurance		570

Year Ending June 30, 1977

Travel	650
Contractual Services	1,192
Supplies and Materials	<u>651</u>

TOTAL -- Office of the Secretary \$ 37,961

(60-05-000) Division of Employment Services	
(12) Salaries and Wages of Employees	\$ ----

TOTAL -- Division of Employment Services \$ ----

(60-06-000) Division of Unemployment Insurance	
(278.4) Salaries and Wages of Employees	\$ ----
Unemployment Compensation	<u>300,000</u>

TOTAL -- Division of
Unemployment Insurance \$ 300,000

(60-07-000) Division of Industrial Affairs

(60-07-001) Administration

Salary of Director	\$ 20,550
Salaries and Wages of Employees (5)	56,142
Salaries - Overtime	430
F.I.C.A. - Employer's Share	4,174
Pensions	8,716
Health Insurance	1,541
Travel	1,000
Contractual Services	
Rent	12,500
Other Contractual Services	5,975
Supplies and Materials	1,208
Capital Outlay	100
Central Data Processing Services	
(State Funds \$ -0-)	

Year Ending June 30, 1977

(All Other Funds - \$80,000)

TOTAL -- Administration \$ 112,336

(60-07-002) Inspection

Salaries and Wages of Employees (7)	\$ 77,910
F.I.C.A. - Employer's Share	4,312
Pensions	8,804
Health Insurance	1,541
Travel	1,275
Contractual Services	
Rent	4,650
Other Contractual Services	3,450
Supplies and Materials	567
Capital Outlay	<u>500</u>

TOTAL -- Inspection \$ 103,009

.60-07-003) Safety

(3) Salaries and Wages of Employees (5)	\$ 56,637
F.I.C.A. - Employer's Share	3,217
Pensions	6,401
Health Insurance	1,233
Travel	1,000
Contractual Services	
Rent	6,800
Other Contractual Services	2,718
Supplies and Materials	1,969
Capital Outlay	<u>600</u>

TOTAL -- Safety \$ 80,575

(60-07-004) Statistics

Year Ending June 30, 1977

(2) Salaries and Wages of Employees (2)	\$	20,738
F.I.C.A. - Employer's Share		1,197
Pensions		2,344
Health Insurance		308
Travel		325
Contractual Services		
Rent		2,700
Other Contractual Services		7,500
Supplies and Materials		<u>300</u>
TOTAL -- Statistics	\$	35,412
(60-07-005) Equal Employment Opportunity		
(9.8) Salaries and Wages of Employees (2)	\$	18,642
F.I.C.A. - Employer's Share		1,091
Pensions		2,107
Health Insurance		308
Travel		800
Contractual Services		
Rent		2,000
Other Contractual Services		6,000
Supplies and Materials		893
Capital Outlay		<u>280</u>
TOTAL -- Equal Employment Oppor.	\$	32,121
(60-07-006) Apprenticeship and Training		
Salaries and Wages of Employees (2)	\$	21,577
F.I.C.A. - Employer's Share		1,262
Pensions		2,438
Health Insurance		308
Travel		1,000
Contractual Services		
Rent		2,060
Other Contractual Services		1,400
Supplies and Materials		315
Capital Outlay		<u>300</u>
TOTAL -- Apprenticeship and Training \$		30,660

Year Ending June 30, 1977

(60-07-007) Industrial Accident Board	
Salaries of Board Members (3)	\$ 24,000
Salaries and Wages of Employees (7)	50,058
F.I.C.A. - Employer's Share	4,332
Pensions	8,369
Health Insurance	616
Personal Services	24,000
Travel	5,700
Contractual Services	
Rent	15,500
Other Contractual Services	10,600
Supplies and Materials	2,730
Capital Outlay	<u>400</u>

TOTAL -- Industrial Accident Board \$ 146,305

TOTAL -- Division of Industrial Affairs \$ 540,418

(60-08-000) Division of Vocational Rehabilitation	
(136) Salaries and Wages of Employees	\$ -----
Personal Services	135,000
Travel	4,000
Contractual Services	
Rent	80,000
Other Contractual Services	266,108
Supplies and Materials	<u>11,550</u>

TOTAL -- Division of Vocational
Rehabilitation \$ 496,658

TOTAL -- DEPARTMENT OF LABOR \$ 1,375,037

(65-00-000) DEPARTMENT OF AGRICULTURE

(65-01-000) Office of the Secretary	
Salary of Secretary	\$ 28,700
Salaries and Wages of Employees (4)	45,948
F.I.C.A. - Employer's Share	3,569
Pensions	8,437

Year Ending June 30, 1977

Health Insurance	1,541
Travel	1,050
Contractual Services	2,494
Supplies and Materials	1,418
Capital Outlay	1,000
Central Data Processing Services	<u>1,000</u>

Sub-Total \$ 95,157

Debt Service	
Principal	41,250
Interest	<u>12,391</u>

TOTAL -- Office of the Secretary \$ 148,798

(65-03-000) Division of Standards and Inspection

Salary of Director	\$ 18,400
Salaries - Casual and Seasonal	5,270
Salaries and Wages of Employees (45)	482,435
Salaries - Overtime	11,381
F.I.C.A. - Employer's Share	29,717
Pensions	57,880
Health Insurance	8,937
Personal Services	21,000
Travel	6,750
Contractual Services	
USDA Inspector Services	6,000
Livestock Indemnity	1,500
Other Contractual Services	29,694
Supplies and Materials	23,304
Capital Outlay	<u>6,800</u>

TOTAL -- Division of Standards and Inspection \$ 709,068

(65-04-000) Division of Production and Promotion

Salary of Director \$ 18,400

Year Ending June 30, 1977

Salaries - Casual and Seasonal	3,150
(7) Salaries and Wages of Employees (16)	158,869
F.I.C.A. - Employer's Share	10,210
Pensions	20,032
Health Insurance	3,698
Travel	1,800
Contractual Services	18,470
Supplies and Materials	7,560
Capital Outlay	1,000
Peninsula Horticulture Society	800
Crop Improvement Association	<u>800</u>
Sub-Total	\$ 244,789
Debt Service	
Principal	10,000
Interest	<u>6,343</u>
TOTAL -- Division of Production and Promotion	\$ 261,132
TOTAL -- DEPARTMENT OF AGRICULTURE	\$ 1,118,998
(70-00-000) DEPARTMENT OF ELECTIONS	
(70-01-000) Commissioner of Elections	
Salary of Election Commissioner	\$ 16,000
Salaries and Wages of Employees (5)	48,308
Salaries - Casual and Seasonal	21,246
Salaries - Overtime	4,204
F.I.C.A. - Employer's Share	5,227
Pensions	8,453
Health Insurance	1,541
Travel	800
Contractual Services	20,392
Supplies and Materials	3,020
Capital Outlay	3,849
Central Data Processing Services	37,000

Year Ending June 30, 1977

Line 80 - Vote Tabulation	<u>15,000</u>
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TOTAL -- Commissioner of Elections	\$ 185,040
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(70-02-000) New Castle County Department of Elections

Salaries of Board Members (10)	\$ 10,500
Salary of Administrative Director	16,100
Salary of Deputy Administrative Director	15,600
Salaries - Casual and Seasonal	49,000
Salaries and Wages of Employees (11)	93,146
Salaries - Overtime	19,785
F.I.C.A. - Employer's Share	8,385
Pensions	16,344
Health Insurance	2,158
Personal Services	
Registration and Election Officers	100,745
Mobile Registration	30,000
Other Personal Services	3,929
Travel	500
Contractual Services	
Rent - Polling Places	13,800
Moving Voting Machines	22,850
Storage of Voting Machines	13,680
Other Contractual Services	55,419
Supplies and Materials	6,300
Capital Outlay	1,250
Contingency - Primary Election	<u>58,021</u>

TOTAL -- New Castle County	
Department of Elections	\$ 537,512

(70-03-000) Kent County Department of Elections

Salaries of Board Members (6)	\$ 6,500
Salaries of Administrative Director	15,200
Salary of Deputy Administrative Director	14,700
Salaries - Casual and Seasonal	2,500
Salaries and Wages of Employees (2)	18,733

Year Ending June 30, 1977

Salaries - Overtime	4,595
F.I.C.A. - Employer's Share	3,114
Pensions	6,015
Health Insurance	1,233
Personal Services	
Registration and Election Officers	21,270
Mobile Registration	10,000
Travel	350
Contractual Services	
Rent - Polling Places	3,600
Moving Voting Machines	3,480
Other Contractual Services	22,453
Supplies and Materials	3,200
Capital Outlay	500
Contingency - Primary Election	<u>23,760</u>

TOTAL -- Kent County Department
of Elections \$ 161,203

(70-04-000) Sussex County Department of Elections

Salaries of Board Members (6)	\$ 6,500
Salary of Administrative Director	15,200
Salary of Deputy Administrative Director	14,700
Salaries - Casual and Seasonal	11,000
Salaries and Wages of Employees (2)	18,783
Salaries - Overtime	2,151
F.I.C.A. - Employer's Share	2,974
Pensions	5,745
Health Insurance	1,233
Personal Services	
Registration and Election Officers	22,785
Mobile Registration	16,000
Travel	1,300
Contractual Services	
Rent - Polling Places	3,675
Moving Voting Machines	1,250
Other Contractual Services	16,900
Supplies and Materials	2,600

Year Ending June 30, 1977

Capital Outlay	1,500
Absentee Ballot Expense	1,492
Contingency - Primary Election	<u>16,435</u>

TOTAL -- Sussex County Department
of Elections \$ 162,223

TOTAL -- DEPARTMENT OF ELECTIONS \$ 1,045,978

(75-00-000) FIRE PREVENTION COMMISSION

(75-01-000) Office of Fire Marshal

Salary of Fire Marshal	\$ 16,000
(1) Salaries and Wages of Employees (13)	139,126
Salaries - Casual and Seasonal	637
Salaries - Shift Differential	1,163
F.I.C.A. - Employer's Share	9,096
Pensions	17,663
Health Insurance	4,314
Personal Services	1,000
Travel	
Commission Travel	2,000
Other Travel	1,800
Contractual Services	10,369
Supplies and Materials	10,831
Capital Outlay	15,075
Fire Prevention Conferences	<u>1,500</u>

TOTAL -- Office of Fire Marshal \$ 230,574

(75-02-000) State Fire School

Salary of Director	\$ 16,000
Salaries and Wages of Employees (8)	83,638
F.I.C.A. - Employer's Share	5,782
Pensions	11,260
Health Insurance	2,466
Travel	2,000

Year Ending June 30, 1977

Meals - Fire School	18,165
Contractual Services	
Instructional Services	46,850
Other Contractual Services	9,818
Supplies and Materials	26,170
Capital Outlay	<u>11,400</u>

Sub-Total \$ 233,549

Debt Service	
Principal	36,000
Interest	<u>15,181</u>

TOTAL -- State Fire School 284,730

TOTAL -- FIRE PREVENTION
COMMISSION 515,304

(76-01-000) DELAWARE NATIONAL GUARD

Salary of Adjutant General	\$ 24,900
(20.9) Salaries and Wages of Employees (21.7)	227,898
F.I.C.A. - Employer's Share	13,878
Pensions	28,569
Health Insurance	6,471
Travel	1,887
Contractual Services	267,250
Supplies and Materials	
Uniform Allowance - Officers	25,000
Other Supplies and Materials	39,334
Capital Outlay	2,400
Unit Fund Allowance	15,000
Minor Capital Improvements	43,200
Compensation	<u>4,500</u>

Sub-Total \$ 700,287

Debt Service

Year Ending June 30, 1977

Principal	46,000
Interest	<u>33,702</u>

TOTAL -- DELAWARE NATIONAL GUARD \$ 779,989

(77-00-000) ADVISORY COUNCIL FOR EXCEPTIONAL CHILDREN

Salaries and Wages of Employees (1)	\$ 6,500
F.I.C.A. - Employer's Share	380
Pensions	735
Health Insurance	309
Travel	1,400
Contractual Services	2,000
Supplies and Materials	<u>600</u>

TOTAL -- ADVISORY COUNCIL FOR
EXCEPTIONAL CHILDREN \$ 11,924

(90-00-000) HIGHER EDUCATION

(90-01-001) University of Delaware

Operations	\$ 19,460,655
Diagnostic Poultry Service	10,000
General Scholarships	1,024,000
Aid to Needy Students	542,000
Scholarship Fund	150,000
Occupational Teachers Education	86,298
Sea Grant Program	200,000
F.I.C.A. - Employer's Share	1,842,980
Pensions	1,320,203
Health Insurance	552,839
Pensions Fund (TIAA)	<u>678,228</u>

Sub-Total \$25,867,203

Debt Service	
Principal	2,528,500
Interest	<u>1,503,529</u>

Year Ending June 30, 1977

TOTAL -- University of Delaware	\$ 29,899,232
(90-01-002) State Geologist	
Salaries and Wages of Employees (9)	\$ 132,860
F.I.C.A. - Employer's Share	7,000
Pensions	4,008
Travel	2,000
Contractual Services	
River Master Program	24,000
Federal Co-Op Program	46,000
Supplies and Materials	12,000
Capital Outlay	9,500
TOTAL -- State Geologist	\$ 237,368
TOTAL -- University of Delaware	\$30,136,600
(90-02-000) Delaware Institute of Medical Education and Research	
General Operations	\$ 2,305,500
TOTAL -- Delaware Institute of Medical Education and Research	<u>\$ 2,305,500</u>
(90-03-000) Delaware State College	
(132) Salaries and Wages of Employees (256)	\$ 3,074,623
F.I.C.A. - Employer's Share	239,610
Pensions	483,988
Health Insurance	61,526
Personal Services	
Work Study Program	11,000
Other Personal Services	25,000
Travel	3,000
Contractual Services	750,000
Supplies and Materials	171,000
Capital Outlay	26,000
Scholarships	50,000

Year Ending June 30, 1977

State Matching Grants-in-Aid	50,000
Occupational Teacher Education (2)	<u>49,225</u>

Sub-Total	\$ 4,994,972
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Debt Service	
Principal	877,000
Interest	<u>526,714</u>

TOTAL -- Delaware State College	\$ 6,398,686
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(90-04-000) Delaware Technical and
Community College

(90-04-001) Administration

Salaries and Wages of Employees (33)	\$ 492,978
Salaries - Casual and Seasonal	4,000
F.I.C.A. - Employer's Share	23,811
Pensions	55,706
Health Insurance	8,624
Personal Services	11,000
Travel	2,000
Contractual Services	
Utilities	7,000
Other Contractual Services	8,000
Supplies and Materials	20,000
Occupational Teacher Education	<u>26,000</u>

Sub-Total	\$ 659,119
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Debt Service	
Principal	1,117,282
Interest	<u>970,702</u>

TOTAL -- Administration	\$ 2,747,103
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(90-04-002) Southern Campus

Year Ending June 30, 1977

Salaries and Wages of Employees (130)	\$ 1,778,226
Salaries - Casual and Seasonal	74,000
F.I.C.A. - Employer's Share	92,850
Pensions	200,939
Health Insurance	31,262
Personal Services	
Work Study Program	10,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	160,000
University of Delaware	250,000
Computer Operations	120,000
Other Contractual Services	90,000
Supplies and Materials	70,000
Capital Outlay	15,000
Aid to Needy Students	5,000
Federal/State Matching	<u>4,000</u>

TOTAL -- Southern Campus 2,906,527

(90-04-003) Wilmington Campus

Salaries and Wages of Employees (96)	\$ 1,230,343
Salaries - Casual and Seasonal	74,000
F.I.C.A. - Employer's Share	65,218
Pensions	139,028
Health Insurance	21,560
Personal Services	
Work Study Program	20,000
Other Personal Services	3,250
Travel	3,000
Contractual Services	
Utilities	170,000
University of Delaware	250,000
Computer Operations	30,000
Other Contractual Services	80,000
Supplies and Materials	65,000
Capital Outlay	15,000

Year Ending June 30, 1977

Aid to Needy Students	10,000
Federal/State Matching	<u>8,000</u>

TOTAL -- Wilmington Campus	\$ 2,184,399
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(90-04-005) Stanton Campus

Salaries and Wages of Employees (121)	\$ 1,663,742
Salaries - Casual and Seasonal	74,000
F.I.C.A. - Employer's Share	86,887
Pensions	188,003
Health Insurance	30,723
Personal Services	
Work Study Program	10,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	170,000
Computer Operations	30,000
Other Contractual Services	90,000
Supplies and Materials	70,000
Capital Outlay	15,000
Aid to Needy Students	5,000
Federal/State Matching	<u>4,000</u>

TOTAL - Stanton Campus	2,442,605
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(90-04-006) Charles L. Terry Campus

Salaries and Wages of Employees (70)	\$ 847,725
Salaries - Casual and Seasonal	74,000
F.I.C.A. - Employer's Share	46,086
Pensions	95,793
Health Insurance	15,631
Personal Services	
Work Study Program	10,000
Other Personal Services	3,250
Travel	2,000
Contractual Services	
Utilities	130,000

Year Ending June 30, 1977

Computer Operations	30,000
Other Contractual Services	80,000
Supplies and Materials	65,000
Aid to Needy Students	5,000
Federal/State Matching	4,000
 TOTAL -- Kent Campus	 \$ 1,408,485
 TOTAL -- Delaware Technical and Community College	 \$ 11,689,119
 (90-05-000) Delaware Post-Secondary Education Commission	
Salary of Executive Director	11,583
(.5) (State Funds - (\$11,583)	
(All Other Funds - \$11,583)	
(.5) Salaries of Commission Members (12)	3,600
Salary and Wage of Employee (1)	8,520
F.I.C.A. - Employer's Share	945
Pensions	2,271
Health Insurance	616
Travel	400
Contractual Services	3,780
Supplies and Materials	<u>1,000</u>
 TOTAL -- Delaware Post-Secondary Education Commission	 \$ 32,715
 (90-06-000) Delaware Higher Education Loan Program	
Salaries - Board Members	\$ 300
Salary and Wage of Employee (.75)	7,500
F.I.C.A. - Employer's Share	439
Travel	500
Contractual Services	3,600
Supplies and Materials	400
Scholarship Incentive Program	149,898

Year Ending June 30, 1977

Scholarship Incentive Program - Administration	<u>500</u>
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TOTAL -- Delaware Higher Education Loan Program	\$ 163,137
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TOTAL -- HIGHER EDUCATION	\$ 50,725,757
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(95-00-000) PUBLIC EDUCATION

(95-01-000) STATE BOARD OF EDUCATION
AND STATE BOARD FOR VOCATIONAL EDUCATION

(95-01-001) Administration

Division I -- Salaries

Board Members (7)	\$ 8,400
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Superintendent

(State Funds: \$36,991

All Other Funds: \$7,645)	36,991
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Assistant Superintendents (3)	104,148
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Directors (6)

State Funds (3)	91,555
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State and Other (2)	29,358
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All Other Funds (1)	----
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Administrative Assistant

All Other Funds (1)	----
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Supervisors (48)

State Funds (20)	495,846
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State and Other (8)	97,392
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All Other Funds (20)	----
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Specialists (19)

State Funds (1)	17,520
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All Other Funds (18)	----
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Others

Statistician Research (All Other Funds)

Librarian (All Other Funds)	----
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Clerical (53)

State Funds (23)	209,972
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State and Other (17)	81,284
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Year Ending June 30, 1977

All Other Funds (13)	----
Other Employment Costs	
F.I.C.A. - Employer's Share	46,382
Pensions	131,553
Health Insurance	<u>20,030</u>
 TOTAL -- Division I and Other Employment Costs	 \$ 1,370,431
 Division II -- Other Costs	
Personal Services	\$ 3,000
Travel	
State Board	3,500
Staff	8,000
Contractual Services	87,465
Supplies and Materials	32,865
Capital Outlay	
Cars	6,800
Other Capital Outlay	3,264
Central Data Processing Services	<u>30,000</u>
 TOTAL -- Division II	 \$ 174,894
 TOTAL -- Administration	 \$ 1,545,325
 (95-01-002) Services to School Districts and Others	
Division I -- Salaries	
Teachers	
Homebound	\$ 155,000
Substitutes in Districts	726,000
Vocational Programs	200,000
Apprentice Programs	138,000
Other	
Student Work-Study Program	25,000
Nonpublic and Summer Driver Education	 157,500

Year Ending June 30, 1977

Other Employment Costs	
F.I.C.A. - Employer's Share	39,517
Pensions - All Others	76,339
Pensions - Retired and Disabled Teachers	110,000
Health Insurance	<u>13,868</u>

TOTAL -- Division I and Other Employment Costs	\$1,641,224
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Division II -- Other Costs

Travel	
Homebound	\$ 6,000
Contractual Services	
Tuition - Deaf Program	9,700
Nonpublic School Transportation	1,152,900
James H. Groves High School	264,600
Pregnant Students	98,490
Supplies and Materials	
Adult Trade Extension	92,950
Apprentice Programs	105,490
Capital Outlay	
Films	25,000
Tuition - Military and State Police Children	24,600
Scholarship Fund	200,000
Youth Organizations	17,500
Delaware Educational Council Compact	12,000
Assessment of Educational Progress	55,500
Private Business and Trade School	2,000
Education in Science and Math - Del Mod	20,000
Computer Education	48,000
Consumer Education	10,000
Public School Pupil Transportation Program	
Department of Public Instruction	
Contractual Services	20,000
Supplies and Materials	300
Capital Outlay	150,000
Contingency	323,700
Contingency - Interim School Board	<u>20,000</u>

Year Ending June 30, 1977

Sub-Total -- Division II	\$ 2,658,730
Debt Service	
Principal	718,100
Interest	<u>656,082</u>
TOTAL -- Division II and Debt Service	\$ 4,032,912
Division III - Equalization Funds	
Regular Formula	\$ 4,482,000
Employment Costs - Equalization Funds	
F.I.C.A. - Employer's Share	196,648
Pensions	379,850
Health Insurance	<u>10,780</u>
TOTAL -- Division III	\$ 5,069,278
TOTAL -- Services to School Districts and Others	\$10,743,414
(95-01-003) Educational Contingency	
Growth and Upgrading - Positive Growth	\$ 900,000
Growth and Upgrading - Negative Growth	(4,500,000)
Summer School Occupational Vocational Program	420,630
Operation and Maintenance	
Driver Education Cars	73,200
Delmar Tuition	125,000
Learning Disabilities - Tuition	183,750
F.I.C.A. - Employer's Share	(199,557)
Pensions	(387,455)
Health Insurance	<u>7,280</u>
TOTAL -- Educational Contingency	\$(3,377,152)
TOTAL -- State Board of Education and State Board for Vocational Education	\$ 8,911,587

Year Ending June 30, 1977

(95-04-000) Delaware State Advisory Council on
Career Education

Salaries and Wages of Employees (1.3)	\$	20,739
F.I.C.A. - Employer's Share		1,213
Pensions		2,344
Health Insurance		616
Educational Resources Association Program		<u>20,000</u>

TOTAL -- Delaware State Advisory
Council on Career Education \$ 44,912

(95-10-000) Caesar Rodney

Division I -- Salaries

Chief School Officer	1	\$	21,654
Assistant Superintendent	1		19,271
Directors	2		36,160
Supervisors	2		27,472
Principals	7		112,540
Assistant Principals	7		98,668
Administrative Assistant	1		16,553
Clerical	26		179,142
Teachers	296		2,896,988
Teacher Psychologists	2		19,777
Teachers -- Speech and Hearing	2		18,521
Teacher -- Visiting	1		10,031
Teachers -- Driver Education	3.2		33,336
Custodial	45		326,220
Nurses	7		58,405
Cafeteria	7		47,402
Supervisor of Transportation	.693		11,209
Supervisor of School Lunch	1		11,678
Cafeteria Workers			<u>40,800</u>

TOTAL -- Division I \$ 3,985,827

Other Employment Costs

Year Ending June 30, 1977

F.I.C.A. - Employer's Share		\$ 274,297
Pensions		541,894
Health Insurance		<u>91,832</u>
TOTAL -- Other Employment Costs		\$ 908,023
TOTAL -- Division I and Other Employment Costs		\$ 4,893,850
Division II -- Other Costs	343	\$ 658,560
All Other Costs		
Debt Service		\$ 385,480
Principal		<u>167,019</u>
Interest		
TOTAL -- All Other Costs		\$ 1,211,059
Pupil Transportation		
Contractor Operations		\$ 540,592
District Operations		4,730
Driver Training Supplies		<u>50</u>
TOTAL -- Pupil Transportation		\$ 545,372
TOTAL -- Caesar Rodney		\$ 6,650,281
(95-11-000) John S. Charlton School		
(Administered by Caesar Rodney School District)		
Division I -- Salaries		
Principal	1	\$ 15,699
Clerical	1	6,495
Teachers	10	88,344
Custodial	1	7,487
Nurse	1	6,864
Cafeteria	10	5,716
Aides and Attendants	10	<u>43,851</u>
TOTAL -- Division I		\$ 174,456

Year Ending June 30, 1977

Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	11,180
Pensions		22,149
Health Insurance		<u>4,400</u>
TOTAL -- Other Employment Costs	\$	37,729
TOTAL -- Division I and Other Employment Costs		
	\$	212,185
Division II -- Other Costs	19	\$ 36,480
All Other Costs		
Debt Service		
Principal	\$	12,000
Interest		<u>2,184</u>
TOTAL -- All Other Costs	\$	50,664
Pupil Transportation		
Contractor Operations	\$	34,734
District Operations		<u>11,874</u>
TOTAL -- Pupil Transportation	\$	46,608
TOTAL -- John S. Charlton School	\$	309,457
(95-12-000) Claymont		
Division I -- Salaries		
Chief School Officer	1	\$ 21,079
Supervisor	1	12,509
Principals	5	80,759
Assistant Principals	3	44,526
Administrative Assistant	1	16,533
Clerical	15	105,396
Teachers	168	1,715,233
Teacher Psychologist	1	12,090

Year Ending June 30, 1977

Teacher -- Speech and Hearing	1	9,260
Teacher -- Visiting	.67	6,894
Teachers -- Driver Education	2	22,120
Custodial	33	238,477
Nurses	4	34,998
Cafeteria	6	35,690
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>17,030</u>
 TOTAL -- Division I		 \$ 2,384,272
 Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 182,733
Pensions		363,556
Health Insurance		<u>53,619</u>
 TOTAL -- Other Employment Costs		 \$ 599,908
 TOTAL -- Division I and Other Employment Costs		 \$ 2,984,180
 Division II -- Other Costs	187	\$ 359,040
All Other Costs		
Debt Service		
Principal		\$ 276,150
Interest		<u>101,897</u>
 TOTAL -- All Other Costs		 \$ 737,087
 Pupil Transportation		
District Operations		\$ 23,035
 TOTAL -- Pupil Transportation		 \$ 23,035
 TOTAL -- Claymont		 \$ 3,744,302

Year Ending June 30, 1977

(95-13-000) Capital

Division I -- Salaries

Chief School Officer	1	\$	22,271
Assistant Superintendent	1		19,271
Directors	2		36,777
Supervisors	2		23,672
Principals	8		126,834
Assistant Principals	7		104,176
Administrative Assistant	1		16,533
Clerical	27		189,379
Teachers	304		3,148,129
Teacher Psychologists	2		24,180
Teachers -- Speech and Hearing	2		22,636
Teacher -- Visiting	1		10,289
Teachers -- Driver Education	4		43,729
Custodial	63		454,970
Nurses	8		70,027
Cafeteria	9		59,405
Aides and Attendants	5		21,540
Supervisor of Transportation	.766		12,390
Supervisor of School Lunch	1		12,706
Cafeteria Workers			<u>31,846</u>

TOTAL -- Division I \$ 4,450,760

Other Employment Costs

F.I.C.A. -- Employer's Share	\$	330,850
Pensions		639,150
Health Insurance		<u>121,072</u>

TOTAL -- Other Employment Costs \$ 1,091,072

TOTAL -- Division I and Other
Employment Costs

\$ 5,541,832

Division II -- Other Costs

316 \$ 606,720

Year Ending June 30, 1977

All Other Costs	
Debt Service	
Principal	\$ 510,700
Interest	<u>154,780</u>

TOTAL -- All Other Costs	\$ 1,272,200
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Pupil Transportation	
Contractor Operations	\$ 523,318
District Operations	48,567
Driver Training Supplies	<u>300</u>

TOTAL -- Pupil Transportation	\$ 572,185
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TOTAL -- Capital	\$ 7,386,217
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(95-14-000) Alexis I. duPont

Division I -- Salaries		
Chief School Officer	1	\$ 21,079
Supervisor	1	13,479
Principals	5	80,331
Assistant Principals	2	28,099
Administrative Assistant	1	17,149
Clerical	15	101,676
Teachers	160	1,695,598
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	11,317
Teacher -- Visiting	.64	6,256
Teachers -- Driver Education	2	20,835
Custodial	46	338,474
Nurses	4	37,633
Cafeteria	7	43,535
Supervisor of Transportation	.429	5,350
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>20,971</u>

TOTAL -- Division I	\$ 2,465,550
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Year Ending June 30, 1977

Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	200,067
Pensions		386,493
Health Insurance		<u>53,900</u>
TOTAL -- Other Employment Costs	\$	640,460
TOTAL -- Division I and Other Employment Costs	\$	3,106,010
Division II -- Other Costs	171	\$ 328,320
All Other Costs		
Debt Service		
Principal	\$	374,800
Interest		<u>192,542</u>
TOTAL -- All Other Costs	\$	895,662
Pupil Transportation		
Contractor Operations	\$	273,436
District Operations		<u>33,225</u>
TOTAL -- Pupil Transportation	\$	306,661
TOTAL -- Alexis I. duPont		\$ 4,308,333
(95-15-000) Lake Forest		
Division I -- Salaries		
Chief School Officer	1	\$ 19,534
Supervisor	1	13,479
Principals	5	78,714
Assistant Principals	3	41,784
Administrative Assistant	1	16,533
Clerical	16	112,663
Teachers	180	1,748,508
Teacher Psychologist	1	10,289

Year Ending June 30, 1977

Teacher --Speech and Hearing	1	10,289
Teacher -- Driver Education	2.2	22,533
Custodial	28	206,127
Nurses	4	33,063
Cafeteria	5	32,474
Supervisor of Transportation	.468	6,991
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>21,004</u>
TOTAL -- Division I		\$ 2,385,663
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 160,624
Pensions		316,080
Health Insurance		<u>64,097</u>
TOTAL -- Other Employment Costs		\$ 540,801
TOTAL -- Division I and Other Employment Costs		\$ 2,926,464
Division II -- Other Costs	202	\$ 387,840
All Other Costs		
Debt Service		
Principal		\$ 193,750
Interest		<u>79,256</u>
TOTAL -- All Other Costs		\$ 660,846
Pupil Transportation		
Contractor Operations		\$ 416,934
Driver Training Supplies		<u>150</u>
TOTAL -- Pupil Transportation		\$ 417,084
TOTAL -- Lake Forest		\$ 4,004,394

Year Ending June 30, 1977

(95-16-000) Laurel

Division I -- Salaries

Chief School Officer	1	\$ 19,271
Supervisor	.71	9,570
Principals	3	46,671
Assistant Principals	2	29,281
Administrative Assistant	1	15,606
Clerical	10	71,250
Teachers	107	1,058,996
Teacher Psychologist	1	10,289
Teacher -- Speech and Hearing	1	11,060
Teacher -- Driver Education	1 4	15,227
Custodial	26	189,311
Nurses	2	18,118
Cafeteria	3	21,229
Supervisor of School Lunch	1	11,165
Cafeteria Workers		<u>16,736</u>

TOTAL -- Division I \$ 1,543,780

Other Employment Costs

F.I.C.A. -- Employer's Share	\$ 102,339
Pensions	200,100
Health Insurance	<u>59,167</u>

TOTAL -- Other Employment Costs \$ 361,606

TOTAL -- Division I and Other
Employment Costs \$ 1,905,386

Division II -- Other Costs 121 \$ 232,320

All Other Costs

Debt Service

Principal	\$ 148,500
Interest	<u>80,506</u>

Year Ending June 30, 1977

TOTAL -- All Other Costs	\$ 461,326
Pupil Transportation	
Contractor Operations	<u>\$ 230,202</u>
TOTAL -- Pupil Transportation	\$ 230,202
TOTAL -- Laurel	\$ 2,596,914

(95-17-000) Cape Henlopen

Division I -- Salaries

Chief School Officer	1	\$ 20,462
Supervisor	1	13,479
Principals	7	110,992
Assistant Principal	1	15,104
Administrative Assistant	1	16,533
Clerical	16	111,104
Teachers	177	1,797,600
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	9,517
Teacher -- Visiting	1	10,289
Teachers -- Driver Education	2	23,407
Custodial	31	222,685
Nurses	4	33,792
Cafeteria	7	45,464
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>24,723</u>

TOTAL -- Division I \$ 2,478,919

Other Employment Costs

F.I.C.A. -- Employer's Share	\$ 192,586
Pensions	379,126
Health Insurance	<u>72,418</u>

TOTAL -- Other Employment Costs \$ 644,130

Year Ending June 30, 1977

TOTAL -- Division I and Other Employment Costs		\$ 3,123,049
Division II -- Other Costs	195	\$ 374,400
All Other Costs		
Debt Service		
Principal		\$ 174,470
Interest		<u>49,688</u>
TOTAL -- All Other Costs		\$ 598,558
Pupil Transportation		
Contractor Operations		\$ 449,389
District Operations		<u>25,362</u>
TOTAL -- Pupil Transportation		\$ 474,751
TOTAL -- Cape Henlopen		\$ 4,196,358

(95-18-000) Milford

Division I -- Salaries		
Chief School Officer	1	\$ 21,079
Supervisor	1	13,479
Principals	5	80,118
Assistant Principals	4	55,376
Administrative Assistant	1	16,533
Clerical	18	125,781
Teachers	199	1,965,238
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	10,289
Teacher -- Visiting	1	11,317
Teachers -- Driver Education	2.6	28,242
Custodial	35	255,553
Nurses	4	36,236
Cafeteria	6	38,389
Supervisor of Transportation	.9923	12,823

Year Ending June 30, 1977

Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>28,583</u>
TOTAL -- Division I		\$ 2,722,804
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 177,350
Pensions		347,700
Health Insurance		<u>79,396</u>
TOTAL -- Other Employment Costs		\$ 604,446
TOTAL -- Division I and Other Employment Costs		\$ 3,327,250
Division II -- Other Costs	228	\$ 437,760
All Other Costs		
Debt Service		
Principal		\$ 257,900
Interest		<u>107,565</u>
TOTAL -- All Other Costs		\$ 803,225
Pupil Transportation		
Contractor Operations		\$ 448,622
Driver Training Supplies		<u>400</u>
TOTAL -- Pupil Transportation		\$ 449,022
TOTAL -- Milford		\$ 4,579,497
(95-19-000) Mount Pleasant		
Division I -- Salaries		
Chief School Officer	1	\$ 20,462
Director	1	18,080

Year Ending June 30, 1977

Supervisors	1	13,993
Principals	6	93,269
Assistant Principals	6	87,638
Administrative Assistant	1	16,533
Clerical	21	146,163
Teachers	247	2,594,964
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	9,260
Teacher -- Visiting	1	10,909
Teachers -- Driver Education	3.4	38,275
Custodial	43	310,692
Nurses	6	55,506
Cafeteria	7	46,428
Supervisor of Transportation	.322	4,223
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>30,000</u>
TOTAL -- Division I		\$ 3,520,163
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 305,877
Pensions		590,899
Health Insurance		<u>79,607</u>
TOTAL -- Other Employment Costs		\$ 976,383
TOTAL -- Division I and Other Employment Costs		\$ 4,496,546
Division II -- Other Costs	271	\$ 520,320
All Other Costs		
Debt Service		
Principal		\$ 407,100
Interest		<u>143,247</u>
TOTAL -- All Other Costs		\$ 1,070,667

Year Ending June 30, 1977

Pupil Transportation		
Contractor Operations	\$	1,331
District Operations		<u>191,960</u>
TOTAL -- Pupil Transportation	\$	193,291
TOTAL -- Mount Pleasant	\$	5,760,504
(95-20-000) New Castle - Gunning Bedford		
Division I -- Salaries		
Chief School Officer	1	\$ 21,654
Assistant Superintendent	1	19,271
Directors	3	53,004
Supervisors	2	27,472
Principals	10	160,470
Assistant Principals	11	158,851
Administrative Assistant	1	15,605
Clerical	37	253,221
Teachers	435	4,343,719
Teacher Psychologists	2	24,180
Teachers -- Speech and Hearing	3	30,353
Teacher -- Visiting	1	9,003
Teachers -- Driver Education	4.2	45,632
Custodial	73	508,549
Nurses	10	91,533
Cafeteria	11	71,322
Supervisor of Transportation	.921	14,897
Supervisor of School Lunch	1	12,706
Cafeteria Workers		<u>43,812</u>
TOTAL -- Division I		\$ 5,905,254
Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	437,516
Pensions		883,061
Health Insurance		<u>156,237</u>
TOTAL -- Other Employment Costs	\$	1,476,814

Year Ending June 30, 1977

TOTAL -- Division I and Other Employment Costs		\$ 7,382,068
Division II -- Other Costs	497	\$ 954,240
All Other Costs		
Debt Service		
Principal		\$ 796,100
Interest		<u>381,599</u>
TOTAL -- All Other Costs		\$ 2,131,939
Pupil Transportation		
Contractor Operations		\$ 609,697
Driver Training Supplies		<u>600</u>
TOTAL -- Pupil Transportation		\$ 610,297
TOTAL -- New Castle - Gunning Bedford		\$10,124,304
(95-21-000) Newark		
Division I -- Salaries		
Chief School Officer	1	\$ 22,271
Assistant Superintendents	2	39,776
Directors	6	110,948
Supervisors	5	67,395
Principals	23	371,491
Assistant Principals	15	220,277
Administrative Assistant	1	16,533
Clerical	67	469,871
Teachers	790	8,126,268
Teacher Psychologists	5	58,389
Teachers -- Speech and Hearing	5	46,815
Teachers -- Visiting	3	33,696
Teachers -- Driver Education	9.4	94,966
Custodial	134	940,022
Nurses	19	162,464
Cafeteria	19	135,359

Year Ending June 30, 1977

Supervisor of Transportation	1	15,247
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>74,631</u>
TOTAL -- Division I		\$11,018,097
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 872,476
Pensions		1,760,392
Health Insurance		<u>293,100</u>
TOTAL -- Other Employment Costs		\$ 2,925,968
TOTAL -- Division I and Other Employment Costs		\$13,944,065
Division II -- Other Costs	882	\$ 1,693,440
All Other Costs		
Debt Service		
Principal		\$ 1,651,700
Interest		<u>939,933</u>
TOTAL -- All Other Costs		\$ 4,285,073
Pupil Transportation		
Contractor Operations		\$ 735,359
District Operations		294,674
Driver Training Supplies		<u>150</u>
TOTAL -- Pupil Transportation		\$ 1,030,183
TOTAL -- Newark		\$19,259,321

(95-22-000) Margaret S. Sterck
 (Administered by Newark District)
 Division I -- Salaries

Year Ending June 30, 1977

Principal	1	\$	15,938
Clerical	2		12,732
Teachers	23		241,271
Teacher -- Audiologist	1		10,289
Teacher -- Speech and Hearing	1		8,489
Custodial	5		34,352
Nurse	1		9,286
Cafeteria	1		5,723
Aides and Attendants	16.5		70,301
Salaries -- Resident Supervision	11		95,900
Salaries -- Interpreters/ Tutors	3		25,000
TOTAL -- Division I		\$	529,281
Other Employment Costs			
F.I.C.A. -- Employer's Share		\$	35,263
Pensions			69,670
Health Insurance			15,000
TOTAL -- Other Employment Costs		\$	119,933
TOTAL -- Division I and Other Employment Costs			649,214
Division II -- Other Costs	23	\$	44,160
Residence - Other Cost			50,000
Consultant Services			11,000
All Other Costs			
Debt Service			
Principal		\$	48,550
Interest			31,450
TOTAL -- All Other Costs		\$	185,160
Pupil Transportation			
Contractor Operations		\$	20,240

Year Ending June 30, 1977

District Operations		<u>80,148</u>
TOTAL -- Pupil Transportation		\$ 100,388
TOTAL -- Margaret S. Sterck		\$ 934,762
(95-23-000) Seaford		
Division I -- Salaries		
Chief School Officer	1	\$ 20,462
Supervisor	1	13,479
Principals	5	80,188
Assistant Principals	3	44,408
Administrative Assistant	1	16,533
Clerical	16.375	115,582
Teachers	185	1,847,966
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	10,031
Teacher -- Visiting	1	9,003
Teachers -- Driver Education	2.4	22,688
Custodial	32	233,012
Nurses	4.6	39,817
Cafeteria	5	35,176
Aides and Attendants	3	12,667
Supervisor of Transportation	1	16,175
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>28,308</u>
TOTAL -- Division I		\$ 2,569,263
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 174,781
Pensions		343,034
Health Insurance		<u>69,336</u>
TOTAL -- Other Employment Costs		\$ 587,151
TOTAL -- Division I and Other Employment Costs		\$ 3,156,414

Year Ending June 30, 1977

Division II -- Other Costs	210	\$ 403,200
All Other Costs		
Debt Services		
Principal		\$ 184,400
Interest		<u>60,599</u>

TOTAL -- All Other Costs \$ 648,199

Pupil Transportation		
Contractor Operations		\$ 389,536
Driver Training Supplies		<u>250</u>

TOTAL -- Pupil Transportation \$ 389,786

TOTAL -- Seaford \$ 4,194,399

(95-24-000) Smyrna

Division I -- Salaries		
Chief School Officer	1	\$ 20,462
Supervisor	1	13,282
Principals	5	78,546
Assistant Principals	3	44,289
Administrative Assistant	1	16,533
Clerical	14	97,488
Teachers	157	1,512,986
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	9,003
Teacher -- Visiting	.628	7,107
Teacher -- Driver Education	1.8	19,343
Custodial	31	224,799
Nurses	3	27,177
Cafeteria	5	33,054
Supervisor of Transportation	.289	4,406
Supervisor of School Lunch	1	11,164
Cafeteria Workers		<u>19,000</u>

TOTAL -- Division I \$ 2,150,729

Year Ending June 30, 1977

Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	147,940
Pensions		291,053
Health Insurance		<u>56,085</u>
TOTAL -- Other Employment Costs	\$	495,078
TOTAL -- Division I and Other Employment Costs		
	\$	2,645,807
Division II -- Other Costs	173	\$ 332,160
All Other Costs		
Debt Service		
Principal	\$	259,600
Interest		<u>164,673</u>
TOTAL -- All Other Costs	\$	756,433
Pupil Transportation		
Contractor Operations	\$	302,375
Driver Training Supplies		<u>200</u>
TOTAL -- Pupil Transportation	\$	302,575
TOTAL -- Smyrna		\$ 3,704,815
(95-25-000) Wilmington		
Division I -- Salaries		
Chief School Officer	1	\$ 22,271
Assistant Superintendents	2	38,542
Directors	5	89,781
Supervisors	7	94,867
Principals	19	302,175
Assistant Principals	11	158,769
Administrative Assistant	1	17,149
Clerical	60	428,794

Year Ending June 30, 1977

Teachers	694	7,344,931
Teacher Psychologists	4	46,558
Teachers -- Speech and Hearing	5	56,073
Teachers -- Visiting	2	24,180
Teachers -- Driver Education	6.6	69,965
Custodial	134	957,098
Nurses	18	165,959
Cafeteria	22	140,188
Aides and Attendants	15	67,704
Supervisor of Transportation	.33	4,185
Supervisor of School Lunch	1	11,679
Americanization of Foreign Born		55,301
Cafeteria Workers		<u>94,165</u>
TOTAL -- Division I		\$10,190,334
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 948,855
Pensions		1,917,223
Health Insurance		<u>378,112</u>
TOTAL -- Other Employment Costs		\$ 3,244,190
TOTAL -- Division I and Other Employment Costs		\$13,434,524
Division II -- Other Costs	794	\$ 1,524,480
Americanization -- Other Costs		10,600
All Other Costs		
Debt Service		
Principal		\$ 1,570,290
Interest		<u>1,132,600</u>
TOTAL -- All Other Costs		\$ 4,237,970
Pupil Transportation		
Contractor Operations		\$ 97,028

Year Ending June 30, 1977

District Operations		80,530
Driver Training Supplies		<u>100</u>
TOTAL -- Pupil Transportation	\$	177,658
TOTAL -- Wilmington		\$17,850,152
(95-26-000) Alfred I. duPont		
Division I -- Salaries		
Chief School Officer	1	\$ 22,271
Assistant Superintendent	1	19,888
Directors	4	72,627
Supervisors	3	39,664
Principals	14	218,937
Assistant Principals	8	116,911
Administrative Assistant	1	16,533
Clerical	42	295,414
Teachers	486	5,240,107
Teacher Psychologists	3	34,726
Teachers -- Speech and Hearing	3	32,669
Teachers -- Visiting	2	23,921
Teachers -- Driver Education	6.2	70,221
Custodial	105	758,780
Nurses	12	111,047
Cafeteria	14	92,673
Aides and Attendants	2	7,588
Supervisor of Transportation	.653	8,748
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>42,971</u>
TOTAL -- Division I		\$ 7,237,374
Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	609,947
Pensions		1,303,767
Health Insurance		<u>178,782</u>

Year Ending June 30, 1977

TOTAL -- Other Employment Costs		\$ 2,092,496
TOTAL -- Division I and Other Employment Costs		\$ 9,329,870
Division II -- Other Costs	533	\$ 1,023,360
All Other Costs		
Debt Service		
Principal		\$ 1,022,900
Interest		<u>384,153</u>
TOTAL -- All Other Costs		\$ 2,430,413
Pupil Transportation		
Contractor Operations		\$ 30,010
District Operations		188,205
Driver Training Supplies		<u>300</u>
TOTAL -- Pupil Transportation		\$ 218,515
TOTAL -- Alfred I. duPont		\$11,978,798
(95-27-000) C.W. Bush Trainable (Administered by Alfred I. duPont)		
Division I -- Salaries		
Principal	1	\$ 15,699
Clerical	1	7,009
Teachers	12	117,188
Custodial	2	14,608
Nurse	1	9,530
Cafeteria	1	5,523
Aides and Attendants	12	<u>52,981</u>
TOTAL -- Division I		\$ 222,538
Other Employment Costs		

Year Ending June 30, 1977

F.I.C.A. -- Employer's Share		\$	16,638
Pensions			33,354
Health Insurance			<u>4,931</u>
TOTAL -- Other Employment Costs		\$	54,923
TOTAL -- Division I and Other Employment Costs		\$	277,461
Division II -- Other Costs	18	\$	34,560
All Other Costs			
Debt Service			
Principal		\$	49,500
Interest			<u>29,521</u>
TOTAL -- All Other Costs		\$	113,581
Pupil Transportation			
District Operations		\$	<u>43,448</u>
TOTAL -- Pupil Transportation		\$	43,448
TOTAL -- C.W. Bush Trainable		\$	434,490
(95-28-000) Marshallton-McKean			
Division I -- Salaries			
Chief School Officer	1	\$	21,079
Supervisor	1		13,479
Principals	5		80,879
Assistant Principals	4		60,146
Administrative Assistant	1		16,533
Clerical	17		118,203
Teachers	193		2,059,318
Teacher Psychologist	1		10,804
Teacher -- Speech and Hearing	1		10,289
Teacher -- Visiting	.77		9,309

Year Ending June 30, 1977

Teacher -- Driver Education	2.2	24,332
Custodial	35	257,967
Nurses	4	36,952
Cafeteria	5	33,440
Supervisor of School Lunch	1	10,392
Cafeteria Workers		<u>17,352</u>
TOTAL -- Division I		\$ 2,780,474
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 224,025
Pensions		456,312
Health Insurance		<u>70,877</u>
TOTAL -- Other Employment Costs		\$ 751,214
TOTAL -- Division I and Other Employment Costs		\$ 3,531,688
Division II -- Other Costs	228	\$ 437,760
All Other Costs		
Debt Service		
Principal		\$ 279,050
Interest		<u>95,422</u>
TOTAL -- All Other Costs		\$ 812,232
Pupil Transportation		
Contractor Operations		\$ 267,691
District Operations		1,941
Pupil Transportation - Unique Hazards		9,000
TOTAL -- Pupil Transportation		\$ 278,632
TOTAL -- Marshallton-McKean		\$ 4,622,552

Year Ending June 30, 1977

(95-29-000) Appoquinimink

Division I -- Salaries

Chief School Officer	1	\$	19,888
Supervisor	.89		12,495
Principals	4		63,645
Assistant Principals	3		39,860
Administrative Assistant	1		17,150
Clerical	12		84,755
Teachers	135		1,328,222
Teacher Psychologist	.89		10,107
Teacher -- Speech and Hearing	.957		8,369
Teacher -- Visiting	.536		4,550
Teachers -- Driver Education	1.4		13,994
Custodial	24		174,644
Nurses	3		26,200
Cafeteria	5		31,896
Supervisor of Transportation	.241		3,674
Supervisor of School Lunch	1		11,678
Cafeteria Workers			<u>13,235</u>

TOTAL -- Division I \$ 1,864,362

Other Employment Costs

F.I.C.A. -- Employer's Share	\$	123,966
Pensions		262,002
Health Insurance		<u>39,137</u>

TOTAL -- Other Employment Costs \$ 425,105

TOTAL -- Division I and Other
Employment Costs

\$ 2,289,467

Division II -- Other Costs 156 299,520

All Other Costs

Debt Service

Principal	\$	236,200
Interest		<u>137,986</u>

Year Ending June 30, 1977

TOTAL -- All Other Costs		\$ 673,706
Pupil Transportation		
Contractor Operations		\$ 311,368
Driver Training Supplies		<u>200</u>
TOTAL -- Pupil Transportation		\$ 311,568
TOTAL -- Appoquinimink		\$ 3,274,741
(95-30-000) Conrad Area		
Division 1 -- Salaries		
Chief School Officer	1	\$ 21,654
Directors	1	18,697
Supervisors	1	13,479
Principals	9	142,772
Assistant Principals	4	60,178
Administrative Assistant	1	16,533
Clerical	25	170,082
Teachers	282	2,877,276
Teacher Psychologists	1	12,090
Teachers -- Speech and Hearing	2	21,606
Teacher -- Visiting	1	11,060
Teachers -- Driver Education	3.0	30,609
Custodial	36	293,842
Nurses	7	63,865
Cafeteria	6	39,548
Supervisor of Transportation	.35	2,696
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>33,327</u>
TOTAL -- Division 1		\$ 3,840,992
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 283,655
Pensions		585,347
Health Insurance		<u>92,756</u>

Year Ending June 30, 1977

TOTAL -- Other Employment Costs		\$ 961,758
TOTAL -- Division I and Other Employment Costs		\$ 4,802,750
Division II -- Other Costs	319	\$ 612,480
-- Inservice Program		15,000
All Other Costs		
Debt Service		
Principal		\$ 475,250
Interest		<u>109,833</u>
TOTAL -- All Other Costs		\$ 1,212,563
Pupil Transportation		
Contractor Operations		\$ 147,254
District Operations		<u>7,104</u>
TOTAL -- Pupil Transportation		\$ 154,358
TOTAL -- Conrad Area		\$ 6,169,671
(95-31-000) De La Warr		
Division I -- Salaries		
Chief School Officer	1	\$ 20,462
Supervisor	1	13,479
Principals	6	93,554
Assistant Principals	3	41,982
Administrative Assistant	1	16,533
Clerical	16	109,832
Teachers	178	1,810,851
Teacher Psychologist	1	12,090
Teacher -- Speech and Hearing	1	9,003
Teacher -- Visiting	.712	6,227
Teachers -- Driver Education	1	11,060
Custodial	32	227,173

Year Ending June 30, 1977

Nurses	4	36,218
Cafeteria	6	38,262
Supervisor of Transportation	.19014	2,085
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>25,087</u>
TOTAL -- Division I		\$ 2,485,576
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 170,733
Pensions		329,828
Health Insurance		<u>63,480</u>
TOTAL -- Other Employment Costs		\$ 564,041
TOTAL -- Division I and Other Employment Costs		\$ 3,049,617
Division II -- Other Costs	231	\$ 443,520
All Other Costs		
Debt Service		
Principal		\$ 260,100
Interest		<u>60,002</u>
TOTAL -- All Other Costs		\$ 763,622
Pupil Transportation		
Contractor Operations		\$ 131,659
Busing - Terry Children's Psychiatric Center		<u>2,300</u>
TOTAL -- Pupil Transportation		\$ 133,959
TOTAL -- De La Warr		\$ 3,947,198

Year Ending June 30, 1977

(Administered by De La Warr)

Division I -- Salaries

Principal	1	\$	15,699
Clerical	1		7,009
Teachers	9		91,313
Custodial	2		14,480
Nurses	1		9,059
Aides and Attendants	9		<u>35,688</u>

TOTAL -- Division I \$ 173,248

Other Employment Costs

F.I.C.A. -- Employer's Share	\$	12,894
Pensions		24,980
Health Insurance		<u>4,622</u>

TOTAL -- Other Employment Costs \$ 42,496

TOTAL -- Division I and Other
Employment Costs \$ 215,744

Division II -- Other Costs 9 \$ 17,280

All Other Costs

Debt Service		
Principal	\$	21,000
Interest		<u>1,980</u>

TOTAL -- All Other Costs \$ 40,260

Pupil Transportation

District Operations \$ 102,289

TOTAL -- Pupil Transportation \$ 102,289

TOTAL -- John G. Leach \$ 358,293

Year Ending June 30, 1977

(95-33-000) Stanton

Division I -- Salaries

Chief School Officer	1	\$ 21,654
Directors	1	18,697
Supervisor	1	11,678
Principals	8	128,380
Assistant Principals	4	59,488
Administrative Assistant	1	16,533
Clerical	23	158,124
Teachers	258	2,768,470
Teacher Psychologists	1	12,090
Teacher -- Speech and Hearing	1	10,289
Teacher -- Visiting	1	8,231
Teachers -- Driver Education	2.8	26,957
Custodial	49	351,366
Nurses	6	54,126
Cafeteria	8	53,697
Supervisor of Transportation	1	15,247
Supervisor of School Lunch	1	11,678
Cafeteria Workers		<u>24,994</u>

TOTAL -- Division I \$ 3,751,699

Other Employment Costs

F.I.C.A. -- Employer's Share	\$ 288,520
Pensions	591,547
Health Insurance	<u>95,221</u>

TOTAL -- Other Employment Costs \$ 975,288

TOTAL -- Division I and Other
Employment Costs

\$ 4,726,987

Division II -- Other Costs

294 \$ 564,480

All Other Costs

Debt Service

Principal	\$ 497,190
Interest	<u>181,092</u>

Year Ending June 30, 1977

TOTAL -- All Other Costs		\$ 1,242,762
Pupil Transportation		
Contractor Operations		<u>\$ 238,126</u>
TOTAL -- Pupil Transportation		\$ 238,126
TOTAL -- Stanton		\$ 6,207,875
(95-34-000) Meadowood Trainable		
(Administered by Stanton)		
Division I -- Salaries		
Principal	1	\$ 16,316
Clerical	1	7,009
Teachers	11	118,066
Custodial	3	21,231
Nurse	1	9,059
Cafeteria	1	4,952
Aides and Attendants	11	<u>49,187</u>
TOTAL -- Division I		\$ 225,820
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 16,957
Pensions		35,944
Health Insurance		<u>5,743</u>
TOTAL -- Other Employment Costs		\$ 58,644
TOTAL -- Division I and Other		
Employment Costs		\$ 284,464
Division II - Other Costs	17	\$ 32,640
All Other Costs		
Debt Service		
Principal		\$ 10,000

Year Ending June 30, 1977

Interest		2,360
TOTAL -- All Other Costs	\$	45,000
Pupil Transportation		
Contractor Operations	\$	<u>81,709</u>
TOTAL -- Pupil Transportation	\$	81,709
TOTAL -- Meadowood Trainable	\$	411,173
(95-35-000) Woodbridge		
Division I -- Salaries		
Chief School Officer	1	\$ 19,888
Supervisor	.61	6,955
Principals	3	47,120
Assistant Principal	1	10,389
Administrative Assistant	1	15,129
Clerical	9	63,982
Teachers	92	900,693
Teacher Psychologist	.61	5,995
Teacher -- Speech and Hearing	.657	5,239
Teachers -- Driver Education	1	10,389
Custodial	15	108,736
Nurses	2	16,896
Cafeteria	3	18,715
Cafeteria Workers		<u>15,850</u>
TOTAL -- Division I	\$	1,245,976
Other Employment Costs		
F.I.C.A. -- Employer's Share	\$	85,454
Pensions		166,016
Health Insurance		<u>20,500</u>
TOTAL -- Other Employment Costs	\$	271,970

Year Ending June 30, 1977

TOTAL -- Division I and Other Employment Costs		\$ 1,517,946
Division II -- Other Costs	100	\$ 192,000
All Other Costs		
Debt Service		
Principal		\$ 81,500
Interest		<u>15,968</u>
TOTAL -- All Other Costs		\$ 289,468
Pupil Transportation		
Contractor Operations		\$ 295,707
TOTAL -- Pupil Transportation		<u>\$ 295,707</u>
TOTAL -- Woodbridge		\$ 2,103,121
(95-36-000) Indian River		
Division I -- Salaries		
Chief School Officer	1	\$ 21,654
Assistant Superintendent	1	19,271
Directors	2	36,160
Supervisors	2	26,958
Principals	10	156,759
Assistant Principals	5	66,281
Administrative Assistant	1	16,533
Clerical	27	189,123
Teachers	304	2,949,546
Teacher Psychologists	2	23,407
Teachers -- Speech and Hearing	2	17,492
Teacher -- Visiting	1	9,775
Teachers -- Driver Education	3.6	37,347
Custodial	45	331,345
Nurses	7	64,129
Cafeteria	9	61,540
Supervisor of Transportation	.847	12,653

Year Ending June 30, 1977

Supervisor of School Lunch	1	11,678
Cafeteria Workers		39,968
TOTAL -- Division I		\$ 4,091,619
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 278,515
Pensions		550,577
Health Insurance		<u>99,229</u>
TOTAL -- Other Employment Costs		\$ 928,321
TOTAL -- Division I and Other Employment Costs		\$ 5,019,940
Division II -- Other Costs	339	\$ 650,880
All Other Costs		
Debt Service		
Principal		\$ 214,523
Interest		<u>39,512</u>
TOTAL -- All Other Costs		\$ 904,915
Pupil Transportation		
Contractor Operations		\$ 988,622
Driver Training Supplies		<u>300</u>
TOTAL -- Pupil Transportation		\$ 988,922
TOTAL -- Indian River		\$ 6,913,777
(95-37-000) Delmar		
Division I -- Salaries		
Chief School Officer	1	\$ 18,080
Principal	1	16,533

Year Ending June 30, 1977

Assistant Principal	1	14,176
Administrative Assistant	1	14,134
Clerical	4	30,482
Teachers	41	416,470
Teacher -- Driver Education	.8	8,231
Custodial	8	58,805
Nurse	1	9,059
Cafeteria	1	5,337
Cafeteria Workers		<u>6,300</u>
TOTAL -- Division I		\$ 597,607
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 37,021
Pensions		72,637
Health Insurance		<u>11,917</u>
TOTAL -- Other Employment Costs		\$ 121,575
TOTAL -- Division I and Other Employment Costs		\$ 719,182
Division II -- Other Costs	55	\$ 105,600
All Other Costs		
Debt Service		
Principal		\$ 51,550
Interest		<u>32,777</u>
TOTAL -- All Other Costs		\$ 189,927
Pupil Transportation		
Contractor Operations		<u>\$ 129,797</u>
TOTAL -- Pupil Transportation		\$ 129,797
TOTAL -- Delmar		\$ 1,038,906

Year Ending June 30, 1977

(95-38-000) New Castle Vocational-Technical

Division I -- Salaries

Chief School Officer	1	\$	19,271
Supervisor	.746		8,075
Principal	1		16,413
Assistant Principal	4		59,250
Administrative Assistant	1		17,150
Clerical	11		77,102
Teachers	112		1,173,176
Teacher - Psychologist	1		8,251
Teachers -- Driver Education	3.8		38,429
Custodial	18		131,661
Nurses	2		19,061
Cafeteria	1		7,652
Cafeteria Workers			<u>6,956</u>

TOTAL -- Division I \$ 1,582,447

Other Employment Costs

F.I.C.A. -- Employer's Share	\$	124,561
Pensions		260,834
Health Insurance		<u>43,450</u>

TOTAL -- Other Employment Costs \$ 428,845

TOTAL -- Division I and Other
Employment Costs

\$ 2,011,292

Division II -- Other Costs

215 \$ 412,800

All Other Costs

Debt Service

Principal	\$	582,800
Interest		<u>417,063</u>

TOTAL -- All Other Costs

\$ 1,412,663

Pupil Transportation

Year Ending June 30, 1977

Contractor Operations		\$ 288,076
TOTAL -- Pupil Transportation		\$ 288,076
TOTAL -- New Castle Vocational-Technical		\$ 3,712,031
(95-39-000) Kent Vocational-Technical		
Division I -- Salaries		
Chief School Officer	1	\$ 18,080
Principal	1	16,533
Assistant Principal	1	14,176
Administrative Assistant	1	16,533
Clerical	4	30,611
Teachers	41	443,535
Custodial	9	65,906
Nurse	1	9,059
Cafeteria	1	7,267
Cafeteria Workers		<u>2,900</u>
TOTAL -- Division I		\$ 624,600
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 44,901
Pensions		84,069
Health Insurance		<u>16,641</u>
TOTAL -- Other Employment Costs		\$ 145,611
TOTAL -- Division I and Other Employment Costs		\$ 770,211
Division II -- Other Costs	116	\$ 222,720
All Other Costs		
Debt Service		
Principal		\$ 206,970
Interest		<u>100,086</u>

Year Ending June 30, 1977

TOTAL -- All Other Costs		\$ 529,776
Pupil Transportation		
Contractor Operations		<u>\$ 8,322</u>
TOTAL -- Pupil Transportation		\$ 8,322
TOTAL -- Kent Vocational-Technical		\$ 1,308,309
(95-40-000) Sussex Vocational-Technical		
Division I -- Salaries		
Chief School Officer	1	\$ 15,919
Principal	1	15,605
Assistant Principal	1	14,985
Administrative Assistant	1	16,533
Clerical	4	30,611
Teachers	41	437,330
Custodial	10	74,568
Nurse	1	8,570
Cafeteria	1	<u>6,495</u>
TOTAL -- Division I		\$ 620,616
Other Employment Costs		
F.I.C.A. -- Employer's Share		\$ 46,795
Pensions		91,292
Health Insurance		<u>13,740</u>
TOTAL -- Other Employment Costs		\$ 151,827
TOTAL -- Division I and Other Employment Costs		\$ 772,443
Division II -- Other Costs	113	\$ 216,960
All Other Costs		
Debt Service		

Year Ending June 30, 1977

Principal		\$	205,352
Interest			102,551
TOTAL -- All Other Costs		\$	524,863
Pupil Transportation			
Contractor Operations		\$	<u>12,021</u>
TOTAL -- Pupil Transportation		\$	12,021
TOTAL -- Sussex Vocational-Technical		\$	1,309,327
(95-42-000) Wallace Wallin School for Trainables			
(Administered by New Castle - Gunning Bedford)			
Division I -- Salaries			
Principal	1	\$	13,658
Clerical	1		5,723
Teachers	10		96,975
Custodial	2		14,299
Nurse	1		9,059
Cafeteria	1		4,752
Aides and Attendants	6		<u>26,876</u>
TOTAL -- Division I		\$	171,342
Other Employment Costs			
F.I.C.A. -- Employer's Share		\$	12,228
Pensions			24,669
Health Insurance			<u>4,314</u>
TOTAL -- Other Employment Costs		\$	41,211
TOTAL -- Division I and Other Employment Costs		\$	212,553
Division II -- Other Costs	13	\$	24,960

Year Ending June 30, 1977

All Other Costs	
Debt Service	
Principal	\$ 20,000
Interest	<u>14,776</u>

TOTAL -- All Other Costs	\$ 59,736
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Pupil Transportation	
District Operations	<u>\$ 36,453</u>

TOTAL -- Pupil Transportation	\$ 36,453
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TOTAL -- Wallace Wallin School for Trainables	\$ 308,742
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(95-43-000) Howard T. Ennis, Sr. Trainable
(Administered by Indian River)

Division I -- Salaries		
Principal	1	\$ 15,938
Clerical	1	7,009
Teachers	14	126,300
Custodial	2	14,736
Nurse	1	9,059
Cafeteria	1	6,365
Aides and Attendants	14	<u>63,910</u>

TOTAL -- Division I	\$ 243,317
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Other Employment Costs	
F.I.C.A. -- Employer's Share	\$ 15,376
Pensions	33,559
Health Insurance	<u>5,853</u>

TOTAL -- Other Employment Costs	\$ 54,788
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TOTAL -- Division I and Other	
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Year Ending June 30, 1977

Employment Costs		\$	298,105
Division II -- Other Costs	21	\$	40,320
All Other Costs			
Debt Service			
Principal		\$	29,000
Interest			<u>23,587</u>
TOTAL -- All Other Costs		\$	92,907
TOTAL -- Howard T. Ennis, Sr. Trainable		\$	391,012
(95-44-000) Paul M. Hodgson Vocational Center (Administered by Newark)			
Division I -- Salaries			
Principal	1	\$	16,175
Assistant Principal	1		15,104
Clerical	3		19,741
Teachers	35		381,456
Custodial	13		<u>92,864</u>
TOTAL -- Division I		\$	525,340
Other Employment Costs			
F.I.C.A. - Employer's Share		\$	42,297
Pensions			81,820
Health Insurance			<u>16,333</u>
TOTAL -- Other Employment Costs		\$	140,450
TOTAL -- Division I and Other Employment Costs		\$	665,790
Division II -- Other Costs	98	\$	188,160
All Other Costs			
Debt Service			

Year Ending June 30, 1977

Principal	\$ 293,000
Interest	<u>331,726</u>
TOTAL -- All Other Costs	\$ 812,886
TOTAL -- Paul M. Hodgson Vocational	\$ 1,478,676
 TOTAL AGENCIES	 \$230,906,952
TOTAL HIGHER EDUCATION	\$ 50,725,757
TOTAL PUBLIC EDUCATION	<u>164,529,201</u>
TOTAL EDUCATION	<u>\$215,254,958</u>
SUB-TOTAL - AGENCIES AND EDUCATION	\$446,161,910
LESS: REDUCTIONS IN AUTHORIZED AGENCY POSITIONS AND AP- PROPRIATIONS PER SECTION 71 OF THIS ACT	<u>(1,761,551)</u>
GRAND TOTAL -- AGENCIES AND EDUCATION	<u><u>\$444,400,359</u></u>

Section 2. (a) For the purpose of this section, the term "Department" means all State Departments and Agencies except public school districts.

(b) Where the number of employee positions has been set forth in the salary or wage line appropriation for a Department in Section 1 of this Act, such number shall be interpreted to mean equivalent full-time positions. The State Personnel Director shall maintain a listing of the employee positions as provided, the salary or wage for each position, and the source of funding. This listing shall be a continuation of the prior fiscal year's authorized positions adjusted specifically for any increase or decrease authorized by this Act. A report of this listing shall be furnished monthly by the State Personnel Director to the Budget Director and the Controller General. The total of such salaries and wages for each Department shall not exceed the appropriation therefor, plus cost-of-living adjustment, and the number of employee positions shall not be changed except as provided in subsection (c) of this Section. For purposes of this subsection (b), during the period when recruit classes for State Police are in training, the total number of employees shall apply only to uniformed personnel authorized for duty.

(c) The number of employee positions authorized as equivalent full-time positions paid by General Fund appropriations and the number of other positions paid by funds other than General Fund appropriations are reflected in Section 1 of this Act within each department or agency budget for the fiscal year ending June 30, 1977. Line items salary positions are also reflected within department or agency budgets of Section 1 of this Act. No department or agency shall change the number of positions or employee classifications except as provided for in administrative regulations promulgated by the State Personnel Director and the State Budget Director in concurrence with the Controller General. Copies of the administrative regulations shall be furnished to members of the General Assembly and all State departments/agencies within sixty (60) days following the effective date of this Act.

Section 3. (a) During the fiscal year ending June 30, 1977, the pay grade assigned to each class shall not be changed. Any such pay grade changes which the Personnel Director determines to be warranted shall be designated to become effective July 1, 1977, and then only provided that the funds required for same shall have been provided in the State's annual budget appropriations for such ensuing fiscal year.

(b) The sum of \$100,000 appropriated as Contingency to the Office of State Personnel in Section 1 of this Act, shall be used for the purpose of upgrading and/or reclassifying positions in accordance with the administrative regulations promulgated by the State Personnel Director and the State Budget Director in concurrence with the Controller General. Transfer of salary monies under this Section shall be subject to approval or disapproval by the Budget Director and the Controller General.

(c) During the fiscal year ending June 30, 1977, paragraph 5.06122 except the phrase "where a critical shortage of applications exists", and paragraph 5.0820 of the rules for Merit System of Personnel Administration shall be null and void.

Section 4. Any Department or Agency, other than those covered by the classified service or by the provisions of Section 15 of this Act, which receives Federal or other than State appropriated funds, shall, when establishing salary and wage rates for employees to be paid from such funds, establish rates that are comparable to rates paid from State appropriated funds to employees with similar training and experience and in similar positions in the classified service. In order to ensure comparability, the department or agency shall obtain certification from the State Personnel Director of job specifications and rates before they are made effective and before employees are hired. All members and employees of the Delaware National Guard shall be exempted from the provisions of this Section and shall be compensated at a salary and wage rate established by the Federal Civil Service

Commission.

Section 5. Any personnel employed to implement new programs established and funded by the Federal Government, or by other special funds, or any new personnel employed to replace existing personnel transferred to these new programs, shall be considered as temporary employees during the life of the new programs. Upon termination of a program or cessation or reduction of special funds, the agency head, or his designee, shall take immediate action to reduce proportionately the expenditure of matching General Funds until such time as the General Assembly shall approve or disapprove the establishment and/or continuation and funding of such program. If such personnel shall then be subsequently employed on a permanent basis, they shall be entitled to appropriate credit for past service in the programs.

Section 6. The funds appropriated to the State Office of Personnel in Section 1 of this Act shall be considered as having been appropriated to each Department having personnel covered by the Classification Plan, and as paid by such Departments to the State Office of Personnel in proportion to the number of classified positions in such Department of July 1, 1976. With respect to Special Funds, any Department employing classified, temporary and/or seasonal personnel from funds other than the General Fund shall pay to the State Office of Personnel such pro rata share of the expense of the Office of personnel, as approved by the Budget Director, from its Special Funds and such payments shall be used by the State Office of Personnel to supplement to this extent the General Fund appropriation provided in Section 1 of this Act.

Section 7. The monies appropriated in Section 1 of this Budget Appropriation Act shall be paid by the State Treasurer from the General Fund.

Section 8. (a) If, at any time during the fiscal year ending June 30, 1977, but prior to June 15, 1977, there

should be a temporary insufficiency of General Fund monies in the State Treasury to pay then current General Fund obligations, the Governor, Secretary of State and State Treasurer (herein the "Issuing Officers") are authorized to issue revenue anticipation notes of the State of Delaware in an amount they determine necessary to meet and to pay any or all of such appropriations.

(b) The Issuing Officers are hereby authorized to determine the term, form and contents of such notes and to sell such notes at such price or prices and at such rate or rates, at public or private sale, in such manner and from time to time, subject to this Act as they shall determine. The notes shall mature within one year from date of issue, shall be payable at the Farmers Bank of the State of Delaware in Dover and/or in Wilmington, Delaware, and additionally, at the discretion of the Issuing Officers at a bank or trust company in New York, New York.

The notes shall be imprinted with the stamp of the Governor's signature and the stamp of the signature of the Secretary of State, and shall be manually signed by the State Treasurer. The Great Seal shall be impressed on all such notes and the signatures and the notes shall be authenticated by an officer of the Farmers Bank of the State of Delaware.

(c) The faith and credit of the State of Delaware is hereby pledged for the payment of the principal of and interest on the revenue anticipation notes, which notes including the interest thereon shall be exempt from taxation for any purpose by this State.

(d) If, at any time during the fiscal year ending June 30, 1977, but prior to June 15, 1977, there should be a temporary insufficiency of General Fund monies in the State Treasury to pay then current General Fund obligations, the State Treasurer, shall pay such obligations from any other funds on deposit. Other funds, so used to defray General Fund obligations shall be reimbursed as soon as sufficient General Fund monies become available, but not later than

June 15, 1977.

Section 9. All expense incident to the advertisement, preparation, issuance and delivery of the notes and the principal of and interest on such notes shall be paid by State Treasurer. There is hereby appropriated such sums as may be necessary to pay such costs, including the principal of and interest on such revenue anticipation notes, and the principal of any revenue anticipation notes issued in the prior fiscal year.

Section 10. Any amount of money derived as income from the Public School Funds shall be deposited by the State Treasurer in the General Fund and shall be fully expended for the purpose of meeting the expense of teachers' salaries incurred in accordance with appropriations for the public schools provided in Section 1 of this Act.

Section 11. For the purpose of matching any appropriation made for such educational acts as have been or may be passed by the Congress of the United States, the State Board of Education and the State Board for Vocational Education are hereby directed and empowered to prescribe to each of the local School Boards of Education and to the Boards of Trustees of any University or College supported by State Funds, the amount necessary to be allocated by said respective Boards to comply with the purpose and intent of said educational acts which require the matching of funds.

Section 12. The sums appropriated to the schools as "Division II -- Other Costs" shall be used for all school costs except salaries, debt service and transportation of pupils to and from the regular sessions of school as provided for in the appropriation to the public school districts and to the State Board of Education for this purpose. The rules and regulations adopted by the State Board of Education concerning the transportation of pupils in non-public, non-profit elementary and secondary schools in this State for the fiscal year beginning July 1, 1972, and ending June 30, 1973, shall

remain in effect and be applicable without modification for the fiscal year beginning July 1, 1976, and ending June 30, 1977, notwithstanding any laws of the State to the contrary.

Section 13. (a) In the event that any school district shall have more certified units of pupils based on the actual enrollment for September 30, 1976, than the number of units for which appropriation is made in this Act, such district is hereby authorized and empowered:

(1) To employ additional teachers with State Funds not to exceed the difference between the number of certified units of pupils as of September 30, 1976, and the number of units of pupils for which teachers are provided by Section 1 of this Act.

(2) To employ an additional number of administrative, clerical, health, and custodial employees, not to exceed the difference between the number of such employees to which the district would be entitled in accordance with the provisions of Title 14, Delaware Code, and based on the number of certified pupil units in the district on September 30, 1976, and the number of such employees provided for the district by Section 1 of this Act. In cases which use a school building or parts thereof in the determination of the number of employees, such employees shall be charged against State appropriated funds, according to State Board of Education regulations.

(b) In the event that any school district shall have fewer certified units of pupils based on the actual enrollment for September 30, 1976, than the number of units for which appropriation is made in this Act, such district's appropriation shall be reduced by the State Board of Education and the Budget Director to comply with the number of units based on the actual enrollment for September 30, 1976.

(c) Authorizations to the Vocational Technical High Schools for staffing summer school programs may be granted upon a certified program and application to and ap-

proval by the State Board for Vocational Education within the appropriations contained in Section 1 of this Act.

Section 14. The State Board of Education and the State Board for Vocational Education shall employ no persons except those whose salaries or wages are paid wholly or in part from the funds appropriated by this Act. Except for casual or part-time "Teacher", "Clerical" or "Custodial" employees, all persons employed by the State Board of Education or the State Board for Vocational Education and paid wholly or in part from the funds appropriated by this Act and allocated in the line item under the headings "Assistant Superintendents", "Directors", "Supervisors", "Specialists", "Teachers", "Clerical" and "Custodial" shall be paid within the ranges of the salary schedules for these classifications as set forth in Chapter 13, Title 14, Delaware Code, provided that the State portion of such salaries in total shall not exceed the total funds appropriated by this Act, and provided that no employee shall be paid a base salary during the fiscal year covered by this Act which is lower than the salary such employee received during the fiscal year ending June 30, 1976, except in the event such employee is reduced in classification or in months employed.

Section 15. (a) The State Board of Education and the State Board for Vocational Education may employ such additional personnel who are paid entirely from Federal or other than State General Funds provided provision for such personnel is made by line item in this Act. All personnel employed pursuant to this subsection shall be paid within the ranges of the salary schedules set forth in Chapter 13, Title 14, Delaware Code, for the classification heading under which said line item position appears, or in accordance with the specific salary specified in the line item.

(b) The State Board of Education and the State Board for Vocational education may employ such additional personnel who are paid entirely from Federal or other than State General Funds provided such personnel are certified (or qualified where no certification standards have been

established), classified, and paid as "Teachers", "Clerical" or "Custodial", pursuant to Chapter 13, Title 14, Delaware Code. Said Boards may also employ such other additional personnel who are paid entirely from Federal or other than State Funds.

(c) Local School Boards of Education and the various school building commissions may employ personnel who are paid wholly or in part from Federal and/or School Construction Funds provided that such personnel shall be classified and paid in accordance with the salary schedules set forth in Chapter 13, Title 14, Delaware Code. In the event any of the aforementioned Boards or Commissions shall have a uniform local district salary supplement to the salary schedules set forth in said Chapter 13, such Board or Commission may also pay employees covered by this subsection an additional amount from Federal and/or School Construction Funds not in excess of that set forth in the uniform local district salary supplement.

(d) Personnel employed pursuant to this section shall not be covered by the provisions of Chapter 14, Title 14, Delaware Code.

(e) None of the various School Boards or School Building Commissions shall enter into contracts with, or pay, individuals to provide consultant educational or related services from State, Federal or School Construction Funds when such individual is a salaried employee of the public school system of this State. This subsection shall not be construed to prohibit the employment of professional personnel to teach special classes such as night school and in-service courses in the same or other districts outside of regularly scheduled school hours.

(f) In order that the children for whom the learning disability and socially or emotionally maladjusted units were devised shall be the sole beneficiaries of all funds available for such children, the State Board of Education shall require strict adherence to approved guidelines before

release of any funds designated for such children. The State Board of Education shall particularly ascertain that no educable mentally retarded are being classified as learning disabled; and that strict guidelines are developed for determining eligibility of socially or emotionally maladjusted children so that this category does not become a catch-all for low-achieving, unmotivated or disruptive pupils without serious physiological or neurological disorder. All pupils classified learning disabled and socially or emotionally maladjusted must be reevaluated at least every two years.

(g) From the funds in State Board of Education and State Board for Vocational Education in Section 1 of this Act, for Teachers -- Homebound, the State Board of Education, or its designee, shall employ a classroom teacher who will be assigned to work with children hospitalized in any hospital located in New Castle County.

(h) The total amount of \$726,000 appropriated for substitute teachers shall be allocated to the several school districts in amounts not to exceed each school district's proportion of Division I units to the total number of Division I units in the State as of September 30, 1976. Any funds not used for the purpose herein referred to by the school district shall be transferred between school districts.

(i) General Fund appropriations to State Board of Education and State Board for Vocational Education, Services to School Districts and Others, for Non-public and Summer Driver Education, Public School Transportation, James H. Groves High School, and Pregnant Students shall not be subject to the limitations as defined for Division I and Division II in sections 1706 and 1709, Chapter 17, Title 14, Delaware Code.

Section 16. The line item appropriation to public school districts shall be used for costs related to pupil transportation as provided for by rules and regulations adopted by the State Board of Education. For the fiscal year ending June 30, 1977, transportation funds for public school

districts shall be based upon the TRANSPORTATION FORMULA FOR SCHOOL BUS CONTRACTS or the TRANSPORTATION FORMULA FOR PUBLIC SCHOOL DISTRICTS OPERATING DISTRICT OR INSTALLMENT-PURCHASE BUSES approved by the State Board of Education on June 19, 1975, except that the depreciation portion in the formula for 1976 buses shall be based upon a schedule approved by the State Board of Education.

Funds remaining in public school district transportation lines after January 1, 1977, which have not been committed or approved by State Board of Education action, shall be transferred to the public school pupil transportation line of the Department of Public Instruction.

Section 17. No funds appropriated by this Act or otherwise available to an Agency of this State shall be expended except for purposes necessary to carry out the functions of such Agency; no funds shall be expended for purposes such as gratuities, greeting cards, flowers and tickets to athletic events when unrelated to the Agency's function, and the Secretary, Department of Finance, shall in executing his duty under Section 6518, Title 29, Delaware Code, refuse to approve such expenditures. Any Agency affected by this Section shall have the right of appeal to the Budget Commission. No agency or school district shall use credit cards registered in the name of the agency, school district, or State which could create an obligation of the State, except oil company and telephone company credit cards may be used, provided such use has received prior approval by the Secretary of Finance.

Section 18. (a) Except as specifically authorized to the contrary by the Delaware Code or subsection (b) of this section, or where the employee is otherwise eligible for and entitled to cost-of-living supplement, no State employee whose title is designated in a line item in Section 1 of this Act shall receive total compensation, whether in wages, salary, wages-in-kind or food allotment, bonus or overtime, from Agencies of this State in excess of the total amount specified

in such line item, regardless of the source of the funds involved. No full-time employee of the State of Delaware whose salary is paid wholly or in part by the State of Delaware shall receive any additional stipend for the purchase of food, or be supplied with food, or be reimbursed for food that was consumed during normal working hours within the State; provided, however, that this section shall not apply to employees of State Agencies who regularly receive wages-in-kind in addition to their salaries nor to State Police recruits during the period of their training. In the event that an employee shall receive such excessive compensation, the amount of the appropriation from the General Fund shall be reduced by the amount of such excessive compensation and the Attorney General shall take such steps as are necessary to recover from such employee any such excessive amount as has actually been paid at the end of the fiscal year. In the event the "All Other" part of a line salary is made up entirely of Federal Aid monies, and further in the event such Federal Aid monies should not be forthcoming to the extent indicated, the State appropriation is hereby increased to the extent necessary to provide the "Total Salary" indicated in the line item. An Agency may provide housing for such line item employee without reduction in the line item salary provided such housing is on the site of the principal location of employment; the Agency Board, Commission or head has determined that such location of the employee is necessary to the operation of the Agency; and the employee has no other employment, public or private. No Agency shall provide an employee with compensation for housing or housing allowance of any type.

(b) A State employee whose salary is a line item in this Act may perform additional duties for a State Agency other than his principal employer, with the consent of his principal employer, and may be paid additional compensation therefor, provided such additional duties are not a part of his regular duties for the principal employer and not rendered during time paid for by the principal employer. In the specific instance of the Institute of Human Behavior, State employees may join in the cooperative program with the Jefferson Medical College if the service is rendered at times

other than when the employee is assigned to State duty, and under these instances the employee may be paid for services rendered.

Section 19. The funds herein appropriated to the Department of Health and Social Services in the amount of \$150,000 or any part thereof, for the Head Start Program shall be spent only if there shall have been approved and made available the corresponding matching funds to be provided by the Federal Government. To the extent that such Federal matching funds are not forthcoming, the corresponding proportionate amount of State funds herein appropriated shall revert to the General Fund.

Section 20. The sum of \$7,357,973 appropriated to the Department of Health and Social Services for Title XIX Federal Programs other than in State institutions shall be expended solely in accordance with the following conditions and limitations:

(a) This appropriation shall be used for the purpose of continuing the program of medical assistance within the requirements of Section 121 (a) of P.L. 89-97 enacted by the Congress of the United States and commonly known as Title XIX of the Social Security Act.

(b) The State Plan of Medical Care to be carried out by the Department of Health and Social Services shall meet the requirements for Federal Financial participation under the aforementioned Title XIX, and the sums expended by the Department pursuant to this Act shall be limited to:

- (1) inpatient hospital services;
- (2) outpatient hospital services
- (3) other laboratory and x-ray services;
- (4) skilled nursing home services for individuals 21 years of age or older; and

(5) physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home or elsewhere.

(c) The sum of \$1,457,263 appropriated to the Department of Health and Social Services for Title XIX Federal Programs in State institutions shall be expended solely in accordance with the following conditions and limitations:

(1) The sum of up to \$1,397,263 shall be expended for the purpose of providing medical services to patients eligible under the Federal Title XIX Medicaid Program residing in various facilities of, or under the jurisdiction of, the Department of Health and Social Services.

(2) The sum of up to \$60,000 may be expended by the Department of Health and Social Services for administrative costs involved in carrying out the purposes of this section based on prior approval of the Budget Director.

(3) The funds hereby appropriated shall be expended only on condition that the program is approved and Federal matching funds are provided by the appropriate Federal Agency.

Section 21. (a) The Department of Health and Social Services shall endeavor to assure that each hospital listed herein shall receive during the fiscal year payments from the \$441,863 appropriated to the Department of Health and Social Services for services rendered to eligible beneficiaries (indigent patients) including as a first priority the payment for legitimate transportation services under contract with State approved transportation facilities, by the following hospitals:

Beebe Hospital of Sussex County, Inc.
Kent General Hospital
Milford Memorial Hospital, Inc.
Nanticoke Memorial Hospital

Riverside Hospital
St. Francis Hospital, Inc.
Wilmington Medical Center, Inc.

(b) The State Auditor shall from time to time verify the expenditures and the cost basis of billings by said hospitals and report his findings to the Secretary of the Department of Finance, the Budget Director, and the Controller General.

Section 22. No payments from the amount of \$150,000 appropriated for Emergency and Disaster Assistance under Public Welfare shall be made for special emergency needs to any welfare-receiving household (all clients, regardless of category, living in a single residential unit and using the same kitchen facilities) exceeding a total of \$150 in the fiscal year ending June 30, 1977.

Section 23. For the fiscal year ending June 30, 1977, Division of Social Services of the Department of Health and Social Services shall transfer \$25,000 from the line item entitled, "Title XIX Federal Programs - Other than State Institutions", to the Division of Public Health. The funds so transferred shall be used in the Migrant Health Program to cover costs of services to the medically indigent on a per diem basis at hospitals in the State participating in this program.

Section 24. (a) No monies appropriated in Section 1 of this Act shall be used by a department/agency for the payment of hazardous duty pay or Family Blue Cross coverage, except that payments may be made for:

(i) Hazardous duty pay and Family Blue Cross coverage to employees, otherwise qualified, and employed by the Bureau of Adult Corrections;

(ii) Hazardous duty pay to employees, otherwise qualified, employed by the Delaware State Hospital in the Comegy's Building; and

(iii) hazardous duty pay to employees, otherwise qualified, employed by the Bureau of Juvenile Corrections.

(b) Nothing in this Section shall be construed or interpreted by the State Personnel Commission to include Family Blue Cross coverage benefit as coming within the definition of hazardous duty pay.

Section 25. All State Agencies, Boards, Commissions, and Departments (hereinafter referred to as Agency) receiving funds herein, shall file an annual report by October 15 following the close of the fiscal year.

(a) The annual report shall inform the Governor, the General Assembly, and the public of the accomplishments of the fiscal year just ended. The report need not be long, but it should be of sufficient length to summarize the accomplishments of the year. Emphasis on new programs which justify the cost in relation to the services rendered should be included. Special, unusual, or particularly interesting problems should be reported.

(b) Statistical tables, charts, or graphs are encouraged when they can be used to show the current status of a function in relation to earlier years on the one hand and projection for growth or change on the other. Useful information would show the number of people served by a program, the number of employees, and the allocation of costs when practical. As a guide, comparative information should be for Fiscal Years 1976 and 1977, as well as projections for Fiscal Years 1978, 1979, and 1980. New programs should show growth figures and their dependence on Federal or Special Funds.

(c) A brief resume of the Agency's statutory responsibility should be included in an appendix.

(d) The Governor, Lieutenant Governor, Budget Director, Controller General and Auditor of Accounts shall

receive copies of all reports. Each member of the General Assembly shall receive a copy of all reports except those of local School Districts. Reports of various local School Districts shall be furnished to members of the General Assembly who represent in whole or in part the area encompassed within such School District. Two extra copies of the reports of all local School Districts shall be furnished to the Controller General.

(e) The report shall be typewritten on standard-sized paper and reproduced by the most economic means. In final analysis, the report is to transmit information rather than be a promotional publication.

Section 26. (a) Appropriations set forth in Section 1 of this Act must remain with the Department to which appropriated and may not be transferred for use by another Department.

(b) Appropriations set forth in Section 1 of this Act must remain within the Departmental Divisions to which appropriated and may not be transferred for use by another Division within a Department. With respect to Delaware Technical and Community College and for purposes of this subsection, each campus shall be considered a Division.

(c) Transfer of any funds appropriated by this Act shall be subject to the authority and limitations set forth in Part VI, Title 29 of the Delaware Code and the approval by the Controller General (except that approval by the Controller General is not required on transfers from Budget Commission); provided, however, that no funds may be transferred into "salaries" or "salaries and wages" from non-salary appropriations nor shall any funds be transferred into line-item salary appropriation for a specific position from any emergency or contingency fund, except as otherwise specifically provided by law and to maintain the salary schedules set forth for school employees in Chapter 13, Title 14, of the Delaware Code.

No funds appropriated to salaries may be transferred to non-salary appropriation lines (e.g., Personal Services, Travel, Contractual Services, Supplies and Materials and Capital Outlay). Contingency and special items may be used in accordance with the Department's objectives substantiating their request.

(d) The provisions of paragraphs (a) and (b) of this Section are waived with respect to the allocation of Central Data Processing Services to Departments and/or Departmental Divisions. Requests for re-allocation within the total appropriated amount made by the Director of Central Data Processing must be approved by the Budget Director and the Controller General.

(e) The provisions of paragraph (c) of this Section are waived with respect to Central Data Processing. Requests from the Director of Central Data Processing for transfer of unexpended funds appropriated to salaries and wages of employees to Contractual Services - Equipment Rental may be made upon approval of the Budget Director and the Controller General.

Section 27. The Budget Director shall provide copies monthly of all transfers of funds and positions as appropriated and authorized in Section 1 of this Act between departments and within departments with appropriate justification to the Controller General.

Section 28. All State-owned motor vehicles shall bear, at least, "STATE OWNED" license plates, as issued by the Division of Motor Vehicles, on the rear thereof, identifying such vehicles as State-owned vehicles. All State-owned boats shall bear prominent identification, at least on the rear thereof, identifying such boats as State-owned boats. Exceptions are the Governor's car, vehicles of the State Police, State Detectives, Alcoholic Beverage Control Commission, and certain special use vehicles operated by the Bureau of Adult Corrections and the Bureau of Juvenile Corrections.

Section 29. The limitation of \$2,200 with respect to the cost of passenger motor vehicles (5-passenger sedans with standard equipment) purchased for State use, prescribed by Section 6902, Chapter 69, Title 29 of the Delaware Code, is hereby increased to \$3,700 for such new vehicles purchased during the fiscal year ending June 30, 1977.

Section 30. The Governor shall submit to all members of the General Assembly an itemized list of anticipated General Fund revenues by major categories for the current and next immediate fiscal year. Such report shall be made not later than the 20th day of September, December, March, April, and May, and the 15th day of June.

Section 31. Nothing contained in Titles 14 and 31, Delaware Code, shall be construed as authorizing appropriations or expenditures of General Fund monies during the fiscal year ending June 30, 1977, in excess of, or other than, the amounts set forth in this Act as have been or may be authorized in Supplementary Appropriation Acts enacted by the General Assembly.

Section 32. Nothing contained in any contract entered into pursuant to Delaware Code, Title 19, Chapter 13, or Title 14, Chapters 13 and 40, which contract is entered into or renegotiated after July 1, 1973, shall require the payment of monies for any item, purpose or benefit for which a specific appropriation by the General Assembly has not been made for the fiscal year ending June 30, 1977, or any subsequent fiscal year, or any part thereof, during which such contract is effective.

Section 33. Any and all appropriations herein authorized and specifically designated and separately identified within each agency budget for Central Data Processing Services shall be credited by the Secretary of Finance to Central Data Processing (30-07-000) by line item as detailed in Section 1. Any program or function undertaken by any State agency which requires the services of Central

Data Processing and which is to be funded through any Special Funds other than the General Fund must include provisions for the anticipated costs thereof and payment therefor must be made to and for the use of Central Data Processing. Such Special Funds credited to Central Data Processing shall be used only for Equipment Rental and related Supplies and Materials.

Section 34. The total appropriation in Section 1 of this Act to Central Data Processing for fiscal year beginning July 1, 1976, contemplates data processing services for State Department/Agencies as indicated, subject to the following requirements:

(a) No computer or computer-programming related systems study may be continued or initiated by any Department/Agency in fiscal year 1977 unless covered by a formal project approved by the Department/Agency head. Such project will be in the form prescribed by Central Data Processing but shall include in any case a statement of work to be done, existing work to be modified or displaced, total cost of systems development and conversion effort (including systems analysis and programming cost, establishment of master files, testing, documentation, special equipment cost and all other costs, including full overhead), savings or added operating costs that will result after conversion, other advantages or reasons that justify the work, source of funding for the work and whether or not work is within scope of work envisioned when the fiscal year 1977 budget was approved. No project is to be undertaken which is beyond the scope of work positively funded by the General Fund or a Special Fund. This paragraph applies to all computer or computer-related systems development performed by Central Data Processing, a Department/Agency itself or an outside contractor, and also applies to new computer programs or systems purchased or otherwise acquired and placed in use.

(b) All projects are to be signed by the Director of Central Data Processing and the concerned Department/Agency head, or his designee, before work is begun,

except such relatively minor feasibility work required to prepare the project. Copies of all projects are to be provided to the Budget Director and the Controller General. In support of all projects executed between Central Data Processing and the concerned Department/Agency, Central Data Processing shall maintain staff support to the benefiting Department/Agency at the projected level of effort (subject to recruitment delays) until the project work has been accomplished.

Section 35. The sums appropriated to the Communications Section in Section 1 of this Act are intended to cover the reimbursable expenses of services performed by the Communications Section. Any agency receiving General Fund appropriations in Section 1 of this Act and using a portion thereof for services performed by the Communications Section shall only be charged for actual costs of parts drawn from the Communications Section's inventory. Any funds received by the Communications Section for the aforementioned material cost shall be deposited by the Department of Finance to the Communications Section in a Special Fund, to be known as the Communications Revolving Fund, which shall not revert at the end of the fiscal year. Funds, other than General Funds, received by the Communications Section pursuant to this Section from sources other than General Fund appropriations set forth in Section 1 of this Act shall be considered as revenue to the State and deposited in the General Fund, except that portion directly attributable to parts drawn from the inventory of the Communications Section, which funds shall be deposited to the above mentioned Special Fund to offset inventory replacement costs.

Section 36. The sum of \$55,000 appropriated to State Police in the line item "Advanced School/Training and Library" shall be used for the training and equipping of State and local government police or police recruits in those courses of instruction as authorized by the Superintendent of State Police.

Section 37. The provisions for salaries and wages

in this Act are projected to cover the salaries and wages which shall become due and payable during the fiscal year ending June 30, 1977.

Section 38. All entitlement payments from the Federal Revenue Sharing Funds (Fiscal Assistance to State and Local Governments, P.L. 92-512, 86 Stat. 919) received by the State during fiscal year 1977 are hereby appropriated to the State Employees Retirement Fund. The General Fund Appropriation will be reduced by any amount received.

Section 39. Pursuant to Title 29, Chapter 63, Section 6340, of the Delaware Code, Other Employment Costs (Fringe Benefits), including provision for F.I.C.A. - Employer's Share, Pensions and Health Insurance, are reflected herein within each departmental or agency budget for the fiscal year ending June 30, 1977. These Other Employment Costs may be accounted for and disbursed through accounts within the State Treasurer. Any department or agency employing personnel who are paid from Federal Funds, from Capital Improvement Debt Appropriations or from other Special Funds other than School Local Funds, shall transfer or pay, at least quarterly, to the Treasurer of the State of Delaware from such funds appropriate sums for each of the State fringe benefit plans applicable to salaries and wages paid to employees from such Special Funds.

Section 40. In the event the sum appropriated in Section 1 of this Act is insufficient for benefits to be paid for F.I.C.A. - Employer's Share, such additional sum as may be required for this purpose is hereby appropriated and shall be paid from the General Fund.

Section 41. The amount appropriated to the Department of Finance entitled, Contingency - Prior Years Obligations - \$10,000, shall be used to pay debts of minor amounts. Rules and procedures to implement this section will be established by the Secretary of Finance.

Section 42. Three hundred thousand dollars (\$300,000) is hereby advanced from the General Fund of the State to the Department of Administrative Services, Division of Maintenance and Communications in order that telephone charges can be paid on a reasonable timely basis.

Section 43. All monies received by the Division of Highways during the fiscal year as reimbursement for motor fuels supplied to other Departments and Agencies shall be credited to the proper General Fund appropriation account as an expenditure-reducing item regardless of the year in which the motor fuels were supplied. All billings shall be at State purchase price only.

Section 44. The sums of \$230,085 and \$29,480 appropriated to Delaware Agency to Reduce Crime for Program Grants - State Agencies and Local "Buy-In", respectively, provide funds available for matching funds from the Federal Government. These appropriations shall not revert on June 30, 1977, but shall continue to be available on a matching basis for the life of each program grant, or three fiscal years, whichever occurs sooner. Any unexpended General Funds upon termination of the program grants shall revert to the General Fund.

Section 45. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 46. (a) The State Board of Education is hereby authorized and directed to allocate from its transportation contingency fund up to \$40,000 to the Conrad Area School District to defray the expense of providing bus transportation of public school pupils to the H.J. Krebs Elementary and Junior High Schools, the Donald J. Richey Elementary School and the Conrad Senior High School, who are not eligible for pupil transportation at State expense but would have to cross the hazardous construction now in progress on Route 141 between Justice Street and Kiamensi Road. Transportation shall be

withdrawn when it is determined by the State Board of Education that the area is sufficiently safe to cross for foot traffic.

(b) The State Board of Education is hereby authorized and directed to allocate from its transportation contingency fund \$18,000 to the New Castle County Vocational-Technical School District to defray the expense of providing bus transportation of public school pupils to New Castle County Vocational-Technical School who are not eligible for pupil transportation at State expense, but would have to cross the hazardous construction area now in progress on Route 141 between Justice Street and Kiamensi Road. Transportation shall be withdrawn when it is determined by the State Board of Education that the area is sufficiently safe to cross for foot traffic.

(c) The State Board of Education is hereby authorized and directed to allocate from its non-public school funds transportation reimbursement for non-public school pupils attending the St. Matthew School who are not eligible for pupil transportation reimbursement, but would have to cross the hazardous construction now in progress on Route 141 between Justice Street and Kiamensi Road. The transportation reimbursement shall be withdrawn when it is determined by the State Board of Education that the area is sufficiently safe to cross for foot traffic.

Section 47. Section 1 of this Act provides for an appropriation to the Division of Aging. It is the intent of this budget appropriation to:

(a) Provide an amount of \$10,000 for the purpose of defraying, in part, the cost of aiding eligible community legal aid clients in resolving Social Security and Supplemental Security Income problems.

(b) Provide an amount of \$15,000 for the purpose of purchasing a minibus for the West Center City Senior Activity Center. Any unexpended portion shall be retained by the West Center City Senior Activity Center to help defray

the initial operating costs of the minibus during fiscal year 1977.

(c) Make payment to the various senior centers, within three months after the beginning of fiscal year 1977, in the amounts appropriated by the line item in the Division of Aging. Each center receiving the appropriation shall provide a statement of expenditures from this appropriation on a quarterly basis to the Budget Director and the Controller General for the State of Delaware. No center receiving the line item appropriation shall grant salary increases which exceed five percent (5%) per annum.

(d) Of the \$66,138 appropriated to the Wilmington Senior Center in Section 1 of this Act, \$7,800 plus fringe benefits costs shall be expended for the purpose of employing one additional staff person for the Information and Referral Service Program.

Section 48. The position of Deputy Director - Labor Relations is established in the Office of Personnel for the purpose of conducting and/or approving all collective bargaining agreements entered into under Title 19, Chapter 13, Delaware Code, and such agreements are subject to the provisions of Section 32 of this Act. For purposes of Chapter 13, Title 19, Delaware Code, the term "public employer" shall mean the State of Delaware.

Section 49. Section 1 of this Act appropriates \$2,305,500 to the Delaware Institute for Medical Education and Research (D.I.M.E.R.) for the purpose of providing a continuing program described as the Delaware Education Program. Any scholarships granted by the Board of Trustees of the D.I.M.E.R. program shall be awarded, all other conditions being equal, to qualified students on the basis of need. The appropriation for fiscal year 1977 contemplates the enrollment of 20 new students in the program in September, 1976.

Section 50. Subchapter VI, Sections 3991 through 3997, Title 12, Delaware Code, relating to Public Guar-

dian is hereby repealed.

Section 51. Section 1 of this Act appropriated money to the several county election departments for the purpose of continuing mobile registration. Any organization desiring an arrangement whereby Delaware citizens may register as voters, may make a request to the County Department of Elections to provide such service. The County Department of Elections shall honor such requests, providing that the organization makes payment for the actual cost incurred.

Section 52. Section 1 of this Act provides an appropriation to the Division of Substance Abuse in the Department of Health and Social Services. For the fiscal year ending June 30, 1977, the position of Alcoholism Services Director has been abolished and no funds have been authorized.

Section 53. (a) Amend Chapter 65, Title 29, Section 6532 (a), Delaware Code, by striking said subsection (c) in its entirety.

(b) Effective July 1, 1976, the following changes shall be made to the designated pay plans:

(1) The salary plan for attorneys employed by the Attorney General's Office shall be as follows:

(i) Starting salary for members of the Delaware Bar - \$13,500 per annum.

(ii) After one year of employment, an additional \$1,500 per annum.

(iii) After two years of employment, an additional \$2,000 per annum,

(iv) After each succeeding year, an additional \$2,500 per annum until a maximum of \$25,000 per annum is reached,

(v) A maximum salary of \$27,000 shall be established for two existing positions, one in the Civil Division and one in the Criminal Division of the Attorney General's Office.

(2) The salaries of exempt executive secretaries in the Departments of Treasurer, Agriculture, Auditor and Personnel shall be \$9,044.07 per annum.

(3) The pay plan of the State Personnel Commission shall be changed as follows:

(i) Step 1 of Pay Grade 5 is eliminated.

(4) The following additions shall be made to the public school teachers pay scale commencing the fiscal year shown below:

(i) Masters Degree & 45 - additional \$258 commencing July 1, 1976

(ii) Masters Degree & 15 - additional \$385 commencing July 1, 1977

(iii) Bachelors Degree & 15 - additional \$386 commencing July 1, 1978

(5) The public school pay plan for personnel in the following classifications shall be increased as follows:

(i) Clerk - \$472

(ii) Secretary - \$138

(iii) Senior Secretary - \$147

(iv) Administrative Secretary - \$614

(v) Nurse - \$217

(vi) School Lunch Manager - \$982

(vii) School Lunch Worker - \$1,114

(viii) Attendants and Aids - \$1,189

(6) Faculty salaries at Delaware State College shall be as follows:

(i) Professors with Doctorate Degree - \$21,957

(ii) Associate Professors with Doctorate Degree - \$17,214

(iii) Assistant Professors with Masters & 1 Year - \$14,186

(iv) Instructors with Masters Degree - \$11,471

(v) Departmental Assistants with Bachelors Degree - \$9,000

(vi) Librarians with Masters Degree - \$15,000

(vii) Counselors with Masters Degree - \$12,500

(7) Clerical and Administrative positions at Delaware State College shall be increased as follows:

(i) Administrators I and II - 6%

(ii) Secretaries, Stenographers, Clerk Typists - \$456

(iii) Payroll Clerks, Student Accounts Clerks, Senior Accountant, Internal Auditor - \$934

(iv) Key Punch Operators, Control Data Clerks, Systems Analysts Computer Operators - \$1,791

(v) Dormitory Aids - \$543

(vi) Nurses - \$815

(vii) Custodians, Semi-Skilled Trades People (Drivers, Trades Helper), Skilled Trades People (Electricians, Plumbers, Carpenters), Security Officers, Groundskeeping and General Services Personnel - \$750

(8) Salaries of Employees at Delaware Technical and Community College shall be increased as follows:

(i) Faculty - 7.7%

(ii) Staff:

a. Grade 19 - 7.7%

b. Grade 17 - 8.2%

c. Grade 13 - 5.3%

(iii) Clerical:

a. Cashier - \$1,191

b. Receptionist - \$737

c. Secretary III - \$928

d. Secretary II - \$747

e. Bookstore Manager - \$924

(9) The salaries of all uniformed employees of the Delaware State Police shall be increased by 9 and $\frac{1}{2}$ percent.

(10) The salaries of the following Judicial Personnel shall be as follows:

(i) Clerk of Courts:

a. Court of Common Pleas - \$12,344.66

b. Justice of Peace - \$10,241.28

(ii) Deputy Clerks of Court

a. Justice of Peace - \$8,724

b. Court of Common Pleas - \$8,724

c. Supreme Court - \$8,724

(iii) Librarian - Sussex County - \$9,320.64

(iv) Secretary

a. Court of Common Pleas - \$9,320.64

b. Administrative Office of the Courts - \$7,315.20

c. Executive Secretary - Administrative Office of the Courts - \$9,320.64

(d) Amend Chapter 65, Title 29, Section 6532 (a), Delaware Code, by inserting immediately after the word "State" and before the word "shall" as the same appear in said section the following:

“, except elected and appointed officials,”

(e) In order to carry out the provisions of this section, an amount has been appropriated to the Office of Budget Director in Section 1 of this Act for payment of salaries and fringe benefits. Funds appropriated by this Section cover only those portions of base pay from State General Funds and are not intended to supplement portions of base pay paid from other sources.

Section 54. Section 1 of this Act appropriates \$25,000 plus Other Employment Costs (fringe benefits) to Margaret S. Sterck School for Interpreters/Tutors. The Department of Public Instruction may employ three (3) interpreters and/or tutors for deaf pupils enrolled in a Voca-

tional/Technical School program for a period of ten months each year. Such interpreter/tutor shall be registered and certified according to the prescribed by the Department of Public Instruction for such positions.

Section 55. During the fiscal year ending June 30, 1977, no student enrolled in the Meadowood Trainable School as of September 1, 1975, shall be transferred to another public school without the written consent of the student's parents or legal guardian. The Meadowood Trainable School shall develop program(s) for the purpose of handling those previously enrolled students whom the parents or legal guardian refused to transfer to another public school.

Section 56. During the fiscal year ending June 30, 1977, the Department of Public Instruction is hereby directed to continue bus transportation of public school students previously declared ineligible by the Unique Hazards Committee, including the following:

(a) Students attending the Stanton Junior High School, who are now forced to walk along Telegraph Road with a constant threat of injury; and

(b) Students attending Mount Pleasant High School, who are now forced to walk along Marsh Road with a constant threat of injury.

The transportation of the students specified herein shall continue until the funds requested are appropriated and construction is completed. Spur routes shall continue to be served as at present.

Section 57. Interpretation of Section 39 of this Act to the contrary notwithstanding, Delaware State College shall, commencing July 1, 1976, pay or transfer, at least quarterly, to the Treasurer of the State of Delaware from college funds appropriate sums for each of the State fringe benefit plans applicable to salaries and wages paid to employees from such college funds. The payment provi-

sions of this Section shall apply to college funds received by Delaware State College during fiscal year 1977.

Section 58. Section 1 of this Act provides for \$97,725 appropriation to the Division of Economic Development for Contractual Services. Of that appropriation, \$30,000 shall be made payable within three (3) months after the beginning of fiscal year 1977 to the City of New Castle for the purpose of defraying expenses in connection with bicentennial events.

Section 59. Section 1 of this Act provides for the creation of a new position: Chief, Food Stamp Program. In filling the position, the minimum qualifications of the applicant must include graduation from an accredited college or university with a Bachelor's Degree in business administration, accounting, public administration or a closely related field and five years of relevant experience in the functional area for which the applicant is being considered. In addition, the applicant must have had at least two years of responsible administrative or supervisory experience.

Section 60. For the fiscal year ending June 30, 1977, the Budget Director is authorized to transfer \$190,000 from the several amounts appropriated in Section 1 of this Act for Health Insurance, Section 39 of this Act to the contrary notwithstanding. These funds shall be used by the Budget Director to study and recommend methods of improving the State's budgetary and accounting systems. The object of such recommendation will be to enhance the decision making capability of the Governor and the General Assembly.

Section 61. Amend Chapter 16, Title 17, Delaware Code, by striking said chapter in its entirety and substituting in lieu thereof a new Chapter 16, to read as follows:

"CHAPTER 16. COMMUNICATIONS

"Section 1601. Purpose.

The Legislature hereby declares that an efficient and reliable communications system is vital to the security and welfare of the State during times of emergency and in the conduct of regular business of the State and that substantial economies can be effected by joint use of a consolidated communications system by departments, agencies, and subdivisions of State government. It is, therefore, declared to be the purpose of this chapter and the policy of the State to provide for the development of an efficient and reliable communications system for joint use by departments, agencies, and subdivisions of State government; to effect maximum practical consolidation and joint use of existing and future communications facilities, equipment and services owned or used by the State; and generally to obtain maximum practical economies by centralized coordination and budgetary control of all communications functions and activities of State government.

Section 1602. Compliance and Accountability.

All State government communications activities must be approved and authorized in accordance with the provisions of this chapter. Management control of, and accountability for, the use and operation of communications activities shall be a function of the using agency subject to the policies and intent of this chapter. Expenditure of any funds, regardless of source, for unauthorized communications activities of any kind, by any agency, for any reason, or for communications activities not in compliance with the policies and intent of this chapter shall be a violation of law punishable under the applicable statutes or regulations.

Section 1603. Division of Communications.

There is hereby established, within the Department of Public Safety, a Divisions of Communications with duties, powers and responsibilities as hereinafter directed and defined.

Section 1604. Duties, Powers, and Responsibilities of the Division of Communications.

The Division of Communications shall:

(a) Develop, coordinate, publish, and administer a comprehensive State Communications Plan which shall provide for the maximum practical consolidation and joint use of existing and future communications systems, facilities, equipment, and services by State government;

(b) Develop, coordinate, publish and administer policies and procedures for identifying, justifying and documenting communications requirements of State government;

(c) Develop, coordinate, publish, and administer policies and procedures for the use of communications facilities and services by State government;

(d) Develop, coordinate, publish and administer policies and procedures for the submission of a communications budget which shall include all requirements of State government;

(e) Design, procure, install and maintain, or if appropriate, contract for the design, installation and maintenance of communications systems, facilities, equipment, and services for State government in accordance with the determinations directed by this chapter;

(f) Apply for, receive and hold, or if appropriate, assist agencies in applying for, receiving and holding such authorizations, licenses, permits and allocations of channels and frequencies as are necessary to carry out the purpose of this chapter;

(g) Perform periodic audits of the communications facilities and activities of State agencies to insure compliance with the policy and intent of this chapter, and other applicable laws and regulations;

(h) Perform such other duties in connection with the communications activities of the State government as may

be directed by the Governor, or the Legislature, or as may be required by existing or future State or Federal statute.

Section 1605. Communications budget.

(a) All State government communications requirements, as determined under the appropriate parts of this chapter, shall be consolidated and presented by the Division of Communications as a program budget item in the regular division budget request.

(b) The communications program budget shall identify requirements by agency and shall be in sufficient detail to permit an analysis of the request.

(c) All State government having communications requirements shall cooperate with and assist the Division of Communications in the preparation of the communications program budget.

(d) Emergency or unplanned communications requirements shall be presented as a detailed program item in a supplemental budget request by the Division of Communications. Justification for the budget request shall be the responsibility of the agency having such emergency or unplanned requirements.

**Section 1606. Charges; Communications
Revolving Fund.**

(a) Out of pocket expenses for parts, materials, and other goods, used for installation, repair and maintenance of communications facilities, equipment and services shall be charged to and paid by the using agency through the use of Department of Finance Form RS-1 and applicable directives. Monies received by the Division of Communications under this part shall be deposited in a special fund, to be known as the Communications Revolving Fund, which shall not revert at the end of any fiscal year. The Communications Revolving Fund shall be for the purpose of buying parts, materials, and other goods required for

installation, repair, and maintenance of communications facilities, equipment, and services.

(b) The size of the Communications Revolving Fund shall be reviewed annually by the Budget Director, and if deemed excessive to the needs of the Division of Communications, the excess shall be reverted to the General Fund of the State.

Section 1607. Extension of Service to Others.

Pursuant to written agreements of terms and conditions, and subject to payment of charges as determined in accordance with Chapter 65, Title 29, Delaware Code, the Division of Communications may, but is not required, to extend the services defined in parts §1604 (e) and §1604 (f), as applicable and reasonable, to volunteer fire, rescue, and ambulance companies operating and chartered in the State. Any such extension of services shall be subject to availability of resources and secondary to the needs of State government. Monies received as payment for these services shall be deposited in the Communications Revolving Fund.

Section 1608. Restriction of use.

(a) State Communications activities shall not be used for any purpose other than the business of the State, nor in any manner not in accordance with this chapter, except in an emergency.

(b) Communications transmitted or received by State Communications activities shall be the privileged information of the sender and receiver; interception and use of such communications by an unauthorized third party is in violation of Federal law, and shall be in violation of the purpose and intent of this part; provided, that this shall not prohibit the sender or receiver from releasing such communications to others or to the public if necessary or desirable; and provided further, that the Governor shall have the power to direct the release of such communica-

tions if he deems such action to be in the best interest of the State."

Section 62. All employees of the Communications Section of the Department of Public Safety, along with the salaries, equipment, books, records, and other related assets necessary to support such employees are hereby transferred to the Division of Communications, upon the effective date of this Act. Such employees shall be deemed to be employees of the Division of Communications, and where applicable, with all benefits accrued as merit employees as of the effective date of this Act.

Section 63. (a) In keeping with the purpose and intent of this Act, all State government communications equipment purchases shall be suspended for Fiscal Year 1977, except for replacement of unrepairable, destroyed, or obsolete equipment on a one-for-one replacement basis.

(b) Emergency requirements for Fiscal Year 1977 shall be requested as directed in §1604 and §1605 of this Act.

Section 64. Amend §8810, Chapter 88, Part VIII, Title 29 of the Delaware Code by designating all of said present §8810 as a new subsection (a), and by adding thereto a new subsection which shall read as follows:

"(b) The administrative, ministerial, budgetary, clerical and inspection functions including, but not limited to, appointment, removal, compensation and duties of employees as provided by law, of the following boards set forth in Title 24 and Title 16, shall be performed by the Division:

- (1) State Board of Examiners of Barbers;
- (2) State Board of Chiropractic Examiners;
- (3) Delaware State Board of Cosmetology;
- (4) State Board of Dental Examiners;

- (5) Medical Council of Delaware;
- (6) Board of Medical Examiners;
- (7) Delaware Board of Nursing;
- (8) Delaware State Board of Examiners in Optometry;
- (9) State Board of Pharmacy;
- (10) State Examining Board of Physical Therapists;
- (11) Board of Chiropody and/or Podiatry Examiners;
- (12) State Board of Examiners of Psychologists;
- (13) State Board of Examiners of Undertakers;
- (14) State Board of Veterinary Medicine;
- (15) Board of Nursing Administrators;
- (16) Council of Hearing Aid Dealers;
- (17) Board of Examiners of Speech Pathology and Audiology.

Except as provided in this subsection, the membership, remuneration, organization, meetings, powers, duties and functions of the commissions, boards, agencies and persons listed in this subsection shall remain as prescribed by law."

Section 65. Amend §7904, Chapter 79, Part VIII, Title 29 of the Delaware Code by striking subsection (d) of said section in its entirety.

Section 66. Amend Section 1923, Chapter 19, Title 14, Delaware Code, by striking subsection (b) and (c) in their entirety and inserting the following:

“(b) The State Treasurer shall credit the operating account and debt service account respectively of each district school operating and debt service funds with interest on 80% of the average balances in operating and debt service accounts for 6-month periods ending in May and in November. The interest to be paid will be that proportionate share of interest paid to the State by Farmers Bank as their 80% average balances are to the total State's average balance. The average balance shall be determined by averaging the balances of such funds as of that day each month when the balances of all funds deposited with the State depository are determined.

“(c) The State Treasurer shall credit the debt service account of each local school district school construction fund with interest on 90% of the average balance of that proportion of the construction accounts contributed by the local district for 6-month periods ending in May and November. The average proportional amount contributed by the local school district shall be determined by averaging the balances of such proportional amounts as of that day of each month on which the balances of all state funds deposited with the State depository are determined. The interest to be paid will be that proportional share of interest paid to the State by Farmers Bank as their 90% average balances are to the State's average balance.”

Section 67. For the fiscal year ending June 30, 1977, the Department of Health and Social Services is hereby authorized an automatic appropriation up to, but not to exceed \$400,000 for the sole purpose of increasing Title XIX Medicaid rates for eligible nursing homes in Delaware and State institutions.

Section 68. Section 1 of this Act provides for appropriation to Delaware S.P.C.A. under the Wildlife Section of the Department of Natural Resources and Environmental Control. The allocation of Dog Wardens shall consist of the following: City of Wilmington - 2; New Castle County - 4; Kent County - 2; and Sussex County - 3. The scheduling of Dog Wardens so as to provide services to the public

shall include the early morning hours, early evening hours, Saturdays and Sundays.

Section 69. (a) There is hereby established the Delaware State Clearinghouse Committee for Federal Aid Coordination. The Committee shall consist of the Chairman and the Vice-Chairman of the Joint Finance Committee, the Controller General, the Budget Director, the Personnel Director, the State Planner, and the Secretary of Finance. The Chairman and the Vice-Chairman of the Joint Finance Committee shall serve as Chairman and Vice-Chairman respectively of the Clearinghouse Committee. The State Planner shall function as the Secretary of the Committee; and the Office of State Planning shall provide the necessary staff support. The Office of Controller General shall provide staff support to the Committee as required by the Chairman or the Vice-Chairman. The Clearinghouse Committee shall:

(i) Establish State's goals and objectives for maximizing the utilization of Federal Aid and Federal Aid programs and shall promulgate procedures and guidelines for all State department, agencies, public and higher education covering applications for Federal Aid; and

(ii) Meet as often as it is deemed necessary by the Chairman or Vice-Chairman of the Clearinghouse Committee for the purpose of establishing policy, reviewing and approving or disapproving applications for Federal Aid.

(b) All State departments and agencies, including public and higher education receiving funds pursuant to Section 1 of this Act, shall:

(i) At least sixty (60) days before making formal submission of federally required State Plan(s), submit such Plan(s) to the Office of State Planning for review, and approval or disapproval by the Clearinghouse Committee; or

(ii) At least forty (40) days before making formal ap-

plication for any federal funds, notify in writing the Office of State Planning of their intent to make such an application by sending to the Office of State Planning a copy of such application and any other information requested by the Office of State Planning.

(c) The Office of State Planning shall inform the Governor of all proposed applications for Federal Aid and all Federal Aid applications approved and funds received.

Section 70. (a) Annual increments to State employees, except employees of Public Education, based on merit, years of experience, or time-in-grade, are hereby suspended until September 16, 1976.

(b) Effective September 16, 1976, State Merit System Classified Employees whose anniversary dates are between July 1, 1976, and September 15, 1976, will receive the appropriate step increment and without change in anniversary date, as reflected in the Merit System Uniform Pay Plan dated September 1, 1975, and as amended to reflect cost-of-living supplements.

(c) State Merit System Classified Employees whose anniversary dates occur on or after September 16, 1976, will receive on their anniversary date the appropriate increment as reflected in the Merit System Uniform Pay Plan dated September 1, 1975, as amended to reflect cost-of-living supplements.

(d) Salaries of employees who are not covered under the State Merit System shall be increased by 5% effective September 16, 1976. Section 9220, Chapter 92, Title 10, Delaware Code, to the contrary notwithstanding, the salary increase as provided by this subsection (d) shall apply to all clerical employees of the Justice of Peace Courts. The salary increase referenced in this subsection (d) shall not be granted to the following: Elected Members of the General Assembly, Judges and Justices of the Peace, Employees of the National Guard, Uniformed State Police, Elected and Appointed Officials and other employees

whose salaries are determined by separate statute (or by "line item" budget entries for Non-Classified Employees), employees of University of Delaware, State Geologist and employees, and employees in Public Education.

Section 71. (a) The following listed General Fund positions are hereby abolished. The appropriations and position authorization for the designated departments and agencies in Section 1 of this Act are reduced accordingly for each position authorization, Salaries, F.I.C.A. - Employer's Share, Pensions, and COLA, as follows:

	Salary	F.I.C.A.	Pension	COLA
<u>(10 03 000) State Planning Office</u>				
1 Planner I	\$ 11,586	\$ 678	\$ 1,309	\$ 354
2 Planner III	30,372	1,766	3,432	929
2 Planner IV	33,282	1,766	3,761	1,018
1 Administrative Assistant II	9,321	545	1,053	285
<u>(10 04 000) State Personnel</u>				
2 Clerk Typist III	12,850	752	1,425	392
1 Personnel Officer Trainee	8,991	526	1,016	275
1 Personnel Officer I	10,554	617	1,193	323
1 Personnel Officer III	15,187	883	1,716	465
<u>(12 02 000) Auditor of Accounts</u>				
2 State Auditor I	23,172	1,356	2,618	709
<u>(15 02 000) Public Defender</u>				
2 Legal Steno II	13,414	784	1,516	410
<u>(20 05 001) Incorporating Section</u>				
2 Clerk Typist III	12,850	752	1,425	392
<u>(20 05 002) Franchise Tax Section</u>				
1 Clerk Typist III	6,425	375	726	196
<u>(25 05 000) Div. of Accounting</u>				
1 Administrative Services Officer III	15,187	883	1,716	465
<u>(25 06 000) Division of Revenue</u>				
2 Revenue & Compliance Officer III	25,444	1,488	2,875	778
10 Input Operator I	70,040	4,097	7,914	2,142
1 Administrative Assistant I	8,345	488	943	255
<u>(30 01 000) Office of Secretary</u>				
<u>Dept. of Administrative Svcs</u>				
1 Clerk Typist II	5,978	350	675	195
<u>(30 07 000) Div. of Central Data Processing</u>				
1 Programmer III	15,187	883	1,716	464
1 Systems Analyst III	16,642	883	1,880	509
<u>(35 02 002) Education</u>				
<u>Dept. of Health & Soc. Svcs</u>				
1 Occupational Therapist Aide I	6,234	365	704	190
1 Teacher's Aide	6,425	376	726	196
1 Principal	20,251	883	2,288	619
1 Teacher Special Education	20,251	883	2,288	619

	Salary	F.T.C.A.	Pension	COFA
<u>(35.03.000) Office of Planning, Research and Evaluation</u>				
1 Hospital Constr. Cons.	15,187	883	1,716	464
<u>(35.04.000) Office of Medical Examiner</u>				
1 Forensic Serologist	\$ 18,729	\$ 883	\$ 2,116	\$ 572
<u>(35.05.002) Community Health</u>				
2 Clerk Steno III	13,414	784	1,516	410
1 Neighborhood Worker I	7,003	410	791	214
1 Dental Health Director	22,612	883	2,555	691
3 Public Health Physician III	75,006	2,649	8,476	2,294
1 Sanitarian I	10,554	617	1,192	323
1 Public Health Nursing Supervisor	12,345	722	1,395	377
1 Public Health Nursing Director	16,148	883	1,825	494
<u>(35.05.004) Del. Home for Chron. Ill</u>				
1 Clerk Steno I	5,734	335	648	175
1 S. Nurse I	13,980	817	1,580	441
9 Nurse II	94,986	5,557	10,733	2,905
2 Nurse III	22,485	1,315	2,541	688
1 Nurse IV	12,722	744	1,438	389
1 Trades Helper	6,425	375	726	196
1 S. LPN I	10,506	615	1,187	321
1 Attendant II	6,234	365	704	190
<u>(35.06.002) Delaware State Hospital</u>				
1 Accounting Clerk I	6,425	376	726	196
1 Activity Aide I	6,234	365	704	191
1 Physician I	19,913	883	2,250	609
1 Physician III	24,260	883	2,741	742
7 Psychiatric Attendant	43,638	2,553	4,932	1,334
3 Dietary Aide	16,503	965	1,865	505
3 Custodial Worker I	16,503	965	1,865	505
4 Trades Helper	25,700	1,503	2,904	786
1 Clerk Steno III	6,707	392	758	205
<u>(35.06.003) Mental Hygiene Clinics</u>				
1 Psychiatric Social Worker II	11,242	658	1,271	344
<u>(35.06.004) Governor Bacon Health Cntr</u>				
5 Telephone Operator I	2,867	168	324	88
1 Financial Resources Examiner	7,315	428	826	224
1 Dietary Aide	5,501	322	622	168
5 Laundry Worker I	2,751	161	311	85
<u>(35.06.005) Mental Health Center</u>				
1 Psychiatric Attendant	6,234	365	704	191
5 Activity Therapist I	3,117	182	352	95
<u>(35.06.007) Jerry Children's Psy. Cntr</u>				
1 Clinical Psychologist II	14,737	862	1,665	451
<u>(35.11.002) Hosp. for Mentally Retarded</u>				
1 Accounting Clerk II	7,218	422	816	221
<u>(35.11.03) Community Men. Retard. Prem</u>				
5 Training Aide	12,468	729	1,408	381
1 Nurse III	11,242	658	1,271	344
<u>(35.12.000) State Service Center</u>				
1 Neighborhood Worker II	7,642	447	863	234
5 Neighborhood Worker III	31,663	1,852	3,575	968

	Salary	L.C.A.	Pension	COLA
1 Clerk Steno II	6,432	376	726	197
1 Building Maintenance Mech. II	7,985	467	902	244
<u>(35-14-000) Division of Aging</u>				
1 Accountant II	11,586	678	1,309	354
1 Field Representative Aging	9,605	567	1,085	294
<u>(38-01-002) Administration</u>				
<u>Dept. of Corrections</u>				
1 Administrative Assistant I	8,600	503	972	263
1 Accounting Clerk II	7,217	422	815	221
2 Case Aide Trainee	12,848	752	1,452	393
1 Statistician II	11,586	678	1,309	354
<u>(38-08-003) Del. Correct. Center</u>				
1 Clerk Steno III	6,912	404	781	211
<u>(38-08-007) Probation & Parole</u>				
2 Counselor I	19,210	1,065	2,170	587
1 Counselor II	11,586	678	1,309	354
1 Counselor Supervisor	13,927	815	1,574	426
<u>(38-13-002) Ferris School for Boys</u>				
1 Juvenile Group Leader II	8,229	489	930	252
1 Counselor II	11,586	678	1,309	354
<u>(38-13-003) Woods Haven-Knise School</u>				
1 Juvenile Group Leader III	8,991	526	1,016	275
1 Correctional Superintendent II	18,730	883	2,116	573
<u>(38-13-006) Delaware Youth Center</u>				
1 Correctional Superintendent II	18,730	883	2,116	573
<u>(40-06-002) Parks</u>				
<u>Dept. Nat. Res. & Env. Ctrl.</u>				
1 Parks and Forestry Supervisor I	8,990	526	1,016	275
<u>(40-08-002) Air Resources</u>				
1 Res. Engineer III	16,642	883	1,881	509
<u>(40-08-003) Water Resources</u>				
1 Geo. Hydrologist III	16,642	883	1,881	509
<u>(45-07-000) Div. of Motor Vehicles</u>				
<u>Dept. of Public Safety</u>				
1 Administrative Services Officer I	10,554	617	1,193	323
<u>(50-06-000) Human Relations</u>				
<u>Dept. Comm. Aff. & Econ. Dev.</u>				
1 Human Relations Representative	11,586	678	1,309	354
1 Secretary I	7,538	441	852	225
<u>(55-02-000) Div. of Administration</u>				
<u>Dept. of Transportation</u>				
1 Clerk Typist II	5,978	346	668	181
1 Magnetic Key Punch Operator I	6,234	365	716	190
<u>(55-05-000) Div. of Highways</u>				
1 PIO III	11,586	678	1,309	354
1 Highway Engineer Technician II	9,321	545	1,053	285
1 Highway Engineer Technician III	10,241	599	1,157	313
1 Highway Engineer Technician IV	—	—	1,395	—

	Salary	F.I.C.A.	Pension	COLA
Maintenance Headquarters				
1 Administrative Assistant II	9,321	545	1,053	285
1 Spraying & Landscape Maintenance Equipment Operator	6,425	375	726	196
North Maintenance				
1 Storekeeper I	6,425	375	726	196
1 Highway Maintenance Supervisor	10,241	599	1,157	313
1 Auto Serviceman	6,425	375	726	196
1 Auto Painter	7,642	447	863	250
1 Labor Foreman II	7,642	447	863	250
(65-03-000) Standards & Inspection Dept. of Agriculture				
1 Veterinarian	15,187	883	1,716	464
2 Ag. Prod. Inspector II	17,200	1,006	1,944	526
1 Ag. Prod. Inspector III	9,605	562	1,085	294
<u>147.5 TOTALS</u>	<u>\$1,469,468</u>	<u>\$81,111</u>	<u>\$165,990</u>	<u>44,982</u>
GRAND TOTAL	<u>\$1,761,551</u>			

(b) In the event that a department or agency has an **extraordinary** or **highly exceptional** need, for one or more of the positions listed in subsection (a) of this section, the department or agency must submit a formal request, in writing, to the Budget Director and the Controller General for approval or disapproval, together with adequate documentation in support of the request. Upon the approval of the request, the position will be authorized and funded from available funds within the department or agency's appropriation in Section 1 of this Act for Salaries and Wages. In the event that there are insufficient salary funds available, such additional sum as may be required for this purpose is hereby appropriated and shall be paid from the General Fund.

Section 72. Section 1 of this Act provides for an increase of two Deputy Attorney Generals, one clerical employee, and Law Clerks to the budget for the Department of Justice. The additional personnel and funding is to provide services to the Family Court in New Castle, Kent and Sussex Counties.

Section 73. When the actual deficit for F.Y. 1976 becomes known and if it exceeds the deficit estimated at the time the Governor signed this Act, the Governor is hereby empowered to make pro-rata reduc-

tions in the amounts appropriated by this Act to Legislative, Judicial, Elective Offices, Cabinet Departments, other agencies, Higher and Public Education, as necessary, to balance the F.Y. 1977 budget.

Approved July 1, 1976

CHAPTER 512

HOUSE BILL NO. 1258

**AN ACT TO AMEND CHAPTER 3, TITLE 28,
DELAWARE CODE, RELATING TO THE TAXES
AND COMMISSIONS ON PARI-MUTUEL AND
TOTALIZATOR POOLS AT HORSE RACING
TRACKS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §365, Chapter 3, Title 28, Delaware Code by striking the first sentence in subsection (a) of said §365 and substituting in lieu thereof the following:

“(a) Every person engaged in the business of conducting a racing meet under this Chapter shall pay as a tax to this State a percentage of the total contributions to all pari-mutuel and totalizator pools conducted or made on any and every race track licensed under this Chapter and on every race at such track.”

Section 2. Further amend §365, Chapter 3, Title 28, Delaware Code by striking the following words as they appear in both the second and third paragraphs of subsection (e) of said §365:

“plus one-half of the odd cents of all redistributions to be made on pari-mutuel or totalizator pool contributions exceeding the sum equal to the lowest multiple of 10, such odd cents to be calculated upon the basis of each dollar wagered provided, however, that if a minus pool is created, the licensee may break to the lowest multiple of 5,”.

Section 3. Amend §366, Chapter 3, Title 28, Delaware Code by striking the word “one-half” as it appears

in the first sentence of subsection (a) of said §366, and substituting in lieu thereof the word “all”.

Approved July 2, 1976

CHAPTER 513

SENATE BILL NO. 259
AS AMENDED BY SENATE AMENDMENTS NOS.
1 AND 3
AND HOUSE AMENDMENTS NOS. 1, 5,
6, 7, 8, 9, 10, 11 AND 12

**AN ACT TO AMEND CHAPTERS 9 AND 19 THROUGH
27 OF TITLE 7, DELAWARE CODE, RELATING
TO THE RULES AND REGULATIONS CONCERN-
ING SHELLFISH.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of the members elected to each House thereof concurring therein):

Section 1. Amend §916, Chapter 9, Title 7, Delaware Code, by striking same in its entirety.

Section 2. Amend Chapters 19 through 27, Title 7, Delaware Code, by striking the same in their entirety and substituting in lieu thereof revised Chapters 19 through 25 which shall read as follows:

“CHAPTER 19. GENERAL PROVISIONS.

§1901. Definitions.

The following definitions shall apply to Chapter 19 through Chapter 25 inclusive of this Title:

(a) “Commercial purpose” - a person’s intent to sell shellfisheries to another.

(b) “Culled” - separated live shellfish from all other material and organisms.

(c) "Cultivation" - the process of preparing and/or improving shellfish grounds to foster the growth and survival of shellfish.

(d) "Department" - Department of Natural Resources and Environmental Control.

(e) "East line" - a political division of the Delaware Bay along a line running due east from the Port Mahon light to Elbow Cross light.

(f) "Hand tongs" - any grasping device consisting of two pieces joined at one end of a pivot and manipulated by physical exertion of a person.

(g) "Market oysters" - oysters harvested for sale to another for consumption.

(h) "Mean high water" - the level of the water surface which is an average of the highest daily tides over a period of at least 29 days.

(i) "Mechanical device" - an apparatus operated by a machine used to take shellfish.

(j) "Natural oyster beds" - those shellfish grounds designated to be "natural oyster beds" by the Department.

(k) "Nonresident" - any person not an alien who has not continuously resided for one year within this state.

(l) "Patent tongs" - any grasping device consisting of two pieces joined at one end by a pivot and raised with a rope, cable, or other hoisting device used to take shellfish.

(m) "Person" - a human being.

(n) "Public tonging area" - any shellfish ground

designated by the Department to be used for the tonging of oysters according to the provisions of Chapter 19 through 25, Title 7, Delaware Code.

(o) "Resident" - any person not an alien who has continuously resided one year or more within this state.

(p) "Secretary" - the Secretary of the Department of Natural Resources and Environmental Control or his duly authorized designee provided any such delegation of authority is consistent with the provisions of Chapter 10, Title 29, Delaware Code.

(q) "Shellfish" - Any mulluska or crustacea including oysters, clams, lobsters, mussels, whelks, crabs and shrimp.

(r) "Shellfishing" - to attempt to take, catch, kill or reduce to possession any shellfish by any means whatsoever.

(s) "Shellfish grounds" - the submerged lands of the rivers, bays and oceans sustaining or capable of sustaining shellfish under the jurisdiction of the State.

(t) "Spat" - immature oysters.

§1902. Duties, powers, making and enforcing regulations.

(a) The Department shall have control and direction of the shellfish industry and of the protection of shellfish resources throughout this State. The Department may adopt, promulgate, amend and repeal regulations consistent with the law, which shall be enforced by the Department or any peace officers for the following purposes:

(1) To preserve and improve the shellfish industry of this State;

(2) To regulate, inspect and approve any vessel or equipment used in the shellfish industry in this State;

(3) To provide for the issuance of licenses to persons engaged in the shellfish industry in this State and for the revocation for cause of such licenses.

(4) To provide for the preservation and improvement of the shellfish resources of this State, when deemed necessary.

(b) The regulations of the Department shall have the force and effect of law and shall supersede all local ordinances and regulations enacted or adopted which are inconsistent therewith.

(c) For the purpose of enforcing the marine fisheries laws on the waters under the jurisdiction of the State of Delaware, the Division shall keep and maintain suitable vessels to patrol these waters. The patrol vessel shall be subject to call at all times to enforce the marine fisheries laws of the State. On board the patrol boats shall be kept log books in which shall be recorded the daily activities of all the functions performed on any work day.

§1903. Filing of regulations.

A copy of the regulations adopted pursuant to this Chapter and any amendments thereto shall be filed in the Office of the Secretary of State. The regulations of the Department shall be published by the Department in convenient form and distributed to or made available to all persons shellfishing in Delaware who request this information.

§1904. Taking of shellfish.

(a) It shall be unlawful to take any shellfish from any waters or shellfish grounds of this State unless specifically authorized by statute or regulation.

(b) It is unlawful to take or attempt to take shellfish for commercial purposes on Sundays.

(c) It shall be unlawful to take shellfish for commercial purposes between sunset and sunrise.

§1905. Leases.

(a) Authorized Lease of Shellfish Grounds

The Department is hereby authorized to lease, in the name of the State of Delaware, tracts or parcels of shellfish grounds to be used for protecting, planting and harvesting shellfish beneath the waters of this State, subject to the provisions, limitations and restrictions set forth herein.

(b) Shellfish grounds not Leasable

No lease, other than a scientific lease, shall be granted for any of the following shellfish grounds of this State, nor shall any person acquire by lease, assignment, appropriation or otherwise any of the following shellfish grounds:

(1) Shellfish grounds within one thousand (1000) feet of the natural shoreline (mean high water) or any waters under the jurisdiction of the State of Delaware.

(2) Natural oyster beds.

(3) Shellfish grounds within the confines of Indian River, Indian River Bay, or Rehoboth Bay until the completion of the following:

(i) The current shellfish survey being conducted by the Department of Natural Resources and Environmental Control is completed, and

(ii) Two public hearings regarding the shellfish manage-

ment plan for Indian River, Indian River Bay and Rehoboth Bay, have been held at the City of Rehoboth Beach, and

(iii) The General Assembly, by concurrent resolution, approves the shellfish management plan submitted by the Department of Natural Resources and Environmental Control for the commercial harvesting and recreational harvesting of shellfish within Indian River, Indian River Bay and Rehoboth Bay.

(c) Scientific Use of Shellfish Grounds

The Secretary is hereby authorized to issue a permit in the name of the State of Delaware for tracts or parcels of shellfish grounds to be used for scientific and/or management purposes determined by the Secretary to be in the best interests of shellfisheries management, to educational and/or scientific institutions; such permit shall contain at least the following information and criteria: seasonal dates, seasonal harvest, size limits and the reason for the issuance of the permit. The cost of processing shall be paid by the applicant.

§1906. Size and Advertising of Shellfish Grounds.

(a) No new shellfish grounds shall be leased to any person in tracts consisting of less than 50 or more than 100 acres. All new leases will be in a general rectangular shape. The restriction contained in this paragraph shall not apply to those leases granted for scientific purposes as described in Section 1905(c).

(b) The Department shall annually advertise the general locations of shellfish grounds which may be leased and are not currently subject to a valid lease. Such advertisements shall be in one daily newspaper of state-wide distribution and shall be published on two separate occasions at least thirty (30) days apart between the 1st of January and the 1st of March of each calendar year. Upon specific request, the

Department shall furnish a more detailed description of the specific shell-lands available for lease.

(c) Any person wishing to lease shellfish grounds in accordance with the provisions of this section shall make application to the Department prior to March 15 on the form which shall be provided by the Department. Each application must be complete. The Department may require additional and/or supplemental information if deemed necessary.

(d) In the event that more than one application is received for the same grounds, the grounds will be leased on a competitive sealed bid over and above the base fee for the first year.

§1907. Fees for Lease.

(a) The Department shall charge seventy-five cents (\$.75) per acre annually for shellfish grounds leased pursuant to this Chapter to a resident of the State of Delaware.

(b) The Department shall charge ten dollars (\$10.00) per acre annually for new shellfish grounds leased pursuant to this Chapter to nonresidents.

(c) The Department shall charge one dollar and fifty cents (\$1.50) per acre annually for shellfish grounds to nonresidents who hold valid leases at the time of adoption of this chapter.

(d) In addition to the above application fee for a shellfish ground lease, there will be an additional charge of fifteen dollars (\$15.00) per corner within sixty (60) days of the approval and acceptance of a lease. The Department will inspect all corners for said leased grounds and where necessary will assist in the relocation of buoys to their correct location. All corners will be located in accordance with the lease as filed with the Department.

§1908. Term of Leases.

(a) All shellfish leases shall begin on May 1 and end April 30 of the following year. In no case shall a shellfish lease be transferred or subleased, except to a person eligible according to the provision of this chapter.

(b) Upon Department approval, a lease will be drawn up and executed by the Secretary of the Department and the applicant.

Said lease shall be recorded with the Department and shall grant the exclusive shellfishing rights of those shellfish grounds to the leasee.

§1909. Actions subsequent to the Granting of a Lease.

(a) Upon approval of the application, the successful applicant will, within thirty (30) days after location of the corners by the Department, mark all corners of the area leased with buoys or stakes approved by the Department, such buoys or stakes shall, in addition to other requirements of the Department, extend vertically at least six (6) feet above mean high water.

(b) Any buoys or stakes removed, destroyed or broken in such a manner that said buoys or stakes are less than six (6) feet above mean high water shall be replaced with a positive flotation buoy within five (5) days and subsequently a buoy or stake extending six (6) feet above mean high water within thirty (30) days.

§1910. Annual report.

(a) An annual report shall be made to the Department by all holders of shellfish leases, commercial shellfish licenses and scientific or educational permits prior to the renewal of such leases, licenses or permits. This report shall be made on a form provided by the Department and shall include all information requested by the Department.

(b) Failure to submit or falsification of the reports required by the Department shall result in the automatic revocation of the lease, license or permit and fine of no less than \$100.00 nor more than \$2500.00 to be determined on the estimated amount of fees owed the Department by that person for the previous years shellfish harvests.

§1911. Removal of shellfish.

(a) It shall be unlawful for any person to take, carry away or remove shellfish or equipment from shellfish grounds leased, pursuant to this Chapter, to a person other than himself. If convicted, said person shall be guilty of grand or petty larceny according to the value of shellfish or equipment in question.

(b) For the purpose of determining the value of shellfish unlawfully removed, all shellfish found on board a vessel utilized in the removal of shellfish from grounds leased to another shall be presumed to have been unlawfully removed from those leased grounds.

(c) Any vessel on or over grounds leased to another shall be presumed to be removing shellfish from those grounds if that vessel has overboard at that time any device used for the taking of shellfish.

§1912. Penalties.

(a) Any person who violates any of the provisions of Chapters 19 through 25, except §1910, §1911, §2102, §2306, §2506, §2509, or any rules or regulations adopted pursuant thereto, shall be fined twenty-five dollars (\$25.00) for the first offense and one-hundred dollars (\$100.00) for each offense thereafter. Magistrates shall have jurisdiction over all offenses under this section.

(b) Any person convicted of violating any of the provisions of Chapters 19 through 25, or any rules or regulations

adopted pursuant thereto, may have, upon the recommendations to the Secretary by the majority of the Council on Shellfisheries and/or at the discretion of the Secretary, any licenses or permits issued to him revoked for a term to be determined by the Department.

§1913. Inspection and seizure.

(a) Any employee authorized by the Department at a reasonable time may board any boat, inspect equipment, materials or shellfish, or lands associated with or used in the taking or cultivation of shellfish.

(b) The Department may seize any shellfish or equipment as evidence which is believed to be in violation of or is being used by a violator of the provisions of Chapters 19 through 25 of the regulations promulgated pursuant thereto. Seized equipment at the discretion of the Department may be released upon the posting of a bond, the value of which shall be determined by the magistrate.

§1914. Disposition of evidence.

In the event that any shellfish are seized as evidence as a result of an investigation or an arrest for any violation of the statutes or regulations governing shellfish in the State of Delaware, said shellfish shall be disposed of as deemed appropriate by the Department.

§1916. Current leases.

All valid leases currently in effect upon adoption of this Chapter by the General Assembly will continue in full force and effect according to the provisions of this Chapter until April 30 of the year following the adoption of this Chapter at which time said leases will be renewable pursuant to the provisions, standards, guidelines, rules and regulations set forth in this Chapter and Chapters 21 through 25 or adopted pursuant thereto.

§1917. Expiration of licenses and permits.

All licenses and permits issued pursuant to Chapters 21 through 25 of this Title shall automatically expire on April 30 of each calendar year.

§1918. Reciprocity for Commercial Non-Resident Licenses.

(a) The provisions of this section applies to Title 7 of the Delaware Code.

(b) When by or pursuant to the laws of any other state should any other state impose any tax, other fee, or restrictions on non-residents for the privilege of commercial shellfishing or leasing of shellfish grounds within its boundaries, which tax, or other fee is in the aggregate greater or restriction is greater, to include but limited to the non-availability of license or leasing for non-residents, the same taxes, other fees, license requirements, and restrictions shall be imposed by the Delaware Division of Wildlife of the Department of Natural Resources and Environmental Control upon the residents of the State who seek to apply for a license to commercially shellfish or lease shellfish or lease shellfish grounds within the boundaries of this State.

CHAPTER 21. OYSTERS.**§2101. Leased and other grounds.**

Shellfish grounds other than those specifically leased by the Department shall be closed to the taking of oysters at all times except those specific areas specified by the Department which shall be open during those times and days which the Department shall designate. The method, quantity and times of take in those specified areas will be governed by the rules and regulations of the Department and any specific conditions which the Department may place on any specific area.

§2102. Natural oyster beds.

It shall be unlawful for any person to dredge, take or harvest in any manner whatsoever seed oysters or any oysters from the natural oyster beds unless specifically authorized by the Department.

Any person who violates the provisions of this section shall be fined a minimum of \$2,000.00.

§2103. Public tonging areas.

(a) The marking, working and planting of seed oysters on public tonging areas may be performed by the Department.

(b) It shall be unlawful to harvest oysters from the public tonging areas except as specifically authorized by the Department.

(c) It shall be unlawful to harvest oysters from the tributaries of the Delaware River and Bay except as authorized by the Department.

§2104. Method of take.

(a) It shall be unlawful for any person to use any hydraulic dredge or mechanical device which employs a vacuum or suction method for the taking, catching or harvesting of oysters from any natural oyster ground or public tonging area without the prior written consent of the Department.

(b) It shall be unlawful for any person to use catching devices other than patent tongs or hand tongs for the catching of oysters from any public tonging area. No more than two hydraulic patent tongs may be used per boat for the catching of oysters in any public tonging area.

(c) All oysters, oyster shells and other material, dredged, or in any manner raised or taken from the State-owned oyster beds north of the East Line shall be culled as soon as the same are emptied out of the dredges on the deck of the boat or vessel employed for that purpose and before the same are shoveled back from that portion of the deck used for emptying the dredges. All shells and other material, except oysters shall be immediately thrown back upon the beds or ground from which they have been taken. All such oysters, oyster shells and other materials shall be culled as aforesaid so closely that five (5) bushels thereof taken from any portion of a deckload of oysters, after they have been shoveled back from the part of the deck used for emptying the dredges aforesaid, shall not contain more than 20 percent of shells and other material.

(d) No oysters, which measure less than three (3) inches from hinge to mouth, shall at any time be taken from the public tonging areas or be in the possession of any person after being so taken; except that this prohibition shall not apply to seed oysters harvested under supervision of the Department or to spat adhering so closely as to be impossible to remove without destruction. All oysters, oyster shells and other material, tonged or in any manner raised or taken from the public tonging grounds within the jurisdiction of this State shall be culled before the same are removed from that portion of the deck used for emptying the tongs. All shells and other material, except oysters, shall be immediately thrown back upon the beds or ground from which they have been taken. All such oysters, oyster shells and other materials shall be culled as aforesaid so closely that two (2) bushels thereof taken from any portion of a load of oysters, after they have been removed from that part of the deck used for emptying the tongs aforesaid, shall not contain more than 5 percent of shells and other material. The daily take of market oysters from the public tonging areas in the Delaware Bay shall be established by regulation.

§2105. Resident fees.

(a) A harvest fee up to fifteen cents (\$.15) per bushel for

all market oysters previously removed from areas specified as natural oyster beds will be paid to the Department by April 30 of the next ensuing year.

(b) A fee of fifty cents (\$.50) per bushel of oysters removed from the public tonging areas in Delaware Bay shall be paid to the Department by May 1 of the next ensuing year.

§2106. Nonresident fees.

(a) A harvest fee of one dollar (\$1.00) to ten dollars (\$10.00) per bushel for all market oysters previously removed from areas specified as natural oyster beds will be paid to the Department by April 30 of the next ensuing year.

(b) A fee of two dollars (\$2.00) to twenty dollars (\$20.00) per bushel of oysters removed from the public tonging areas in Delaware Bay shall be paid to the Department by April 30 of the next ensuing year based on the costs to the State for the public tonging program.

§2107. Vessel licensing.

(a) It shall be unlawful for any vessel to harvest and/or transplant oysters from the natural oyster beds or from leased grounds within the jurisdiction of the State of Delaware without possessing a valid current oyster harvesting license. Oyster harvesting licenses shall expire each year on April 30.

(b) Application shall be made on the forms provided by the Department and shall be issued only after approval of the contents of the application and upon the conditions set forth by the Department including the advance consent for a Departmental inspection of said vessel at any time.

(c) The fee for an oyster harvesting license shall be fifty dollars (\$50.00) for residents and five hundred dollars (\$500.00) for nonresidents.

§2108. Public tonging area license requirements.

It shall be unlawful for any person to harvest oysters from any public tonging areas unless said person has applied for and secured from the Department and has in his possession a valid public oyster tongs license. The fee for a public oyster tongs license shall be fifty dollars (\$50.00) for residents and five hundred dollars (\$500.00) for nonresidents. All public oyster tongs licenses shall expire on April 30 of each calendar year.

§2109. Natural oyster grounds reports.

It shall be unlawful for any person authorized by the Department to work on and remove oysters from the natural oyster grounds to not report his catches daily to the captain of the nearest available vessel of the Department.

§2110. Seed oysters; sources, inspection.

It shall be unlawful for any person to bring oysters from outside the State of Delaware to be placed in the waters of the State of Delaware without prior written permission from the Department.

§2111. Unloading locations.

It shall be unlawful for any person to unload oysters taken from the waters of shellfish grounds within the jurisdiction of the State of Delaware at any port or unloading facilities located outside the geographic boundaries of the State of Delaware.

§2112. Disposition of oysters removed from natural oyster beds.

All oysters removed from the natural oyster beds in Delaware must be deposited in Delaware on shellfish

grounds leased from the Department or on public tonging areas.

CHAPTER 23. BLUE CRABS (*CALLINECTES SAPIDUS*).

§2301. Minimum size.

It shall be unlawful for any person to take from any waters within the jurisdiction of the State of Delaware or have in his possession at any time any hard shell blue crab measuring less than five inches from tip to tip, nor any soft shell blue crab measuring less than three and one-half (3½) inches from tip to tip, nor any peeler blue crab measuring less than three (3) inches from tip to tip. Any commercial measure of blue crabs shall not contain more than five percent (5%) crabs that are less than the respective minimum size.

§2302. Female blue crabs bearing eggs.

It shall be unlawful for any person to take or have in his possession or offer for sale at any time any female blue crab bearing eggs visible thereon (sponge crabs), or any female blue crab from which the egg pouch or bunion has been removed.

§2303. Commercial Crab Pot License.

(a) It shall be unlawful for any person to catch or land crabs for commercial purposes in this State unless said person has applied for and secured from the Department and has in his possession a valid commercial crab pot license. The fee for a resident commercial crab pot license shall be twenty-five dollars (\$25) for up to fifty (50) pots; fifty dollars (\$50) for up to one hundred (100) pots; seventy-five dollars (\$75) for up to one hundred fifty (150) pots; and one hundred dollars (\$100) for up to two hundred (200) pots. The fee for non-resident commercial crab pot licenses shall be

two hundred and fifty dollars (\$250) for up to fifty (50) pots, five hundred dollars (\$500) for up to one hundred (100) pots, seven hundred and fifty dollars (\$750) for up to one hundred fifty (150) pots, and one thousand dollars (\$1000) for up to two hundred (200) pots. Said license shall be valid only for commercial taking of crabs from one vessel owned and operated by the applicant or designees approved in the license. Designees for a holder of a Resident Commercial Crabpot license must be residents of the State of Delaware.

(b) The license issued pursuant to this section shall automatically expire on April 30.

(c) In the event that a licensee is unable to tend his crab pots from the vessel specified in his license application, said licensee shall apply to the Department within 48 hours after the boat or vessel has been disabled for a written permit to be carried on his person to tend his pots from another specified vessel for a period to be specified by the Department.

§2304. Area Permitted.

It shall be unlawful for any commercial crabber to catch or take, or attempt to catch or take for commercial purposes any hard shell, soft shell or peeler crabs from any waters of the rivers and bays of this State and the tributaries thereof nor sell, offer for sale or buy any hard shell crabs taken from said waters, except the Delaware Bay and the Delaware River.

§2305. Seasons and Limits.

No person shall catch and take or attempt to catch and take crabs in any of the waters under the jurisdiction of this State with any commercial crab pot between the first day of December of each year and the last day of February immediately following.

The Department may restrict the number of crab pots

which may be set by any one licensee when, in its discretion, the Department determines from biological evidence that emergency restrictions are necessary to protect crabs or other shellfish resources of the State of Delaware, they may do so with such advance notice as it deems necessary.

No person shall catch and take or attempt to catch and take crabs by dredge in any of the waters under the jurisdiction of this State between March 31 of each year and December 15 thence next ensuing of any year.

§2306. Marking of Commercial Crab Pots and Vessels; Penalties.

(a) The buoys of all crab pots placed for commercial purposes shall be colored a specific color combination as assigned to each commercial crab pot licensee. The crabbing vessel specified on the license shall display the same color code assigned to the licensee on a panel measuring at least two feet (2') by two feet (2'). Said panel must be fully visible from either side of the vessel.

(b) It shall be unlawful for any person to lift any commercial crab pot from a vessel other than the one corresponding with the color code on that crab pot buoy. Any commercial crab pot which is not marked as specified in this section may be confiscated by the Department. Any person guilty of taking crabs from a commercial crab pot from a vessel other than the one corresponding with the color code of that pot buoy shall be fined one hundred dollars (\$100).

§2307. Winter Dredge Crab License.

It shall be unlawful for any person to dredge for blue crabs in this State unless said person has applied for and secured from the Department and has in his possession a valid crab dredgers license. The fee for a resident crab dredgers license shall be fifty dollars (\$50). The fee for a non-resident crab dredgers license shall be five hundred dollars (\$500).

two hundred and fifty dollars (\$250) for up to fifty (50) pots, five hundred dollars (\$500) for up to one hundred (100) pots, seven hundred and fifty dollars (\$750) for up to one hundred fifty (150) pots, and one thousand dollars (\$1000) for up to two hundred (200) pots. Said license shall be valid only for commercial taking of crabs from one vessel owned and operated by the applicant or designees approved in the license. Designees for a holder of a Resident Commercial Crabpot license must be residents of the State of Delaware.

(b) The license issued pursuant to this section shall automatically expire on April 30.

(c) In the event that a licensee is unable to tend his crab pots from the vessel specified in his license application, said licensee shall apply to the Department within 48 hours after the boat or vessel has been disabled for a written permit to be carried on his person to tend his pots from another specified vessel for a period to be specified by the Department.

§2304. Area Permitted.

It shall be unlawful for any commercial crabber to catch or take, or attempt to catch or take for commercial purposes any hard shell, soft shell or peeler crabs from any waters of the rivers and bays of this State and the tributaries thereof nor sell, offer for sale or buy any hard shell crabs taken from said waters, except the Delaware Bay and the Delaware River.

§2305. Seasons and Limits.

No person shall catch and take or attempt to catch and take crabs in any of the waters under the jurisdiction of this State with any commercial crab pot between the first day of December of each year and the last day of February immediately following.

The Department may restrict the number of crab pots

which may be set by any one licensee when, in its discretion, the Department determines from biological evidence that emergency restrictions are necessary to protect crabs or other shellfish resources of the State of Delaware, they may do so with such advance notice as it deems necessary.

No person shall catch and take or attempt to catch and take crabs by dredge in any of the waters under the jurisdiction of this State between March 31 of each year and December 15 thence next ensuing of any year.

§2306. Marking of Commercial Crab Pots and Vessels; Penalties.

(a) The buoys of all crab pots placed for commercial purposes shall be colored a specific color combination as assigned to each commercial crab pot licensee. The crabbing vessel specified on the license shall display the same color code assigned to the licensee on a panel measuring at least two feet (2') by two feet (2'). Said panel must be fully visible from either side of the vessel.

(b) It shall be unlawful for any person to lift any commercial crab pot from a vessel other than the one corresponding with the color code on that crab pot buoy. Any commercial crab pot which is not marked as specified in this section may be confiscated by the Department. Any person guilty of taking crabs from a commercial crab pot from a vessel other than the one corresponding with the color code of that pot buoy shall be fined one hundred dollars (\$100).

§2307. Winter Dredge Crab License.

It shall be unlawful for any person to dredge for blue crabs in this State unless said person has applied for and secured from the Department and has in his possession a valid crab dredgers license. The fee for a resident crab dredgers license shall be fifty dollars (\$50). The fee for a non-resident crab dredgers license shall be five hundred dollars (\$500).

§2308. Area Permitted and Method of Take.

(a) Dredging for blue crabs is permitted only on unleased shellfish grounds in Delaware Bay. Under no circumstances, shall any person operate a dredge for the purpose of taking crabs over leased shellfish grounds, natural oyster beds, public tonging areas, or other areas declared off limits to potting or dredging for crabs by the Secretary, pursuant to the provisions of Chapters 19 through 25 of Title 7, Delaware Code.

(b) It shall be unlawful for any person to use any hydraulic dredge or mechanical device which employs a vacuum or suction method for the taking or catching or harvesting of crabs from any of the waters under the jurisdiction of this State without the prior written consent of the Department which may be granted for research purposes.

(c) Those crabs of legal size and condition taken by oysterman with a valid oyster harvesting license or by a clammer with a valid commercial dredge clam license while engaged in legal dredging operations may be retained for non-commercial purpose.

§2309. Unloading Locations.

It shall be unlawful for any person to unload blue crabs taken from the waters or shellfish grounds within the jurisdiction of the State of Delaware at any port or unloading facilities located outside the geographic boundaries of the State of Delaware.

§2310. Noncommercial Crabbing.

(a) Noncommercial crabbing is permitted in any of the waters under the jurisdiction of the State of Delaware unless otherwise posted by the Department of Natural Resources and Environmental Control.

(b) It is unlawful for any person actively engaged in noncommercial crabbing to sell any crabs.

(c) A crab pot placed by a person for noncommercial purposes shall be marked with all white buoys and black lettering for the initials "N.C." followed by a dash and then followed by the owner's initials (i.e. John Smith would mark his pots as follows: "N.C. - J.S."). The use of more than two (2) crab pots by any individual shall constitute prima facie evidence of commercial intent and shall be unlawful.

CHAPTER 24. HARD CLAMS (MERCENARIA MERCENARIA).

§2401. Minimum Size.

It shall be unlawful for any person to possess hard clams taken from the waters under the jurisdiction of the State of Delaware which measure less than one and one-half (1½) inches. Any commercial measure of hard clams shall not contain more than five percent (5%) clams that are less than one and one-half (1½) inches.

§2402. Commercial Clam Tong/Rake License.

It shall be unlawful for any person to tong or to rake clams for commercial purposes in this State unless said person has applied for and secured from the Department and has in his possession a valid clam tong/rake license. The fee for a commercial clam tong/rake license shall be fifty dollars (\$50) for residents and five hundred dollars (\$500) for nonresidents. A commercial clam tong/rake license will entitle the holder to harvest a maximum number set by Department regulations.

§2403. Area Permitted; Method of Take with Clam Tong/Rake License.

(a) It shall be unlawful to take clams from any leased

shellfish grounds or contaminated area as determined by the Department in Delaware Bay, Indian River and Bay, Rehoboth Bay, Little and Big Assawoman Bays and the tributaries thereof, except a person may take clams from his own leased shellfish grounds.

(b) It shall be unlawful to take or attempt to take clams under a clam tong/rake license with any device from a vessel powered by sail or mechanical means.

§2404. Commercial Dredge Clam License.

It shall be unlawful for any person to dredge for hard clams in this State unless said person has applied for, secured from the Department and has in his possession a valid clam dredgers license. The fee for a resident clam dredgers license shall be fifty dollars (\$50). The fee for a nonresident clam dredgers license shall be five hundred dollars (\$500).

§2405. Area Permitted and Method of Take with Commercial Dredge Clam License.

(a) It shall be unlawful to dredge for hard clams with a commercial dredge clam license or leased shellfish grounds, except that a person may dredge hard clams from his own leased shellfish grounds.

(b) It shall be unlawful to dredge hard clams in any waters designated as contaminated by the Department of Health and Social Services.

(c) It shall be unlawful for any person to use any hydraulic dredge or mechanical device which employs a vacuum or suction method for the taking or catching or harvesting of clams from any of the waters under the jurisdiction of this State without the prior written consent of the Department.

§2406. Seasons and Limits.

The Department will establish by regulation the seasons for the taking of clams and/or limit the number of clams which may be harvested commercially by any one licensee. If, in its discretion, the Department determines from biological evidence that emergency restrictions are necessary to protect clams or other shellfish resources of the State of Delaware, they may do so with advance notice as it deems necessary.

§2407. Unloading Locations.

It shall be unlawful for any person to unload hard clams taken from the waters or shellfish grounds within the jurisdiction of the State of Delaware at any port or unloading facilities located outside the geographic boundaries of the State of Delaware.

§2408. Non-Commercial Clamming Permit.

(a) It shall be unlawful for any person to harvest, in any one day, hard clams for non-commercial purposes in excess of the daily recreational clam limit unless said person has applied for and received from the Department of Natural Resources and Environmental Control, and has in his possession a valid non-commercial clamming permit. The fee for a resident non-commercial clam permit will be five dollars (\$5.00). The fee for a non-resident non-commercial clamming permits will be fifty dollars (\$50.00).

(b) The Department will establish, by regulation, the seasons for taking clams and/or limit the number of clams that may be harvested in any one day for non-commercial clamming permit holders.

§2409. Recreational Clamming.

(a) Any person may harvest hard clams for recreational purposes without a license or permit. Designees of a resident commercial lobster license shall be residents of the State of Delaware.

(b) The Department will establish, by regulation, the seasons for the taking of clams and/or limit the number of clams which may be taken for recreational purposes.

CHAPTER 25. AMERICAN LOBSTERS (HOMARUS AMERICANUS).

§2501. Minimum Size.

It shall be unlawful for any person to take from any waters within the jurisdiction of the State of Delaware or have in his possession at any time any American lobster measuring less than three and three-sixteenths inches ($3\frac{3}{16}$ "') in length measured from the rear end of the eye socket along a line parallel to the center line of the body shell (Carapace) to the posterior end of the body shell.

§2502. Female Lobsters Bearing Eggs.

It shall be unlawful for a person to take, offer for sale or have in his possession at any time any female lobster bearing eggs visible thereon (berried lobsters) or any female lobster from which the eggs have been removed.

§2503. Landing of Dismembered Lobsters.

It shall be unlawful for any person, firm or corporation to bring to shore in Delaware or have in possession on the waters of this State any dismembered lobsters, detached tails or claws, picked or cooked lobster meat.

§2504. Commercial Lobster Pot License.

(a) It shall be unlawful for any person to catch or land lobsters for commercial purposes in this State unless said person has applied for, secured for the Department and has in his possession a valid commercial lobster pot license. The fee for a resident commercial lobster license shall be fifty dollars (\$50). The fee for a nonresident commercial lobster

license shall be five hundred dollars (\$500). Said license shall be valid only for the commercial taking of lobsters from one vessel operated by the applicant or designee as specified in the license.

(b) In the event that a licensee is unable to tend his lobster pots from the vessel specified in his license applications, said licensee shall apply to the Secretary for a written permit to be carried on his person to tend his pots from another specified vessel for a period to be specified by the Department.

§2505. Area Permitted and Method of Take.

(a) Potting for lobsters is permitted in any waters under jurisdiction of the State of Delaware.

(b) It shall be unlawful to take or attempt to take lobsters for commercial purposes by any method other than a lobster pot, the number of and design of said pots will be established by regulation.

(c) It shall be unlawful to take or attempt to take lobsters by dragging, dredging, trawling, and spearing.

§2506. Marking of Commercial Lobster Pots and Vessels.

The buoys of all lobster pots placed for commercial purposes shall be marked with the color code and number that is assigned to each commercial lobster pot licensee. All buoys must be of a positive flotation material. The lobstering vessel specified on the license shall display the color code assigned to the licensee on a panel measuring at least two feet (2') by two feet (2'). Said panel must be fully visible from either side of said vessel. It shall be unlawful for any person to lift any commercial lobster pot from a vessel other than the one corresponding to the color code on that pot buoy. Any pot attached to a buoy, which is not marked as specified in the regulation, may be confiscated by the Department. Any per-

son guilty of removing lobsters from any commercial lobster pot from a vessel other than the one corresponding to the color code on that pot buoy shall be fined one hundred dollars (\$100).

§2507. Seasons and Limits.

The Department will establish by regulation the seasons for the taking of lobsters and will determine the number of lobster pots which may be set by any one licensee. If, in its discretion, the Department determines from biological evidence that emergency restrictions are necessary to protect lobsters or other shellfish resources of the State of Delaware, they may do so with advance notice as it deems necessary.

§2508. Noncommercial Lobstering.

(a) A lobster pot placed by a person for noncommercial purposes shall be marked with a buoy painted white and have black lettering and be marked with the initials "N.C." followed by a dash and then followed by the owner's initials (i.e. John Smith would mark his lobster pot buoys as follows: "N.C. - J.S."). The use of more than two (2) lobster pots by any individual or his agents shall constitute prima facie evidence of commercial intent and shall be unlawful.

(b) Noncommercial potting for lobster is permitted in any waters under the jurisdiction of the State of Delaware.

(c) It shall be unlawful for any person who is engaged in noncommercial lobstering to sell any lobsters.

(d) Any individual diver may catch, by hand up to two lobsters a day.

§2509. Unloading Locations.

It shall be unlawful for any person to unload lobsters taken from the waters or shellfish grounds within the jurisdiction of the State of Delaware at any port or unloading facilities located outside the geographic boundaries of the State of Delaware.”

Section 3. This Act shall become effective 30 days after signature by the Governor.

Approved July 7, 1976

CHAPTER 514

HOUSE BILL NO. 953
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 212, VOLUME 25, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF BETHANY BEACH AND GIVING IT AUTHORITY TO ISSUE BONDS", AS AMENDED, AND RELATING TO QUALIFICATIONS AND FILING FOR THE OFFICE OF COMMISSIONER, TO QUALIFICATIONS OF VOTERS TO ELECTION DAY, TO THE REMOVAL OF ELECTION OFFICIALS, TO THE PROCEDURE FOR CONDUCTING MUNICIPAL ELECTIONS AND TO THE PROCEDURE FOR ENACTING ORDINANCES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each branch thereof concurring therein):

Section 1. Amend Sections 2, 3, 4 and 5, Chapter 215, Volume 25, Laws of Delaware, as amended, by striking said Sections 2, 3, 4 and 5, and inserting in lieu thereof the following sections:

"Sections 2. (a) The inhabitants of the Town of Bethany Beach shall be and they are hereby constituted and continued a municipal corporation and body politic in law and equity by and under the name and style of "The Town of Bethany Beach", hereinafter called the "Town". Under said name the Town shall have perpetual succession; may have and use a corporate seal which may be altered, changed or renewed at pleasure; may sue and be sued, plead and be impleaded in all Courts of law and equity in The State of Delaware, and elsewhere, by said corporate name; may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal property within or without

its boundaries, as set forth in this Act, in fee simple or for lesser estate or interest; may sell, lease, hold, manage and control such property as its interest may require; and may do all other things which a body politic and corporate may lawfully do to carry out and effect the object and purposes of this Act.

(b) In addition to the other powers and functions granted herein, the Town shall have all the powers and functions requisite to or appropriate for the government of the Town, its peace and order, its sanitation, beauty, health, safety, convenience, comfort and wellbeing of its population, and the protection and preservation of property, public and private.

(c) The enumeration of particular powers herein shall not be held to be exclusive or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, it is intended that the Town shall have, and may exercise, all powers which, under the Constitution of The State of Delaware, it would be competent for this Act specifically to enumerate. All powers of the Town whether expressed or implied, shall be exercised as prescribed by this Act or, if not prescribed herein, by ordinance or resolution of the Commissioners.

Section 3. The government of the Town and exercise of all power conferred by this Act, except as otherwise provided herein, shall be vested in the Commissioners of The Town of Bethany Beach. The Commissioners of The Town of Bethany Beach shall consist of seven (7) members, to be chosen as hereinafter provided.

Section 4. The qualifications for the office of Commissioner shall be as follows:

(a) Each Commissioner at the time of his or her election or at the time of his or her appointment, as the case may be,

shall have attained 21 years of age and shall be otherwise qualified as a voter as defined in Section 10 hereof.

(b) All of the Commissioners may be residents of the Town; however, at least four (4) of the Commissioners shall be residents of the Town on the date of the filing of notice of intention to seek office, or on the date of their appointment, as the case may be. In addition to being qualified as a Commissioner, as set forth above, the Commissioners with the titles of President (Mayor), Vice President and Secretary-Treasurer, shall also be residents of the Town as defined in this sub-section. If any of the Commissioners shall, during his or her term of office, cease to be a freeholder in the Town, he or she shall be deemed to have vacated his or her office by reason of said fact alone. If the President (Mayor), Vice President or Secretary-Treasurer shall during his or her term of office, cease to be a resident of the Town, he or she shall be deemed to have vacated such office by reason of said fact alone, but shall not be deemed to have vacated the office of the Commissioner unless he or she shall have ceased to be a freeholder in the Town. If a "non-resident" Commissioner establishes residency in the Town during his or her term of office, he or she shall not be deemed to have vacated such "non-resident" office by reason of said fact alone. If a resident Commissioner fails to maintain residency in the Town, but remains a freeholder, he or she shall not be deemed to have vacated such "resident" office by reason of said fact alone. The Commissioners shall be the sole and final judges of the qualifications of their members. For purposes of this Act: (i) a "freeholder" shall be deemed to include any person who holds title of record to a fee simple estate or a life estate in and to real property located within the Town boundaries; (ii) a "resident" shall mean any person who has during the 12-month period immediately preceding his or her filing date of notice of intention to seek office, as provided herein or date of appointment, as the case may be, actually lived in the Town at least nine (9) months, consecutively or non-consecutively, or said preceding 12-month period.

Section 5. The present Commissioners, and other

officers appointed to serve, shall continue to serve as Commissioners and officers of the Town from and after the passage hereof until their successors are duly elected or appointed. At the annual election held on the first Saturday after Labor Day, 1976, four (4) Commissioners shall be elected for terms of two years each. Thereafter, three (3) Commissioners shall be elected in odd numbered years and four (4) in even numbered years at the annual election held on the first Saturday after Labor Day.

Section 6. (a) The seven (7) offices of Commissioner shall be elective. All other offices shall be appointive and the person or persons filing such appointive offices shall be appointed by the Commissioners.

(b) In the case of a vacancy created in any office of Commissioner, either by death, resignation, loss of residence or freeholdership, or other disqualifying event, as set forth in subsection (c) hereof, the other Commissioners shall fill such vacancy for the remainder of the whole term.

(c) If any elective officer be found guilty of any felony, he or she shall forthwith be disqualified to act as such officer and shall by that fact alone be deemed to have vacated his or her elective office, and such office shall be filled by the other Commissioner as in the case of other vacancies.

Section 7. (a) An organization meeting of the Commissioners shall be held as soon as practicable following the annual election. The Commissioners at said organization meeting shall meet at the usual place for holding regular meetings. The newly elected Commissioners shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, or by one of the holdover Commissioners.

(b) At the organization meeting the Commissioners shall elect one of their number as the President and Presiding Officer to serve for a term of one (1) year or until the first

regular meeting after the next succeeding election. The President shall hold the title of "Mayor". The Commissioners shall elect a Vice President and a Secretary-Treasurer to serve for a term of one (1) year or until the first regular meeting after the next succeeding election. The Commissioners may also elect and appoint such other officers and employees as may be necessary. If the Commissioners are unable to elect one of their own number to fill the aforesaid offices, then such office shall be filled by "lot" by the Commissioners.

Section 8. Each candidate for the office of Commissioner shall file his or her notice of intention to seek office in the following manner:

(a) At least 30 days before the time set for election, file with the Town Clerk a letter, or other written statement, setting forth that he or she is a candidate for the Office of Commissioner. The Commissioners shall refuse to accept for filing the name of any candidate who fails to meet the requirements of this Act.

Section 9. (a) Annual elections for Commissioners shall be held on the first Saturday after Labor Day from 1:00 P.M. to 4:00 P.M., prevailing time, at such place or places as shall be determined by the Commissioners, due notice of which shall be given by posting notices thereof in five (5) public places in the Town not less than twenty (20) days before the day of such annual election; provided, however, that in the event that there is no contest for any of the several offices to be elected in any year, the polls shall not remain open after 2:00 P.M.

(b) All elections, set for Commissioner or otherwise, shall be by ballot, the form, manner and conduct of which shall be prescribed by the Commissioners by resolution.

(c) Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one

(1) Inspector of the Election and two (2) Judges of the Election. The Inspector and Judges constituting the Election Board shall be qualified voters of the Town and shall be appointed for that purpose by the Commissioners at least twenty (20) days before such election. Members of the Election Board shall be the sole and final judges of the legality of the voters offered. The Election Board shall keep a true and accurate list of all persons voting. The Election Board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualification of voters and the legality of any vote or votes offered.

(d) Upon the close of the election, the votes shall be read and counted and the persons having the highest number of votes shall be declared, by the Election Board, to be duly elected to such vacant offices as then exist, and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.

(e) In the event of a tie vote for any office, the Election Board shall determine such tie by lot.

(f) All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of ten days, save and excepting those ballots offered by persons who shall not have satisfied the Election Board that he or she or they possessed the qualifications of a Town voter as prescribed herein.

(g) The Election Board shall enter in a book, to be provided for that purpose, the results of the election, containing the names of the persons elected. The members of the Election Board shall subscribe the same and shall give to the persons elected certificates of their election. The book, containing such matters, shall be preserved by the Commissioners.

Section 10. Any person shall be qualified to vote who on the date of the election shall have attained eighteen

(18) years of age and who shall have been either (a) a freeholder in the Town, as defined herein, for a period of ninety (90) consecutive days immediately preceding the date of the election or (b) a resident of the Town for at least nine (9) months, consecutively or non-consecutively of the twelve (12) month period immediately preceding the date of the election in which he or she seeks to vote and against whose property there is no unpaid tax of the Town for any prior year.

Section 11. (a) The Commissioners shall determine their own rules of procedure and order of business. They shall keep a record of their proceedings and the record shall be open to public inspection. Every public inspection. Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the affirmative vote of a majority of the Commissioners elected. Vote on any ordinance may be by voice or written vote and the vote of each Commissioner on any ordinance shall be entered on the record.

(b) The Commissioners shall by ordinance or resolution fix the amount of any salaries or compensation of the employees, officers and agents of the Town, and the time and manner of payment; provided, that the salary or compensation of an employee, officer or agent shall not be increased, during the term of said office should said appointment thereto be for a designated term. No officer, employee or agent of the Town shall in any form have, take, or receive from the Town any compensation, in any form, in addition to the salary or compensation fixed by the Commissioners.

(c) The Commissioners shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the Town, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received and the date of the termination of their services. In the event that they shall hold their office for an indefinite term, the record shall so state."

Section 2. Amend Sections 6, 7, 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 of Chapter 212, Volume 25, Laws of Delaware, as amended, by renumbering said Sections as Sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32, respectively.

Approved July 7, 1976

CHAPTER 515

HOUSE BILL NO. 1171

**AN ACT TO INCORPORATE THE VILLAGE OF
ARDENCROFT.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each branch thereof concurring therein):

Name and General Powers

Section 1. (a) The inhabitants of the Village of Ardencroft in New Castle County, Delaware, and their successors within the limits hereinafter prescribed or hereafter established, are hereby constituted, created and established a municipal corporation and body public forever, by the name and style of the "Village of Ardencroft" hereinafter "the Village".

(b) Under that name they shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure; may sue or be sued; for any public, municipal educational or charitable purpose, may acquire by gift, grant, purchase, lease, demise, bequest or otherwise hold, real and personal property within and without the limits hereinafter prescribed; for the common benefit may dispose of real and personal property owned or held by it; and shall possess in addition to the powers expressly enumerated or specifically mentioned in this Act, all powers, which under the Constitution of the State of Delaware, it is now or in the future may be, lawful for this Act to enumerate. All powers of the Village, whether expressed or implied, shall be exercised as prescribed by this Act. If no procedure or manner of exercise be prescribed herein the same shall be exercised as prescribed by an appropriate ordinance or resolution of the Town Meeting of Ardencroft.

Territorial Limits

Section 2. (a) The corporate limits of the Village are hereby established and declared to be as follows:

Beginning at the point of intersection of the center line of the Bird or Veale Road with the center line of the Grubb or Harvey Road; thence along the center line of the Grubb or Harvey Road, South thirty-five degrees fifty-eight minutes East four hundred eighty and eighty hundredths feet and South thirty-six degrees twelve minutes East three hundred twenty-two and fifty-five hundredths feet to a corner of lands formerly of Adam Williamson now the lands of Frank L. Speakman; thence along the boundary line of lands of said Frank L. Speakman South fifty degrees fifty-nine minutes West, passing over a three-quarter inch diameter iron pipe at a distance of twenty-five and three hundredths feet, a total distance of eleven hundred sixty-eight and thirty-one hundredths feet to old fence post at an angle point; thence continuing along the boundary line of lands of said Frank L. Speakman South fifty-three degrees fifty minutes five seconds West three hundred twenty-seven and seventy-two hundredths feet to a four and one-half inch diameter iron post marking the corner of lands formerly of James S. Conly, later lands of W. W. Weiman, now the lands of J. Christy Conner, Jr.; thence along the boundary line of lands now of J. Christy Conner, Jr. North twenty-four degrees twenty-five minutes twenty seconds West, passing through a four and one-half inch diameter iron post at a distance of one thousand forty-three and two hundredths feet, a total distance of one thousand sixty-one and forty-nine hundredths feet to the center line of the Bird or Veale Road; thence along the center line of said Bird or Veale Road North eighty-seven degrees thirty-nine minutes thirty seconds West one hundred thirty-three and seventeen hundredths feet to a point, said point being on the extension Southeasterly of the Southwesterly side of a twenty-five feet wide right of way, and a corner of lands recently conveyed by Mary A. Burnham to Ralph P. Ryan and Isabel S. Ryan, his wife; thence along the boundary line of the land of Ralph

P. Ryan and Isabel S. Ryan and along the Southwesterly side of a twenty-five feet right of way above mentioned North twenty-two degrees forty-one minutes fifteen seconds West seven hundred twentys-seven and seventy-seven hundredths feet to an iron pipe, a corner of land of said Ryans and said Mary A. Burnham; thence North seventeen degrees thirty-two minutes fifty-five seconds West one hundred and thirty-nine and fifteen hundredths feet to an iron pipe and North twenty-two degrees forth-one minutes fifteen seconds West-one hundred and forty-nine and fifty-nine hundredths feet to an iron pipe, a corner of said land of said Ryans and of the real estate development known as Arden; thence along the boundary line of said Arden tract North fifty-seven degrees thirty-eight minutes fifty seconds East eight hundrd and nine and seventy-seven hundredths feet to a one-half inch diameter pipe that marks the corner of lands of Foord Von Bichowsky; thence partly along the boundard lines of Foord Von Bichowsky, E. F. Harford, and H. E. Wolcott, South thirty-five degrees fifty-four minutes fifteen seconds East seven hundred four and forty-nine hundredths feet to a one inch diameter iron pipe that marks the corner of property of H. E. Wolcott; thence along the boundary line of lands of H.E. Wolcott North fifty-four degrees fifty-seven minutes thirty seconds East, passing over a three-quarter inch diameter pipe at a distance of three hundred five and fifteen hundredths feet to the center line of the above mentioned Grubb or Harvey Road; thence along the center line of the said Grubb or Harvey Road South thirty-five degrees fifty-eight minutes East four hundred eighty and seventy-four hundredths feet, a total distance of three hundred thirty and fifteen hundredths feet to the center line of the above mentioned Grubb or Harvey Road; thence along the center line of the said Grubb or Harvey Road South thirty-five degrees fifty-eight minutes East four hundred eighty and seventy-four hundredths feet to the center line of the above mentioned Bird or Veale Road and the place of Beginning. Containing within said metes and bounds sixty and seven hundredths acres be the same more or less.

(b) The Town Meeting may at any time hereafter, cause a survey and plot of the village to be made, and said plot or

any supplement thereto, when so made and approved by the Town Meeting signed by the Secretary of the Town Meeting, who shall affix thereto the municipal corporate seal of the Village, and upon being recorded in the office of the Recorder of Deeds of the State of Delaware in and for New Castle County, shall be the record thereof, and such record, or a duly certified copy thereof, shall be evidence in all Courts of Law and Equity of this State.

Definitions

Section 3. As used in this Act

(a) Eligible Voter shall mean a person, male or female, above the age of eighteen (18) years, who shall have resided in the Village for a period of 30 consecutive days of actual residence.

(b) Officers of the Town Meeting shall be the Town Meeting Chairperson, Secretary and Treasurer.

Structure of Government

Section 4. The government of the Village and the exercise of all powers conferred by this Act, except as otherwise provided herein, shall be vested in the Town Meeting of the Village of Ardencroft, referred to herein as the "Town Meeting". The Town Meeting shall consist of all eligible voters of the Village.

Meetings of the Town Meeting

Section 5. (a) Six regular meetings of the Town Meeting shall be held each year during the months of January, March, May, July, September and November at the Arden Gild Hall or other suitable public place, the date and time of regular meetings shall be established by the Town Meeting. Written notice of the time, date, and place of regular meetings of the Town Meeting shall be given by the

Secretary of the Town Meeting to all eligible voters at least 5 days prior thereto, by mail or delivery.

(b) Special meetings of the Town Meeting shall be called by the Secretary of the Town Meeting (1) upon written request of 15 eligible voters, provided that such request shall state the purpose for calling such meeting, which purpose shall be set forth in the notice of such meeting; or (2) upon the affirmative vote of a majority of eligible voters at a regular or special meeting shall state the purpose therefore, which purpose shall be set forth in the notice thereof. Notice of time, date, and place of any special meeting of the Town Meeting shall be given to all eligible voters at least 7 days before the date thereof, by mail or delivery.

(c) At all meetings of the Town Meeting, twenty (20) eligible voters shall constitute a quorum for the enactment of all ordinances, the adoption of all resolutions and motions, and the transaction of all business properly before the Town Meeting.

(d) Each eligible voter attending a meeting of the Town Meeting shall have one vote on each matter brought before such meeting. The Secretary of the Town Meeting shall take the yeas and nays and, unless otherwise specified in this Act, a majority of the yeas shall be sufficient to pass all ordinances, resolutions and motions at any meeting of the Town Meeting, and to transact all business properly brought before the meeting.

(e) No ordinance of the Village shall be voted upon by the Town Meeting unless submitted to the Town Meeting in writing and read at two consecutive meetings whether regular or special, next preceeding the meeting at which such ordinance shall be voted upon.

(f) The Town Meeting shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays which shall be taken upon the passage of every ordinance and resolution.

Officers

Section 6. (a) The Town Meeting shall elect annually an eligible voter to serve as Chairperson of the Town Meeting who shall preside at all meetings thereof, and who may be empowered by the Town Meeting to appoint members to Special Committees. The Chairperson shall serve for a term of one (1) year or until his successor is duly elected by the Town Meeting in accordance with the provisions hereof. The signature, certifications or attestation of the Chairperson of the Town Meeting to any document pertaining to the affairs of the Village called for by any act, statute, rule or regulation of the State of Delaware or any agency thereof shall be good and sufficient compliance therewith, notwithstanding that such act, statute, rule or regulation designates such document to be signed, certified or attested by the Mayor, City Manager, President or Council or like designated chief executive of an incorporated municipality of the State of Delaware.

(b) The Town Meeting shall elect annually an eligible voter to serve as Secretary of the Town Meeting for a term of one year or until a successor is duly elected by the Town Meeting in accordance with the provisions hereof. The Secretary shall have charge and custody of the books, journal, records, papers and other effects of the Village and shall keep the same in a safe and secure place. The Secretary shall file and keep in a safe place the seal of the Village and all papers and documents arising out of the proceedings of the Town Meeting and relative to the affairs of the Village and shall deliver the same to the successor in office. The Secretary shall attest the seal of the Village when authorized by the Town Meeting and shall perform such duties and have such other powers as may be prescribed by ordinance. All books, records and journals of the Village in the custody of the Secretary may, upon written request be inspected in the presence of the Secretary by any eligible voter of the Village desiring legitimate information at any time or times as may be convenient.

(c) The Town Meeting shall elect annually an eligible voter to serve as Treasurer for a term of one year or until a successor is duly elected by the Town Meeting in accordance with the provisions hereof. It shall be the duty of the Treasurer to furnish annually to the Coordinating Committee (hereinafter referred to) all necessary information upon which the Coordinating Committee can recommend a proposed budget to the Town Meeting at least two months prior to the next fiscal year. Such information shall include the actual expenditures of the Village during the prior fiscal year and the budget adopted by the Town Meeting for the current fiscal year of the Village.

Committees

Section 7. (a) The Town Meeting shall elect such officials and agent, committees, and commissioners of the Village which the Town Meeting may deem proper and necessary for the management of the Village and for the operation and enforcement of this Act and of any ordinances and resolutions adopted hereunder. Any person so elected must be an eligible voter of the Village and shall serve at the pleasure of the Town Meeting but in no event longer than two years unless re-elected. The Town Meeting may at such times as it feels appropriate empower the Town Chairman to appoint members to Special Committees. Any person so elected or appointed must be an eligible voter of the Village and shall serve for the duration of the committee's purpose.

(b) All persons presently serving on committees of the Town Meeting shall continue in office until their successors are duly elected in the manner herein provided.

Registration Committee

Section 8. (a) The Registration Committee shall consist of three eligible voters elected for a term of two years. Two members shall be elected on odd-numbered years and one on even-numbered years.

(b) The Registration Committee shall register all eligible voters as defined in Article 3, Section (a) of this Act and keep a complete up-to-date record denoting all eligible voters of the Village of Ardencroft including the date of the establishment of residence. The Registration Committee shall remove from the Registration Record the names of those persons who have ceased to qualify as eligible voters. The registration record shall be conclusive evidence of the entitlement of the persons thereon listed to vote at meetings of the Town Meeting.

(c) The Registration Committees shall have complete supervision of all elections of officers, agents, committees and commissioners of the Village, and shall certify in writing the results of such voting to the Town Meeting held hereunder.

Elections

Section 9. (a) Elections shall be held annually.

(b) Officers and committee members shall be elected by secret ballot, at a regular Town Meeting.

(c) The officers shall be elected by a majority of votes cast. If no candidate for an office receives a majority of the votes cast, a run-off election shall be held between the two candidates receiving the highest number of votes.

(d) Committee members shall be elected by plurality of those voting.

Coordinating Committee

Section 10. (a) The Coordinating Committee shall consist of Town Meeting officers, the chairpersons of all standing and special committees, and the immediate past Town Meeting chairperson. The Town Meeting Chairperson shall serve as chairperson of the Coordinating Committee.

The Town Meeting Secretary shall serve as secretary of the Coordinating Committee.

(b) The Coordinating Committee shall be advisory in character; coordinate and review the committee activities of the Village and shall prepare a budget governing the expenditure of all Village funds and report same to the Town Meeting at the regular meeting next preceeding the beginning of the new fiscal year. The Town Meeting can modify or amend all or any portion of the budget porposed by the Coordinating Committee. The Village budget, as approved by the Town Meeting, with or without modification, shall govern the use and expenditure of the monies therein specified for and during the fiscal year of the Village next following.

(c) The Coordinating Committee shall present annually nominations for all vacancies in standing committees; and officers of the Town Meeting to the Town Meeting for elections to be held annually. They shall be required to submit more nominees than are to be elected to each committee and office. Additional nominations may also be made from the floor at the regular Town Meeting preceeding the meeting at which elections are to be held. Nominations may also be made until thirty days before the date of election by petitions, presented to the Registration Committee, containing signatures of ten eligible voters of the Village of Ardencroft.

Vacancies

Section 11. In case of vacancy created in any office established under the provisions of this Act and the doings of the Town Meeting by reason of death, resignation, termination of residence in the Village, conviction of a felony or otherwise, the Town Meeting, at the earliest possible meeting, shall elect some suitable person to serve the unexpired term of such office.

Powers and Ordinances

Section 12. The Village shall have all powers possible for the Village to have under the Constitution and laws of Delaware as fully and completely as though they were specifically enumerated by this Act. In furtherance thereof, the Town Meeting is hereby vested with the authority to enact ordinances and adopt resolutions relating to any subject within the powers or functions of the Village, or relating to the government of the Village, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

The Village may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, or the United States or any agency thereof.

It shall be the duty of the Town Meeting, at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Meeting of the Village. The Town Meeting shall have a reasonable number of copies printed for the use of the officials of the Village and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Secretary of the Town Meeting shall enroll the same in the journal of the Town Meeting and keep copies of the same in a book to be provided for that purpose so that the same may be readily examined.

No ordinances of the Village concerning zoning, housing or building permits shall be less restrictive than the requirements of the New Castle County codes now and hereafter in effect.

Enforcement, Fines and Penalties

Section 13. (a) The Justices of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Village shall have jurisdiction and cognizance of all offenses against the provisions of this Act or the authorized ordinances of the Village committed within the limits of the Village as far as to arrest and hold to bail or fine offenders, provided that he shall impose no fine or penalty in excess of that fixed by the ordinance.

(b) No ordinance of the Village shall provide for a fine in excess of \$100.

Police Force

Section 14. The Town Meeting may appoint a police force consisting of such person or persons as the Town Meeting may deem wise and advisable. The Town Meeting shall from time to time upon recommendations of its Coordinating Committee, adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Meeting and may be removed by the Town Meeting at any time. They shall preserve peace and order and shall compel obedience within the Village limits to the ordinances of the Village and the laws of the State; and they shall have such other duties as the Town Meeting shall from time to time prescribe.

Each member of the Police Force shall be vested with all powers and authority of a constable of New Castle County within the Village limits and within one mile outside such limits, and in the case of the pursuit of an offender, his power and authority shall extend to all parts of the State of Delaware.

Upon the view of the violation of any ordinance of the

Village relating to the peace and good order thereof, the police shall have the right and power to arrest without warrant and to take the offender before the Justice of the Peace, as aforesaid.

Contracts of the Town Meeting

Section 15. The Town Meeting is vested with the authority on behalf of the Village to enter into contracts for the rendering of services to the Village and/or the purchase of supplies and doing of work for any municipal purpose of the Village consistent with this Act. All formal contracts shall be signed by the Chairperson of the Town Meeting, with the seal of the Village attached and attested by the Secretary of the Town Meeting.

Severability

Section 16. If any part of this Act shall be held unconstitutional, such holding shall not in anywise invalidate the remaining provisions of this Act.

Section 17. This Act shall be deemed and taken to be a public Act.

Approved July 7, 1976

CHAPTER 516

HOUSE BILL NO. 1094

AN ACT TO AMEND AN ACT ENTITLED "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF SEAFORD" TO INCREASE THE AMOUNT WHICH MAY BE BORROWED BY THE CITY OF SEAFORD IN ANTICIPATION OF REVENUES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Section 37, Chapter 42, Volume 53, Laws of Delaware, as amended, it hereby further amended by striking the words and figures "One Hundred Thousand Dollars (\$100,000)" and substituting in lieu thereof the words and figures "Two Hundred Thousand Dollars (\$200,000)".

Approved July 7, 1976

CHAPTER 517

HOUSE BILL NO. 994

**AN ACT TO AMEND CHAPTER 7, TITLE 19 OF THE
DELAWARE CODE RELATING TO EMPLOY-
MENT PRACTICES; AND PROHIBITING THE
HIRING OF ILLEGAL ALIENS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 7, Title 19 of the Delaware Code by adding thereto a new section, designated as §705, which new section shall read as follows:

“§705. Illegal Aliens.

(a) No employer shall knowingly employ an alien who is not entitled to lawful residence in the United States, if such employment would have an adverse effect on lawful resident workers.

(b) Any person found guilty of a violation of subsection (a) shall be punished by a fine of not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) for each offense.

(c) The foregoing provisions of this section shall not be a bar to any civil action against an employer based upon a violation of this section.”

Approved July 7, 1976

CHAPTER 518

HOUSE BILL NO. 967

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE TOWN OF BOWERS BEACH FOR REPAYMENT TO THE STATE RECREATION ASSISTANCE FUND.

WHEREAS, the Town of Bowers Beach provides a general recreational program for its residents; and

WHEREAS, the Town did, during fiscal year 1972, receive a recreational grant under the State Recreation Assistance Program for general recreational purposes within the Town of Bowers, including basketball and softball; and

WHEREAS, the Town experienced deficit in conducting the program, in the amount of seven hundred seventy-nine dollars and ninety-six cents (\$779.96); and

WHEREAS, this deficit must be repaid to the Division of Parks and Recreation before the Town is eligible for any other recreational funds from the State.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (three-quarters of all the members elected to each House thereof concurring therein):

Section 1. The sum of seven hundred seventy-nine dollars and ninety-six cents (\$779.96) is hereby appropriated to the Town of Bowers Beach, Delaware to be used for the sole purpose of repayment to the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control of the State of Delaware all of those funds which are rightfully due the State of Delaware under

the policies and guidelines of the Recreation Fund Program.

Section 2. This Act is a supplementary appropriation act and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds so appropriated shall be used only for the purposes herein specified, and any funds appropriated but unexpended by July 1, 1977, shall thereupon revert to the General Fund of the State Treasury.

Approved July 7, 1976

CHAPTER 519

HOUSE BILL NO. 724

**AN ACT TO AMEND ARTICLE I, SECTION 9 OF THE
CONSTITUTION OF THE STATE OF DELAWARE
BY ELIMINATING THE PROHIBITIONS AGAINST
CHANGE OF VENUE.**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of all members to each House thereof
concurring therein):*

Section 1. Amend Article I of the Constitution of
the State of Delaware by striking Section 9 in its entirety and
substituting in lieu thereof the following:

“Section 9. All courts shall be open; and every man
for an injury done him in his reputation, person, movable or
immovable possessions, shall have remedy by the due course
of law, and justice administered according to the very right
of the cause and the law of the land, without sale, denial, or
unreasonable delay or expense. Suits may be brought against
the State, according to such regulations as shall be made by
law.”

Approved June 21, 1976

CHAPTER 520

HOUSE BILL NO. 762

**AN ACT PROPOSING AN AMENDMENT TO ARTICLE
V, SECTION 4A, OF THE CONSTITUTION OF THE
STATE OF DELAWARE TO PERMIT A
REGISTERED VOTER TO VOTE AN ABSENTEE
BALLOT IF THE VOTER IS ON VACATION.**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of the members elected to each branch
thereof concurring therein):*

Section 1. Article 5, Section 4A, of the Consitution of the State of Delaware of 1897 is amended by inserting after the words "physical disability," and before the words, "may cast a ballot," the following words, "or because of his or her absence from the district while on vacation,".

Approved June 30, 1976

CHAPTER 521

SENATE BILL NO. 709

AN ACT PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE VIII OF THE CONSITUTION OF THE STATE OF DELAWARE RELATING TO TAXATION AND THE POWER OF COUNTIES AND INCORPORATED MUNICIPALITIES TO EXEMPT PROPERTY WITHIN THEIR RESPECTIVE BOUNDARIES FROM PROPERTY TAXATION.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend §1, Article VIII of the Constitution of the State of Delaware by striking the first paragraph of said section in its entirety and substituting in lieu thereof a new paragraph to read as follows:

"All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, except as otherwise permitted herein, and shall be levied and collected under general laws passed by the General Assembly. County Councils of New Castle and Sussex Counties and the Levy Court of Kent County are hereby authorized to exempt from county taxation such property in their respective counties as in their opinion will best promote the public welfare. The county property tax exemption power created by this section shall be exclusive as to such property as is located within the respective counties. With respect to real property located within the boundaries of any incorporated municipality, the authority to exempt such property from municipal property tax shall be exercised by the respective incorporated municipality, when in the opinion of said municipality it will best promote the public welfare."

Approved June 30, 1976

CHAPTER 522

SENATE BILL NO. 596
AS AMENDED BY SENATE AMENDMENT NO. 1**AN ACT RELATING TO THE SALARY OF ROLAND R.
HARBIN, A TEACHER EMPLOYED BY NEW
CASTLE GUNNING - BEDFORD SCHOOL
DISTRICT.**

WHEREAS, Roland R. Harbin served in the armed forces of the United States of America from March 17, 1966 to March 16, 1968; and

WHEREAS, Roland R. Harbin has been, and continues to be employed by the New Castle-Gunning Bedford School District, beginning his employment there in September 1969; and

WHEREAS, §1312 (a), Chapter 13, Title 14 of the Delaware Code provides that: "Years of service in the armed forces shall also be counted as years of experience in accordance with the rules and regulations adopted by the State Board of Education in this respect"; and

WHEREAS, §1305 (a), Chapter 13, Title 14 of the Delaware Code provides for an increasing salary schedule for teachers commensurate with increased experience; and

WHEREAS, Roland R. Harbin, through inadvertance, has not been compensated according to the salary schedule according to his experience as contemplated by §1305 (a), Chapter 13, Title 14 of the Delaware Code; and

WHEREAS, there is a total salary difference in compensation due Roland R. Harbin, because of his service in the armed forces, of Two-Thousand Seven-Hundred Nine Dollars (\$2,709.00); and

WHEREAS, Roland R. Harbin is statutorily entitled to receive the above stated amount of compensation.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$3,249 is appropriated to the New Castle-Gunning Bedford School District (95-20-000) to pay wages due Roland R. Harbin and Other Employment Costs (fringe benefits) earned in prior fiscal years.

Section 2. This Act is a supplementary appropriation, and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated. Any funds remaining unexpended on June 30, 1976, will revert to the General Fund of the State of Delaware.

Approved June 30, 1976

CHAPTER 523

HOUSE BILL NO. 167
AS AMENDED BY HOUSE AMENDMENT NO. 2**AN ACT TO AMEND CHAPTER 46, TITLE 6, OF THE
DELAWARE CODE RELATING TO EQUAL
RIGHTS TO HOUSING.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §4604, Chapter 46, Title 6, Delaware Code by designating the existing material as subsection (a) and adding thereto a new subsection to be designated as subsection (b) to read as follows:

“(b) The provisions of this Chapter as to discrimination based upon age shall not apply to dwellings owned and operated by any non-profit and non-religious institution organization or any County of this State which dwellings have been approved as dwellings for the aging by the County Councils of New Castle or Sussex Counties or the Levy Court of Kent County.”

Approved July 7, 1976

CHAPTER 524

HOUSE BILL NO. 1180

**AN ACT TO PERMIT THE BOARD OF EDUCATION OF
THE MOUNT PLEASANT REORGANIZED
SCHOOL DISTRICT TO TRANSFER CERTAIN
FUNDS FROM ITS DEBT SERVICE ACCOUNT TO
ITS CURRENT OPERATING ACCOUNT.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. The Board of Education of the Mount Pleasant Reorganized School District is authorized to transfer to its Current Operating Account the sum of \$100,000 from its Debt Service Account.

Approved July 7, 1976

CHAPTER 525

HOUSE BILL NO. 1240

**AN ACT TO AMEND CHAPTER 79, TITLE 29,
DELAWARE CODE, RELATING TO THE COUN-
CIL OF AGING, DEPARTMENT OF HEALTH
AND SOCIAL SERVICES**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §7915, Chapter 79, Title 29, Delaware Code, by changing the number "7" to "9" in Subsection (c).

Section 2. Amend §7915, Chapter 79, Title 29, Delaware Code, by striking the first clause of the first sentence in Subsection (d) and inserting in lieu thereof the following new first clause of the first sentence in Subsection (d):

"(d) At least 4, but no more than 5 members of the Council shall be affiliated with one of the major political parties, and at least 3 but no more than 4 members of the Council shall be affiliated with the other major political party;"

Section 3. Amend §7915, Chapter 79, Title 29, Delaware Code, by adding the following as the final sentence in Subsection (d):

"The Council membership shall be composed of representatives in the following areas: General Public, Older Consumer, Low Income Older Person, Minority Older Person, Private Agency Representative and Nutrition Project Council Representative. Each Council member can be representative of more than one (1) area, but no Council

member shall be representative of more than three (3) areas.”

Approved July 7, 1976

CHAPTER 526

HOUSE BILL NO. 1261

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO GERIATRICS SERVICES OF DELAWARE, INCORPORATED.

WHEREAS, Geriatrics Services of Delaware was incorporated in April, 1969, as a non-profit private agency to enable Senior Citizens to remain in their homes or communities with dignity to avoid institutionalization as long as possible; and

WHEREAS, the varied services of Geriatrics Services of Delaware, Incorporated, vital to the daily lives of hundreds of elderly Delawareans, include Geriatric Aides, Foster Homes, Meals on Wheels, Beach Home Activities, and Referral Service.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$25,000 is hereby appropriated to Geriatrics Services of Delaware, Incorporated. Geriatric Services of Delaware, Incorporated, shall submit to the General Assembly a full accounting of the expenditure of said funds.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and for the funds hereby appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 527

HOUSE BILL NO. 1262

**AN ACT TO AID ORGANIZATIONS MAINTAINING
RESIDENTIAL FACILITIES BY MAKING AP-
PROPRIATIONS THEREFOR:**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$5,000 is appropriated to Palmer Home, Inc., a corporation of the State of Delaware, for the care and maintenance of old age persons at the Palmer Home in Dover, for operation expenses.

Section 2. The sum of \$5,000 is appropriated to The Layton Home for Aged Persons for the care and maintenance of old age persons for operation expenses.

Section 3. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 528

HOUSE BILL NO. 1263

**AN ACT TO AID CERTAIN CIVIC ORGANIZATIONS
WHICH MAINTAIN EMERGENCY VEHICLES BY
MAKING APPROPRIATIONS THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. There is appropriated to the listed organizations the following sums to be used for the operations and maintenance of ambulances in the public service:

American Legion, Sussex Post #8 Georgetown, Delaware	\$1,250
American Legion, Kent Post #14 Smyrna, Delaware	\$1,250
Selbyville, American Post #39, Inc. Selbyville, Delaware	\$1,250
Sussex Memorial Post #7422, V.F.W. Millsboro, Delaware	<u>\$1,250</u>

TOTAL	<u><u>\$5,000</u></u>
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Section 2. The above said sums shall be paid by the State Treasurer to said organizations within three (3) months after the beginning of the fiscal year for which appropriated.

Section 3. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of

monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 529

HOUSE BILL NO. 1264

**AN ACT TO AID DELAWARE STATE FAIR, INC., BY
MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$25,000 is appropriated to Delaware State Fair, Inc., a corporation of the State of Delaware, to be used for prizes for achievements in agriculture, animal raising and in works of manual training and the domestic arts to be awarded at the annual State Fair.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 530

HOUSE BILL NO. 1265

**AN ACT MAKING AN APPROPRIATION TO BIG
BROTHERS ASSOCIATION OF NORTHERN
DELAWARE, INC.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$17,500 is appropriated to Big Brothers Association of Northern Delaware, Inc.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 531

HOUSE BILL NO. 1266

AN ACT MAKING AN APPROPRIATION TO THE DELAWARE ASSOCIATION OF CHIEFS OF POLICE FOR CAMP BARNES TO AID IN OPERATIONAL EXPENSES.

WHEREAS, Camp Barnes was established in 1948 by a Committee of the Delaware Association of Chiefs of Police, for the recreation of deserving youths from throughout the State;

WHEREAS, the children who attend Camp Barnes are recommended by State and local police officers, school nurses, social service agencies, and Delaware Association of Chiefs of Police members; and

WHEREAS, funds to maintain and operate the camp are obtained solely from private donations and fund raising projects held throughout the State each year.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$10,000 is appropriated to the Delaware Association of Chiefs of Police for the purpose of maintaining and operating the camp.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 532

HOUSE BILL NO. 1267

AN ACT TO AID THE DELAWARE GUIDANCE SERVICES FOR CHILDREN AND YOUTH, INC., BY MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$25,000 is hereby appropriated to the Delaware Guidance Services for Children and Youth, Inc.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 533

HOUSE BILL NO. 1271

AN ACT TO AID DELAWARE SAFETY COUNCIL, INC., ENGAGED IN EDUCATING THE PEOPLE OF THIS STATE AS TO SAFETY, BY MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$30,000 is appropriated to the Delaware Safety Council, Inc., to be used for the operations of the Council in educating the public as to safety.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 534

HOUSE BILL NO. 1272

**AN ACT TO AID MID-SUSSEX RESCUE SQUAD, INC.,
WHICH IS ORGANIZED TO OPERATE AND
MAINTAIN AN AMBULANCE IN THE PUBLIC
SERVICE, BY MAKING AN APPROPRIATION
THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein):

Section 1. There is appropriated to Mid-Sussex Rescue Squad, Inc., the sum of \$1,250 to be used for the maintenance and operation of an ambulance in the public service.

Section 2. This appropriation shall be paid by the State Treasurer within three (3) months after the beginning of the fiscal year for which appropriated.

Section 3. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 535, Vol. 60

HOUSE BILL NO. 1273

**AN ACT TO AID CERTAIN FIRE COMPANIES
WHICH ARE ORGANIZED TO EXTINGUISH
FIRES OR MAINTAIN AMBULANCES OR
RESCUE TRUCKS, BY MAKING AN AP-
PROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein):

Section 1. There is appropriated to the listed fire companies the following sums to be used for the prevention and extinguishment of fires throughout the State and for maintenance of apparatus and equipment:

New Castle County

Aetna Hose, Hook and Ladder Co., Newark	\$ 4,000
Belvedere Volunteer Fire Co., Belvedere	4,000
Brandywine Hundred Fire Co. No. 1, Bellefonte	4,000
Christina Fire Co., Christiana	4,000
Claymont Fire Co., Claymont	4,000
Cranston Heights Fire Co., Cranston Heights	4,000
Delaware City Fire Co., Delaware City	4,000
Elsmere Fire Co., Elsmere	4,000
Five Points Fire Co. No. 1, Richardson Park	4,000
Goodwill Fire Co. No. 1, New Castle	4,000
Hockessin Fire Co., Hockessin	4,000
Holloway Terrace Fire Co., Holloway Terrace	4,000
Mill Creek Fire Co., Marshallton	4,000
Minquadale Fire Co., Minquadale	4,000
Minquas Fire Co. No. 1, Newport	4,000
Odessa Fire Co., Inc., Odessa	4,000
Port Penn Volunteer Fire Co., Inc., Port Penn	4,000
Talleyville Fire Co., Inc., Talleyville	4,000
Townsend Fire Co., Inc., Townsend	4,000
Volunteer Hose Co., Inc., Middletown	4,000

Wilmington Manor Volunteer Fire Co. Inc., Wilmington Manor	\$ 4,000
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Kent County

Bowers Volunteer Fire Co., Inc., Bowers	4,000
Camden-Wyoming Fire Co., Camden	4,000
Carlisle Fire Co., Milford	4,000
Cheswold Volunteer Fire Co., Cheswold	4,000
Citizens' Hose Co. No. 1, Inc., Smyrna	4,000
Clayton Fire Co., Clayton	4,000
Robbins Hose Co. (Dover Fire Dept.), Dover	4,000
Farmington Volunteer Fire Co., Farmington	4,000
Felton Community Fire Co., Felton	4,000
Frederica Volunteer Fire Co., Frederica	4,000
Harrington Fire Co., Harrington	4,000
Hartly Volunteer Fire Co., Hartly	4,000
Houston Volunteer Fire Co., Houston	4,000
Leipsic Volunteer Fire Co., Leipsic	4,000
Little Creek Volunteer Fire Co., Little Creek	4,000
Magnolia Volunteer Fire Co., Magnolia	4,000
Marydel Volunteer Fire Co., Inc., Marydel	4,000
South Bowers Fire Co., South Bowers	4,000

Sussex County

Bothany Beach Volunteer Fire Co., Bethany Beach	4,000
Blades Volunteer Fire Co., Inc., Blades	4,000
Bridgeville Volunteer Fire Co., Bridgeville	4,000
Dagsboro Volunteer Fire Co., Dagsboro	4,000
Delmar Fire Department, Delmar	4,000
Ellendale Volunteer Fire Co., Ellendale	4,000
Frankford Volunteer Fire Co., Frankford	4,000
Georgetown Fire Company, Inc., Georgetown	4,000
Greenwood Volunteer Fire Co., Greenwood	4,000
Gumboro Volunteer Fire Co., Inc., Gumboro	4,000
Indian River Volunteer Fire Co., Indian River	4,000
Laurel Fire Department, Inc., Laurel	4,000
Lewes Fire Department, Inc., Lewes	4,000
Millsboro Fire Co., Millsboro	4,000
Milton Volunteer Fire Co., Milton	4,000
Millville Volunteer Fire Co., Inc., Millville	4,000

Rehoboth Beach	
Vol. Fire Co., Inc., Rehoboth Beach	\$ 4,000
Roxanna Volunteer Fire Co., Roxanna	4,000
Seaford Volunteer Fire Dept., Inc., Seaford	4,000
Selbyville Vol. Fire Co., Inc., Selbyville	4,000
Slaughter Beach Memorial Fire Co.,	
Slaughter Beach	4,000
TOTAL	<u>\$240,000</u>

Section 2. There is appropriated to the following listed fire companies the following sums to be used for the maintenance and operation of ambulances in the public service:

Aetna Hose, Hook and Ladder Co., Newark	\$ 1,250
Blades Volunteer Fire Co., Inc., Blades	1,250
Bridgeville Volunteer Fire Co., Bridgeville	1,250
Bowers Volunteer Fire Co., Inc., Bowers	1,250
Brandywine Hundred Fire Co., No. 1, Bellefonte	1,250
Camden-Wyoming Fire Co., Camden	1,250
Carlisle Fire Co., Milford	1,250
Cheswold Volunteer Fire Co., Cheswold	1,250
Christiana Fire Co., Christiana	1,250
Claymont Fire Co., Claymont	1,250
Cranston Heights Fire Co., Cranston Heights	1,250
Dagsboro Volunteer Fire Co., Dagsboro	1,250
Delaware City Fire Co., Delaware City	1,250
Delmar Fire Department, Delmar	1,250
Ellendale Volunteer Fire Co., Ellendale	1,250
Elsmere Fire Co., Elsmere	1,250
Felton Community Fire Co., Felton	1,250
Five Points Fire Co. No. 1, Richardson Park	1,250
Frankford Volunteer Fire Co. No. 1, Frankford	1,250
Goodwill Fire Co. No., New Castle	1,250
Gumboro Volunteer Fire Co., Inc., Gumboro	1,250
Harrington Fire Co., Harrington	1,250
Hartly Volunteer Fire Co., Inc., Hartly	1,250
Holloway Terrace Fire Co., Holloway Terrace	1,250
Hockessin Fire Co., Hockessin	1,250
Laurel Fire Dept., Inc., Laurel	1,250
Leipsic Volunteer Fire Co., Leipsic	1,250

Lewes Fire Department, Inc., Lewes	\$ 1,250
Mill Creek Fire Co., Marshallton	1,250
Millville Volunteer Fire Co., Inc., Millville	1,250
Milton Volunteer Fire Co., Milton	1,250
Minquadale Fire Co., Minquadale	1,250
Minquas Fire Co. No. 1, Newport	1,250
Rehoboth Beach	
Vol. Fire Co., Inc., Rehoboth Beach	1,250
Seaford Volunteer Fire Dept., Inc., Seaford	1,250
Slaughter Beach Memorial Fire Co.,	
Slaughter Beach	1,250
Talleyville Fire Co., Inc., Talleyville	1,250
Wilmington Manor Volunteer	
Fire Co., Inc., Wilmington Manor	1,250
TOTAL	<u>\$ 47,500</u>

Section 3. There is appropriated to the following listed fire companies the following sums to be used for the maintenance and operation of rescue trucks in the public service:

Aetna Hose, Hook and Ladder Co., Newark	\$ 1,250
Bethany Beach Volunteer Fire Co., Bethany Beach	1,250
Bowers Volunteer Fire Co., Inc., Bowers	1,250
Brandywine Hundred Fire Co. No. 1, Bellefonte	1,250
Bridgeville Volunteer Fire Co., Bridgeville	1,250
Camden-Wyoming Fire Co., Camden	1,250
Carlisle Fire Co., Milford	1,250
Cheswold Volunteer Fire Co., Cheswold	1,250
Christiana Fire Co., Christiana	1,250
Citizens' Hose Co. No. 1, Inc., Smyrna	1,250
Claymont Fire Co., Claymont	1,250
Clayton Fire Co., Clayton	1,250
Dagsboro Volunteer Fire Co., Dagsboro	1,250
Delaware City Fire Co., Delaware City	1,250
Delmar Fire Department, Delmar	1,250
Robbins Hose Co. (Dover Fire Dept.), Dover	1,250
Elsmere Fire Co., Elsmere	1,250
Farmington Volunteer Fire Co., Farmington	1,250
Felton Community Fire Co., Felton	1,250
Five Points Fire Co. No. 1, Richardson Park	1,250

Frederica Volunteer Fire Co., Frederica	\$ 1,250
Georgetown Fire Co., Inc., Georgetown	1,250
Greenwood Fire Co. No. 1, Greenwood	1,250
Goodwill Fire Co. No. 1, New Castle	1,250
Harrington Fire Co., Harrington	1,250
Hartly Volunteer Fire Co., Inc., Hartly	1,250
Holloway Terrace Fire Co., Inc., Holloway Terrace	1,250
Indian River Volunteer Fire Co., Indian River	1,250
Laurel Fire Dept., Inc., Laurel	1,250
Leipsic Volunteer Fire Co., Leipsic	1,250
Lewes Fire Department, Inc., Lewes	1,250
Little Creek Volunteer Fire Co., Little Creek	1,250
Magnolia Volunteer Fire Co., Magnolia	1,250
Marydel Volunteer Fire Co., Marydel	1,250
Mill Creek Fire Co., Marshallton	1,250
Millsboro Fire Co., Millsboro	1,250
Millville Volunteer Fire Co., Inc., Millville	1,250
Milton Volunteer Fire Co., Milton	1,250
Minquadale Fire Co., Minquadale	1,250
Minquas Fire Co. No. 1, Newport	1,250
Odessa Fire Co., Inc., Odessa	1,250
Port Penn Volunteer Fire Co., Inc., Port Penn	1,250
Rehoboth Beach	
Vol. Fire Co., Inc., Rehoboth Beach	1,250
Roxanna Volunteer Fire Co., Roxanna	1,250
Seaford Volunteer Fire Dept., Inc., Seaford	1,250
Selbyville Volunteer Fire Co., Inc., Selbyville	1,250
Slaughter Beach Memorial Fire Co.,	
Slaughter Beach	1,250
South Bowers Fire Co., South Bowers	1,250
Talleyville Fire Co., Inc., Talleyville	1,250
Townsend Fire Company, Inc., Townsend	1,250
Volunteer Hose Co., Inc., Middletown	1,250
Wilmington Manor Volunteer	
Fire Co., Inc., Wilmington Manor	1,250
TOTAL	<u>\$ 65,000</u>

Section 4. There is appropriated to the listed fire companies the following sums to be used for the maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing highrise fires

throughout the State of Delaware:

New Castle County

Aetna Hose, Hook and Ladder Co., Newark	\$ 2,000
Brandywine Hundred Fire Co., No. 1, Bellefonte	2,000
Christiana Fire Co., Christiana	2,000
Claymont Fire Co., Claymont	2,000
Five Points Fire Co. No. 1, Richardson Park	2,000
Goodwill Fire Company No. 1, New Castle	2,000
Mill Creek Fire Company, Marshallton	2,000
Talleyville Fire Company, Inc., Talleyville	2,000
Volunteer Hose Co., Inc., Middletown	2,000

Kent County

Carlisle Fire Company, Milford	2,000
Citizens' Hose Co., No., Inc., Smyrna	2,000
Robbins Hose Co. (Dover Fire Dept.), Dover	2,000

Sussex County

Bethany Beach Volunteer Fire Co., Bethany Beach	2,000
Lewes Fire Department, Inc., Lewes	2,000
Rehoboth Beach	
Vol. Fire Co., Inc., Rehoboth Beach	2,000
Seaford Volunteer Fire Dept., Inc., Seaford	2,000
TOTAL	\$ 32,000

Section 5. There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(a) The prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 12 fire companies organized and equipped in the City:

\$ 48,000

(b) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing highrise fires throughout the City of Wilmington.

\$ 6,000

GRAND TOTAL \$438,500

Section 6. The above said sums shall be paid by the State Treasurer within three months after the beginning of the fiscal year for which appropriated.

Section 7. This Act is a supplementary appropriation act for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

128th GENERAL ASSEMBLY
SECOND SESSION — 1976
FISCAL NOTE

BILL: House Bill No.
SPONSOR: Representative George
DESCRIPTION: Appropriation to aid certain fire companies which are organized to extinguish fires or maintain ambulances or rescue trucks.

FY 1977:

Operation Expenses:

New Castle County -		
21 fire companies @ \$4,000	=	\$84,000
Kent County -		
18 fire companies @ \$4,000	=	\$72,000
Sussex County -		
21 fire companies @ \$4,000	=	\$84,000

Ambulances:

38 fire companies @ \$1,250	=	\$47,500
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Rescue:

52 fire companies @ \$1,250	=	\$65,000
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Aerial or Platform Trucks:

New Castle County -		
9 fire companies @ \$2,000	=	\$18,000
Kent County -		
3 fire companies @ \$2,000	=	\$ 6,000
Sussex County -		
4 fire companies @ \$2,000	=	\$ 8,000

City of Wilmington:

Operation expenses for		
12 fire companies @ \$4,000	=	\$ 48,000
Maintenance of aerial or platform		
trucks 3 @ \$2,000	=	<u>\$ 6,000</u>
TOTAL SUPPLEMENTAL APPROPRIATION		<u><u>\$438,500</u></u>

FY 1978 and FY 1979:

Grant-in-Aid to be made by supplementary appropriation.

NOTE: Grant-in-Aid recipient is required by Section 6508, Title 29, Delaware Code, to submit a financial statement.

Approved July 7, 1976

CHAPTER 536

HOUSE BILL NO. 1276

AN ACT MAKING AN APPROPRIATION TO DIAMOND STATE YOUTH, INC.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$40,000 is appropriated to Diamond State Youth, Inc., a Delaware Corporation. The said sum shall be paid by the State Treasurer upon a warrant signed by the Treasurer of the said corporation.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 537

HOUSE BILL NO. 1277

**AN ACT TO AID VETERANS' ORGANIZATIONS BY
MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-quarters of all members elected to each House thereof concurring therein):

Section 1. The sum of \$10,000 is appropriated to the American Legion, Department of Delaware.

Section 2. The sum of \$10,000 is appropriated to the Veterans of Foreign Wars, Department of Delaware.

Section 3. The sum of \$5,000 is appropriated to the Disabled American Veterans, Department of Delaware.

Section 4. The funds appropriated by Sections 1, 2 and 3 hereof shall be used to furnish services through a duly selected service officer to Delaware veterans of the Armed Forces of the United States, their widows and orphans, by providing contact services in Sussex, Kent and New Castle Counties.

Section 5. The sum of \$2,000 is appropriated to the Veterans of Foreign Wars, Department of Delaware, for operation expenses.

Section 6. The sum of \$2,000 is appropriated to the American Legion, Department of Delaware, for operation expenses.

Section 7. The sum of \$2,000 is appropriated to the Disabled American Veterans of Delaware, for operation expenses.

Section 8. The sum of \$2,000 is appropriated to the Department of Delaware Jewish War Veterans of the United States for operation expenses.

Section 9. The sum of \$1,500 is appropriated to the Delaware Veterans of World War I for operation expenses.

Section 10. The sum of \$2,000 is appropriated to the Paralyzed Veterans of America, Department of Delaware, Inc., for operation expenses.

Section 11. Expenses for Memorial Day programs incurred by local Posts in Sussex, Kent and New Castle Counties may be reimbursed out of operation expenses appropriated by Sections 5, 6, 7, 8, 9 and 10 of this Act on vouchers properly submitted to and approved by their representative veterans organizations.

Section 12. The sum of \$2,500 is appropriated to American Legion, Department of Delaware, for the bearing of expenses incident to the holding Boys' State.

Section 13. The sum of \$2,500 is appropriated to the American Legion Auxiliary, Department of Delaware, for the bearing of expenses incident to the holding of Girls' State.

Section 14. The sum of \$1,000 is appropriated to the American Legion, Department of Delaware, for the bearing of expenses incident to the holding of Trooper Youth Week in conjunction with the Delaware State Police.

Section 15. The sums herein shall be paid to the Finance Officer of the respective veterans' organizations, upon warrants signed by the proper Finance Officer and approved by the Secretary, Department of Finance.

Section 16. This Act is a supplementary appropria-

tion for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 7, 1976

CHAPTER 538

HOUSE BILL NO. 1189

AN ACT AUTHORIZING THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO USE CERTAIN FUNDS APPROPRIATED BY THE "ANNUAL CAPITAL IMPROVEMENTS ACT OF 1976" FOR THE CONSTRUCTION OF A BUILDING FOR THE USE OF THE JUSTICE OF THE PEACE COURTS.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$175,000 appropriated to the Department of Administrative Services by the "Annual Capital Improvements Act of 1976" (Chapter 271, Volume 60, Laws of Delaware) for the purpose of renovating and improving the old Georgetown Inspection Lane shall not be used for such purpose but shall be used by said Department for the construction of a building in Sussex County for the use of the Justice of Peace Courts.

Approved July 7, 1976

CHAPTER 539

SENATE BILL NO. 819

**AN ACT TO AMEND TITLE 29, DELAWARE CODE,
RELATING TO THE STATE LOTTERY AND THE
DEPARTMENT OF FINANCE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Section 4801, Chapter 48, Title 29, Delaware Code, by striking the phrase "shall serve at the pleasure of the Governor" as it appears therein and substituting the phrase "shall be appointed by the Secretary of Finance with the written approval of the Governor".

Section 2. Amend Section 4802, Title 29, Delaware Code, by deleting the phrase "executive office of the Governor" in the first sentence thereof and substitute in lieu thereof the phrase "Department of Finance."

Section 3. Amend Section 4804, Title 29, Delaware Code, by striking the Section in its entirety and substituting in lieu thereof the following:

"Section 4804. Director - Appointment, qualifications and salary.

(a) The State Lottery Office shall be administered and supervised by a Director who shall be a person qualified by business experiences and training to supervise the operation of a public gaming system in a manner which will produce the greatest income for the State. The Director shall be appointed by the Secretary of Finance with the written approval of the Governor.

(b) The qualifications of the person appointed as Director shall be as follows:

(1) Five or more years experience as the head of an autonomous business, division, or independent segment of a large company or governmental agency having to do with public gaming. The position or positions held should have broad authority and carry major responsibility; except that experience in a public utility or other monopolistic enterprise does not meet this requirement. There shall be positive evidence that the company, division or independent segment of a large company or government agency was well managed during the tenure of the prospective Director.

(2) Shall be in good health, shall have a good reputation, particularly as a person of honesty and integrity, and shall be able to pass a thorough background investigation prior to appointment.

(3) He shall not hold political office in the government of the State either by election or appointment while serving as Director, nor shall anyone who holds elected or appointed office in the government of the State be appointed as Director until he has completed serving the full term to which he was elected or appointed. The Director shall be a citizen of the United States, and must become a resident of the State within 90 days of appointment.

(c) The Director shall serve on a full-time basis and shall not be engaged in any other profession or occupation. The Director shall receive such salary as provided by law."

Section 4. Amend subsection (b), Section 4810, Chapter 48, Title 29, Delaware Code, by striking same in its entirety and inserting in lieu thereof the following:

"(b) No ticket shall be purchased by and no prizes received by or awarded to any officers or employees of the State Lottery Office or the Division of Central Data Processing or any member of their immediate households. Any person convicted of violating this section shall forfeit any prize money so obtained and shall be sentenced to not less than 1 year in jail and pay a fine of no less than \$5,000."

Section 5. Amend Section 4812, Chapter 48, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

“Section 4812. Disposition of unclaimed prize money.

Unclaimed prize money for the prize on a winning ticket shall be retained by the Director for the person entitled thereto for one year after the drawing or event in which the prize was won. If no claim is made for said money within such year, the prize money shall be reverted to the State Lottery Fund for the specific purpose of awarding additional prizes in order to comply with Section 4815 (a) of this Act.”

Section 6. Amend subsection (a), Section 4815, Chapter 48, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

“(a) All moneys received from the sale of lottery tickets shall be accounted for to the State Treasurer and all net moneys shall be placed into a special account known as the State Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the lottery as authorized in this Chapter and thereafter shall pay as prizes not less than 45 percent of the total amount of tickets which have been sold, which percentage shall include prizes already awarded. The total of payments for operations and administration of the lottery shall not exceed 20% of the gross amount received from the sale of tickets. The remaining moneys shall accumulate in the State lottery Fund and on a monthly basis, or more frequently if required by the Director, the accumulation shall be placed into the General Fund of the State. In the event that the percentage allotted for operations generates a surplus, said surplus shall be allowed to accumulate to an amount not to exceed \$250,000.00. On a quarterly basis the Director shall report the Secretary of Finance any surplus in excess of \$250,000.00, and remit to the General Fund of the State the entire amount of those

surplus funds in excess of \$250,000.00”.

Section 7. Amend subsection (21), Section 5903, Chapter 59, Title 29, Delaware Code, by striking said subsection in its entirety.

Section 8. Amend subsection (2), Section 8303, Chapter 83, Title 29, Delaware Code, by striking paragraph (c) as it appears therein and substituting a new paragraph (c) to read as follows:

“(c) A Director of the State Lottery Office who shall be known as the lottery Director and who shall meet the qualifications as set forth in Section 4804, Chapter 48, Title 29, Delaware Code;”.

Section 9. Amend Section 8309, Chapter 83, Title 29, Delaware Code, by deleting subsection (4) in its entirety and substituting in lieu thereof the following:

“(4) State Lottery Director;”.

Approved July 7, 1976

CHAPTER 540

SENATE BILL NO. 56

AN ACT PROPOSING AN AMENDMENT TO ARTICLE 4, SECTIONS 2, 3 AND 12 OF THE CONSTITUTION OF THE STATE OF DELAWARE BY INCREASING THE SUPREME COURT TO FIVE JUSTICES AND PROVIDING FOR A QUORUM OF THE SUPREME COURT.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of the members elected to each branch thereof concurring therein):

Section 1. Article 4, Section 2 of the Constitution of the State of Delaware 1897 is amended by striking the word "three" as it appears after the words "shall be" and before the word "Justice" in the first line of said section, and substituting in lieu thereof the word "five".

Section 2. Article 4, Section 3, paragraph 3 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

"First, three of the five Justices of the Supreme Court in office at the same time, shall be of one major political party, and two of said Justices shall be of the other major political party."

Section 3. Article 4, Section 3, paragraph 5 of the Constitution of the State of Delaware of 1897, as amended, is amended by striking the word "three" as it appears in Article 4, Section 3, paragraph 5.

Section 4. Article 4, Section 12 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

“§12. Composition of Supreme Court; designation of Justices, quorum; opening and adjourning court.

Section 12. A quorum of the Supreme Court shall consist of not less than three Justices. The entire Court shall sit in any criminal case in which the accused has been sentenced to death and in such other civil and criminal cases as the Court, by rule, or the General Assembly, upon the concurrence of two-thirds of all the members elected to each house, shall determine. In case of a lack of quorum by reason of vacancies in their number, incapacity, or disqualification to sit by reason of interest, or to constitute a three-member panel of the Court, the Chief Justice of the Supreme Court, or if he is disqualified or incapacitated or if there is a vacancy in that office, the Justice, who by seniority is next in rank to the Chief Justice, shall have the power to designate judges from among the judges of the constitutional courts to sit in the Supreme Court temporarily to fill up the number of Justices required by law. It shall be the duty of the judges of the constitutional courts so designated to sit accordingly. No judge shall be so designated to sit in the Supreme Court in any cause in which he sat below. Any one of the Justices of the Supreme Court may open and adjourn court.”

Approved June 24, 1976

CHAPTER 541

HOUSE BILL NO. 320
AS AMENDED BY HOUSE AMENDMENT NO. 1
AND SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 89, TITLE 10,
DELAWARE CODE, BY CHANGING THE
CHAPTER HEADING OF CHAPTER 89 AND
PROVIDING FOR INTERPRETERS FOR DEAF
PERSONS AT LEGAL PROCEEDINGS AND FEES
FOR SUCH INTERPRETERS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 89, Title 10, Delaware Code, by striking the Chapter heading "CHAPTER 89. JURORS AND WITNESSES" in its entirety and substituting in lieu thereof the following:

**"CHAPTER 89. JURORS, WITNESSES, AND
INTERPRETERS"**

Section 2. Amend Chapter 89, Title 10, Delaware Code, by adding thereto a new §8907 to read as follows:

**"§8907. Interpreters for deaf persons in legal
proceedings; fees.**

All deaf persons who are a party to or a witness in any legal proceeding shall have a right to a qualified interpreter of deaf sign-language and the Court shall appoint such an interpreter to interpret the proceedings to and the testimony of deaf persons. The fees for such interpreters shall be fixed by the Court in its discretion. In criminal actions, such fees shall be paid out of funds provided by law or by the government as the Court may direct. In civil actions, such fees shall be paid out of funds

provided by law or by one or more of the parties as the Court may direct and may be taxed ultimately as costs, in the discretion of the Court.”

Section 3. This Act shall become effective upon the signature of the Governor.

Approved July 7, 1976

CHAPTER 542

HOUSE BILL NO. 418
AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

**AN ACT TO AMEND CHAPTER 5, PART I, TITLE 11,
DELAWARE CODE, RELATING TO OFFENSES
INVOLVING OBSTRUCTION OF
GOVERNMENTAL OPERATIONS.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend §1245(1), Chapter 5, Title 11, Delaware Code, by adding after the word "result" as the same appears at the end of the third line of said subparagraph, the following words:

"or that fire-fighting apparatus, ambulance or a rescue vehicle might be summoned".

Approved July 7, 1976

CHAPTER 543

HOUSE BILL NO. 526

**AN ACT TO AMEND CHAPTER 44, TITLE 6 OF THE
DELAWARE CODE RELATING TO HOME
SOLICITATION OR "DOOR-TO-DOOR" SALES.**

WHEREAS, the provisions of Chapter 44, Title 6 of the Delaware Code, the Delaware Home Solicitation Sales Act, which are directly inconsistent with, or which guarantee lesser rights than, the Federal Trade Commission Trade Regulation Rule concerning a cooling-off period for door-to-door sales are annulled by that Rule or sellers are exempted by the Rule complying with such provisions; and

WHEREAS, there are significant differences between the definition of terms provided by the Federal Rule and the Delaware Home Solicitation Sales Act; and

WHEREAS, certain provisions of the Delaware Home Solicitation Sales Act offer more protection to consumers and thus are not annulled or exempted by the Federal Rule; and

WHEREAS, in order to achieve greater compliance with the Delaware Home Solicitation Sales Act and the Federal Rule for the benefit of Delaware Consumers, it is desirable to amend the Delaware Home Solicitation Sales Act to more closely conform it to the Federal Rule while preserving its more stringent provisions; and

WHEREAS, the provisions of the Federal Trade Commission Trade Regulation concerning a cooling-off period for door-to-door sales provide that more stringent State laws governing door-to-door sales will not be annulled or limited by the Federal Rule.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 44, Title 6 of the Delaware Code by striking said Chapter in its entirety and substituting in lieu thereof a new Chapter which shall read as follows:

“CHAPTER 44. HOME SOLICITATION SALES

§4401. Declaration of Purpose.

This Chapter shall be interpreted and administered so as to give greatest effect to the public policy of this State, which declares that it is a basic right of every Delaware citizen to be free of, and protected from, high-pressure door-to-door sales tactics and the resultant inequities to the consumer found in certain ambiguous or misleading contracts, poor quality merchandise, and the quick discounting of evidences of indebtedness.

§4402. Short Title.

This Chapter may be known and cited as the **Home Solicitation Sales Act**.

§4403. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

(a) ‘Door-to-door sale’ shall mean a sale, lease or rental of consumer goods or services with a purchase price of twenty-five dollars (\$25.00) or more, whether under

single or multiple contracts, in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The term 'door-to-door sale' does not include a transaction:

(1) made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis:

(2) in which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or regulations issued pursuant thereto;

(3) in which the buyer has initiated the contact and the goods or services are needed to meet a **bona fide** immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or

(4) in which the buyer has initiated the contact and the transaction is conducted and consummated entirely by mail or telephone; or

(5) in which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within his exclusion; or

(6) pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission. Except as provided above, the term door-to-door sale shall include any sale solicited and consummated via any telephone.

(b) 'Consumer goods or services' shall mean goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(c) 'Seller' shall mean any person, partnership, corporation, or association engaged in the door-to-door sale of consumer goods or services.

(d) 'Place of business' shall mean the main or permanent branch office or local address of a seller.

(e) 'Purchase price' shall mean the total price paid or to be paid for the consumer goods or services, including all interest and service charges.

(f) 'Business day' shall mean any calendar day except Saturdays, Sundays or legal holidays (as that term is defined in Chapter 5, Title 1 of the Delaware Code).

§4404. Unlawful Practices.

The provisions of §2513 (b) (2) of Title 6 of the Delaware Code notwithstanding, in connection with any door-to-door sale, it is an unlawful practice within the meaning of §2513 of Title 6 of the Delaware Code for any seller to:

(a) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at

the time of its execution which is in the same language; e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediately proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold-face type of a minimum size of 10 points, a statement in substantially the following form:

'YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.'

Beginning one year after the effective date of this section, such statement shall be printed in an ink of a conspicuous color other than that used for the rest of the contract and/or receipt.

(b) Fail to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned 'NOTICE OF CANCELLATION', which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten-point bold-face type the following information and statements in the same language; e.g., Spanish, as that used in the contract:

'NOTICE OF CANCELLATION

(enter date of transaction)
Date

**YOU MAY CANCEL THIS TRANSACTION,
WITHOUT ANY PENALTY OR OBLIGATION,**

WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OF YOU MAY IF YOU WISH COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE SELLER OR IF THE SELLER DOES NOT PICK THEM UP WITHIN TWENTY (20) DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

TO CANEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (Name of seller) , AT (Address of seller's place of business) NOT LATER THAN MIDNIGHT OF (Date).

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's signature)

(c) Fail, before furnishing copies of the 'Notice of Cancellation' to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give Notice of Cancellation.

(d) Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this Rule including specifically his right to cancel the sale in accordance with the provisions of this Rule.

(e) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

(f) Misrepresent in any manner the buyer's right to cancel.

(g) Fail or refuse to honor any valid Notice of Cancellation by a buyer and within ten business days after the receipt of such Notice, to

(i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

(h) Negotiate, transfer, sell or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

(i) Fail, within ten business days of receipt of the buyer's Notice of Cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

§4405. Enforcement.

In addition to any remedies the buyer may have at law or in equity, the provisions of §8612 of Title 29 of the Delaware Code shall apply to violations of this Chapter."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 3. This Act shall be come effective thirty days after its approval by the Governor.

Approved July 7, 1976

CHAPTER 544

HOUSE BILL NO. 601

**AN ACT TO AMEND CHAPTER 7, TITLE 13 OF THE
DELAWARE CODE RELATING TO MINORS'
CONSENT TO DIAGNOSTIC AND LAWFUL
THERAPEUTIC PROCEDURES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §708 (a) Chapter 7, Title 13 of the Delaware Code by striking said paragraph (a) in its entirety and substituting in lieu thereof a new paragraph (a) to read as follows:

“(a) A minor 12 years of age or over who professes to be either pregnant or afflicted with contagious, infectious or communicable diseases within the meaning of Chapters 5 and 7 of Title 16, or who professes to be exposed to the chance of becoming pregnant, may give written consent, except to abortion, to any licensed physician, hospital or public clinic for any diagnostic, preventive, lawful therapeutic procedures, medical or surgical care and treatment, including x-rays, by any physician licensed for the practice of medicine or surgery or osteopathic medicine or surgery in this State and by any hospital or public clinic, their qualified employees or agents while acting within the scope of their employment.”

Approved July 7, 1976

CHAPTER 545
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 815

**AN ACT TO AMEND CHAPTER 23, TITLE 30,
DELAWARE CODE, RELATING TO
OCCUPATIONAL LICENSES, TO EXEMPT
CERTAIN OCCUPATIONAL LICENSEES FROM
THE ADDITIONAL REQUIREMENT OF
OBTAINING A RETAILER'S LICENSE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend subsection (c) of §2301, Title 30, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

“(c) (1) Any person licensed under subsection (a) or (b) of this Section whose business activity or operation is not limited to the rendition of services for other persons but also involves the sale or exchange of goods or personal property shall also be subject to the license fees imposed by Chapter 29 of this Title.

(2) Paragraph (1) above shall not apply to any case in which the sale or exchange of good or personal property is incidental to the business activity licensed under subsections (a) or (b) of this Section. For the purposes of this Section, such sales or exchanges shall be deemed to be incidental if the gross receipts from such sales or exchanges do not exceed \$3,000. In such case, the provisions of Chapter 29 of this Title shall not apply, but

such incidental sales shall be included in gross receipts subject to tax under Chapter 23 of this Title.”

Approved July 7, 1976

CHAPTER 546

HOUSE BILL NO. 819
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 3

**AN ACT TO AMEND CHAPTER 23, TITLE 30,
DELAWARE CODE, RELATING TO
OCCUPATIONAL LICENSE FOR MOBILE HOME
PARKS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend paragraph (78) of §2301(a), Title 30, Delaware Code by striking the words "mobile home park," as the same appear in the third line of said paragraph in their entirety and by adding to said paragraph at the end thereof a new sentence to read as follows:

"The provisions of this paragraph shall not apply to mobile home parks."

Section 2. Amend Section 2301 (a), Title 30, Delaware Code, by adding thereto a new paragraph (87) to read as follows:

"(87) Mobile Home Park, \$50. Includes every person engaged in the business of providing space and facilities for rent or lease to owners of mobile home units on a permanent or semi-permanent basis."

Section 3. This Act shall take effect on January 1, 1977.

Approved July 7, 1976

CHAPTER 547

HOUSE BILL NO. 869

AN ACT TO AMEND CHAPTER 55, TITLE 30, DELAWARE CODE, RELATING TO PUBLIC UTILITY TAXES, AND CHAPTER 43, TITLE 30, DELAWARE CODE, RELATING TO USE TAX ON LEASES OF TANGIBLE PERSONAL PROPERTY, TO CHANGE THE DUE DATES FOR FILING RETURNS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5504 of Chapter 55, Title 30, Delaware Code by striking the words "within fifteen days" as the same appear in said paragraph (a) and inserting in lieu thereof the words "within twenty days".

Section 2. Amend §4307 (b) of Chapter 43, Title 30, Delaware Code, by striking the words "on or before the first day of each of the months of November, February, May and August," as the same appear in paragraph (b) and inserting in lieu thereof "on or before the twentieth day of each of the months of October, January, April and July".

Approved July 7, 1976

CHAPTER 548

HOUSE BILL NO. 901

**AN ACT TO AMEND CHAPTER 27, TITLE 30,
DELAWARE CODE, RELATING TO
MANUFACTURERS' LICENSE REQUIREMENTS
AND TAXES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2702 (b), Chapter 27, Title 30, Delaware Code, relating to license fees, by striking the words "gross receipts paid to such manufacturer" as the same appear in the first sentence thereof in their entirety and substituting in lieu thereof the words "gross receipts of such manufacturer".

Approved July 7, 1976

CHAPTER 549

HOUSE BILL NO. 1160

**AN ACT AUTHORIZING THE DEPARTMENT OF
HIGHWAYS AND TRANSPORTATION TO USE
CERTAIN FUNDS APPROPRIATED BY THE
"ANNUAL CAPITAL IMPROVEMENTS ACT OF
1976" FOR THE PURCHASE AND ERECTION OF
A NEW WATER TOWER IN THE TOWN OF
NEWPORT.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$153,000 appropriated to the Department of Highways and Transportation by the "Annual Capital Improvements Act of 1976" (Chapter 271, Volume 60, Laws of Delaware) for the purpose of purchasing and erecting a new water tower for the Town of Newport shall be used by the Department for such purchase subject to the restrictions hereinafter recited.

Section 2. The Town of Newport shall handle and be responsible for all contract preparations, negotiations, awarding of contracts and all other matters relating to the purchase and erection of said water tower, except the disbursement of the above mentioned funds, provided that prior to any contract preparations being prepared and finalized there shall be executed an agreement between the Department of Highways and Transportation and the Town of Newport relative to such water tower project, which agreement shall recite the restrictions recited herein and any other provisions deemed relevant by the Department.

Section 3. Disbursement of the aforementioned sum of \$153,000 to the Town of Newport shall be under the care and management of the Department of Highways

and Transportation. The Town of Newport shall present to the Department all bills for costs and expenses incurred for such water tower project. Any costs and expenses for such project in excess of \$153,000 shall be the responsibility of the Town of Newport.

Section 4. The Department of Highways and Transportation shall be authorized to use the aforementioned sum of \$153,000 for the purpose herein mentioned, notwithstanding the option contract executed by the Department and the Town of Newport on March 14, 1972 and notwithstanding the provisions of any other law of this State.

Approved July 7, 1976

CHAPTER 550

SENATE BILL NO. 419

**AN ACT TO AMEND CHAPTER 1, TITLE 17,
DELAWARE CODE, RELATING TO HIGHWAYS
AND THE POWERS AND DUTIES OF THE
DEPARTMENT OF HIGHWAYS AND
TRANSPORTATION.**

Be it enacted by the General Assembly of the State of Delaware:

WHEREAS, the Department of Highways and Transportation, Division of Highways, has determined that it is necessary and beneficial to acquire in some instances a lesser interest than a fee simple absolute in real property.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 1, Title 17, Delaware Code, by striking §137 in its entirety and substituting in lieu thereof the following:

“§137. Acquisition and sale of real property.

(a) The Department, in the name of the State, may acquire private or public property and property rights for highway facilities and service roads, including rights to access, air, view and light by gift, devise, purchase or in the exercise of the power of eminent domain, acquire the same by condemnation by proceeding in the manner prescribed in Chapter 61, Title 10, Delaware Code, be authorized by law to acquire such property or property

rights in connection with highways and streets within is jurisdiction. Property rights so acquired shall be in fee simple absolute or such lesser interest as the Department may deem appropriate.

(b) When any property heretofore or hereafter acquired, either by gift, purchase or condemnation, is no longer needed for highway purposes, the Department may sell the same, at a price to be determined by an unbiased fee appraiser, granting any conveying to the purchaser thereof a fee simple title thereto or such lesser interest as the Department may possess."

Approved July 7, 1976

CHAPTER 551

SENATE BILL NO. 451

**AN ACT TO AMEND CHAPTER 66, TITLE 16,
DELAWARE CODE, RELATING TO THE
INCLUSION OF DEPUTY STATE FIRE
MARSHALS INTO THE STATE PERSONNEL
COMMISSION'S MERIT SYSTEM.**

WHEREAS, interpretation of existing statutes covering the office of State Fire Marshal, there has arisen a problem which seems to conflict with the Personnel Commission rules and regulations; and

WHEREAS, it is the opinion of the Personnel Commission that as it presently stands the Deputy Fire Marshals are not under the Merit System, though all appointments, promotions and salary increases have been in accordance with Merit System rules; and

WHEREAS, it is the desire of the State Fire Prevention Commission that all personnel fall within the framework of the Merit System.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §6606 (b) of Chapter 66, Title 16, Delaware Code, by striking said paragraph (b) in its entirety and substitute a new paragraph (b) to read as follows:

“(b) The State Fire Marshal shall appoint all authorized personnel pursuant to Merit System rules and regulations and administer the usual oath as required.

Salaries of all personnel to include appropriate position classifications, upgrading and promotions shall be in compliance with the provisions of Chapter 59, Title 29, Delaware Code."

Section 2. This Act shall be retroactive to July 1, 1974.

Approved July 7, 1976

CHAPTER 552
SENATE SUBSTITUTE BILL NO. 1 TO
SENATE BILL NO. 523

**AN ACT TO AMEND AN ACT BEING CHAPTER 143,
VOLUME 57, LAWS OF DELAWARE, AS
AMENDED, ENTITLED "AN ACT TO
INCORPORATE THE TOWN OF SOUTH
BETHANY".**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of all members elected to each House
thereof concurring therein):*

Section 1. Amend Section 5(a) of Chapter 143, Volume 57, Laws of Delaware, as amended, by striking said paragraph (a) in its entirety and substituting in lieu thereof a paragraph (a) to read as follows:

“(a) An election shall be held in the Town of South Bethany for Town Commissioners on the first Saturday in July, 1970, and annually thereafter on the last Saturday before the last Monday in May, from 11:00 a.m. to 3:00 p.m., and at such places as shall be determined and fixed by the Town Commissioners. At least thirty (30) days previous to such election, due notice thereof and of the time and place thereof shall be received by three qualified voters of said Town appointed by the Council. At all such elections the votes shall be received by three qualified voters of said Town appointed by the Council at any regular or special meeting of said Council, preceding such election. Said persons so appointed shall be known as Judges of Election, and the result of the balloting for said officers of said Town shall be ascertained by the said Judges of Election. The term of office of Assessor and Treasurer shall be for two years.”

Section 2. Amend Section 5(a) of Chapter 143,

Volume 57, Laws of Delaware, by adding thereto a new sentence to read as follows:

“The terms of office of Assessor and Treasurer shall be for two years.”

Section 3. Amend Section 5(b) of Chapter 143, Volume 57, Laws of Delaware, by adding immediately after the first sentence of said paragraph (b) the following: “thereafter the terms of the Commissioners shall be for two (2) years.”

Section 4. Amend Sections 5(a) and 5(b) of Chapter 143, Volume 57, Laws of Delaware, by striking the word “Commissioners” wherever it appears, except when immediately preceded by the word “Town” and substituting in lieu thereof the word “Council”.

Section 5. Amend Section 6 of Chapter 143, Volume 57, Laws of Delaware, by adding after the penultimate paragraph the following sentence:

“Should voting machines be required by law, enacted subsequent to the enactment of this Act, the Commissioners shall make appropriate changes in the procedures for balloting which conform, as near as practicable, to the procedures outlined therein.”

Section 6. Amend Section 7(a) of Chapter 143, Volume 57, Laws of Delaware, as amended, by striking the words: “and who on the day of election is not delinquent in the payment of taxes either to the State of Delaware, County of Sussex, or the Town of South Bethany Beach”, as the same appears in said paragraph (a).

Section 7. Amend Section 9 of Chapter 143, Volume 57, Laws of Delaware, as amended, to read as follows:

“Section 9. Qualifications for Commissioners.

No person shall be eligible to hold office as a Commissioner except a person who at the time of filing as a candidate has been a real property owner of the Town for a period of one year immediately preceding the date of filing; or who, not the legal owner of real estate in the Town, has been a resident of the Town for one year immediately preceding the date of filing and who meets the qualifications for voting as set forth in Section 7, is a citizen of the United States, and has attained the age of twenty-one years.”

Section 8. Amend Section 9 of Chapter 143, Volume 57, Laws of Delaware, as amended, by striking the word “Commissioners” as it appears in the section title and substituting in lieu thereof the word “Commissioner”.

Section 9. Amend Section 21 of Chapter 143, Volume 57, Laws of Delaware, as amended, by inserting the word “appointment” immediately after the word “his” and before the word “and”.

Approved July 7, 1976

CHAPTER 553

SENATE BILL NO. 662

**AN ACT TO AMEND CHAPTER 7, TITLE 21 OF THE
DELAWARE CODE RELATING TO THE
JURISDICTION OF OFFENSES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

AMEND Chapter 7, Title 21 of the Delaware Code by
adding a new subsection (b) to §703 to read as follows:

“(b) Notwithstanding the above, the arresting officer
may, in his discretion, issue a summons to the person
arrested for appearance at a subsequent date at the Justice
of the Peace Court which is the nearest available Justice of
the Peace Court to the place of the arrest. For the purpose
of this section, the summons for later appearance at the
nearest available Justice of the Peace Court to the place of
arrest, during the regularly scheduled hours of said court,
shall be sufficient to grant jurisdiction over the offense
charged to the said nearest available Justice of the Peace.”

FURTHER AMEND §703 by redesignating
subsections (b), (c), (d), and (e) thereof to be respectively
subsections (c), (d), (e) and (f) thereof.

Approved July 7, 1976

CHAPTER 554

SENATE BILL NO. 710

AN ACT TO AMEND CHAPTER 271, VOLUME 60, LAWS OF DELAWARE, ENTITLED: "AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO VARIOUS AGENCIES OF THE STATE AND TO BORROW MONEY TO BE USED FOR THE LOCAL SHARE OF SCHOOL CONSTRUCTION PROGRAMS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS".

WHEREAS, the Capital Improvement Act of 1976 appropriated \$60,000 for preliminary engineering of a Port Penn bulkhead; and

WHEREAS, the bulkhead is a part of a master plan for the development of the Port Penn - Augustine Beach Recreational Area; and

WHEREAS, the Department of Natural Resources and Environmental Control wishes to let a contract for preliminary engineering for the entire project of which the bulkhead is a part; and

WHEREAS, the Attorney General in an advisory opinion has indicated that the money can only be used for the bulkhead portion.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of

Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. Amend the 1976 Annual Capital Project schedule by striking the line which reads "Port Penn Bulkhead - Preliminary Engineering 60,000" as the same appears on Page 19 and substituting in lieu thereof the following: "Port Penn Bulkhead and Recreational Area - Preliminary Engineering 60,000."

Approved July 7, 1976

CHAPTER 555

SENATE BILL NO. 714

**AN ACT TO AMEND TITLE 17 AND TITLE 21 OF
THE DELAWARE CODE RELATING TO TOLL
EVASION ON THE DELAWARE RIVER AND
BAY AUTHORITY MEMORIAL BRIDGE (TWIN
SPANS).**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend §330, Chapter 3, Title 17 of the Delaware Code by striking said section in its entirety.

Section 2. Amend Chapter 41, Part III, Title 21 of the Delaware Code by adding thereto a new section, designated as §4128, which new section shall read as follows:

“§4128. Delaware Memorial Bridge; Toll Evasion.

(a) No vehicle shall be permitted to make use of any part of the Delaware Memorial Bridge, except upon payment of such tolls as may from time to time be prescribed by the Delaware River and Bay Authority.

(b) It is hereby declared to be unlawful for any person to refuse to pay, to evade, or attempt to evade the payment of any such toll. Any such violation regarding the payment of tolls shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) or imprisonment of not more than five days, or both.

(c) Any person convicted under the provisions of this

section shall have the right of appeal as set forth in §708, Chapter 7, Title 21 of the Delaware Code.

(d) In the event of an arrest for a violation of a provision of this section, the person arrested shall be taken before a Justice of the Peace whose regular office is nearest to the place where such person was arrested. The person so arrested shall have the privilege of electing to have his case tried and determined in the Court of Common Pleas, and shall be advised of this privilege as set forth in §5901, Chapter 59, Title 11 of the Delaware Code.

(e) Any peace officer may stop and arrest, with or without a warrant, any person abroad who he has reasonable grounds to suspect is committing, has committed, or is attempting to commit a violation of this section."

Approved July 7, 1976

CHAPTER 556

SENATE BILL NO. 729
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT REVISING THE PRIOR CHARTER OF THE CITY OF REHOBOTH BEACH AND ESTABLISHING A NEW CHARTER THEREFOR AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH" TO PROVIDE A DAY WHEN VOTERS MUST REGISTER IN ORDER TO VOTE IN THE ANNUAL MUNICIPAL ELECTION.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Section 7(d), Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of the last sentence of said Section 7(d) and substituting in lieu thereof a new last sentence to read as follows:

"A person may register at the Office of the City Manager during the regular business hours on any day until the close of business on the second Friday in July in any year."

Section 2. This Act shall be come effective September 1, 1976.

Approved July 7, 1976

CHAPTER 557

SENATE BILL NO. 736

**AN ACT TO AMEND CHAPTER 21, PART II, TITLE 21
OF THE DELAWARE CODE RELATING TO THE
REGISTRATION AND INSPECTION OF MOTOR
VEHICLES OWNED BY DISABLED VETERANS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2164, Chapter 21, Part II, Title 21 of the Delaware Code by adding, immediately following the words "et seq." as the same appear in the first sentence of said section, the following:

"or Public Law 538, 93rd Congress"

Approved July 7, 1976

CHAPTER 558

SENATE BILL NO. 753
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 64, TITLE 7 OF THE DELAWARE CODE RELATING TO THE DELAWARE SOLID WASTE AUTHORITY; AND PROVIDING FOR A MEANS OF REPLACING DIRECTORS ON THE DELAWARE SOLID WASTE AUTHORITY, CLARIFYING MEETING AND VOTING REQUIREMENTS, INDICATING PENSION COVERAGE OF AUTHORITY EMPLOYEES, CLARIFYING BONDING CAPABILITIES, CLARIFYING DEFINITIONS, AND ALLOWING FOR IMPOSITION OF SANCTIONS FOR VIOLATIONS OF REGULATIONS AND LICENSE CONDITIONS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §6403, Chapter 64, Part VII, Title 7 of the Delaware Code by combining present subsections (a) and (b) and designating the new, combined subsection as subsection (a).

Section 2. Amend §6403, Chapter 64, Part VII, Title 7 of the Delaware Code by adding thereto a new subsection, designated as subsection (b), which new subsection shall read as follows:

(b) In the event of death of a director, permanent disability of a director, resignation of a director to perform his duties, the Governor shall appoint an interim director to serve for a period not to exceed six months, unless such interim director shall be confirmed by the Senate, in which case the interim director shall complete the term of the replaced director. If an interim director is not confirmed by the Senate within six months of the date of appointment, the position of director shall remain vacant until such time

that an interim director is confirmed by the Senate, or a director is selected to serve a new term. Except as otherwise set forth herein the appointment of interim directors shall be subject to all other requirements regarding appointments of directors."

Section 3. Amend §6403, Chapter 64, Part VII, Title 7 of the Delaware Code by striking subsection (c) of said section in its entirety, and substituting in lieu thereof the following:

"(c) For purposes of conducting business of the Authority five (5) directors shall constitute a quorum. A majority vote of members constituting the quorum shall be required for action on any matter before the Authority. All votes on matters before the Authority shall be conducted at meetings open to the public, and such meetings shall be timely noticed through Statewide newspaper advertisement. Nothing herein shall prevent the directors of the Authority from meeting at executive sessions which are closed to the public for purposes of discussing Authority matters."

Section 4. Amend §6405, Chapter 64, Part VII, Title 7 of the Delaware Code by adding thereto a new subsection, designated as subsection (f), which new subsection shall read as follows:

"(f) All members of the staff shall be included under and subject to the provisions of Chapter 55, Title 29 of the Delaware Code, entitled, 'State Employee's, Pension Plan'."

Section 5. Amend subsection (a), Section 6407, Chapter 64, Title 7 of the Delaware Code by striking paragraph (2) in its entirety, and substituting in lieu thereof the following:

"(2) Receive funds from the sale of general bonds, revenue bonds, or other obligations of municipal, county, or regional authorities and from the sale of general bonds,

revenue bonds, or other obligations of the Authority.”

Section 6. Amend §6402 (5), Chapter 64, Part VII, Title 7 of the Delaware Code by striking the words “corporative enterprise” and substituting the words “co-operative enterprise” in lieu thereof.

Section 7. Amend Chapter 64, Part VII, Title 7 of the Delaware Code by adding thereto a new section, designated as §6417, which new section shall read as follows:

“§6417. Sanctions.

(a) Any person who violates a regulation or a license condition shall be subject to the following sanctions:

(1) If the violation has been completed, a civil penalty of not less than \$100 and not more than \$1,000 shall be assessed. If a violation continues for a number of days, each day of such violation shall be considered a separate violation. Jurisdiction of lawsuits under this subsection shall be in any Court of Common Pleas.

(2) If the violation is continuous, or there is a substantial likelihood that it will reoccur, the Authority may seek a temporary restraining order, preliminary injunction, or permanent injunction in the Court of Chancery.

(b) Any licensee who violates a regulation or license condition shall be subject to revocation of such license, or suspension of such license for such period as determined by the Authority. The procedure to be followed regarding any revocation or suspension of license shall be as follows:

(1) The Authority shall notify the licensee of the alleged violation by registered mail at least twenty (20) days in advance of the time set for hearing on the violation.

(2) A hearing shall be held on the violation at which time the manager of the Authority shall present evidence in support of the alleged violation.

(3) The licensee may appear personally or by counsel at the hearing and produce any competent evidence in his behalf.

(4) Upon request of the manager or an alleged violator or the Chairman of the Authority shall issue subpoenas requiring the testimony of witnesses and production of books, records, or other documents relevant to any matter involved in such hearing. In case of contumacy or refusal to obey a subpoena issued under this subsection, the Superior Court in the county in which the hearing is held shall have jurisdiction upon application of the Chairman to issue an order requiring such person to appear and testify or produce books records or other documents requested.

(5) All testimony at the hearing shall be taken under oath. The Chairman shall administer oaths and all directors shall be entitled to examine witnesses. A verbatim transcript of testimony at the hearing shall be prepared and shall, along with the exhibits introduced into evidence, constitute the record.

(6) Decisions regarding revocation or suspension of a license shall be made by majority vote of directors constituting the quorum. In the event the directors render a decision revoking or suspending a license, the Chairman shall make findings of fact based on the record supporting the decision, and state the reasons for rendering the decision. Any director who takes exception to the decision may submit a dissenting opinion which shall set forth the reasons of such exception. Dissenting opinions shall be attached to and constitute a part of the decision of the Authority. Deliberations on decisions regarding revocations or suspensions of licenses shall be held in executive sessions which shall be closed to the public. In the event a decision is rendered revoking or suspending a license, the Authority may impose conditions for reapplication for a license or for continued operation of the violator under the license.

(7) The Authority shall notify the alleged violator by

registered mail of any decision reached under this subsection.

(c) Any person whose license is revoked or suspended may appeal the decision of the Authority to the Superior Court in and for the county in which the hearing was held. Such appeals shall be made within thirty (30) days of the date of receipt of notification of the Authority's decision. Appeals shall be on the record. If the Court finds that additional evidence should be taken, the Court may remand the matter to the Authority for completion of the record. No appeal shall operate to stay automatically any decision of the Authority, but upon application and for good cause, the Authority or the Superior Court may stay the decision pending disposition of the appeal.

(d) The Authority, through its legal counsel, shall be entitled to take direct legal action pursuant to subsection (a) of this section without resort to conciliation or administrative remedies. The Authority may delegate to its manager the authority to file suit on behalf of the Authority."

Approved July 8, 1976

CHAPTER 559

SENATE BILL NO. 658

**AN ACT TO AMEND CHAPTER 13, TITLE 10, OF
THE DELAWARE CODE TO INCREASE THE
NUMBER OF COURT OF COMMON PLEAS
JUDGES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1302, Chapter 13, Title 10, Delaware Code, by striking the figure "4" in "(a)" and substituting in lieu thereof the figure "5".

Section 2. Amend § 1302, Chapter 13, Title 10, Delaware Code, by striking the word "Two" in "(c)" and substituting in lieu thereof the word "Three".

Approved July 8, 1976

CHAPTER 560

HOUSE BILL NO. 1234

**AN ACT TO AMEND CHAPTER 55, TITLE 29,
DELAWARE CODE RELATING TO STATE
EMPLOYEES' PENSIONS.**

WHEREAS, House Bill No. 1155 of the 128th General Assembly clarified §5527(d), Title 29, Delaware Code relating to pensions for elected officials who are employed in other jobs by the State; and

WHEREAS, the said House Bill No. 1155, which becomes effective July 1, 1976, makes it clear that the pension for a State employee will be handled as a separate pension; and

WHEREAS, members of the 128th General Assembly were in agreement that it was never intended that a State employee who served as an elected official should have his total salary as an elected official added to his salary as a State employee for the purpose of computing his State pension benefits.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. For the purpose of computing State employee pensions for all elected officials who have served, who are serving, or who will serve in the future, who are also employed in other positions by the State of Delaware, any pension for credited service other than as an elected official shall be determined as a separate pension under the provisions of Chapter 55, Title 29, Delaware Code.

Section 2. Any current or former elected official who has also been employed in other positions by the

State on or before July 1, 1976 who has had pension payments deducted, in excess of those which would have been deducted had Section 1 of this Act been in effect on July 1, 1970, shall have such payments returned to them.

Approved July 8, 1976

CHAPTER 561

HOUSE BILL NO. 1057

AN ACT TO AMEND CHAPTER 75, PART V, TITLE 15 OF THE DELAWARE CODE RELATING TO MUNICIPAL AND TOWN ELECTIONS; AND PROVIDING FOR A REDUCTION IN THE AMOUNT OF TIME POLLS MUST STAY OPEN WHEN THERE IS ONLY ONE CANDIDATE FOR EACH OFFICE.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 75, Part V, Title 15 of the Delaware Code by adding a new section to Subchapter 1, which new section shall read as follows:

“§7502. Conduct of Elections When There is Only One Candidate.

In any town or municipal election where there is only one official candidate for each office, the number of hours the polls are required to remain open may be reduced by the city or town; provided, however, that the polls in any event shall remain open between six o'clock p.m. and seven o'clock p.m.”

Approved July 8, 1976

CHAPTER 562

HOUSE BILL NO. 816
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 21, TITLE 30, DELAWARE CODE, RELATING TO GENERAL PROVISIONS CONCERNING OCCUPATIONAL AND BUSINESS LICENSES, TO PROVIDE FOR PRO-RATIONING OF FEES, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend subsection (e) of Section 2103, Title 30, Delaware Code, (1) by striking the words "August 1 following the June 30" appearing in the first sentence thereof; and, (2) by striking the words "and request a hearing before the Tax Appeal Board" appearing at the end of the first sentence thereof, and substituting in lieu thereof the words "or file a petition with the Tax Appeal Board."

Section 2. Amend subsection (a) of Section 2108, Title 30, Delaware Code, relating to claims for refund, by striking the words "August 1 following the June 30".

Section 3. Amend Section 2108, Title 30, Delaware Code, relating to claims for refund, by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) If the Secretary of Finance or his delegate disallows a claim for refund, in whole or in part, he shall notify the taxpayer of such disallowance. Such determination shall become final upon the expiration of 30 days from the date such notice was mailed unless within such 30 day period the taxpayer files a written protest with the Secretary or his delegate stating the reasons for his objec-

tion to the determination, or files a petition for review with the Tax Appeal Board. If a written protest is filed, the Secretary or his delegate shall notify the taxpayer of his determination with respect thereto, and such determination shall become final upon the expiration of 30 days from the date such notice is mailed unless the taxpayer, within such 30 day period, files a petition for review with the Tax Appeal Board. If the Secretary or his delegate fails to act on any claim for refund within 90 days from the date such claim was filed, the taxpayer may consider the claim disallowed for purposes of filing a petition with the Tax Appeal Board."

Section 4. Amend §2111, Title 30, Delaware Code, by striking said Section in its entirety and substituting in lieu thereof a new §2111 to read as follows:

"§2111. Form and signature of licenses.

The Secretary of Finance, or his delegate, each year, shall prepare blank licenses for each business, trade, pursuit or corporation mentioned and enumerated in this part in such form as the Secretary of Finance deems proper. The licenses shall be signed by the signature or by the facsimile signature of the Secretary of Finance and shall each bear the date of issue."

Section 5. Amend Chapter 21, Title 30, Delaware Code, by adding to the end thereof a new Section 2121, to read as follows:

"Section 2121. Prorating of License Fees for Part-Year Licensees. In the case of any person making an initial application for a business or occupational license pursuant to the provisions of Chapter 23, Chapter 27, Chapter 29, or Chapter 43 of this Part, the basic annual license fee for such initial year specified therein shall be reduced pro-rata by the portion attributable to the number of full calendar months of the license year that have ex-

pired prior to the issuance of the license.”

Approved July 8, 1976

CHAPTER 563

HOUSE BILL NO. 1081

AN ACT TO REQUIRE THE COUNTY COUNCIL OF SUSSEX COUNTY TO PAY \$7,500 TO THE SOIL AND WATER CONSERVATION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO MATCH THE COUNTY'S SHARE OF FUNDS APPROPRIATED BY THE STATE FOR TAX DITCH WORK IN FISCAL 1975.

WHEREAS, by Chapter 749, Volume 57, Laws of Delaware, the General Assembly changed the amounts of appropriations to the Soil and Water Conservation Division for Tax Ditches; and

WHEREAS, by Chapter 749, Volume 57, Laws of Delaware, it was ordered that the "government of each county shall annually appropriate to the Soil and Water Conservation Division a sum equal to the annual appropriation to the Division by the General Assembly"; and

WHEREAS, for the Fiscal Year 1975 Sussex County paid \$22,500 although the state appropriation was \$30,000; and

WHEREAS, Sussex County should now pay to the Soil and Water Conservation Division the sum of \$7,500.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The County Council of Sussex County is hereby authorized and directed to pay the sum of \$7,500 to the Soil and Water Conservation Division as the balance of its matching share of the annual appropriation by

the General Assembly for Fiscal 1975.

Approved July 8, 1976

CHAPTER 564

HOUSE BILL NO. 1237

**AN ACT TO AMEND CHAPTER 585, VOLUME 59,
LAWS OF DELAWARE, AUTHORIZING THE
ASSIGNMENT OF CERTAIN UNALLOCATED
FUNDS TO THE PLANNED WILMINGTON SER-
VICE CENTER.**

WHEREAS, there are additional Federal Hill-Burton funds which may be earned by the Thomas Collins State Service Center project; and

WHEREAS, there is \$265,000 designated from Federal Hill-Burton funds which must be matched prior to July 1, 1976; and

WHEREAS, there is a real need for a State Service Center in the City of Wilmington;

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 585, Volume 59, Laws of Delaware, by adding two new sections as follows:

“Section 3. Any additional Federal Hill-Burton funds earned by the Thomas Collins project, up to an amount not exceeding \$265,000, which are not required in Section 1 or Section 2 of this Chapter, may be used for the Wilmington State Service Center Project. Such funds are exempted from the restrictive provisions of Section 14, Chapter 348, Volume 58, Laws of Delaware.

Section 4. The Secretaries of the Department of Administrative Services and the Department of Health and Social Services shall apply the funds designated in Section

3 for the renovation and/or construction of a facility to house a State Service Center for the City of Wilmington.”

Approved July 8, 1976

CHAPTER 565

HOUSE BILL NO. 1228

**AN ACT TO AMEND CHAPTER 97, TITLE 16,
DELAWARE CODE RELATING TO THE DELA-
WARE HEALTH FACILITIES AUTHORITY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §9704(a), Chapter 97, Title 16, Delaware Code by striking the sixth sentence of said subsection in its entirety and substituting in lieu thereof the following sentence:

“The terms of the members of the Authority first appointed shall be designated by the Governor to commence on June 1, 1976 and to expire, respectively, 1 on June 30 in each of the years 1977, 1978, 1979, and 1980 and 3 in the year 1981.”

Approved July 8, 1976

CHAPTER 566

HOUSE BILL NO. 1220

**AN ACT MAKING AN APPROPRIATION TO THE
DIVISION OF HISTORICAL AND CULTURAL
AFFAIRS TO BE USED IN THE RENOVATION
AND RESTORATION OF THE GRAND OPERA
HOUSE OF THE CITY OF WILMINGTON.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. There is hereby appropriated and transferred the sum of Two-hundred fifteen thousand fifteen dollars (\$215,015.) from the Capital Investment Fund, established by Chapter 62, Title 29 of the Delaware Code, to the Division of Historical and Cultural Affairs (20-06-000) to be used in the renovation and restoration of the Delaware Center for the Performing Arts.

Section 2. Any money appropriated herein and unexpended or unencumbered as of June 30, 1977, shall revert to the Capital Investment Fund.

Approved July 9, 1976

CHAPTER 567

HOUSE BILL NO. 1294

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF ADJUSTING THE FORMULA FOR REIMBURSEMENT TO THE SCHOOL BUS CONTRACTORS AND THE SCHOOL DISTRICTS FOR THE TRANSPORTATION OF PUBLIC SCHOOL PUPILS DURING THE FISCAL YEAR ENDING JUNE 30, 1977.

WHEREAS, the increasing costs of goods and services are seriously affecting the costs of transporting pupils to school; and

WHEREAS, the school bus contractors and the school districts that operate buses are having to pay increasing costs for gas, oil, tires, maintenance; and

WHEREAS, the present transportation reimbursement formula used by the State Board of Education in calculating its request is based on estimates of cost prepared during the preceding year, as is the appropriation provided by the General Assembly in the FY 1977 budget, and is now inadequate to meet current transportation costs.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of one hundred ninety-three thousand dollars (\$193,000.00) is hereby appropriated to the State Board of Education for the purpose of adjusting the formula for reimbursement to school bus contractors and school districts that operate buses for the transportation of public school pupils.

Section 2. The State Board of Education is authorized to transfer uncommitted transportation funds remaining in local school budgets for the purpose of making adjustments in the transportation formula by taking into account increases in the cost factors referred to herein; provided, however, that the total costs of such adjustment do not exceed the sum of \$253,000.00.

Section 3. This Act shall be known as a supplementary appropriation act, and the funds hereby appropriated shall be paid out of the General Fund of the State from moneys not otherwise appropriated.

Section 4. Any funds hereby appropriated which remain unexpended on June 30, 1977, shall thereupon revert to the General Fund of the State Treasury.

Approved July 16, 1976

CHAPTER 568

HOUSE BILL NO. 1295

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1977.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated Three Hundred Thousand Dollars (\$300,000) for Fiscal Year 1977 to the State Board of Education (95-01-000) to be used as Division III - Equalization Funds in accordance with Chapter 17, Title 14 of the Delaware Code.

Section 2. This Act is a supplementary appropriation bill and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated.

Section 3. The funds appropriated hereby shall only be used by the State Board of Education as Equalization Funds and any funds appropriated herein but not expended by July 1, 1977, shall thereupon revert to the General Fund of the State of Delaware.

Approved July 16, 1976

CHAPTER 569

HOUSE BILL NO. 1296

AN ACT AUTHORIZING AND DIRECTING THE STATE TREASURER TO TRANSFER TWO HUNDRED EIGHTY-FIVE THOUSAND DOLLARS (\$285,000) FROM FUNDS APPROPRIATED FOR FRINGE BENEFITS TO DELAWARE STATE COLLEGE IN THE 1977 APPROPRIATION ACT TO THE SALARY LINE OF EMPLOYEES OF DELAWARE STATE COLLEGE FOR THE PURPOSE OF PAYING THE SALARIES OF THIRTY (30) EMPLOYEES PRESENTLY BEING PAID OUT OF COLLEGE FUNDS.

Be it enacted by the General Assembly of the State of Delaware:

“Section 1. The State Treasurer of the State of Delaware is hereby authorized and directed to transfer two hundred eighty-five thousand dollars (\$285,000) from funds appropriated for fringe benefits to Delaware State College in the 1977 Annual Appropriation Act to the salary line of employees of Delaware State College for the purpose of paying the salaries of thirty (30) employees presently being paid out of College funds, any provisions of the Delaware Code to the contrary notwithstanding.”

Approved July 16, 1976

CHAPTER 570

HOUSE BILL NO. 1288

**AN ACT TO AMEND CHAPTER 39 OF TITLE 12 OF
THE DELAWARE CODE RELATING TO THE AP-
POINTMENT OF GUARDIANS AND TO
ESTABLISH THE OFFICE OF PUBLIC GUARDIAN
AND FURTHER PROVIDING A SUPPLEMEN-
TARY APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §3914 of Chapter 39, Title 12, Delaware Code by striking the title to said section in its entirety and substitute in lieu thereof a new title to read as follows:

“Guardian for person or property of aged, mentally infirm or physically incapacitated persons”.

Section 2. Amend Subsection (a) of §3914, Chapter 39, Title 12 of the Delaware Code by striking phrase “manage and care for his property” wherever such phrase appears in said subsection and substituting in lieu thereof the phrase “manage and care for his person or property”.

Section 3. Further amend subsection (a) of §3914, Chapter 39, Title 12 of the Delaware Code by striking the phrase “guardian of the property” and substituting in lieu thereof the phrase “guardian of the person or property”.

Section 4. Further amend subsection (a) of §3914, Chapter 39, Title 12 of the Delaware Code, by adding after the phrase “victim of designing persons” the following phrases:

“or, in the case where a guardian of the person so sought, such person is in danger of substantially endangering his health, or of becoming subject to abuse by other persons, or of becoming the victim of designing persons”.

Section 5. Amend subsection (b) of §3914, Chapter 39, Title 12 of the Delaware Code, by striking the phrase “for whose property a guardian is sought: and substituting in lieu thereof the phrase “for whose person or property a guardian is sought”.

Section 6. Further amend subsection (b) of §3914, Chapter 39, Title 12 of the Delaware Code, by adding thereto a new sentence to read as follows:

“Provided, however, that in all cases where a guardian of the person is sought such person shall be entitled to representation by counsel.”

Section 7. Amend subsection (c) of §3914, Chapter 39, Title 12 of the Delaware Code, by striking the phrase “of such person’s property” and substituting in lieu thereof the phrase “of the person or of such person’s property, or both, as the Court may deem proper”.

Section 8. Amend subsection (f) of §3914, Chapter 39, Title 12 of the Delaware Code by adding after the word “guardian” the phrase “of the property”.

Section 9. Amend Chapter 39, Title 12 of the Delaware Code by adding thereto a new Subchapter VII, to read as follows:

“SUBCHAPTER VII. PUBLIC GUARDIAN

§3991. Public Guardian: appointment.

There is established the office of the public guardian.

The Chancellor shall appoint the public guardian, who shall serve at his pleasure. The salary of the public guardian shall be \$18,500 per annum, to be paid from the General Fund. The Chancellor, in his discretion, may require the public guardian to post bond.

§3992. Powers and Duties.

(a) The public guardian, when appointed as guardian by Court order shall:

(1) Serve as a guardian for the property of aged, mentally infirm or physically incapacitated persons, pursuant to §3914, Title 12, Delaware Code, or

(2) Serve as a guardian for the person of aged, mentally or physically incapacitated persons where such persons are in danger of substantially endangering their health, or of becoming subject to abuse by other persons, or of becoming the victim of deigning persons, or,

(3) Serve as both guardian of the person and of property of such person.

§3993. Allocation of costs.

(a) If a public guardian has been appointed guardian of the person or of the property, administrative costs and all costs incurred in the appointment procedure shall not be charged against the income or estate of the ward or protected person. However, if at any time the Court determines that the income or the estate of the ward or protected person can support the payment of any part of those costs, the Court may enter an order charging that part of the payment of cost against the income or the estate.

(b) If a public guardian has been appointed guardian of the person of the property, all administrative costs and all cost incurred in the appointment procedure shall be paid in-

initially from the general fund. If the Court enters an order charging any part of those costs against the income or estate of the ward or protected person, the public guardian shall reimburse the general fund from the income or estate.

§3994. Court costs.

In any proceeding for appointment of a public guardian, or in any proceeding involving the estate of a ward or protected person from whom a public guardian has been appointed guardian of the person or of the property, the Court may waive any court costs or filing fees.

§3995. Staff; budgeting and finance.

(a) The public guardian may appoint subordinates to assist him in carrying out the purposes of this subchapter. Subordinates shall include, but not be limited to, such non-profit organizations as the public guardian shall deem to be qualified in carrying out the duties as a subordinate guardian.

(b) The public guardian shall prepare an annual fiscal budget for the operation of the office of public guardian for the consideration of the General Assembly. The office of public guardian shall be operated within limitation of the Annual Appropriation and any other funds appropriated by the General Assembly or designated for that purpose from the estate of the ward by the Court. Special funds may be used in accordance with approved programs, grants and appropriations.

§3996. Periodic Review.

Beginning six months from the date of the commitment order, the Court shall review the case and status of the person committed, and shall further review the case and status of such person every six months thereafter to determine whether or not such commitment and guardianship should be

continued.

§3997. Annual Report.

The public guardian shall make an annual report to the Chancellor and the General Assembly of the operations of his office, and render such other reports as the Chancellor or General Assembly may from time to time request or as may be required by law."

Section 10. The sum of \$56,522 is hereby appropriated to the Office of the Administrator of the Courts for the purpose of implementing the provisions of this Act.

Section 11. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 12. The funds herein appropriated remaining unexpended on June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved July 20, 1976

CHAPTER 571

HOUSE BILL NO. 1260

AN ACT TO AMEND CHAPTERS 13, 17, AND 31, TITLE 14, OF THE DELAWARE CODE TO INCLUDE SEVERELY MENTALLY HANDICAPPED CHILDREN UNDER THE JURISDICTION OF THE PUBLIC SCHOOL SYSTEM AND TO PROVIDE AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §1703 (d), Chapter 17, Title 14, Delaware Code by inserting after the words "classes for the trainable mentally handicapped" but prior to the comma (,) the words "and severely mentally handicapped".

Section 2. Amend §1703, Chapter 17, Title 14, Delaware Code, by inserting in that section a new paragraph (e) to read as follows:

"(e) Programs shall be conducted on a 12 month schedule for children who are identified as severely mentally handicapped. Such programs shall not exceed 217 pupil days and 222 teacher days in length. Enrollment of pupils beyond 180 days per year in any such program will be on a voluntary basis upon application by the parent, guardian, or other person legally responsible for the enrollee. The state share of the salary paid to teachers for the number of units authorized in accordance with the rules and regulations of the State Board of Education during the eleventh and twelfth months shall be at the rate of; number of days employed multiplied by 1/185 of the particular teacher's entitlement for a regular school year."

Section 3. Amend §1324 (a), Chapter 13, Title 14, Delaware Code, by inserting after the word "trainable" the

words "and severely".

Section 4. Amend §3101, Chapter 31, Title 14, Delaware Code, by renumbering paragraphs (4) through (8) to be (5) through (9) and inserting a new paragraph (4) to read as follows:

"(4) 'Severely mentally handicapped children' means children who, because of very severely retarded intellectual development as determined by individual intellectual assessment and developmental/adaptive behavior, are incapable of being trained in total self-care, socialization, or economic usefulness and who need continued help in taking care of their personal needs."

Section 5. Amend §1321 (e), Chapter 13, Title 14, Delaware Code, by adding to that subsection new items (11), (12), and (13) as follows:

"(11) Specialist--physical therapists for a period of 12 months per year at the rate of 1 for each group of 50 children identified as severely mentally retarded.

(12) Specialist--occupational therapists for a period of 12 months per year at the rate of 1 for each group of 50 children identified as severely mentally retarded.

(13) Specialist--speech therapists for a period of 12 months per year at the rate of 1 for each group of 50 children identified as severely mentally retarded."

Section 6. Amend §1321 (f), Chapter 13, Title 14, Delaware Code, by adding a new sentence to that paragraph to read as follows:

"In the case of physical therapists, occupational therapists, and speech therapists to be employed on account of severely mentally retarded pupils, the provisions of this

subsection shall apply to any combination of school buildings within a district or among districts.”

Section 7. The effective date of this Act shall be July 1, 1976.

Section 8. The sum of \$624,488 is hereby appropriated to the State Board of Education in order to carry out the purpose of this Act in FY 1977.

Section 9. This is a supplementary appropriation and the funds appropriated herein shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 10. Any of the above funds remaining unexpended or unencumbered on June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved July 20, 1976

CHAPTER 572

HOUSE BILL NO. 1226

**AN ACT AUTHORIZING AND DIRECTING THE
STATE TREASURER TO REIMBURSE CERTAIN
PENSIONERS FOR OVERPAYMENT OF BLUE
CROSS PREMIUMS; AND FURTHER PROVIDING
A SUPPLEMENTARY APPROPRIATION
THEREFOR.**

WHEREAS, overpayment of premiums to certain pensioners was due to the fact proper credit was not given for a spouse's share of Blue Cross coverage who was also a pensioner at the time the State Blue Cross Program was started in June 1970; and

WHEREAS, the bulk of the overpayments were made during the period of June 1970 through May 1975; and

WHEREAS, the rules and regulations of State Treasurer's Blue Cross Section prohibit any retroactive payments exceeding the past fiscal year.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The State Treasurer is hereby authorized and directed to reimburse the following pensioners in the amounts herein shown for overpayment of the Blue Cross premiums:

For the period June, 1970 through May, 1975

<u>Name</u>	<u>S.S. #</u>	<u>Amount of Overpayment</u>
Ethel Donaway	222-03-4464	\$346.20
William McGinnes	222-14-5011	\$346.20
Elwood Melson, Sr.	221-09-0897	\$346.20
Ruth Webb	222-22-4893	\$346.20

For the period February, 1975 through May 1975

N. Watson Brown	222-10-2634	\$ 57.60
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Section 2. The sum of \$1,442.40 is hereby appropriated to the State Treasurer's office for the purpose of carrying out the provisions of this Act.

Section 3. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Approved July 20, 1976

CHAPTER 573

HOUSE BILL NO. 1028

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DIVISION OF PUBLIC HEALTH OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR INFLUENZA VACCINATION.

WHEREAS, the Division of Public Health has applied for a federal grant to support a special project which will provide influenza vaccinations for all citizens of the state; and

WHEREAS, the said grant, authorized through a special federal appropriation under the Public Health Service Act, will total approximately \$67,000 in financial aid and will also provide more than 500,000 doses of vaccine; and

WHEREAS, the federal grant will not be sufficient to complete the anti-influenza campaign, even with the use of volunteers; and

WHEREAS, it is estimated that a state appropriation amounting to \$49,825 will be required.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of forty-nine thousand eight hundred twenty-five dollars (\$49,825) is hereby appropriated to the Division of Public Health of the Department of Health and Social Services to supplement the federal grant for the sole purpose of carrying out Delaware's Immunization Activities Program as it relates to influenza vaccinations.

Section 2. This Act is a supplementary appropriation bill and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated.

Section 3. The funds appropriated hereby shall only be used in the influenza immunization program and any funds appropriated herein but not expended by July 1, 1977, shall thereupon revert to the General Fund of the State of Delaware.

Approved July 20, 1976

CHAPTER 574

HOUSE BILL NO. 987

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE JUDICIAL DEPARTMENT TO PAY AUTOMOBILE REPAIR COSTS INCURRED BY TWO CONSTABLES IN THE LINE OF DUTY.

WHEREAS, on February 19, 1976, a car owned and used by William R. Smith, a State constable, was damaged when a person on whom he was serving a court order backed her pick-up truck into the said car; and

WHEREAS, the lesser of two estimates obtained by William R. Smith for repairing the damage to his car amounts to \$134.10; and

WHEREAS, on March 8, 1976, a car owned and used by Alex Osowski, a State constable, was damaged by prisoners at the Delaware Correctional Center, the damage including dents and scratches caused by an unknown instrument; and

WHEREAS, the estimated cost of repair to Constable Osowski's car is \$60.00; and

WHEREAS, in neither case was the damage caused to the vehicles owned by Constable Smith and Constable Osowski due to their negligence.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated to the Judicial Department the sum of \$194.10 for the sole purpose

of paying the auto repair costs incurred by Constable William R. Smith, in the amount of \$134.10, and Constable Alex Osowski, in the amount of \$60.00 as the result of damages incurred while these cars were used in state business.

Section 2. This Act is a supplementary appropriation and the funds appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware otherwise appropriated.

Approved July 20, 1976

CHAPTER 575

HOUSE BILL NO. 694

**AN ACT APPROPRIATING CERTAIN MONIES TO
LOIS KATHERINE HOPKINS, WIDOW OF JAMES
L. HOPKINS, FOR THE DEATH OF HER HUS-
BAND, WHILE IN THE PERFORMANCE OF OF-
FICIAL DUTIES IN THE LINE OF SERVICE OF
THE STATE OF DELAWARE.**

WHEREAS, on the 27th day of June 1974, James L. Hopkins met death by automotive accident, while in the performance of his duties as heavy equipment operator of the State Highway Department of the State of Delaware, while grading road shoulders south of Harrington; and

WHEREAS, the said James L. Hopkins left to survive him a widow, Lois Katherine Hopkins, and three children, each of whom are under the age of sixteen years; and

WHEREAS, the accident which caused the death of James L. Hopkins could in no way be attributed to negligence or carelessness on his part; and

WHEREAS, James L. Hopkins had been a valued, conscientious employee, whose term of employment extended, uninterrupted from January 27, 1958 to the date of his death; and

WHEREAS, in recognition of the service rendered to the State of Delaware, and in recognition of the fact that while in the line of service to the State of Delaware, James L. Hopkins met with untimely death through no fault of his own.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. That the State Treasurer be and is hereby directed and authorized to pay Lois Katherine Hopkins, widow of James L. Hopkins, the sum of Twenty Five Thousand Dollars (\$25,000.00).

Section 2. That this Bill shall be known as a Supplementary Appropriation Bill and the money hereby appropriated shall be paid out of the General Fund of the State Treasury.

Approved July 20, 1976

CHAPTER 576

SENATE BILL NO. 542

AN ACT TO AUTHORIZE CERTAIN PERSONS TO APPLY TO THE STATE OF DELAWARE FOR SUMS DUE THEM BY LAW AND TO MAKE AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. All persons who in Fiscal Year 1974, Fiscal Year 1975, and Fiscal Year 1976 would be eligible in those years for payments from the State due to the death of a spouse, may upon written application to the Secretary of the Department of Finance, be paid the sum to which they are entitled. All persons who in Fiscal Year 1977 shall be eligible for such payments from the State may make application for same, in writing, to the Secretary of the Department of Finance. The Secretary shall have the power to approve, partially approve, or reject any such application.

Section 2. The sum of eleven thousand dollars (\$11,000.00) is hereby appropriated to the Department of Finance to fund any payment requests made in accordance with Section 1 of this Act.

Section 3. This Act contains a supplementary appropriation, and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated. The funds so appropriated shall be used only for the purpose specified herein, and any funds appropriated but unexpended by June 30, 1977, shall

thereupon revert to the General Fund of the State Treasury.

Approved July 20, 1976

CHAPTER 577

SENATE BILL NO. 744

**AN ACT TO AMEND CHAPTER 17, TITLE 14,
DELAWARE CODE RELATING TO PUPIL UNIT
FOR ORTHOPEDICALLY HANDICAPPED
CHILDREN IN THE PUBLIC SCHOOLS AND FUR-
THER PROVIDING A SUPPLEMENTARY AP-
PROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1703 (d) of Chapter 17, Title 14, Delaware Code by striking the figure "10" as it relates to the unit for orthopedically handicapped children and inserting in lieu thereof the figure "6".

Section 2. The sum of \$300,000 is hereby appropriated to the State Board of Education for distribution to public school districts in order to carry out the provisions of this Act during the fiscal year ending June 30, 1977.

Section 3. This Act is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 4. The funds herein appropriated remaining unexpended on June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved July 20, 1976

CHAPTER 578

SENATE BILL NO. 804

AN ACT AUTHORIZING THE NEW CASTLE GUNNING-BEDFORD SCHOOL DISTRICT TO PAY MR. CHARLES E. STAPLEFORD, SR. SIX HUNDRED NINETY ONE DOLLARS AND TWENTY CENTS DUE TO AN INCORRECT CALCULATION ON THE OPERATING ALLOWANCE COSTS OF BUS ROUTE NO. 28, CONTRACT NO. 1005 DURING THE 1973-74 SCHOOL YEAR.

WHEREAS, an audit of the New Castle Gunning-Bedford School District for fiscal years ending June 30, 1974 and 75 discovered that there was an error in the calculation of the amount due to one of the bus contractors for school year 1973-74; and

WHEREAS, the amount due to Mr. Stapleford is \$691.20; and

WHEREAS, the New Castle Gunning-Bedford School District has \$2,000 unencumbered in the present year's transportation account; and

WHEREAS, Delaware law prohibits the payment of an obligation from State funds from the present fiscal year for a prior fiscal year commitment.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The New Castle Gunning-Bedford School District is hereby authorized to pay Mr. Charles E. Stapleford, Sr. \$691.20 from the unencumbered present

year's transportation account owed to him due to an incorrect calculation during the 1973-74 fiscal year.

Approved July 20, 1976

CHAPTER 579

SENATE BILL NO. 823

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE STATE TREASURER FOR PAYMENT OF REVENUE REFUNDS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated the sum of \$705,000 to the State Treasurer to cover a deficiency in the following category:

Revenue Refunds	\$705,000
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Section 2. The sum appropriated is a supplemental appropriation and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds unexpended by July 31, 1976 shall revert to the General Fund.

Approved July 20, 1976

CHAPTER 580

SENATE BILL NO. 678
AS AMENDED BY SENATE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 1

**AN ACT TO PERMIT THE CAPITOL SCHOOL
DISTRICT TO UTILIZE UNUSED PORTIONS OF
ITS MAJOR CAPITAL IMPROVEMENTS FUND
FOR FURTHER CAPITAL IMPROVEMENTS.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The Board of Education of the Capitol School District is authorized to utilize any unused monies in its Major Capital Improvements Account under Certificate of Necessity numbers 7513-B and 7513-C to make capital improvements to the present drainage and parking facilities at the Dover High School site.

Section 2. Any funds utilized pursuant to this Act and not expended for the purposes herein specialized shall be desposited in the Debt Service Account.

Approved July 19, 1976

CHAPTER 581

SENATE BILL NO. 690

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILTON" TO PROVIDE A SUM WHICH MAY BE BORROWED UPON ANTICIPATION OF REVENUES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Section 26, Chapter 194, Volume 45, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of said Section 26, a new subsection to be designated as Subsection (44) to read as follows:

(44) The Town Council of the Town of Milton shall have full power and authority to anticipate revenue by borrowing upon the faith and credit of the Town of Milton the sum or sums of, not exceeding Twenty-five Thousand Dollars (\$25,000.00) in any one fiscal year, when, in the opinion of the majority of the said town council the needs of the Town of Milton demand it. The Town Council may secure such sum or sums of money so borrowed by promisory notes of the Town executed by the Mayor and attested by the Secretary of the Town Council, either with or without the corporate seal of the Town of Milton affixed as is requested by the bank or persons advancing the money on said notes, and no officer nor councilman shall be personally liable for the payment of such notes because it is signed by them as officers or councilmen of the Town of Milton, and as authorized by the Resolution of the Town Council; provided, however, that any sum of money borrowed on the faith and credit of the Town of Milton, as aforesaid, in any fiscal year, shall be paid out of the general funds of the Town at a minimum rate of ten percentum (10%) per fiscal

year, and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year when the money was borrowed with interest thereon and no part of the principal or, nor the interest on, any borrowing authorized by this subsection shall be taxable by the State of Delaware nor any political subdivision thereof.

Approved July 19, 1976

CHAPTER 582

SENATE BILL NO. 738

AN ACT TO AMEND CHAPTERS 19 and 20, TITLE 14 OF THE DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES AND LOCAL BONDS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §1908, Chapter 19, Title 14 of the Delaware Code by adding thereto two new subsections "(c)" and "(d)" to read as follows:

"(c) Any school board authorizing a referendum to be held for the purpose of increasing the real estate tax rate under the provisions of Chapter 19 of this Title, while simultaneously decreasing the real estate tax rate under the provisions of Chapter 21 of this Title by the same amount, shall conduct the election under the provisions of Chapter 19 of this Title, and the vote shall be by ballot on which is written or printed.

For Tax Transfer

☐

Against Tax Transfer

☐

(d) The voter in said referendum shall place a mark in the square after the item for which the vote is to be cast."

☐

Section 2. Amend §2122, Chapter 21, Title 14 of the Delaware Code by redesignating §2122 (h) as §2122 (j).

Section 3. Further Amend §2122 by adding two new subsections “(h)” and “(i)” to read as follows:

“(h) Any school board authorizing a referendum to be held for the purpose of increasing the real estate tax rate under the provisions of Chapter 19 of this Title, while simultaneously decreasing the real estate tax rate under the provisions of Chapter 21 of this Title by the same amount, shall conduct the election under the provisions of Chapter 19 of this Title, and the vote shall be by ballot on which is written or printed:

For Tax Transfer

☐

Against Tax Transfer

☐

(i) The voter in said referendum shall place a mark in the square after the item for which the vote is to be cast.

Approved July 19, 1977

CHAPTER 583

SENATE BILL NO. 430
AS AMENDED BY SENATE AMENDMENT NO. 2

**AN ACT TO AMEND CHAPTER 47, TITLE 16,
DELAWARE CODE, RELATING TO CONTROLL-
ED SUBSTANCES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §4701 (8) of Title 16 of the Delaware Code by deleting the comma following the word "prescribing" and by inserting between the word "prescribing" and the word "administering" the phrase "for a legitimate medical purpose by an individual practitioner in the usual course of his professional practice,".

Section 2. Amend §4711 of Title 16 of the Delaware Code by adding thereto a new sentence to read as follows:

"Except as otherwise provided in this Chapter, the Secretary may delete or reschedule substances enumerated in the Schedules of controlled substances only if:

1. such substances have been deleted from or rescheduled within the Federal schedules of controlled substances by the Attorney General of the United States pursuant to 21 USC §811, et seq.; and

2. the findings required by this Chapter for placement of substances in the Schedules of controlled substances have been made."

Section 3. Amend §4723 of Title 16 of the Delaware Code by striking said section in its entirety.

Section 4. Amend §4734 of Title 16 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection to read as follows:

“(a) A registration under §4733 of this Chapter to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Secretary upon a finding that continued registration would be inconsistent with the public interest. In determining the public interest, the Secretary shall consider the following factors:

- (1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;
- (2) compliance with applicable State and local law;
- (3) any convictions of the registrant under any Federal and State laws relating to any controlled substance;
- (4) the existence in the registrant's establishment of effective controls against diversion;
- (5) furnishing by the registrant of false or fraudulent material in any application filed under this chapter;
- (6) suspension or revocation of the registrant's Federal registration to manufacture, distribute or dispense controlled substances as authorized by Federal law; and
- (7) any other factors relevant to and consistent with the public health and safety.”

Section 5. Amend Subchapter III of Chapter 47 of Title 16 of the Delaware Code by renumbering §4736, §4737 and §4738 as §4837, §4738 and §4739 respectively and by adding a new §4736 to read as follows:

“§4736. Authority of Secretary to impose fines.

(a) Whenever the Secretary has found a registrant to be guilty of a violation of the provisions of this Chapter or rules adopted pursuant to this Chapter he shall, in addition to the power and authority granted him in this Chapter, have the power to impose a fine on the registrant for such violation and require that such fine be paid, with the sanction that his registration may be suspended until the fine is paid. No fine imposed by the Secretary may exceed five hundred dollars (\$500.00).

(b) Prior to the imposition of any fine, the Secretary shall hold an investigation and hearing after notice to the registrant or his attorney. A fine shall be imposed by the Secretary only upon finding that:

(1) the public welfare and morals would not be impaired by the imposition of such fine; and

(2) payment of the sum of money will achieve the desired disciplinary purposes.

The Secretary shall not impose a fine on a registrant whose registration has been revoked by the Secretary for such violation. The power and authority of the Secretary to impose such fines is not to be affected by any other proceeding, civil or criminal, concerning the same violation, nor shall the imposition of such fine preclude the Secretary from imposing other sanctions short of revocation.

(c) Any person so fined may appeal to the Superior Court for a trial de novo, provided the appeal is taken within fifteen (15) days of the time of the decision of the Secretary.”

Section 6. Amend Section 4753 of Title 16 of the Delaware Code by deleting the words “classified in Schedule I or Schedule II”.

Section 7. Amend subsections 4756 (a) (3) of Title 16 of the Delaware Code by adding between the word "obtain" and the word "possession" the phrase, "or attempt to acquire or obtain,".

Section 8. Amend §4757 of Title 16 of the Delaware Code by striking the word "subcutaneous" wherever it appears in said section and substituting in lieu thereof the word "parenteral".

Section 9. Further amend §4757 of Title 16 of the Delaware Code by striking the period at the end of the first sentence of subsection (a) of said subsection and adding the following:

"or oral order of a practitioner immediately reduced to writing by such person."

Section 10. Further amend §4757 of Title 16 of the Delaware Code by striking subsection (b) thereof in its entirety and substituting and in lieu thereof a new subsection (b) to read as follows:

"(b) Every person who disposes of or delivers at retail, or gives away to any person the instruments described in subsection (a) of this section, upon the written order of a practitioner or oral order of a practitioner immediately reduced to writing by such person, shall, before delivering the same: (1) enter into a book kept for that purpose the day of the delivery, the name, age and address of the purchaser, and a description of the instrument sold, disposed of, furnished or given away, or 2) retain on file the original written order or oral order reduced to writing, noting on such orders any refills."

Section 11. Further amend §4757 of Title 16 of the Delaware Code by adding, immediately after the last sentence of subsection (c) the following sentence:

“Every person who lawfully possesses an instrument described in subsection (a) of this section shall, before disposal, destroy such instrument in such a manner as to render it unfit for re-use in any manner.”

Section 12. Further amend §4757 of Title 16 of the Delaware Code by adding thereto a new subsection (f) to read as follows:

“(f) The provisions of this section do not apply to:

(1) the sale at wholesale by pharmacies, drug jobbers, drug wholesalers and drug manufacturers or manufacturers and dealers in surgical instruments to practioners; and

(2) the furnishing or obtaining of hypodermic syringes or hypodermic needles for uses which the Secretary determines are industrial. Notwithstanding the other provisions of this section, a person may obtain such instruments, without a written order or oral order reduced to writing, for such industrial uses.”

Section 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of the Act which can be given effect without the invalid provisions or application, and to that end the provisions of this Act are declared to be severable.

Section 14. Amend §4766 of Chapter 47, Title 16, Delaware Code by striking the word “may” immediately after the word “Secretary” and inserting in lieu thereof the word “shall”.

Section 15. Amend §4766 of Chapter 47, Title 16, Delaware Code by striking the following: “; or (3) Perform other law-enforcement duties as the Secretary designates” as the same appears at the end of Paragraph (2) and all of paragraph (3) and substituting in lieu thereof the following:

“and (3) have all powers of constables and other police officers of the State, Counties and other subdivisions of the State and may suppress all acts of violence and enforce the provisions of this Chapter.

Approved July 21, 1976

CHAPTER 584

SENATE BILL NO. 261
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND SUBCHAPTER II, CHAPTER 19,
TITLE 14, OF THE DELAWARE CODE RELATING
TO THE TAXATION AND ASSESSMENT OF
MOBILE HOMES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Section 1930, Subchapter II, Chapter 19, Title 14, of the Delaware Code by striking all of the first sentence thereof beginning with the words, "Mobile homes", and inserting in lieu thereof the following first sentence:

"Mobile homes in this state shall be subject to a tax based on their value as rated in a nationally recognized appraisal guide. A recognized guide shall be used to determine the assessed value on mobile homes. For models not appearing in a guide, the Board of Assessors shall contact a reputable mobile home dealer to determine value. Mobile homes shall be reassessed every five (5) years."

Approved July 21, 1976

CHAPTER 585

SENATE BILL NO. 320
AS AMENDED BY SENATE AMENDMENT NOS.
1 AND 2

**AN ACT TO AMEND TITLE 29, DELAWARE CODE,
RELATING TO ADMINISTRATIVE PROCEDURES
GOVERNING CERTAIN STATE AGENCIES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Title 29, Delaware Code, is amended by inserting a new Chapter 64 to be entitled "Administrative Procedures" to read as follows:

"CHAPTER 64. ADMINISTRATIVE PROCEDURES

SUBCHAPTER I. POLICY AND DEFINITIONS.

§6401. Policy.

The purpose of this chapter is to standardize the procedures and methods whereby certain state agencies exercise their statutory powers and to specify the manner and extent to which action by such agencies may be subjected to judicial review.

§6402. Definitions.

As used in this chapter:

(a) 'Agency' means any authority, department, instrumentality, commission, officer, board, or other unit of the state government authorized by law to make regulations, decide cases or issue licenses. Agency does not include the General Assembly, courts, municipalities, counties and other

political subdivisions, joint state-federal, interstate or inter-municipal authorities and their agencies.

(b) 'Agency action' means either an agency's regulation or case decision, which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the grant or denial of relief or of a license, right or benefit by any agency or court, or both.

(c) 'Case' or 'case decision' means any agency proceeding or determination that a named party as a matter of past or present fact, or of threatened or contemplated private action, is or is not in violation of a law or regulation, or is or is not in compliance with any existing requirement for obtaining a license or other right or benefit. Such administrative adjudications include, without limitation, those of a declaratory nature respecting the payment of money or resulting in injunctive relief requiring a named party to act or refrain from acting or threatening to act in some way required or forbidden by law or regulation under which the agency is operating.

(d) 'Court' means the Superior Court of the State of Delaware.

(e) 'License' means the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes.

(f) 'Party' means each person or agency named or admitted in an agency proceeding as a party or properly seeking and entitled as of right to be admitted as a party to an agency proceeding.

(g) A 'regulation' means any statement of law, procedure, policy, right, requirement, or prohibition formulated and promulgated by an agency as a rule or standard or as a guide for the decision of cases thereafter by it or by

any other agency, authority or court. Such statements do not include locally operative highway signs or markers or an agency's explanation of or reasons for its decision of a case, advisory ruling or opinion given upon a hypothetical or other stated fact situation, or terms of an injunctive order or license.

(h) 'Subordinate' means either (i) one or more but less than a quorum of the members of a board constituting an agency, or (ii) any person or persons designated in writing to act on its behalf.

(i) 'Substantive' or 'substantive in nature' means, when used in connection with regulations, those regulations allowing, requiring or forbidding conduct in which private persons are otherwise free or prohibited to engage or regulations which state requirements, other than procedural, for obtaining, retaining, or renewing a license or any kind of benefit or recompense.

SUBCHAPTER II. AGENCY REGULATIONS.

§6411. Agency Organization Regulations and Rules of Procedures.

For the benefit of the public, each agency shall adopt the following regulations:

(1) A general description of its organization, its methods of operations and the manner, including addresses and telephone numbers, whereby the public may obtain information and otherwise deal with the agency.

(2) A statement of the nature and requirements of all rules of practice and procedure used by the agency to exercise its statutory authority in compliance with the provisions of this chapter.

§6412. Public information.

(a) Each agency shall make available promptly to the public upon request, for inspection, originals or legible copies of the following:

(1) Its regulations, orders, decisions, opinions and licenses.

(2) Any documents, papers and other materials considered by the agency in taking agency action.

(3) Any records of the agency reasonably specified by the requesting person.

(b) When making its documents and other materials available to the public, the agency may:

(1) Take reasonable precautions to preserve the integrity and security of such documents or materials.

(2) Make available only at reasonable, specified intervals documents and materials being actively used by the agency.

(3) Limit the availability of information to its regular business hours and place of business.

(4) Decline to make available documents and other materials which:

(i) relate solely to the agency's internal procedural and personnel practices.

(ii) pertain to ongoing enforcement investigations which have not yet resulted in agency action.

(iii) are specifically exempted from disclosure by law.

(iv) are confidential or privileged for the same or similar

reasons as the Court would hold its records confidential or privileged.

(5) Make a reasonable charge for the cost of reproducing or copying such documents or materials.

(c) The Court shall have jurisdiction of all actions to compel an agency to produce or disclose any documents, materials or information and the agency shall have the burden of sustaining its refusal to produce or disclose as requested.

§6413. Regulations; exemptions.

(a) All regulations, except those specifically exempted, shall be adopted according to the requirements of this chapter.

(b) Regulations of the following types are exempted from the procedural requirements of this chapter and may be adopted informally:

(1) Descriptions of agency organization, operations, and procedures for obtaining information.

(2) Rules of practice and procedure used by the agency.

(3) Delegations of authority to subordinates.

(4) Non-substantive changes in existing regulations to alter style or form or to correct technical errors.

(5) Amendments to existing regulations to make them consistent with changes in basic law but which do not otherwise alter the substance of the regulations.

(6) Codifications of existing agency or judicial principals of decision derived from previous decisions and rulings.

§6414. Request for regulation-making proceedings.

Proceedings for the adoption, amendment or repeal of a regulation may be initiated by an agency on the motion of an agency member or at the request of any person who so petitions the agency on a form prescribed for that purpose by the Secretary of Administrative Services. The agency at its next regular meeting shall either grant the petition and initiate the proceedings specified by this chapter or deny the petition and give its reasons for doing so. If the petition is received by the agency within five (5) days of such meeting, the agency may defer action on the petition until the next succeeding regular meeting.

§6415. Notice.

Whenever an agency proposes to formulate, adopt, amend or repeal a regulation and to receive information, factual evidence and public reaction, it shall give at least 20 days prior notice as follows:

(1) The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues and possible terms of the agency action and a reference to the legal authority of the agency to act.

(2) The notice shall state the manner in which persons may present their views: if in writing, of the place to which and the final date by which such views may be submitted; if at a public hearing, the date, time and place of the hearing.

(3) The notice shall be published in at least two Delaware newspapers of general circulation.

(4) The notice shall be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

§6416. Written submittals.

Before adopting, amending or repealing any regulation, an agency shall give notice as prescribed in §6415 of this title and shall receive all written suggestions, compilations of data, briefs or other written materials submitted to it by any person. The agency, in its discretion, may designate a subordinate to organize, classify, summarize and make recommendations with respect to the materials, which may be considered with the materials by the agency in reaching its conclusions.

§6417. Public Hearings.

When an agency is required by law to hold public hearings before adopting, amending or repealing a regulation and, otherwise, if an agency in its discretion determines to hold public hearings, in addition to giving opportunity for the submission of written materials, the following shall apply to the conduct of such hearings.

(1) The hearing shall be conducted either by the agency or by a subordinate designated by the agency for that purpose who shall be empowered in connection with such hearing to:

(i) issue subpoenas, in the agency's sole discretion, for witnesses or other evidence, on the agency's initiative or at the request of any person.

(ii) administer oaths to witnesses.

(iii) exclude irrelevant, immaterial, insubstantial, cumulative, privileged matter, and unduly repetitive proofs, rebuttals and cross examination.

(2) A record from which a verbatim transcript can be prepared shall be made of all hearings. The expense of preparing any transcript shall be borne by the person requesting it.

§6418. Agency findings; form of regulations.

(a) At the conclusion of all hearings and after receipt within the time allowed of all written submittals, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include:

(1) a brief summary of the evidence and information submitted.

(2) a brief summary of its findings of fact with respect to the evidence and information except where a rule of procedure is being adopted or amended.

(3) a decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received.

(4) a reference to the exact text and citation of any regulation adopted, amended or repealed.

(5) the effective date of the order.

(6) any other findings or conclusions required by the law under which the agency has authority to act.

(7) the signatures of at least a quorum of the agency members.

(b) The effective date of an order which adopts, amends or repeals a regulation shall be not less than 30 days from the date the order is issued, unless the reason for an earlier specified date is stated in the order and is supported by the findings of the agency.

§6419. Emergency regulations.

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than 20 days' notice, or without notice, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable.

(2) The order adopting, amending or repealing a regulation shall state in writing the reasons for the agency's determination that such emergency action is necessary.

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days.

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof.

SUBCHAPTER III. CASE DECISIONS.**§6421. Application of subchapter.**

This subchapter shall apply to all agency case decisions except:

(1) Decisions relating to the assessment of taxes or tax penalties made by the Tax Appeals Board.

(2) Temporary restraining orders and similar order authorized by law to be issued summarily.

§6422. Notice of proceedings.

Whenever an agency proposes to proceed for a case decision, it shall give 20 days prior notice to all parties as follows:

(1) The notice shall describe the subject matter of the proceedings.

(2) The notice shall inform the parties of the opportunity, if permitted by law, to elect to proceed by informal fact-finding and of the date by which such election must be made.

(3) The notice shall give the date, time and place the formal hearing will be held if informal fact-finding is not elected.

(4) The notice shall cite the law or regulation giving the agency authority to act.

(5) The notice shall inform the party of his right to present evidence, to be represented by counsel and to appeal personally or by other representative.

(6) The notice shall inform the parties of the agency's obligation to reach its decision based upon the evidence received.

§6423. Informal fact-finding.

Where a formal hearing is not required by law and where the parties agree in advance to proceed in such manner, the agency shall acquire the information upon which it bases its decision by means of informal conference or consultation among the parties as follows:

(1) The agency shall conduct the conference itself or may designate a subordinate to do so.

(2) The parties may appear in person and by counsel.

(3) The parties may submit any relevant factual data, documents, testimony and argument. Only such evidence and argument presented at such conference or presented to the agency and opposing parties before the conference may be taken into consideration by the agency in making its findings and rendering its decision.

§6424. Public hearings, notice.

When required by law or when the parties do not consent to informal proceedings, or when the matters at issue involve price-fixing, rate-making or similar matters of general public interest, as determined by the agency, the agency shall conduct a formal, public evidentiary hearing to which the following provisions shall apply.

(1) The notice required by section 6422 shall be published in at least two Delaware newspapers of general circulation.

(2) Applicants for licenses, renewals and other rights or benefits shall not be entitled to prior notice of application requirements but shall receive notice of any proposed contest of such applications.

§6425. Conduct of public hearings; burden of proof; record.

(a) The hearing may be conducted by the agency or by a subordinate designated for that purpose.

(b) In connection with such hearings, the agency or its designated subordinate may be empowered to:

(1) issue subpoenas for witnesses and other sources of evidence, either on the agency's initiative or at the request of any party.

(2) administer oaths to witnesses.

(3) exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence.

(4) limit unduly repetitive proof, rebuttal and cross examination.

(5) cause interrogatories to issue and depositions and to be taken

(6) hold pre-hearing conferences for the settlement or simplification of issues by consent, for the disposal of procedural requests or disputes, and to regulate and expedite the course of the hearing.

(c) The burden of proof shall always be upon the applicant or proponent.

(d) A record from which a verbatim transcript can be prepared shall be made of all hearings in all contested cases. Transcripts shall be made at the request and expense of any party.

§6426. Proposed orders.

(a) Whenever a subordinate presides over an informal conference or a formal hearing, he shall prepare a proposed order for the consideration of the agency which shall include:

(1) a brief summary of the evidence and recommended findings of fact based upon the evidence.

(2) recommended conclusions of law

(3) recommended decision.

(b) When the proposed order is submitted to the agency, a copy shall be delivered to each of the other parties who shall have 20 days to submit in writing to the agency exceptions, comments and arguments respecting the proposed order.

§6427. Record.

With respect to each case, all notices, correspondence between the agency and the parties, all exhibits, documents and testimony admitted into evidence and all recommended orders, summaries of evidence and findings and all interlocutory and final orders of the agency shall be included in the agency's record of the case and shall be retained by the agency.

§6428. Decision; final order.

(a) The agency shall make its decision based upon the entire record of the case and upon the summaries and recommendations of its subordinates.

(b) Every case decision of any agency shall be incorporated in a final order which shall include, where appropriate:

- (i) a brief summary of the evidence.
- (ii) findings of fact based upon the evidence.
- (iii) conclusions of law.
- (iv) any other conclusions required by law of the agency.
- (v) a concise statement of the agency's determination or action on the case.

(c) Every final order shall be authenticated by the signatures of at least a quorum of all agency members, unless otherwise provided by law.

(d) Every final order shall immediately be mailed or delivered to each party and each other person requesting it.

(e) Every final order may be amended or modified by the same procedure used for the initial adoption of the order.

§6429. Ex parte consultations.

No member or employee of an agency assigned to participate in any way in the rendering of a case decision shall discuss or communicate, directly or indirectly, respecting any issue of fact or law with any person or party, except upon notice to and opportunity for all parties to participate. This section shall not apply to communications required for the disposition of ex parte matters authorized by law or to communications by and among members of an agency, the agency's staff, and the agency's attorney.

SUBCHAPTER IV. LICENSES.

§6431. Hearings; notice.

(a) Hearings relating to licenses may be held at a time fixed in the discretion of the agency unless timely requested by a party or required by law or regulation.

(b) Whenever an agency proposes to grant, renew or extend a license, it may do so without notice unless a law or regulation requires notice and opportunity for a hearing.

(c) Whenever an agency proposes to deny an application for a license, timely and properly made, or to revoke, suspend, annul or withdraw a license or where it is required by law or regulation to give notice, it shall first give written

notice to the licensee or applicant of the intended action and the reasons therefore. The form of the notice shall comply as far as practicable with section 6422, of this title, except that instead of setting a hearing date, it may afford the party at least 10 days to request a hearing.

(d) Notice of a hearing shall be given at least 20 days before the day it is to be held.

§6432. Effective date of denial of application, renewal, revocation, etc.

(a) Whenever an application is made to renew a license or for a new license for an activity of a continuing nature, the activity does not become illegal until the application has been finally denied by the agency.

(b) Whenever an agency proposes to revoke, suspend, annual or withdraw a license, such action shall not be effective until a final order is issued, except when the public health, safety or welfare clearly requires emergency action and the agency's order so states.

§6433. Withholding or denying licenses.

No license or renewal for which proper and timely application has been made shall be withheld or denied except for failure of the applicant to comply with the applicable laws and regulations.

§6434. Revoking, suspending, etc. licenses.

No license shall be revoked, suspended, annulled or withdrawn unless the licensee fails to comply with the lawful requirements for retention of such license.

SUBCHAPTER V. JUDICIAL REVIEW

§6441. Review of regulations.

(a) Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

(b) No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

(c) When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

(d) Except as provided in (c), above, no judicial review of a regulation is available unless a complaint therefore is Filed in the Court within 30 days of the day the agency order with respect to the regulation was adopted.

(e) Upon review of regulatory action, the agency action shall be presumed to be valid and the complaining party shall have the burden of proving either that the action was taken in a substantially unlawful manner and that he suffered prejudice thereby, or that the regulation, where required, was adopted without a reasonable basis on the record or is otherwise unlawful. The Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the agency and of the purposes of the basic law under which the agency acted.

§6442. Review of case decisions.

(a) Any party against whom a case decision has been decided may appeal such decision to the Court.

(b) The appeal shall be filed within 30 days of the day the notice of the decision was mailed.

(c) The appeal shall be on the record without a trial *de nova*. If the Court determines that the record is insufficient for its review, it shall remand the case to the agency

for further proceedings on the record.

(d) The Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the agency and of the purposes of the basic law which the agency has acted. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the agency's decision was supported by substantial evidence on the record before the agency.

§6443. Mandamus for agency action.

Any person aggrieved by the failure of an agency to take action required of it by law may bring an action in the Court for an appropriate writ of mandamus.

§6444. Stay pending review.

When an action is brought in the Court for review of an agency regulation or decision, enforcement of such regulation or decision by the agency may be stayed by the Court only if it finds, upon a preliminary hearing, that the issues and facts presented for review are substantial and the stay is required to prevent irreparable harm.

§6445. Commencement of review.

No petition, appeal or other application for relief of the Court shall be considered as having been taken or made until it has been filed with the Prothonotary and served upon the agency in accordance with the rules of the Court.

SUBCHAPTER VI. REGISTRATION.

§6451. Definitions.

As used in this subchapter:

"Commission" means the Administrative Commission

of Delaware as established by this subchapter.

“Register” means the regulations, together with the supplemental information required by section 6454 of this subchapter, compiled by the Commission as required by and pursuant to section 6454 of this subchapter.

§6452. Administration.

There is created the Delaware Administrative Commission composed of three members, one each to be designated by the Attorney General, the Secretary of State and the Secretary of Administrative Services, from among the members of their staffs. A chairman shall be selected by the members. The members shall not be entitled to any additional remuneration or reimbursement of expenses solely by reason of their serving on the Commission. Each member of the Commission shall serve at the pleasure of the officer designating him.

§6453. Duty of agencies.

It shall be the duty of every agency to file with the Commission within 30 days of the effective date of this chapter the full text of all of its regulations, together with such additional information as may be necessary for the purpose of listing in accordance with section 6454 of this subchapter, and thereafter to do the same as to subsequent regulations, amendments, repeals, or additions of or to any regulations coincidentally with the making of such amendments, repeals, additions, or new regulations.

§6454. Register of regulations.

The Commission shall establish and maintain an official Register of Regulations at the Office of the Secretary of State, which Register shall consist of copies of all regulations indexed by agency and subject matter, together with:

(a) Citations to the authority under which they were issued or to the laws which they implement or interpret;

(b) The place of custody of the originals and any existing official publications thereof;

(c) The place or places where the same may be inspected or copied, as well as the source in the agency from which authentic copies may be obtained by interested persons, together with any fee or other requirement for obtaining the same.

(d) When, in the judgment of the Commission, the Register is sufficiently complete, the Register shall be made available to public inspection and copies provided to any person so requesting for a fee to be set by the Commission. In addition, copies of the Register shall be provided to the Prothonotary of each county, the law library of each county, and the Director of Libraries. Any additions and corrections to the Register shall likewise be made available as soon as practicable.

§6455. Form, style and classification of regulations.

(a) The Commission, in the course of the work of compiling and maintaining the Register shall:

(1) In writing, call upon all agencies authorized to make regulations, to submit to the Commission copies of all existing regulations, as well as all subsequent amendments, repeals, additions, or new regulations.

(2) Advise agencies as to the form and style of their regulations, as well as, to the extent practicable, the classification thereof into categories of substance, procedure and organization.

(3) Suggest revisions in form, style and classification

for the purpose of any temporary or ultimate publication pursuant to this subchapter.

(b) In performing these functions, the Commission may formulate and distribute to agencies guidelines to expedite compliance with the provisions of this subchapter.

§6456. Report and recommendations to General Assembly

The Commission shall:

(a) Have authority, if funds available, to arrange for the temporary publication of the Register, the full text of some or all of such regulations as are procedural in nature, or the full text of selected regulations of a substantive nature for which there is need for immediate general availability.

(b) Estimate the volume or quantity of all regulations, those of a procedural or organizational nature, those dealing with matters of substance, and each of the foregoing deemed to be of sufficient importance to warrant ultimate publication and general circulation.

(c) Decide whether or not any publication program for all or part of such regulations is feasible from the standpoints of cost to either the State or users and purchasers, and useability by the interested public on the basis of content, form, current applicability, and completeness.

(d) Not later than each first day of the regular session of the General Assembly submit to it a copy of the Register, together with a report of its activities and general experience under this subchapter, including the extent of the cooperation of agencies generally, and failures therein of particular agencies, and the deficiencies or success of this subchapter, and its recommendations with regard to the continued operation of the program under this subchapter or some modification thereof.

SUBCHAPTER VII. APPLICATION OF CHAPTER.**§6461. State agencies affected**

This chapter shall apply only to the following agencies.

1. Alcoholic Beverage Control Commission
2. State Banking Commissioner
3. Public Service Commission
4. Real Estate Commission
5. State Human Relations Commission
6. Tax Appeal Board
7. State Insurance Commissioner
8. Industrial Accident Board
9. Unemployment Insurance Appeals Board
10. Environmental Appeals Board
11. Coastal Zone Industrial Control Board
12. State Board of Education
13. State Personnel Commission''

Section 2. All action, proceedings, hearings, reviews, appeals and any other matters pending before or instituted prior to the effective date of this Act shall be

governed by the rules and procedures then in existence for any agency covered by this Act.

Section 3. If any court determines any word, phrase, section or part of this Act to be invalid or unconstitutional such decision shall not effect any other phrase, section or part not effected by such decision and the remainder shall remain in full force and effect.

Section 4. This Act shall become effective on July 1, 1976

Approved July 21, 1976

CHAPTER 586

SENATE BILL NO. 765

**AN ACT TO AMEND SUBCHAPTER 1, CHAPTER 25,
TITLE 24, DELAWARE CODE RELATING TO
COMPOSITION OF THE STATE BOARD OF
PHARMACY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2501 (a) of Subchapter 1, Chapter 25, Title 24, Delaware Code by striking said paragraph (a) in its entirety and substituting in lieu thereof a new paragraph (a) to read as follows:

“(a) The State Board of Pharmacy, heretofore established and hereinafter in this Chapter referred to as the “Board”, shall consist of six (6) persons who shall be appointed by the Governor for terms of five (5) years from the first day of July in the year of appointment. Five (5) of the six (6) persons appointed shall be:

(1) graduates of a school or college of pharmacy accredited by the American Council on Pharmaceutical Education at the time of graduation;

(2) licensed as pharmacists in this State, and

(3) residents of this State and actively engaged in the practice of pharmacy in this State.

One of the six (6) persons shall be appointed by the Governor to represent the interests of the public to be known as the “Public Member”. The Public Member shall be a resident of this State who has attained the age of majority and shall not be nor shall he or she ever have been a member of

the profession or pharmacy, or the spouse of a member of the profession of pharmacy, or a person who has ever had any material financial interest in the providing of pharmacy service or any activity directly related to the Practice of Pharmacy. One member shall be appointed each year.”

Section 2. Amend §2501 of Subchapter 1, Chapter 25, Title 24, Delaware Code by adding thereto a new paragraph to be designated as paragraph (d) to read as follows:

“(d) The Governor may remove any such member after a hearing for cause including but not limited to misconduct, incompetency, or neglect of duty.”

Approved July 21, 1976

CHAPTER 587

SENATE BILL NO. 441
AS AMENDED BY SENATE AMENDMENT NO. 1
AND HOUSE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND PART 1, TITLE 7 OF THE
DELAWARE CODE PROVIDING RESTRICTIONS
AND PROHIBITIONS AGAINST THE KILLING OF
RED FOXES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §793, Chapter 7, Part 1, Title 7 of the Delaware Code by striking the first paragraph of said section in its entirety, and substituting in lieu thereof the following:

“No person shall at any time shoot, kill, wound, take, or destroy any red fox. Nothing in this section shall be construed to prevent the killing of a fox by the owner of poultry if such fox is in the act of killing or carrying away such poultry.”

Section 2. Amend §793, Chapter 7, Part 1, Title 7 of the Delaware Code by striking the figure “\$10” as the same appears in the last paragraph of said section and substituting the figure “\$50” as the same appears in the last paragraph, and substituting the figure “\$100” in lieu thereof.

Section 3. Amend §795, Chapter 7, Part 1, Title 7 of the Delaware Code by striking the first sentence of the third paragraph of said section, and substituting in lieu thereof the following:

“Nothing in this section shall be construed to prevent the killing of a fox by the owner of poultry if such fox is in

the act of killing or carrying away such poultry.”

Approved July 21, 1976

CHAPTER 588

SENATE BILL NO. 705

**AN ACT TO AMEND CHAPTER 6, TITLE 29,
DELAWARE CODE, RELATING TO IDENTIFICA-
TION OF STATE VEHICLES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §603, Chapter 6, Title 29, Delaware Code by inserting the words "State Fire Marshalls' Office" immediately following the words "Juvenile Corrections" and before the words "and the Controlled Substances Program" as the same appears in the second sentence of said section.

Approved July 21, 1976.

1950

CHAPTER 589

SENATE BILL NO. 680

AN ACT TO AMEND CHAPTER 69, TITLE 29, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF POLICIES AND PROCEDURES FOR CONTRACTING PROFESSIONAL SERVICES BY THE STATE, ITS AGENCIES, MUNICIPALITIES OR POLITICAL SUBDIVISIONS, SCHOOL BOARDS; DEFINING PROFESSIONAL SERVICES; ESTABLISHING COMPETITIVE SELECTION PROCEDURES AND COMPETITIVE NEGOTIATIONS FOR FIRMS OR INDIVIDUALS PROVIDING PROFESSIONAL SERVICES; ESTABLISHING TRUTH IN NEGOTIATION REQUIREMENTS FOR PROFESSIONAL SERVICE CONTRACTS AND SETTING PENALTIES THEREFOR; AND PROVIDING FOR STATE PROFESSIONAL ASSISTANCE TO MUNICIPALITIES AND POLITICAL SUBDIVISIONS IN THE SELECTION AND NEGOTIATION OF PROFESSIONAL SERVICE CONTRACTS.

WHEREAS, the legislature of Delaware declares it to be in the best interest of the public health, safety and welfare and of good fiscal management to seek qualified and competent individuals and firms at fair, and reasonable compensation to provide professional services to the State, its agencies, municipalities, political subdivisions and school districts; and

WHEREAS, the legislature of Delaware desires to promote interest among firms capable of providing professional services to the State, its agencies, municipalities, political subdivisions and school districts; and

WHEREAS, the legislature of Delaware declares it is in the public interest to prohibit the payment of contingent fees

or other considerations for obtaining State, municipal or other professional service contracts financed from public funds.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 69, Title 29, Delaware Code, by striking Subchapter II thereof in its entirety and substituting in lieu thereof a new Subchapter to read as follows:

**"SUBCHAPTER II. PROFESSIONAL SERVICES
NEGOTIATION ACT**

§6930. Definitions.

(a) 'Professional Services' shall mean those services within the scope of practice of architecture, professional engineering, professional land surveying, landscape architecture, and geology as defined and authorized by the laws of the State of Delaware or those services performed by persons engaged in the above mentioned professions in connection with their professional employment or practice.

(b) The term 'agency' means the State, its departments, agencies, municipalities, political subdivisions or school districts.

(c) 'Firm' means a person, firm, partnership, corporation, association or other legal entity permitted by law to offer professional services.

(d) The term 'compensation' means the total amount paid by the agency for professional services.

(e) The term 'agency official' is an elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the State, its agencies, municipalities, political subdivisions, or school boards.

§6931. Public announcement and qualifications procedures.

(a) Each agency shall publicly announce not less than once a week for two consecutive weeks in a statewide news publication on each occasion when professional services are required, except in cases of valid public emergencies so certified by the agency head. Such announcement shall include:

- (1) The project identification;
- (2) General description and scope of the project;
- (3) Location;
- (4) Deadline for submissions of brief letters of interest;
- (5) Criteria for selection of professionals including any special criteria required for any particular project, and shall indicate how interested professionals can apply for consideration.

Additional advertising shall be at the discretion of the agency.

(b) Each agency shall encourage firms engaged in the lawful practice of their profession, who desire to provide professional services to the agency, to submit annually a statement of qualifications and performance data.

(c) Each agency shall establish written administrative procedures for the evaluation of applicants. These ad-

ministrative procedures must be adopted and made available to the public by each agency before publicly announcing an occasion when professional services are required. The following criteria should be utilized in ranking the applicants under consideration: (1) Experience and reputation; (2) Expertise (for the particular project under consideration); (3) Capacity to meet requirements (size, financial condition, etc.); (4) Location (geographical); (5) Demonstrated ability; (6) Familiarity with public work, its requirements and system; (7) Distribution of work to individuals and firms (economic considerations, and to broaden the base from which selections are to be made); (8) Other criteria may be required in special cases. Because of the diversity of professional services required on a variety of projects, each project must be given individual attention, and a weighted average should be applied to criteria according to its importance to each project.

§6932. Selection.

(a) For each proposed project, the agency shall evaluate current qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with firms regarding their qualifications, approach to the project and ability to furnish the required service. Professional Service Compensation shall not be considered in these discussions.

(b) Based upon the criteria established pursuant to Section 6931 (c) and any specific criteria for the project and discussions, the agency shall rank in order of preference the applicants deemed to be qualified to perform the required services.

(c) Beginning with the qualified firm designated first on the preference list, the agency shall negotiate for professional services at compensation which the agency determines is fair and reasonable. In making such determination the agency shall conduct an analysis of the cost of the

professional services required, in addition to considering their scope and complexity. For all lump sum multiple of direct personnel expense or cost-plus-a-fixed-fee professional service contracts the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating the wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums where the agency determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(d) Should the agency be unable to negotiate a satisfactory contract with the qualified firm designated to be first on the preference list, at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated. The agency shall then undertake negotiations with the second qualified firm on the preference list. Failing accord with the second qualified firm, negotiations shall be formally terminated. The agency will negotiate with the remaining firms on the list.

(e) After accomplishing the evaluation and conducting discussions and negotiations, the agency shall select one applicant and prepare a Public Notice within ten (10) days after awarding the contract stating the firm selected. This notice will appear in a statewide news publication or by letter to all applicants.

§6933. Reports.

At the end of each fiscal year each agency shall prepare a report stating project number, name of firm selected and amount paid for professional services for each contract. All state agencies including school districts will

file a copy of this report with the Secretary of Administrative Services. All other political subdivisions and incorporated towns will file this report in the principal office of the agency. This report will be available to the public.

§6934. Prohibition Against Contingent Fees.

(a) Each Contract entered into by the agency for professional services shall contain a prohibition against contingent fees as follows: The firm offering professional services swears that he/it has not employed or retained any company or person, other than a bona fide employee working primarily for the firm offering professional services to solicit or secure this agreement, and that he/it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the firm offering professional services, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this agreement. For the breach of violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

(b) Any individual, corporation, partnership, firm or company other than a bona fide employee working primarily for the firm offering professional services, who offers, agrees or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership or firm, and to be paid, or is paid, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or the making of a contract for professional services, shall upon conviction be punished pursuant to §6936 of this Title.

(c) Any firm offering professional services or any

group, association, company, corporation, firm or partnership thereof who shall offer to pay, or pay, any fee, commission, percentage, gift or any other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall upon conviction be punished pursuant to §6936 of this Title.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration, contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall be upon conviction, punished pursuant to the provisions of §6936 of this Act.

§6935. State Assistance to Local Agencies.

The Department of Administrative Services shall provide, upon request by a municipality, political subdivision or school board and upon reimbursement of the costs involved, assistance in selecting professional services firms and negotiating professional serviced contracts.

§6936. Penalty; Jurisdiction.

Any person who violates the provisions of this Act shall be punished by a fine of not less than \$1,000 nor more than \$2,000, or by imprisonment for not more than six months, or both; and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than \$2,000 nor more than \$5,000, or by imprisonment for not more than one year, or both. The Superior Court for the State of Delaware shall have exclusive original jurisdiction over offenses under this Subchapter.

§6937. Administrative Provisions.

(a) Nothing in this Act shall affect contracts in existence at the effective date hereof.

(b) Any professional service contract of \$5,000 or less for the completed job will be excluded from all portions of this Act with the exception of Section 6933 and Subsection (d) of Section 6934 and 6936 in its entirety.

(c) Any intentional fragmentation of a project award or second party award to make it eligible to comply with Subsections (b) and (c) of §6937 shall be prohibited.

(d) If any section, subsection, paragraph, phrase, clause or work of this Act is held to be invalid, the remainder of the Act shall not be affected.

(e) Any laws, or parts of laws in conflict with the provisions of this Act are hereby repealed."

Approved July 21, 1976

CHAPTER 590

SENATE BILL NO. 346
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 5, PART I, TITLE 11
OF THE DELAWARE CODE RELATING TO
CRIMES AND CRIMINAL PROCEDURE; AND
CHANGING AMOUNTS REQUIRED IN CERTAIN
OFFENSES TO CONSTITUTE A FELONY.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend §840, Chapter 5, Part I, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears twice in the last paragraph of said section, and substituting the figure "\$300" in lieu thereof.

Section 2. Amend §841, Chapter 5, Part I, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears in the last paragraph of said section, and substituting the figure "\$300" in lieu thereof.

Section 3. Amend §848, Chapter 5, Part I, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears in the last paragraph of said section, and substituting the figure "\$300" in lieu thereof.

Section 4. Amend §851, Chapter 5, Part I, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears in the last paragraph of said section, and substituting the figure "\$300" in lieu thereof.

Section 5. Amend §903, Chapter 5, Part I, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears in the second sentence of subsection (b), and substituting the figure "\$300" in lieu thereof.

Section 6. Amend subsection (b), Section 811, Chapter 5, Title 11 of the Delaware Code by striking the figure "\$100" as the same appears in paragraph (2), and substituting the figure "\$300" in lieu thereof.

Approved July 21, 1976

1960

CHAPTER 591

SENATE BILL NO. 566
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND CHAPTER 55 OF TITLE 14,
DELAWARE CODE, PROVIDING FOR OP-
TOMETRIC INSTITUTIONAL AID AND FUR-
THER PROVIDING A SUPPLEMENTARY AP-
PROPRIATION THEREFOR.**

WHEREAS, the General Assembly finds and declares that the Health Manpower Report of the U.S. Bureau of Labor Statistics recognizes an increasing need for additional optometrists; and

WHEREAS, Delaware is experiencing a recognized shortage of optometrists; and

WHEREAS, at the present time there are no existing facilities in the State of Delaware for the training of students to enter the profession of optometry; and

WHEREAS, the increasing costs of optometric education programs in our sister states has made it almost prohibitive for Delaware students to be admitted without contractual agreement between the states.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 55 of Title 14, Delaware Code, by redesignating all of the existing chapter as Subchapter I and by creating a new subchapter to be designated as Subchapter II to read as follows:

“SUBCHAPTER II. OPTOMETRIC INSTITUTIONAL AID

§5530. Administration of Program.

(a) The aid program shall be administered by the State Board of Education with the advise and consent of the advisory committee herein created and shall be authorized to contract with any and all accredited schools of optometry for the acceptance of students who are residents of Delaware and have been so for at least twelve (12) months prior thereto and desire to study optometry.

(b) All such contracts shall be entered into by the State Board of Education on behalf of the State through the Contract Sponsorship Program of the American Optometric Foundation or directly with one or more accredited schools of optometry.

(c) Institutional participants in this program shall maintain the same standards of admission for Delaware applicants as are provided for applicants of their own and other states.

§5531. Advisory Committee.

(a) In order to assist the State Board of Education in the administration of this program there is hereby established an advisory committee consisting of the following: One representative of the Delaware State Board of Examiners in Optometry to be appointed by the Board; a representative of the Delaware Optometric Association to be appointed by the President of the Association; two (2) Delaware optometrists appointed by the Governor for terms of four (4) years each. All four appointees shall be appointed to serve in the following manner: One shall be appointed for a one year term; one shall serve a two year term; one for a three year term; and one for a four year term. All subsequent terms for four years each. The Governor shall also appoint a public member to serve at his pleasure.

(b) The Advisory Committee shall organize annually by appointing one of its members as Chairman and one as Vice-Chairman. Members shall serve without compensation, but shall be entitled to all necessary expenses incurred in attending meetings of the Committee.

(c) State Board of Education and the Advisory Committee shall provide yearly contracts for not more than four (4) qualified students annually at a cost per contract of no more than \$4,000. This means that since the Optometry Program is a 4-year course, there would be no more than 16 student contracts authorized under this act at any one time and the cost to the State would not exceed a sum total of \$64,000 annually.

(d) Every student who is attending an optometric institution under the provisions of this Act shall be obligated upon completion of his or her course of study to practice in Delaware for at least one year for each year of study that was paid for under this Act.

(e) The State Board of Education and the Advisory Committee shall have the authority to adopt rules and regulations for the purpose of implementing the provisions of this Act."

Section 2. The provisions of this Act shall not take effect until September 1, 1977.

Section 5. Any person who is a recipient of financial assistance under the provisions of this Act shall be required to pay back twenty-five percent (25%) of the contract cost associated with his education under terms and conditions to be established by the Board.

Approved July 21, 1976

CHAPTER 592

HOUSE BILL NO. 1099
AS AMENDED BY HOUSE ADMENDMENT NO. 1**AN ACT PROPOSING AN AMENDMENT TO ARTICLE 4, SECTION 2 OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO ACTIVE JUDICIAL DUTY BY RETIRED JUDGES.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Section 2 of Article 4 of the Constitution of the State of Delaware of 1897, as amended, by adding thereto the following paragraph:

“A former State Judge or a former Justice of the Supreme Court, who is retired and is receiving a State judicial pension and who assents to active judicial duty and who is not engaged in the practice of law, upon designation of the Chief Justice of the Supreme Court, shall be authorized to sit temporarily in the Court from which he retired or in any other Court to which he could be designated under the Consitution and statutes of the State if he still held the judicial position from which he retired. Any person so designated shall receive compensation as the General Assembly shall provide. Nothing herein shall authorize the designation of any former State Judge or a former Justice of the Supreme Court to sit in the Supreme Court except temporarily to fill up the number of that Court to the required quorum. The term “State Judge” as used in this paragraph means a chancellor or vice-chancellor of the Chancery Court or a president judge or associate judge of the Superior Court.”

Approved June 25, 1976

1964

CHAPTER 593

SENATE BILL NO. 787
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 29, DELAWARE CODE, RELATING TO PENSION BENEFITS FOR CORRECTIONS OFFICERS.

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §6555 of Subchapter VIII, Chapter 65, Part IV, Title 11, Delaware Code by striking said section in its entirety.

Section 2. Amend Chapter 55, Title 29, Delaware Code, by adding thereto a new section to be designated as §5534 which shall read as follows:

§5534. Corrections Officers.

(a) Any provision of this Chapter to the contrary notwithstanding, an employee of the State Division of Adult Corrections, who has 25 years of credited service under §5501 (2) and who has served as a corrections officer for at least 20 years of said credited service under §5501 (a) (a), shall become eligible to receive a service pension.

(b) The amount of monthly service pension payable to an employee who meets the requirements of paragraph (a) herein shall be 50% of his final average compensation."

Section 3. Amend §5543 of Chapter 55, Title 29, Delaware Code, by adding a new subsection (c) to read as follows:

"Notwithstanding the provisions of subsection (a) of

this Section, employees of the State Division of Adult Corrections who elect to be covered under the provisions of §5534 shall contribute to the Fund five percent of his total compensation commencing with the first pay period subsequent to the effective date of this legislation. In the event that a covered employee retires prior to July 1, 1981, said employee shall make a payment to the State Employees' Retirement Fund at the time of, or prior to his application for a pension, which payment shall be equal to two and one half percent of his monthly retiring base salary times the number of months between the date of his retirement and June 30, 1981."

Section 4. Amend §5544 of Chapter 55, Title 29, Delaware Code, by adding a new subsection (f) to read as follows:

"In addition to the appropriations provided for herein, the State Division of Adult Corrections shall, in each year commencing with the fiscal year 1976-77, transfer to the fund from the appropriations made to the Division by the General Assembly an amount determined by the Board to meet, net after the participants' contributions and the regular annual contribution of the State to the Pension Plan, the additional actuarial costs of pensions payable to corrections officers in accordance with §5534, and in no event shall said additional cost for corrections officers pensions be borne by or drawn from trust fund assets which are being accumulated to pay pension benefits exclusive of those provided for in §5534."

Section 6. This Act shall become effective 90 days after it is approved by the Governor.

Approved July 22, 1976

1966

CHAPTER 594

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 711

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AFFIRM THE AUTHORITY AND RESPONSIBILITY OF THE BOARD OF TRUSTEES OF DELAWARE STATE COLLEGE IN CONNECTION WITH THE CONTROL OF THE COLLEGE'S FEES, TUITIONS AND OTHER REVENUES INCLUDING FUNDS RECEIVED BY GIFT, DEVISE OR GRANT; AND FURTHER PROVIDING THAT THE BOARD OF TRUSTEES FURNISH ANNUALLY A FINANCIAL REPORT TO THE GOVERNOR AND GIVE THE STATE AUDITOR ACCESS TO ALL APPROPRIATE FINANCIAL BOOKS AND RECORDS OF THE COLLEGE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Notwithstanding any provisions appearing elsewhere in the Laws of Delaware which might suggest or provide anything to the contrary, the Board of Trustees of Delaware State College shall have the full control and management of all of the fiscal affairs of Delaware State College to include the establishment of fees and charges and the collection thereof, the adoption of the College's budget, the selection of means and procedures for the deposit, investment and control of all monies, funds and securities, except State appropriated funds, which are now held or may at any time be received by Delaware State College as well as the allocation, use and reinvestment of the proceeds and earnings of any such

deposits and investments.

Section 2. The Board of Trustees of Delaware State College shall cause to be made to the Governor of the State of Delaware an annual financial report of all receipts and disbursements of the College within 120 days following the close of the fiscal year.

Section 3. The State Auditor of Accounts shall have full access to all appropriate financial books.

Approved July 21, 1976

1968

CHAPTER 595

HOUSE BILL NO. 509
AS AMENDED BY SENATE AMENDMENT NO. 2

**AN ACT TO AMEND CHAPTER 66, TITLE 18,
DELAWARE CODE, RELATING TO LINE OF DU-
TY "DEATH BENEFITS".**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §6601(1), Chapter 66, Title 18, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (i) to read as follows:

“(j) Employees of the Division of Highways of the Department of Highways and Transportation employed in the job categories of equipment operator, labor foreman or laborer.”

Approved July 21, 1976

CHAPTER 596

HOUSE BILL NO. 748

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 45, TITLE 21, DELAWARE CODE, RELATING TO SIZE AND WEIGHT OF VEHICLES AND LOADS AND PROVIDING FOR PENALTIES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend §4507, Chapter 45, Title 21, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new §4507 to read as follows:

“§4507. Violations of Chapter; penalties.

(a) Whoever violates any of the provisions of 4502, §4504, §4505 or §4506 of this Chapter shall, for the first offense, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or be imprisoned not less than ten nor more than thirty days, or both. For each subsequent like offense, he shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or be imprisoned not less than fifteen nor more than thirty days, or both. All second or subsequent offenses under this Chapter, before being punishable as such, shall have been committed within twelve months after the commission of the first offense.

(b) Whoever violates any of the provisions of §4501 or 4503 of this chapter shall be fined as follows:

(1) for all excess weight up to and including 5,000 pounds, the fine shall be at the rate of 2 cents per pound.

(2) for all excess weight over 5,000 pounds, the fine shall be at the rate of 5 cents per pound.

The foregoing schedule of fines shall apply separately to: (1) the excess weight of the gross load and (2) sum of the excess weight or weights of any axle or axles; provided, that where both gross load and axle weight limits are exceeded, the owner or operator shall be required to recompense the State only for the largest fine imposed under clauses (1) and (2) of this paragraph."

Approved July 21, 1976

CHAPTER 597

HOUSE BILL NO. 262
AS AMENDED BY HOUSE AMENDMENT NO. 1,
2, 3 AND 5

**AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE
DELAWARE CODE RELATING TO VEHICLE
REGISTRATION BY NON-RESIDENTS.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend §2112, Chapter 21, Title 21 of the Delaware Code by striking subsections (c) and (d) thereof in their entirety and substituting in lieu thereof the following subsections (c) and (d) to read as follows:

“(c) A non-resident owner, operator or custodian of any motor vehicle, vehicle, or trailer using such vehicle for transportation or persons or property for compensation within this State or for the transportation of merchandise within this State shall be required to register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this State.

(d) The requirements of subsection (c) of this section may be waived by the Department of Public Safety for vehicles registered in those jurisdictions which reciprocate with vehicles registered in this State.”

Approved July 21, 1976

1972

CHAPTER 598

HOUSE BILL NO. 1031
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 11, TITLE 12,
DELAWARE CODE, RELATING TO ABANDONED
PROPERTY FUNDS RESULTING FROM ES-
CHEATS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Subchapter II, Chapter 11, Title 12, Delaware Code by striking the heading "ARTICLE 1. ABANDONED PROPERTY FUND; DEFINITIONS" as the same appears at the beginning of Subchapter 11 in its entirety and substituting in lieu thereof the following:

**"ARTICLE 1. DEPOSIT TO GENERAL FUND;
DEFINITIONS"**

Section 2. Amend §1131, Chapter 11, Title 12, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §1131 to read as follows:

"§1131. Deposit to General Fund.

(a) The State Escheator shall deposit into the General Fund all moneys or proceeds of property received pursuant to the provisions of this Chapter.

(b) The payment of all claims, the right to which is established pursuant to the provisions of this Chapter, shall be made from the General Fund upon voucher signed by the State Escheator."

Section 3. §1132. Subchapter II, Chapter 11, Title 12, Delaware Code is hereby repealed.

Section 4. Amend §1147, Chapter 11, Title 12, Delaware Code by striking the second sentence thereof in its entirety.

Section 5. Amend §1152, Chapter 11, Title 12, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §1152 to read as follows:

**“§1152. Penalty for failure to report or
make payment.**

Any banking organization failing to report or pay over any amounts as required by this Chapter shall be subject to a civil penalty of twenty-five dollars (\$25.00) for each day such report or payment is withheld, not to exceed a maximum of \$5,000.00, except that the State Escheator may extend the time for filing any report or making payment, and may waive all or any portion of the penalty if the failure is due to reasonable cause and not due to willful neglect.”

Section 6. Amend Subchapter II, Chapter 11, Title 12, Delaware Code by striking the words “Abandoned Property Fund” wherever the same appear therein in their entirety and substituting in lieu thereof the words “General Fund”.

Section 7. This Act shall take effect as of January 1, 1977.

Approved July 21, 1976

CHAPTER 599

HOUSE BILL NO. 1139

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE, TO PROVIDE FOR VACANT POSITIONS IN PAY GRADES 5-10 TO BE FILLED BY AGENCY RECRUITMENT EFFORTS AND TO GIVE EMPLOYMENT PREFERENCE TO THE UNEMPLOYED WITH NO OTHER SOURCE OF INCOME SURPASSING POVERTY LEVEL.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5919, Chapter 59, Title 29, Delaware Code by adding at the end thereof the following new sentence to read as follows:

“Vacant positions in pay grades 5-10 will be filled by agency recruitment efforts unless use of an eligibility list is federally required.”

Section 2. Amend §5921, Chapter 59, Title 29, Delaware Code by adding at the end thereof the following:

“except as provided in §5919 of this Chapter”

Section 3. Amend Chapter 59, Title 29, Delaware Code by adding thereto a new §5939 to read as follows:

“§5939. Preference for Unemployed.

In any case where two or more equally qualified persons are seeking employment with the State under the provisions of this Chapter, preference shall be given to unemployed residents of the State of Delaware, provided such residents' other sources of income do not place them

above the poverty level as established by Federal government standards.”

Approved July 21, 1976

1976

CHAPTER 600

HOUSE BILL NO. 1282

**AN ACT TO AMEND CHAPTER 67, TITLE 9, OF THE
DELAWARE CODE, RELATING TO THE
AUTHORIZATION OF BONDS AND PROVIDING
FOR BORROWING IN ANTICIPATION
THEREOF.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. §6704, Chapter 67, Title 9, of the Delaware Code is amended by adding the following new paragraph "(j)" to read as follows:

"(j) in anticipation of issuance of bonds, the County Government may by resolution borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefore."

Approved July 21, 1976

CHAPTER 601

HOUSE BILL NO. 1283

**AN ACT TO AMEND CHAPTER 65, TITLE 9,
DELAWARE CODE, RELATING TO THE POWER
TO ISSUE BONDS BY PROVIDING FOR THE
BORROWING OF MONEY IN ANTICIPATION
THEREOF.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. §6511, Chapter 65, Title 9, Delaware Code, is hereby amended by adding the following new paragraph “(c)” to read as follows:

“(c) In anticipation of issuance of bonds, the County Government may by resolution borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefore.”

Approved July 21, 1976

1978

CHAPTER 602

HOUSE BILL NO. 992

**AN ACT TO AMEND CHAPTER 5, TITLE 1,
DELAWARE CODE, TO PROVIDE THAT
RETURN DAY SHALL BE A LEGAL HOLIDAY
IN 1976 AS PART OF THE STATEWIDE OBSER-
VANCE OF THE BICENTENNIAL YEAR.**

WHEREAS, the biennial observance of Return Day in Sussex County has attracted nationwide attention because it is unique and because it helps to restore our sense of the history of the First State; and

WHEREAS, during the Bicentennial Year of 1976 an elaborate revival of the Return Day ceremonies is planned; and

WHEREAS, Return Day, the second day after the General Election, is by statute a legal holiday after 12:00 noon in Sussex County; and

WHEREAS, because of the combination of circumstances involving the Bicentennial Year and Return Day there will be an even greater interest in this unique event; and

WHEREAS, it would be fitting for the Bicentennial Year (1976) only if Return Day, November 4, 1976, were made a legal holiday for the entire state.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. §501, Chapter 5, Title 1, Delaware

Code, is amended by striking the words, "and in Sussex County, Return Day, the second day after the General Election, after 12 noon," and substituting in lieu thereof, the following words, "and Return Day, the second day after the General Election, in 1976."

Approved July 21, 1976

1980

CHAPTER 603

SENATE BILL NO. 597
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 27, TITLE 21, OF
THE DELAWARE CODE, RELATING TO
SUSPENSION OF DRIVERS' LICENSES.**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of all the members elected to each
House thereof concurring therein):*

Section 1. Amend §2756, Chapter 27, Title 21, of
the Delaware Code, by deleting the words “, as provided
in this chapter,” as the same appear in the first sentence
of said section.

Approved July 21, 1976

CHAPTER 604

SENATE BILL NO. 598
AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 21, TITLE 21 OF
THE DELAWARE CODE RELATING TO IS-
SUANCE OF LICENSE PLATES.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Chapter 21, Title 21 of the Delaware Code by adding a new §2135 to read as follows:

“2135. Sale of registration plates.

(a) No person shall sell or offer for sale any vehicle registration plate which is similar in design, shape, size and colors to any vehicle license plate considered valid for registration purposes.

(b) No person shall manufacture vehicle registration plates which are similar in design, shape, size and colors to any vehicle license plate considered valid for registration purposes, unless authorized in writing by the Director of the Division of Motor Vehicles.

(c) The provisions of this section shall not apply to registration plates issued prior to 1941 which are collectors items.”

(d) Justice of the Peace Courts shall have jurisdiction over violations of this section.

Approved July 21, 1976

1982

CHAPTER 605

SENATE BILL NO. 707 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 44, TITLE 9, DELAWARE CODE, RELATING TO KENT COUNTY BY AMENDING THE PENALTY PRO- VISIONS FOR ENFORCEMENT OF BUILDING CODES.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Chapter 44, Title 9, Delaware Code by striking the chapter title "Building Permit" and substituting in lieu thereof a new chapter title to read as follows:

"CHAPTER 44. BUILDING PERMITS AND BUILDING AND OTHER CODES"

Section 2. Amend Chapter 44, Title 9, Delaware Code by adding thereto a new section to be designated as Section 4414 to read as follows:

"§4414. Enforcement of building code; remedies and penalties; injunctive relief.

(a) No person shall erect, construct, reconstruct, alter maintain or use any building or structure in violation of any regulation in, or of any provision of, any building, plumbing, electrical or other codes, or any change thereof, enacted or adopted by the county government under the authority of Chapter 76, Title 16, Delaware Code.

(b) Whoever violates this section shall be fined not

more than \$100 or imprisoned not more than ten (10) days or both.

(c) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

(d) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used in violation of this section or of any code or provision of any code or change thereof, enacted or adopted by the county government under the authority by Chapter 76, Title 16, Delaware Code, the county government, the attorney thereof, or any owner of real estate within the county in which such building, structure, or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or maintenance or use."

Approved July 21, 1976

1984

CHAPTER 606

SENATE BILL NO. 741

AN ACT TO AMEND CHAPTER 3, TITLE 21, DELAWARE CODE RELATING TO UNCOLLECTIBLE CHECKS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §314, Chapter 3, Title 21, Delaware Code by adding the following sentence:

“If the uncollectible check was issued in payment for a registration of a motor vehicle or vehicle, the driver’s license and/or driving privileges of the owner of such motor vehicle or vehicle shall also be suspended.”

Approved July 21, 1976

CHAPTER 607

SENATE BILL NO. 768

AN ACT TO AMEND SUBCHAPTER 1, CHAPTER 87, TITLE 9, DELAWARE CODE RELATING TO THE LIEN FOR UNPAID TAXES IN KENT COUNTY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §8705 of Subchapter 1, Chapter 87, Title 9, Delaware Code by adding thereto a new subsection to be designated as subsection (d) to read as follows:

“(d) All taxes assessed against real estate by Kent County shall continue a lien against such real estate for ten (10) years from the first day of July of the year for which the taxes were levied, but if the real estate remains the property of the person who was the owner at the time that it was assessed, then the lien shall continue until the tax is collected. The lien of taxes shall have priority over all other liens.

Section 2. Amend §8705 (b) of Subchapter 1, Chapter 87, Title 9, Delaware Code by striking the words “Kent or” as they appear immediately before the words “Sussex County” in said subsection (b).

Section 3. The provisions of Section 1 of this Act shall apply to all taxes assessed against real estate after June 1, 1975.

Approved July 21, 1976

1986

CHAPTER 608

SENATE BILL NO. 808

**AN ACT TO AMEND CHAPTER 65, OF TITLE 29,
DELAWARE CODE, RELATING TO THE POWERS
OF THE BOARD OF TRUSTEES OF DELAWARE
STATE COLLEGE REGARDING SALARY SUP-
PLEMENTS FOR CERTAIN EMPLOYEES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §6532 of Chapter 65, Title 29, Delaware Code, by adding thereto a new paragraph to be designated as paragraph (e) which new paragraph shall read as follows:

“With the exception of cost of living salary supplements, the Board of Trustees of Delaware State College shall have the full prerogative of determining the amount of salary increments that employees shall receive. Those employees who are members of the bargaining unit shall not be affected by the provisions of this paragraph.”

Approved July 21, 1976.

CHAPTER 609

SENATE BILL NO. 423

**AN ACT TO AMEND SUBCHAPTER 1, CHAPTER 5,
TITLE 9, DELAWARE CODE, RELATING TO
SUBURBAN COMMUNITIES IMPROVEMENTS.**

Be it enacted by the General Assembly of the State of Delaware.

Section 1. Amend §507(a), Title 9, Delaware Code, by deleting the period at the end thereof and adding the following:

“and shall include costs estimated by the Division of Highways for preliminary engineering, which shall not be reimbursable in excess of ten percent of the estimated project cost, and for construction inspection at the rate of ten percent of the amount of the contract bid.”

Section 2. Amend §508, Title 9, Delaware Code, by deleting the period at the end of the third sentence and adding the following:

“and shall include the costs of preliminary engineering and construction inspection as set forth elsewhere in this subchapter.”

Section 3. Amend §513(a), Title 9, Delaware Code, by deleting the third sentence and substituting in lieu thereof the following:

“The amount of the bond issue shall be determined by taking the cost of the preliminary engineering and construction inspection costs up to ten percent of the contract bid and adding the total to the actual contract bid.”

Section 4. Amend §515(a), Title 9, Delaware Code, by deleting the period at the end of the second sentence and adding the following:

“after payment to the Division of Highways for preliminary engineering and construction inspection costs.”

Section 5. Amend §521, Title 9, Delaware Code, by deleting the period at the end of the sentence and adding the following:

“which Department shall be reimbursed at the rate of ten percent of the contract bid.”

Section 6. Amend §524(a), Title 9, Delaware Code, by deleting the period in the last sentence and adding the following:

“and costs incurred by the Division of Highways for preliminary engineering and construction inspection as set forth elsewhere in this subchapter.”

Section 7. Amend §532, Title 9, Delaware Code, by deleting the period at the end of the sentence and adding the following:

“, after payment has been made to the Division of Highways for costs incurred as set forth elsewhere in this subchapter.”

Section 8. This act shall become effective upon signature of the Governor but shall not be applicable to projects already initiated.

Approved July 21, 1976

CHAPTER 610

SENATE BILL 630

**AN ACT TO AMEND CHAPTER 52 OF TITLE 30,
DELAWARE CODE, RELATING TO PENALTY
ASSESSMENTS PAYABLE TO MAIL.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5211 of Chapter 52, Title 30, Delaware Code, by adding thereto two new paragraphs to be designated as paragraphs (d) and (e) to read as follows:

“(d) Any duly constituted police officer of the State of Delaware as provided under §701 of this Title, who charges any person with any of the specified offenses as set out in this section, may, in addition to issuing a summons for said offenses, provide the offending operator with a form which, when properly executed by the officer and the offender, will allow the offender to dispose of the charge without the necessity of personally appearing in the court to which the summons is returnable. Such penalty assessments must be paid within ten (10) days from the date of arrest and shall be paid only by check or money order.

(e) The provisions of subsection (d) of §5211, as stated above, shall be applicable to Delaware residents and to residents of those jurisdictions which reciprocate with Delaware. In addition to any fine imposed under the provisions of this Chapter, there shall also be imposed a victim's compensation tax of \$2.50 payable in the same manner as set forth under the provisions of §5211(d) of Title 30, Delaware Code.”

Approved July 21, 1976

CHAPTER 611

SENATE BILL NO. 371
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

**AN ACT TO AMEND SUBCHAPTER III, CHAPTER
V, TITLE 11, DELAWARE CODE, ESTABLISH-
ING CRIMINAL OFFENSES FOR THE EXPI-
RATING OF RECORDINGS AND ESTABLISH-
ING PENALTIES THEREFOR.**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of all members elected to each House
thereof concurring therein):*

Section 1. Amend Subchapter III, Chapter V, Title 11, Delaware Code by adding a new Subpart to read as follows:

**SUBPART J. OFFENSES RELATING TO RECORDED
DEVICES**

§920. Transfer of recorded sounds.

(a) No person shall knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article upon which sounds are recorded, with the intent to sell or cause to be sold, or to use for profit through public performance, or to use to promote the sale of any product, such article on which sounds are so transferred, without consent of the owner; provided, that such owner is domiciled or has its principle place of business in a country which is a signatory to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (executed on October 29, 1971, Geneva).

(b) For the purposes of this Section "owner" means

the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master wire, master tape, master film, or other device used for reproducing sounds on phonograph records, discs, wires, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly or indirectly derived.

(c) Violation of this Section shall constitute a Class E. Felony.

§921. Sale of Transferred Recorded Sounds.

No person shall knowingly, or with reasonable grounds to know, advertise, or offer for sale or resale, or sell or resell, distribute or possess for such purposes, any article that has been produced in violation of the provisions of §920 of this Chapter.

Violation of this section shall constitute a Class A Misdemeanor.

§922. Improper Labelling.

No person shall advertise or offer for sale or resale, or sell or resell, or possess for such purposes, any phonograph record, disc, wire, tape, film or other article on which sounds are recorded, unless the outside cover, box or jacket clearly and conspicuously discloses the actual name and address of the manufacturer thereof, and the name of the actual performer or group.

Violation of this section shall constitute a Class C Misdemeanor.

§923. Exceptions.

This subpart of this chapter shall not apply to:

(a) Any broadcaster who, in connection with or as part of a radio, television or cable broadcast transmission, or for the purpose of achival preservation, transfers any such sounds recorded on a sound recording.

(b) Any person who transfers such sounds in the home, for personal use, and without compensation for such transfer.

(c) Any phonograph record, disc, wire, tape, film, or other article upon which sound is recorded where a period of 50 years has transpired since the original fixation of sounds thereon was made by the owner or on his behalf.

§924. Civil Litigation.

This subpart of this chapter shall neither enlarge nor diminish the rights of parties in civil litigation.

Section 2. This Act shall become effective upon the approval of the Governor.

Approved July 22, 1976

CHAPTER 612

SENATE BILL NO. 209
AS AMENDED BY SENATE AMENDMENT NOS. 2, 3, 4
AND HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 33, PART II, TITLE 6
OF THE DELAWARE CODE RELATING TO
COMMERCE AND TRADE; AND PROVIDING
FOR THE REGISTRATION AND PROTECTION
OF TRADEMARKS, BRANDS AND LABELS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 33, Title 6 of the Delaware Code by striking said Chapter in its entirety, and substituting in lieu thereof the following:

**“CHAPTER 33. TRADEMARKS, BRANDS AND
LABELS**

§3301. Short Title.

The provisions of this Act may be known and cited as the Delaware Trademark Act.

§3302. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(a) ‘Applicant’ shall mean any person filing an application for registration of a trademark under the provisions of this Chapter, his legal representatives, successors or assigns.

(b) 'Mark' shall include any trademark or service mark entitled to registration under the provisions of this Chapter, whether registered or not.

(c) 'Person' shall mean any individual, firm, partnership, corporation, association, union or other organization.

(d) 'Registrant' shall mean the person to whom the registration of a trademark under the provisions of this Act is issued, his legal representatives, successors or assigns.

(e) 'Service mark' shall mean a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.

(f) 'Trademark' shall mean any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him, and to distinguish them from goods made or sold by others.

(g) 'Trade Name' shall mean a word, name, symbol, device, or any combination thereof used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.

(h) For the purpose of this Chapter, a trademark shall be deemed to be 'used' in this State:

(1) on goods, when it is placed in any manner on the goods, their containers or the displays associated therewith, or on labels affixed thereto and such goods are sold or otherwise distributed within this State; and

(2) on services, when the trademark is used or displayed in the sale or advertising of services and the services are rendered in this State.

§3303. Registrability.

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) consists of or comprises immoral, deceptive or scandalous matter; or

(b) consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(c) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) consists of or comprises the name, signatures or portrait of any living individual, except with his written consent; or

(e) consists of a mark which:

(1) when applied to the goods or services of the applicant, is merely descriptive or deceptively mis-description of them; or

(2) when applied to the goods or services of the applicant, is primarily geographically descriptive or deceptively mis-descriptive of them; or

(3) is primarily merely a surname (provided, however, that nothing in this section shall prevent the registration of a mark used in this State by the applicant which is or has become distinctive of the applicant's goods or services); or

(f) consists of or comprises a mark which so resembles a mark registered in this State or a trademark or trade name previously used in this State by another and not abandoned, as to be likely, when applied to the goods or services of the applicant to cause mistake, or to confuse or deceive.

§3304. Application for Registration.

Subject to the limitations set forth in this Chapter, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) the name and business address of the person applying for such registration, and if a corporation, the state of incorporation;

(b) the goods or services in connection with which the mark is used, and the mode or manner in which the mark is used in connection with such goods or services, and the class in which such goods or services fall;

(c) the date when the mark was first used anywhere, and the date when it was first used in this State by the applicant or his predecessor in business; and

(d) a statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this State, either in the identical form thereof or in such near resemblance thereto, as might be calculated to deceive or to be mistaken therefor.

The application shall be signed and verified by the applicant, by a member of the firm, or by an officer of the corporation or association applying therefor. The application shall be accompanied by a specimen of facsimile of such mark in duplicate. The application for registration shall be accompanied by a filing fee of twenty-five dollars (\$25.00), payable to the Secretary of State.

§3305. Certificate of Registration.

Upon compliance by the applicant with the require-

ments of this Chapter, the Secretary of State shall cause a Certificate of Registration to be issued and delivered to the applicant. The Certificate of Registration shall be issued under the signature of the Secretary of State and the seal of the State of Delaware, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere, the date claimed for the first use of the mark in this State, the class of goods or services, a description of the goods or services on which the mark is used, a reproduction of the mark, the registration date, and the term of the registration period.

Any Certificate of Registration issued by the Secretary of State under the provisions of this Chapter or a copy thereof duly certified by the Secretary shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceeding in any court of this State.

A certificate of registration will be issued by the Secretary of State upon receipt of a \$10.00 fee payable to the Secretary of State.

§3306. Duration and Renewal.

Registration of a mark under the provisions of this Chapter shall be effective for a term of ten years from the date of registration and, upon application filed within six months prior to the expiration of such term, on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. A renewal fee of twenty-five dollars (\$25.00), payable to the Secretary of State, shall accompany the application for renewal of the registration. A trademark registration may be renewed for successive periods of ten years in like manner.

The Secretary shall notify registrants of marks here-

under of the necessity of renewal within the year next preceding expiration of the ten years from the date of registration, by writing to the last-known address of a registrant.

Any registration in force on the date on which this Act shall become effective shall expire ten years from the date of the registration, the last renewal thereof or one year after the effective date of this Act, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by him and paying the aforementioned renewal fee thereof within six months prior to the expiration of the registration.

All applications for renewals under this Chapter, whether of registrations made hereunder or of registrations effected under any prior act, shall include a statement that the mark is still in use in this State.

The Secretary of State shall, within six months after such effective date, notify all registrants of marks registered under previous acts of the date of expiration of such registrations unless renewed in accordance with the provisions of this Chapter, by writing to the last-known address of the registrants.

§3307. Assignment.

Any mark and its registration hereunder shall be assignable, with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed, and may be recorded with the Secretary of State upon the payment of a fee of twenty-five dollars (\$25.00), payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration, or of the last renewal thereof. An assignment of any registration under the provisions of this Chapter shall be void as against any subsequent purchaser for

valuable consideration without notice, unless it is recorded with the Secretary of State within three months after the date thereof, or prior to such subsequent purchase.

§3308. Records.

The Secretary of State shall keep for public examination a record of all marks registered or renewed under the provisions of this Chapter.

§3309. Cancellation.

The Secretary of State shall cancell from the register:

(a) after one year from the effective date hereof, all registrations under prior acts which are more than ten years old, and not renewed in accordance with the provisions of this Chapter;

(b) any registration concerning which the Secretary of State shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record;

(c) all registrations granted under this Chapter and not renewed in accordance with the provisions hereof;

(d) any registration concerning which a court of competent jurisdiction shall find:

- (1) that the registered mark has been abandoned,
- (2) that the registrant is not the owner of the mark,
- (3) that the registration was granted improperly,
- (4) that the registration was obtained fraudulently,
- (5) that the registered mark is so similar, as to be like-

ly to cause confusion or to deceive, to a mark registered by another person in the United States Patent Office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that should the registrant prove that he is the owner of a concurrent registration of his mark in the United States Patent Office covering an area including this State, the registration hereunder shall not be cancelled;

(e) when a court of competent jurisdiction shall order cancellation of a registration on any ground.

§3310. Classification.

Classification shall be as that which is enforced at the time of application under the classification system used by the United States Patent Office.

§3311. Fraudulent Registration.

Any person who shall for himself, or on behalf of any other person, procure the filing or registration of any mark in the office of the Secretary of State under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

§3312. Infringement.

Subject to Common Law Rights as set forth in §3315 of this Chapter, any person who shall:

(a) use, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this Chapter in connection with the sale, offering for sale, or advertising of any goods or ser-

services, or in connection with which such use is likely to cause confusion or to deceive as to the source or origin of such goods or services; or

(b) reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution in this State of such goods or services; shall be liable to a civil action by the owner of such registered mark for any or all of the remedies provided in §3314 of this Chapter, except that under subsection (b) of this section the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such mark is intended to be used to cause confusion or to deceive.

§3313. Injury to Business Reputation; Dilution.

Likelihood to injury to business reputation or of dilution of the distinctive quality of a mark registered under the provisions of this Chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties, or the absence of confusion as to the source of goods or services.

§3314. Remedies.

Any owner of a mark registered under this Chapter may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from and/or all damages suffered by reason of such wrongful manufacture, use, display or sale. Such

possession or under the control of any defendant in such case, be delivered to an officer of the court, or to the complainant, to be destroyed.

The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this State.

§3315. Common Law Rights.

Nothing herein shall adversely affect the rights or the enforcement of the rights in marks acquired in good faith in any time at common law.

Section 2. If any provision hereof, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act shall not be affected thereby.

Section 3. This Act shall be in force and take effect one month after its enactment but shall not affect any suit, proceeding or appeal then pending. All acts relating to marks and parts of any other acts inconsistent herewith are hereby repealed on the effective date of this Act, provided that as to any suit, proceeding or appeal, and for that purpose only, pending at the time this Act takes effect, such repeal shall be deemed not to be effective until final determination of said pending suit, proceeding or appeal.

Approved July 22, 1976

CHAPTER 613

SENATE BILL NO. 673

AS AMENDED BY SENATE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND TITLE 16 OF THE DELAWARE
CODE BY ADDING A NEW CHAPTER
RELATING TO THE LITTERING OF PUBLIC OR
PRIVATE PROPERTY AND THE DEPOSITING
OF REFUSE IN NAVIGABLE WATERS.**

WHEREAS, the increasing amounts of refuse of all kinds that are thrown onto Delaware highways and beaches and the public property of the state and the private property of its citizens are a nuisance which must be controlled by law; and

WHEREAS, such litter is not only unsightly but is also a source of injury to citizens of the state and to visitors; and

WHEREAS, it has been estimated that clearing such litter costs the state at least \$500,000 a year; and

WHEREAS, the citizens of Delaware have the right to believe that their roads and highways as well as their property shall remain clear of litter.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Title 16 of the Delaware Code by adding a new act to be known as Act 16, which new Act shall read as follows:

“ACT 16. LITTER CONTROL LAW

§1601. Short Title.

This Act shall be known and may be cited as the **Delaware Litter Control Law**.

§1602. Declaration of Intent.

It is the intention of this Act to end littering on public or private property, including bodies of water, as a threat to the health and safety of the citizens of this state.

§1603. Definitions.

As used in this Act, unless the context clearly requires otherwise, the following words or phrases shall have the following meanings:

(a) Litter shall include all rubbish, waste material, refuse, cans, bottles, garbage, trash, debris, dead animals or other discarded materials of every kind and description.

(b) Public or private property shall include the right-of-way of any road or highway; any body of water or watercourse, or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area, any residential or farm properties, timberlands or forests.

§1604. Unlawful Activities.

It shall be unlawful for any person or persons to dump, deposit, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property of this state, or any waters in this state unless;

1. Such property is designated by the state or by any of its agencies or political subdivisions for the disposal of trash or litter, and such person is authorized by the proper public authority to use such property for such purpose.

2. Such litter is placed in a litter receptacle or container installed on such property.

3. Such person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant, all in a manner consistent with the public welfare.

§1605. Penalties.

Any person violating the provisions of this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than 100 dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation; except that in the discretion of the court any such person may be directed by the judge of the court to pick up and remove from any public street or highway or public or private right-of-way, or public beach, stream bank, or public park any and all litter deposited thereon by anyone prior to the date of execution of sentence.

1. For the purposes of this Act the Justice of the Peace Courts shall have jurisdiction.

2. The court is hereby directed to make public the names of persons convicted of violating the provisions of this Act.

§1606. Prima Facie Evidence.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of this Act, it shall be **prima facie**

evidence that the operator of said conveyance shall have violated this Act and licenses to operate such conveyances may be suspended for a period not to exceed thirty (30) days together with, or in lieu of, other penalties for littering in the Delaware Code, unless littering from said vehicle is a first offense in which case the license shall not be suspended and the sanctions provided in §1605 of this Act shall apply.

§1607. Receptacles to be Provided.

All public authorities and agencies having supervision of properties of this state are authorized, empowered and instructed to establish and maintain receptacles for the deposit of litter at appropriate locations where such property is frequented by the public, and to post signs directing persons to such receptacles and serving notice of the provisions of this Act, and to otherwise publicize the availability of litter receptacles and the requirements of this Act.

Section 2. If any provision of this Act, or its application to any person or circumstance is held invalid, the remainder of this Act, or the application of the provision to other persons or circumstances shall remain unaffected."

Approved July 22, 1976

CHAPTER 614

SENATE BILL NO. 708

**AN ACT TO AMEND CHAPTER 1 OF TITLE 23,
DELAWARE CODE RELATING TO NAVIGA-
TION AND WATERS, AND PROVIDING PILOT-
AGE RATES FOR DULY LICENSED PILOTS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §131, Subchapter IV, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new Section 131 to read as follows:

“131. Pilotage Rates.

(a) For services rendered on and after July 1, 1976, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, or from a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania, and Delair, New Jersey, to the Capes of the Delaware, shall be in either case, the total of the charges resulting from the two following computations:

(1) a. A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by 100.

b. For the purposes of this section, the following definitions shall be applied:

1. "Length overall" shall be the distance between the forward and after extremities of the vessel.

2. "Extreme breadth" shall be the maximum breadth between the outsides of the shell platings of the vessel.

All measurements shall be in feet and in inches (United States). Inches shall be converted as follows:

1" = .1	4" = .3	7" = .6	10" = .8
2" = .2	5" = .4	8" = .7	11" = .9
3" = .3	6" = .5	9" = .8	

c. The charges per unit shall be as follows:

1. Vessels not in excess of 300 units: \$.60 per unit.

2. Vessels in excess of 300 units, but not in excess of 600 units: \$180 plus \$.50 per unit in excess of 300 units.

3. Vessels in excess of 600 units: \$330 plus \$.40 per unit in excess of 600 units.

d. The charges per unit shall be as follows: sixty-five cents per unit from July 1, 1976, through June 30, 1977; seventy cents per unit from July 1, 1977, through June 30, 1978; and seventy-five cents per unit thereafter.

There shall be a minimum unit 200 units (\$120).

(2) A charge, related to length and draft, shall be determined as follows:

(a) Vessels with a length overall not in excess of 550 feet: \$5.50 per half foot of draft.

b. Vessels with a length overall in excess of 550 feet, but not in excess of 800 feet: \$6.00 per half foot of draft.

c. Vessels with a length overall in excess of 800 feet: \$6.50 per half foot of draft.

All charges related to draft shall be based upon the charge of the nearest one-half foot of draft; thus there shall be no charge for the first 3 inches above any foot draft; above 3 inches, up to and including 9 inches, the charge shall be for one-half foot of draft; above 9 inches, the charge shall be for the next higher foot; provided, however, that any vessel with a draft of less than 15 feet shall pay pilotage under this computation as though the draft of the vessel were 15 feet.

(b) Every such vessel bound to the breakwater for orders shall pay pilotage fees as follows: A sum equal to one half of the inward rates of pilotage to the port of Philadelphia, and the same fees when outward bound from the breakwater; provided, however, if the pilot bringing such ship or vessel to the breakwater be there discharged, and the ship or vessel afterward proceed to Philadelphia or any other port or place on the Delaware Bay or River, she shall make the usual signal for a pilot, and continue to make such signal till reaching Brandywine Light, and if spoken by, or offered the services of, a duly licensed Delaware pilot before reaching Brandywine Light, shall be obliged to employ such pilot and pay him for services rendered as follows: On and after July 1, 1976, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania, and Delair, New Jersey, or from a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, to the Capes of the Delaware, shall be in either case, the total of the charges resulting from the two following computations:

(1) a. A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by 100.

vessel, divided by 100.

b. For the purposes of this section, the following definitions shall be applied:

1. "Length overall" shall be the distance between the forward and after extremities of the vessel.

2. "Extreme breadth" shall be the maximum breadth between the outside of the shell plating of the vessel.

All measurements shall be in feet and in inches (United States).

1" = .1	4" = .3	7" = .6	10" = .8
2" = .2	5" = .4	8" = .7	11" = .9
3" = .3	6" = .5	9" = .8	

c. The charges per unit shall be as follows:

1. Vessels not in excess of 300 units: \$.60 per unit.

2. Vessels in excess of 300 units, but not in excess of 600 units: 180 plus \$.50 per unit in excess of 300 units.

3. Vessels in excess of 600 units: \$330 plus \$.40 per unit in excess of 600 units.

d. The charges per unit shall be as follows: sixty-five cents per unit from July 1, 1976, through June 30, 1977; seventy cents per unit from July 1, 1977, through June 30, 1978, and seventy-five cents per unit thereafter.

There shall be a minimum unit charge of 200 units (\$120).

(2) A charge, related to length and draft, shall be

determined as follows:

a. Vessels with a length overall in excess of 550 feet, but not in excess of 550 feet: \$5.50 per half foot of draft.

b. Vessels with a length overall in excess of 550 feet, but not in excess of 800 feet: \$6.00 per half foot of draft.

c. Vessels with a length overall in excess of 800 feet: \$6.50 per half foot of draft.

All charges related to draft shall be based upon the charge of the nearest one-half foot of draft; thus there shall be no charge for the first 3 inches above any foot draft; above 3 inches, up to and including 9 inches, the charge shall be for one-half foot of draft; above 9 inches, the charge shall be for the next higher foot; provided, however, that any vessel with a draft of less than 15 feet shall pay pilotage under this computation as though the draft of the vessel were 15 feet.

Approved July 22, 1976

CHAPTER 615

SENATE BILL NO. 750
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 27, TITLE 21, OF THE
DELAWARE CODE, RELATING TO SUSPENSION
OF DRIVER LICENSES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Section 2733, Chapter 27, Title 21 of the Delaware Code by adding the following new paragraph (L).

“(L) The Department may, upon receiving a record, notice or certification of non-compliance by a person for a citation, summons, ticket or other document issued by an arresting officer for violation of a traffic law, ordinance, rule or regulation ordering the arrested motorist to appear, suspend the driver’s license and/or driving privileges of the person who failed to comply. The Department shall not have this power of suspension in cases of parking violations.”

Approved July 22, 1976

CHAPTER 616

SENATE BILL NO. 773
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 50, PART I, TITLE 18, DELAWARE CODE, RELATING TO INSURANCE HOLDING COMPANIES IN ORDER TO PROVIDE NOTICE TO THE COMMISSIONER OF ANY DECLARATION OF EXTRAORDINARY DIVIDEND OR OTHER DISTRIBUTION AND TO REQUIRE THE APPROVAL OF THE COMMISSIONER IN CONNECTION WITH CERTAIN TRANSACTIONS BETWEEN INSURANCE COMPANIES AND INSURANCE HOLDING COMPANY SYSTEMS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 50, Part I, Title 18 of the Delaware Code by striking the present title to said section, and substituting in lieu thereof the following:

**“CHAPTER 50. INSURANCE HOLDING
COMPANIES”**

Section 2. Amend §5001, Chapter 50, Part I, Title 18 of the Delaware Code by striking the words “Registration of”.

Section 3. Amend §5002, Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto four new paragraphs, designated as paragraphs (3), (4), (5) and (6) respectively, which shall read as follows:

“(3) An ‘affiliate’ of, or person ‘affiliated’ with, a specified person, is a person who directly, or indirectly through one or more intermediaries, controls, or is con-

trolled by, or is under common control with, the specified person.

(4) A 'subsidiary' of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

(5) 'Control' (including the terms 'controlling', 'controlled by' and 'under common control with') means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise, unless the power is the result of an official position with a corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten per centum (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact. The Commissioner may, after furnishing all persons in interest notice and an opportunity be heard, determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) An 'extraordinary dividend' or 'extraordinary distribution' includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of (i) 10% of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or (ii) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities."

Section 4. Amend §5003, Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (1), which shall read as follows:

“(1) The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall constitute a violation of this section.”

Section 4. Amend Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto a new section designated as §5004, which new section shall read as follows:

“§5004. Transactions with Affiliates.

Material transactions by registered insurers with their affiliates shall be subject to the following standards:

- (a) the terms shall be fair and reasonable;
- (b) the books, accounts and records of each party shall be so maintained as to disclose clearly and accurately the precise nature and details of the transactions; and
- (c) the insurer’s surplus as regards policyholders following any such transaction, including the payment of dividends or distributions to shareholder affiliates, shall be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs.”

Section 5. Amend Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto a new section, designated as §5005, which new section shall read as follows:

“§5005. Adequacy of Surplus.

For purposes of this section, in determining whether an insurer’s surplus as regards policyholders is reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered where appropriate:

(a) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(b) the extent to which the insurer's business is diversified among the several lines of insurance;

(c) the number and size of risks insured in each line of business,

(d) the extent of the geographical dispersion of the insurer's insured risks;

(e) the nature and extent of the insurer's reinsurance program;

(f) the quality, diversification, and liquidity of the insurer's investment portfolio;

(g) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(h) the surplus as regards policyholders maintained by other comparable insurers;

(i) the adequacy of the insurer's reserves; and

(j) the quality and liquidity of investments in affiliated persons. The Commissioners may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants."

Section 6. Amend Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto a new section; designated as §5006, which new section shall read as follows:

"§5006. Dividends and Other Distributions.

(a) No insurer subject to registration under the provisions of Section 5003 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (1) 30 days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or (2) the Commissioner shall have approved such payment within such 30 day period.

(b) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until (1) the Commissioner has approved the payment of such dividend or distribution or (2) the Commissioner has not disapproved such payment within the 30 day period referred to above."

Section 7. Amend Chapter 50, Part I, Title 18 of the Delaware Code by adding thereto a new section, designated as §5007, which new section shall read as follows:

"§5007. Confidential Treatment.

All information, documents and copies thereof obtained by disclosed or reported to the Commissioner or any other person pursuant to Sections 5004, 5005 and 5006 shall be given confidential treatment and shall not be subject to subpoena nor be made public by the Commissioner or any other person, except to insurance departments of other states, without prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate."

Section 8. Amend Chapter 50, Part I, Title 18 of

the Delaware Code by adding thereto a new section, designated as §5008, which new section shall read as follows:

§5008. Jurisdiction, Injunctions, and Penalties.

(a) The Court of Chancery of the State of Delaware shall have exclusive jurisdiction of any civil action alleging a violation of this Chapter.

(b) Whenever it appears to the Commissioner that any person has committed or is about to commit a violation of this Chapter, the commissioner may apply to the Court of Chancery for an Order enjoining such person from violating or continuing to violate a provision of this Chapter and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders, or the public may require. Unless otherwise specified in this Chapter, the procedure for all such proceedings shall be as provided in the Rules of Procedure for the Court of Chancery or as established by the usual practice and procedure in said Court.

(c) Upon satisfactory evidence of a willful violation by any person of this Chapter, the Court of Chancery may, in its discretion, impose a penalty upon such offending person of not more than Ten Thousand Dollars (\$10,000.00) for each act in violation of this Chapter.

(d) Upon a finding by the Court of Chancery of a willful violation of this Chapter, the Commissioner, if such offending person is an insurer, may:

(1) suspend or revoke the license of such offending person; or

(2) refuse, for a period not to exceed one (1) year thereafter, to issue a new license to such offending person."

Approved July 22, 1976

CHAPTER 617

SENATE BILL NO. 782

AN ACT TO AMEND SUBCHAPTER VIII, CHAPTER 65, TITLE 11, DELAWARE CODE RELATING TO MANDATORY TRAINING OF CORRECTIONAL OFFICERS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Subchapter VIII, Chapter 65, Title 11, Delaware Code by adding thereto a new section to be designated as §6565 which shall read as follows:

“§6565. Mandatory Training of Correctional Officers; Exceptions; Appropriations.

(a) All Correctional Officers of the Department shall be required to complete a basic training program as a condition of employment or continued employment.

(b) All Correctional Officers shall be required to complete advanced annual training after having completed the basic training program.

(c) The Department shall be responsible for administering the mandatory basic and advanced training programs for all Correctional Officers with responsibility and authority to obtain professional assistance from other sources to accomplish the purposes and objectives of the program.

(d) There will be no exceptions granted to any Correctional Officer employed by the Department from the training provisions established by this Section.

(e) The General Assembly shall appropriate each year to

the Department of Correction such funds as are necessary for the purpose of carrying out this Section.”

Approved July 22, 1976

CHAPTER 618

HOUSE BILL NO. 553

**AN ACT TO AMEND CHAPTER 49, TITLE 10,
DELAWARE CODE, RELATING TO ATTACH-
MENT OF WAGES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend subsection (b), Section 4913, Chapter 49, Title 10, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

“(b) On any amount of wages due, only one attachment may be made. Any creditor causing such attachment to be made shall have the benefit of his priority until the judgment with costs for which the attachment was made has been paid in full.”

Approved July 22, 1976

CHAPTER 619

HOUSE BILL NO. 554

**AN ACT TO AMEND CHAPTER 95, TITLE 10,
DELAWARE CODE, CONCERNING GARNISH-
MENT PROCEEDINGS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §9549(b), Chapter 95, Title 10, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

“(b) The garnishee summoned on any execution, or other attachment, shall be bound to plead, or answer, concerning any credits, money, or rights arising from any agreement, or contract, for personal labor, hire, or services of the defendant for which he is accountable to the defendant, after he is so summoned to answer and until the judgment with costs has been paid.”

Approved July 22, 1976

CHAPTER 620

HOUSE BILL NO. 629

AS AMENDED BY HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND SUBCHAPTER III, CHAPTER 1,
TITLE 17, DELAWARE CODE, RELATING TO
HIGHWAYS AND PROVIDING FOR CONTROL OF
ENTRANCES AND EXITS ONTO STATE MAIN-
TAINED HIGHWAYS, STREETS, AND ROADS,
AND TO PROVIDE FOR PENALTIES FOR VIOLA-
TION THEREOF.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Subchapter III, Chapter 1, Title 17, Delaware Code, is amended by adding thereto §146 to read as follows:

“§146. Entrances and exits onto State maintained highways, streets, and roads.

(a) The Department is hereby granted the exclusive authority to adopt standards and regulations for the location, design, construction, and control of entrances and exits onto State maintained highways, streets, and roads.

(b) No person, firm, corporation, or the like shall, after the adoption of this Section, construct or open to pedestrian or vehicular traffic any crossing onto or into a State maintained highway, street, or road without first having obtained a permit issued by the Department.

(c) Any person, firm, corporation, or the like who constructs or opens an entrance onto or an exit from a State maintained highway, street, or road, without having first obtained a permit from the Department for such entrance

and/or exit, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00 for each offense, and a further sum in an amount equal to the amount fined for the initial offense for each and every day such violation exits.

(d) Justice of the Peace Courts shall have jurisdiction over violations of this Section.”

Approved July 22, 1976

CHAPTER 621

HOUSE BILL NO. 764

**AN ACT TO AMEND CHAPTER 9 OF TITLE 22,
DELAWARE CODE, RELATING TO THE
MUNICIPAL USER TAX.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §901 of Chapter 9, Title 22,
Delaware Code, by adding thereto a new sentence which
shall read as follows:

“Any employer whose business is located outside the
corporate limits of a city who employs persons who are
residents of the city shall deduct from such employees’ total
income the assessed municipal user tax imposed by said ci-
ty.”

Approved July 22, 1976

CHAPTER 622

HOUSE BILL NO. 781
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT REVISING THE PRIOR CHARTER OF THE CITY OF REHOBOTH BEACH AND PRESCRIBING A NEW CHARTER THEREFOR AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH" TO PROVIDE FOR ONE MAN ONE VOTE VOTING IN ANNEXATION ELECTIONS, TO PROVIDE FOR THE USE OF VOTING MACHINES IN ANNEXATION ELECTIONS, TO PROVIDE FOR APPEALS FROM THE ASSESSMENTS, TO PROVIDE FOR NOTICE OF ELECTIONS OTHER THAN THE ANNUAL MUNICIPAL ELECTION, TO PROVIDE A NEW TIME FOR FILING PETITIONS FOR NOMINATION, TO PROVIDE A NEW TIME FOR REVIEW OF PETITIONS FOR NOMINATIONS, TO INCREASE THE AMOUNT THAT CAN BE RAISED BY TAXATION, TO PROVIDE A PROCEDURE FOR PAYMENT OF PAVING, GUTTERING AND CURBING, TO PROVIDE A PROCEDURE FOR BORROWING MONEY AND ISSUING BONDS.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Subsection (d), Section 2, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out all of the fourth paragraph thereof and substituting in lieu thereof a new paragraph which shall read as follows:

"At the Special Election, every property owner or

leaseholder as defined in this Charter, whether an individual, partnership or corporation, shall be entitled to cast one vote and every bona fide resident of the City of Rehoboth Beach who is not a property owner or leaseholder as defined in this Charter shall be entitled to cast one vote. At the said Special Election, every property owner or leaseholder, as defined in this Charter, of the territory proposed to be annexed, whether an individual, partnership or corporation, shall be entitled to cast one vote and every bona fide resident of the territory proposed to be annexed who is not a property owner or leaseholder as defined in this Charter shall be entitled to cast one vote. Property owners or leaseholders, as defined in this Charter, whose property or whose improvement located on leased land is exempt from taxation or is not assessed shall not be entitled to vote. The books and records of the City of Rehoboth Beach in the case of city property owners, or leaseholders as defined in this Charter or residents and the books and records of Sussex County in the case of property owners, leaseholders as defined in this Charter, or residents of the territory proposed to be annexed shall be conclusive evidence of the right of such persons, firms or corporations to vote at the Special Election."

Section 2. Subsection (d), Section 2, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out paragraph 6 of said subsection and substituting in lieu thereof a new paragraph 6 to read as follows:

"Voting machines shall be used in any annexation election and the form of the ballot to be inserted in the machine shall be as follows:

- ☐ For the proposed annexation
- ☐ Against the proposed annexation

(CHECK THE ONE BLOCK FOR WHICH YOU
CAST YOUR VOTE)"

Section 3. Section 4, Chapter 197, Volume 54, Laws

of Delaware, as amended, be and the same is hereby further amended by adding at the end thereof a new subsection to be designated as subsection (b), to read as follows:

“(b) In all elections other than the Annual Municipal Election, ballots may be cast in person or by an individual holding a duly executed Power of Attorney acknowledged and specifically authorizing the said individual to vote at the election, a duly authenticated copy of the Power of Attorney to be filed in the Office of the City Manager of the City of Rehoboth Beach prior to the date of the election. The Commissioners of Rehoboth Beach shall make provision for notice to be sent to every property owner and resident of the City of Rehoboth Beach, as shown by the tax records of the City of Rehoboth Beach, by first class mail, at least twenty days prior to the date of the election and enclosing with said Notice a form of a Power of Attorney. Such Power of Attorney shall clearly disclose to the property owner or resident his voting options, provide a place for such property owner or resident to indicate his preference, and provide a place for a Notaries Public to subscribe to the property owner’s or resident’s signature and indication of preference.”

Section 4. Section 6-a, Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Section 6-a and substituting in lieu thereof a new Section 6-a to read as follows:

“Section 6-a. The mode of nomination of candidates for elective offices in the City of Rehoboth Beach shall be by petition, signed by not less than ten nor more than twenty-five qualified electors of the City and filed with the Secretary of the Commissioners of Rehoboth Beach, on or before 12:00 noon on the first Saturday in July of each year preceding the Annual Municipal Election.”

Section 5. Section 6-b, Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words “on the evening

of the second Saturday preceding the next regular municipal election” and substituting in lieu thereof the words “at the regular meeting in July”.

Section 6. Subsection (f), Section 23, Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said subsection and substituting in lieu thereof a new subsection (f) to read as follows:

“f. Immediately upon receiving the annual assessment list from the Board of Assessment, the Commissioners of Rehoboth Beach shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in the City of Rehoboth Beach, and there it shall remain for a period of at least ten days for the inspection of and examination by all concerned. Appended thereto and also in five or more public places in said City shall be posted notices advising all concerned that an appeal may be taken by any taxable by filing a notice of appeal within ten days after the date of posting of the true and correct copy of the annual assessment list and notices with the City Manager of the City of Rehoboth Beach shall sit at the first regular meeting following the expiration of the said ten-day period and fix a time and date not earlier than ten-days nor later than twenty days following said regular meeting at which time the Commissioners of Rehoboth Beach will sit as a Court of Appeals to hear appeals taken from the said annual assessment. The decision of the Commissioners of Rehoboth Beach sitting as a Court of Appeals shall be final and conclusive unless an appeal is taken to the Superior Court of the State of Delaware, in and for Sussex County, within ten days from the date of the said hearing, and the Commissioners of Rehoboth Beach shall revise and complete said assessment at this sitting. No Commissioner shall sit upon his own appeal, but the same shall be heard and determined by the other Commissioners.”

Section 7. Subsection (a), Section 29, Chapter 197,

Volume 54, Laws of Delaware, as amended, is hereby further amended by striking all of paragraph 30 of said subsection and substituting in lieu thereof a new paragraph 30 to read as follows:

“30. To levy and collect taxes for any and all municipal purposes upon all real estate within the City, except lands belonging to the City; provided that the amount to be raised from this source shall not exceed the sum of one million dollars (\$1,000,000.00).”

Section 8. Section 32, Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Section 32 and substituting in lieu thereof a new Section 32 to read as follows:

“PAVING, GUTTERING AND CURBING

Section 32-(a). In the event that it becomes feasible or necessary in the future for the City of Rehoboth Beach to level, grade, flag, re-flag, curb or recurb, gutter or regutter, pave or repave the sidewalks, curbs, crosswalks or gutters of the City of Rehoboth Beach or to repair any curb, sidewalk, gutter or crosswalk, the following procedure shall be followed.

(b) Before any owner shall be required to lay, install or construct a new sidewalk, curb or gutter, or any or all of them, on any block on any street within the corporate limits of the City of Rehoboth Beach where more than fifty percent of lots do not have such improvement, a written petition, signed by a majority of the owners of property on any block on any street adjoining, along or in front of which block such improvement is requested shall first be received or obtained by the Commissioners of Rehoboth Beach requesting that the sidewalk, curb or gutter, or either or all of them, be laid, installed or constructed in such block. For the purposes of this section, an owner shall be deemed to include a freeholder or leaseholder as defined in this Charter.

(c) Upon receipt of such petition, the Commissioners of Rehoboth Beach shall direct the Secretary of the Commissioners of Rehoboth Beach to forward a written notice to the owner or owners of any house or lands adjoining, along or in front of which a sidewalk, curb or gutter or any or all of them, shall be laid, installed or constructed. Such notice shall specify to the owner any rules or regulations adopted by the Commissioners of Rehoboth Beach in respect to the laying, installing or constructing thereof or the materials to be used in the doing of such work.

(d) Should the owner or owners neglect or refuse to comply with said notice for the space of thirty days, the Commissioners of Rehoboth Beach may proceed to have the same done, and when done, the City Manager shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing the expenses of such paving, curbing or guttering, or any or all of them. Such bill shall be sent by certified mail with return receipt requested to such owner or owners directed to him, her or them at their last known address. If such bill be not paid by the owner or owners of such land or lands within thirty days after the mailing of such bill, as aforesaid, the City Manager may proceed to effect collection of such bill in the same manner as provided in this Charter for the collection of taxes.

(e) The claim for paving, curbing or guttering, or any or all of them, shall be a lien for a period of ten years on the premises adjoining, along or in front of which the said work was done and shall have priority over any other lien, encumbrance or conveyances suffered or made by the owner or owners after the presentation of said bill, as aforesaid, although such other conveyance, or lien or liens be of a date prior to the time of the attaching of such liens for paving, guttering or curbing or any or all of them.

(f) If more than fifty percent of the lots in any block on any street have a sidewalk, curb or gutter, or if the work to be accomplished is a repair or replacement of existing sidewalks, curbs or gutters or any or all of them, no Petition

shall be required but the Commissioners of Rehoboth Beach shall adopt a resolution stating that on a named day and at a named hour and place, the Commissioners of Rehoboth Beach will meet to consider the question of laying, installing or constructing of new sidewalks, curbs or gutters, or any or all of them, adjoining, along or in front of property where more than fifty percent of the lots in the block have such improvement or repair or replacement of particular sidewalks, curbs or gutter or any or all of them of the City on a named street adjoining, along or in front of the property of a named owner or owners and an assessment of the costs thereof against such owner or owners. The resolution shall be printed at least one week prior to the meeting in a newspaper having a general circulation in the City of Rehoboth Beach. The Commissioners shall hold a public hearing pursuant to said resolution and thereat shall hear the aforesaid owner or owners of property and other residents of the City appearing on the question referred to said resolution.

(g) After such public hearing, the Commissioners of Rehoboth Beach, either at said public hearing, or at a subsequent regular or special meeting, shall decide whether to proceed with the improvements referred to in said resolution, and if it shall be determined to proceed, the Commissioners shall determine whether the whole or some specified portion of the cost of the improvement adjoining, along or in front of the property of the owner or owners named in the aforesaid resolution shall be borne by said owner or owners. If said determination shall be that the whole or specified proportion of said cost shall be borne by the said owner or owners, then and in that event, the said owner or owners shall be compelled to pay the whole or specified proportion of costs aforesaid, as the case may be, the amount to be paid by the owner of each parcel of their property affected to be determined by the lineal footage of the parcel adjoining, along or in front of which the improvement or improvements were made.

(h) Whenever the laying, installing or constructing of new sidewalks, curbs or gutters or any or all of them, as

described in subsection (c) hereof or replacement or repair of the sidewalks, curbs or gutters or any or all of them have been made, and the cost thereof ascertained, the Commissioners of Rehoboth Beach shall ascertain the amount that the owner or owners of each parcel of property shall pay as hereinbefore stated, and shall give written notice thereof to said owner or owners by mailing the same by certified mail with return receipt requested to his, her or their last known address. If such owner or owners shall fail to pay the specified amount within thirty days after the mailing of such notice, the same, together with interest costs, may be collected by the same procedures as are set forth herein for the collection of taxes. The amount so assessed shall be and constitute a lien upon all the property adjoining, along or in front of which the said work was accomplished, and such liens shall have preference and priority for a period of ten years from the date of mailing of the notice, although such other lien, encumbrance or conveyance was suffered or made by the owner or owners after the presentation of the said bill although such other conveyance, or lien or liens be of a date prior to the time of the attaching of such liens for the improvements.

(i) The word 'owner' as used in this section shall be deemed to mean the freeholders or leaseholders of the property at the time the petition is received by the Commissioners of Rehoboth Beach pursuant to subsection (b) hereof if a new sidewalk, curb or gutter or any or all of them is to be laid, installed or constructed are the freeholders or leaseholders of the property at the time the resolution to repair or replace existing sidewalks, curbs, or gutters or any or all of them is passed and any change in ownership thereafter shall not be deemed or held to affect any of the proceedings mentioned in this section. The Commissioners of Rehoboth Beach, in exercising the authority granted by this section, may use such materials and substances and such methods of construction and may employ such contractors, engineers and inspectors and others as the Commissioners of Rehoboth Beach may deem expedient and may use different materials and different methods of construction as the Commissioners of Rehoboth Beach deem advisable."

Section 9. Section 40, Chapter 197, Volume 54, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of Section 40 and substituting in lieu thereof a new Section 40 to read as follows:

**“BORROWING OF MONEY
AND ISSUANCE OF BONDS**

Section 40-a. The Commissioners of Rehoboth Beach may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the City of Rehoboth Beach or such other security or securities as the Commissioners shall elect for the payment of principal thereof and interest due thereon.

b. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Commissioners of Rehoboth Beach pursuant to the provisions of this section shall be exempt from all State, county or municipal taxes.

c. The power of authority to borrow money may be exercised by the Commissioners of Rehoboth Beach to provide funds for, or to provide for the payment of, any of the following objects and purposes: (1) refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein; (2) meeting or defraying current operating expenses of the City; (3) erecting, extending, enlarging, maintaining, and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor; (4) constructing, paving, laying-out, widening, extending, repairing and maintaining streets, lanes, alleys and ways and the paying, construction, laying-out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing of any lands, easements or rights-of-way which may be

required therefor; (5) constructing, laying-out, widening, extending, repairing and maintaining boardwalks, piers, jetties, bulkheads, sidewalks, crosswalks, or embankments, or any of them in the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor; (6) defraying the costs to the City of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.

d. The Commissioners shall adopt a resolution proposing unto the electors of the City by resolution that an amount of money shall be borrowed for any of the above purposes. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and other pertinent facts relating to the loan which are deemed pertinent by the Commissioners of Rehoboth Beach and in their possession, and shall fix the time and place for a public hearing on said resolution.

e. Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the City of Rehoboth Beach at least one week before the time fixed for the public hearing.

f. After the public hearing, a second resolution may then be passed by the Commissioners of Rehoboth Beach ordering a Special Election to be held not less than thirty days and no more than sixty days after said public hearing to borrow the said money for the purpose of voting for or against the proposed loan. The passing of the second resolution calling the Special Election shall, **ipso facto**, be considered the determination of the Commissioners of Rehoboth Beach to proceed in the matter in issue.

g. The notice of the time and place of holding the said Special Election shall be printed in two issues of a newspaper having a general circulation in the City of Rehoboth Beach within thirty days prior to the date of the said Special Election.

h. At the said Special Election, every owner or leaseholder, as defined in this Charter, of property, whether an individual, partnership or corporation, shall have one vote and every person who is a bona fide resident of the City of Rehoboth Beach, but who is not an owner or leaseholder, as defined in this Charter, of property within the corporate limits of the City of Rehoboth Beach and who would be entitled at the time of holding of the said Special Election to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election shall have one vote whether or not such person be registered to vote in the Annual Municipal Election.

i. Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines which shall have the following designations:

- ☐ For the proposed borrowing
- ☐ Against the proposed borrowing

The voter shall be instructed to mark the box for which he casts his vote.

j. In the event that an individual holds a power of attorney duly executed and acknowledged or another person or of a firm or corporation specifically authorizing the said individual to vote at the said Special Election, a duly authenticated copy of which has been filed in the Office of the City Manager of the City of Rehoboth Beach, such individual shall be entitled to cast the vote of said person, firm or corporation.

k. The Mayor of the City of Rehoboth Beach shall appoint a Board of Special Election, whose members shall have the same qualifications as provided in this Charter in the case of the Board of Elections of an Annual Municipal Election of the City of Rehoboth Beach.

1. The polling places shall be opened from eleven o'clock (11:00) in the morning, prevailing time, until seven o'clock (7:00) in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at 7:00 in the evening shall be entitled to vote even though such votes may be cast after 7:00 in the evening.

m. Immediately upon the closing of the polling places, the Board of Special Election shall count the ballots for and against the proposed borrowing and shall announce the result thereof and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and the number of void votes and shall deliver such certificate, in duplicate, to the Commissioners of Rehoboth Beach. The said certificate shall be filed with the papers of the Commissioners of Rehoboth Beach.

n. The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Commissioners of Rehoboth Beach after said Special Election.

o. The faith and credit of the City of Rehoboth Beach shall be deemed to be pledged for the due payment of the bonds and the interest thereon issued under the provisions hereon when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.

p. The bonds may be sold at either public or private sale. If it is determined to sell the said bonds at public sale, the bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in the newspaper having a general circulation in the City of Rehoboth Beach and otherwise if the Commissioners of

Rehoboth Beach shall deem it advisable for at least fifteen days before offering the same for sale.

q. In no event shall the indebtedness of the City of Rehoboth Beach authorized by this section at any one time exceed in the aggregate twenty-five percent of the assessed valuation of all real property situate within the corporate limits of the City of Rehoboth Beach and subject to assessment for the purpose of levying the annual tax as provided in this Charter."

Section 10. Section 4 of this Act shall become effective on September 1, 1976. All other Sections of this Act shall become effective one day after it becomes law.

Approved July 22, 1976

CHAPTER 623

HOUSE BILL NO. 792

AN ACT TO AMEND AN ACT BEING CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT REVISING THE PRIOR CHARTER OF THE CITY OF REHOBOTH BEACH AND PRESCRIBING A NEW CHARTER THEREFOR AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSIONERS OF REHOBOTH BEACH" TO PROVIDE THE MANNER OF ESTABLISHING THE FISCAL YEAR.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Subsection (a), Section 28, Chapter 197, Volume 54, Laws of Delaware, as amended, is hereby further amended by striking out all of said subsection (a) and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The fiscal year of the City of Rehoboth Beach shall be established from time to time by resolution adopted by the Commissioners of Rehoboth Beach."

Approved July 22, 1976

CHAPTER 624

HOUSE BILL NO. 893
AS AMENDED BY HOUSE AMENDMENT NOS. 1 and 2

**AN ACT TO AMEND CHAPTER 59, TITLE 29,
DELAWARE CODE, BY PLACING CERTAIN
EMPLOYEES OF THE JUSTICE OF THE PEACE
COURTS IN THE MERIT SYSTEM.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §5903, Chapter 59, Title 29, Delaware Code, by striking all of subparagraph "(16)" and inserting in lieu thereof the following new subsection "(16)":

"(16) All judges or other members of the state judiciary, referees, jurors and others appointed by the judiciary including the Deputy Administrator, but excluding all other employees of the Justice of the Peace system. Any incumbent occupying a position that is "classified" by the Director of Personnel in compliance with this section shall be considered qualified without further testing, and shall be continued in the position without loss of compensation. Future hires into any classified position in the Justice of the Peace courts vacated subsequent to this act will be made in accordance with the provisions of Chapter 59, Title 29, Delaware Code;"

Section 2. This Act shall become effective July 15, 1976.

Approved July 22, 1976

CHAPTER 625

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 927

**AN ACT TO AMEND CHAPTER 55, PART III, TITLE 25
OF THE DELAWARE CODE RELATING TO AC-
CESS BY A LANDLORD OR TENANT TO A REN-
TAL UNIT.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §5513, Chapter 55, Part III, Title
25 of the Delaware Code by adding the following sentence to
subsection (a):

“(a) A tenant shall have a right to install a new lock at
the tenant’s own cost, on the condition that (1) the tenant
supplies the landlord with a key to the lock, (2) the new lock
fits into the system already in place, and (3) the lock installa-
tion does not cause damage to the door.”

Approved July 22, 1976

CHAPTER 626

HOUSE BILL NO. 1027

**AN ACT TO AMEND CHAPTER 27, TITLE 21,
DELAWARE CODE, RELATING TO APPLICA-
TION BY MINOR FOR AN OPERATOR'S
LICENSE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2712, Chapter 27, Title 21, Delaware Code, by striking subsection (2) in its entirety, and substituting in lieu thereof a new subsection (2), which shall read as follows:

“(2) Father of the minor, if the father is living within this State, and the minor resides with the father only; or mother of the minor, if the mother is living within this State, and the minor resides with the mother only.”

Approved July 22, 1976

CHAPTER 627

HOUSE BILL NO. 1065

AN ACT TO AMEND CHAPTER 92, PART VII, TITLE 10 OF THE DELAWARE CODE RELATING TO JUSTICES OF THE PEACE; AND PROVIDING FOR THEIR CONTINUING LEGAL EDUCATION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §9210, Chapter 92, Part VII, Title 10 of the Delaware Code by adding thereto the following new subsections:

“(d) Dependent upon the courses offered, each Justice may attend one or more of the courses set forth in this subsection when such course is taught at the Delaware Law School or at a State institution. All charges and fees for the following courses taken by a Justice shall be paid by the State:

(1) Constitutional Law - up to and including 6 classroom hours;

(2) Trespass - up to and including 8 classroom hours;

(3) Debt - up to and including 8 classroom hours;

(4) Landlord-Tenant Law - up to and including 8 classroom hours;

(5) Executions - up to and including 6 classroom hours;

(6) Criminal Law - up to and including 8 classroom hours;

(7) Civil Procedure - up to and including 12 classroom hours;

(8) Criminal Procedure - up to and including 12 classroom hours;

(9) Evidence - up to and including 12 classroom hours.

(e) The course of instruction shall be completed with a passing grade or certification by the institution."

Approved July 22, 1976

CHAPTER 628

HOUSE BILL NO. 1067
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND CHAPTER 13, TITLE 14,
DELAWARE CODE, TO PROVIDE FOR INTER-
PRETERS AND OR TUTORS FOR STUDENTS
WITH IMPAIRED HEARING.***Be it enacted by the General Assembly of the State of
Delaware:*Section 1. Amend Chapter 13, Title 14, Delaware
Code by adding a new Section 1331 to read as follows:

§1331. The Department of Public Instruction may employ interpreters and or tutors for deaf pupils enrolled in a Vocational/Technical School program for a period of ten months each year at a rate of one interpreter/tutor for each four deaf pupils enrolled in such program. Such interpreter/tutor shall be registered and certified according to the standards prescribed by the Department of Public Instruction for such positions and shall be paid according to the following schedule for ten months' employment:

<u>Years of Exp.</u>	<u>Reg. Interpreter without Certification</u>	<u>Reg. Interpreter with Certification</u>
0	\$7,203	\$7,718
1	7,460	7,974
2	7,718	8,231
3	7,974	8,489
4 or more	8,231	8,746

Approved July 22, 1976

CHAPTER 629

HOUSE BILL NO. 1101

**AN ACT TO AMEND CHAPTER 13, TITLE 10,
DELAWARE CODE RELATING TO THE AD-
MINISTRATIVE PROCEDURE OF THE COURT
OF COMMON PLEAS OF THE STATE OF
DELAWARE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1309(a), Chapter 13, Title 10, Delaware Code by striking said subsection (a) thereof in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

“(a) The Chief Judge of the Court shall appoint a competent person to act as Chief Clerk of the entire Court who shall be responsible to the Chief Judge for the administration of all non-judicial activity in the Court. In addition, he shall appoint a competent person from each county as Deputy Clerk for the Court in that county and such other officers and employees deemed necessary to perform the business of the Court.”

Approved July 22, 1976

CHAPTER 630

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 1105**AN ACT TO AMEND CHAPTER 5, TITLE 17, DELAWARE CODE RELATING TO DEDICATION OF NEW ROAD TO THE PUBLIC; APPROVAL REQUIRED; BOND; PENALTIES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §508, Chapter 5, Title 17, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §508 to read as follows:

§508. Dedication of new roads to the public; approval required; bond; penalties.

(a) No person, firm or corporation shall construct or cause to be constructed any new road or street outside the corporate limits of any city or town and intended to be dedicated by the owner thereof to the public use and which new road or street is or will be a continuation of or does or will connect with or intersect any existing public road or roads now or hereafter designed to be part of the general highway system of the State except in conformity with plans and specifications approved by the Department, and to include the initial installation of traffic and street name signs.

(b) Before commencement of any construction, including installation of utilities within the dedicated right of way, the owner and the person actually engaged in such construction shall first post with the Department a good and sufficient bond to the State in such amount as may be fixed, but not to exceed 10 percent of such construction,

and with surety or sureties to be approved by the Department, which bond shall be conditioned on the faithful performance and satisfactory completion of the obligations imposed by subsection (a) of this Section, provided owner and the person actually engaged in such construction have not been previously adjudged to be in violation of the provisions of this Section and have maintained a good record of compliance on repair and construction completion. In the event owner or person actually engaged in such construction has been previously adjudged to be in violation of the provisions of this Section and has not maintained a good record of compliance on repair and construction completion, then the bond amount which the Department may fix may exceed 10 percent of such construction but shall not exceed 100 percent of such construction.

(c) The Department shall inspect periodically any new road or street being so constructed and, upon the apparent satisfactory completion of such construction in conformity with its approved plans and specifications, the Department shall so notify the owner of the new road or street and, upon dedication by the owner of the road or street to the public use, the Department shall thereafter assume the sole and absolute care, management and control of the new road or street as a public road or street, such care to include the replacement of all signs listed in subsection (a) of this Section.

(d) The Department shall make and publish rules, regulations, and specifications for construction work, including specifications for the initial installation of all signs, in conformity with this Section and shall periodically revise these rules, regulations and specifications in order to keep current with any new and available knowledge.

(e) Whoever violated this Section shall be fined not less than one thousand dollars (\$1,000.00) nor more than ten thousand dollars (\$10,000.00).

(f) Any person, firm or corporation who is penalized

by subsection (e) shall thereafter be unable to conduct business in the State until all conditions created by such person, firm or corporation for which such penalty was imposed have been corrected to the satisfaction of the Department.”

Approved July 22, 1976

CHAPTER 631

HOUSE BILL NO. 1134

AN ACT TO AMEND PART IV, TITLE 29, DELAWARE CODE, ESTABLISHING AN OFFICE OF HIGHWAY SAFETY AND TRANSFERRING TO SAID OFFICE ALL THE DUTIES, POWERS, FUNCTIONS AND EMPLOYEES OF THE OFFICE OF FEDERAL-STATE HIGHWAY SAFETY COORDINATOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Part IV, Title 29, Delaware Code by adding a new Chapter thereto to read as follows:

"CHAPTER 49. OFFICE OF HIGHWAY SAFETY.

§4901. Office of Highway Safety; Governor.

There is established the Office of Highway Safety, which office shall be under the direction and supervision of the Governor.

4902. Coordinator; deputy coordinator; personnel; merit system.

(a) The Office of Highway Safety, shall be administered by a Coordinator. The Office shall have a deputy coordinator and shall employ such personnel as required to meet the Federal guidelines for a state agency responsible for highway safety in accordance with the Highway Safety Act of 1966, as amended (PL-91-605).

(b) All employees of the Office of the Federal-State Highway Safety Coordinator, heretofore established pur-

suant to Executive Order including the coordinator and deputy coordinator, shall be transferred to the Office of Highway Safety and shall be deemed to be employees of such office and employees of the State in classified service with all the benefits accrued as merit employees as of the effective date of this Chapter.

§4903. Powers, duties and functions.

The Office of Highway Safety shall have all the powers, duties, and functions heretofore vested in the Office of Federal-State Highway Safety Coordinator established by executive order and such other powers, duties, and functions conferred and mandated by the Highway Safety Act (PL-91-605).

§4904. Federal merit system standards.

Notwithstanding any other provisions of this Chapter, the Office is authorized and directed to take such action with respect to matters involving personnel as may be necessary to insure the continued eligibility of this State for grants-in-aid under any federal law or program."

Approved July 22, 1976

CHAPTER 632

HOUSE BILL NO. 1200

**AN ACT TO AMEND CHAPTER 184, VOLUME 60,
LAWS OF DELAWARE, RELATING TO THE
COLLECTION AND RELEASE OF REAL ESTATE
TAXES WITHIN THE CITY OF WILMINGTON.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Section 2 of Chapter 184, Volume 60, Laws of Delaware by striking therefrom the phrase "without suit" as it appears at the end of the last sentence thereof.

Section 2. Amend Section 3 of Chapter 184, Volume 60, Laws of Delaware by striking therefrom the phrase "commencing after June 30, 1975" as it appears at the end thereof.

Approved July 22, 1976

CHAPTER 633

HOUSE BILL NO. 1238

AN ACT TO TRANSFER LAND FROM THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO NEW CASTLE COUNTY.

WHEREAS, the County of New Castle, State of Delaware, operates a sewage treatment plant on grounds located on and transferred to said County by the Governor Bacon Health Center, Delaware City, a facility of the Department of Health and Social Services of the State of Delaware; and

WHEREAS, the aforementioned sewage treatment plant services the town of Delaware City, and the Governor Bacon Health Center; and

WHEREAS, the federal requirements for treatment of effluent of the said sewage treatment plant necessitate its renovation; and

WHEREAS, this renovation will require additional ground; and

WHEREAS, a transfer of title is desirable at no cost to the State of Delaware;

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The transfer to New Castle County by the Governor Bacon Health Center and the Department of Health and Social Services of the additional amount of ground necessary is hereby authorized so as to increase the

said New Castle County plot to a total area of 2.9848 acres, more or less, this being 2.0 acres additional to that previously tranferred by Agreement dated June 3, 1958, the said plot to be more fully defined by a mete and bound agreement to be signed by New Castle County, the Governor Bacon Health Center and the Department of Health and Social Services.

Approved July 22, 1976

CHAPTER 634

HOUSE BILL NO. 1275

**AN ACT TO AMEND CHAPTER 5, TITLE 1, OF
THE DELAWARE CODE RELATING TO LEGAL
HOLIDAYS, AND DESIGNATING, MAY 30 AS
MEMORIAL DAY.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §501, Chapter 5, Title 1 of the Delaware Code by striking the words "the last Monday in May, known as Memorial Day" as the same appear in the first paragraph of said section, and substituting the words "the thirtieth day of May, known as Memorial Day" in lieu thereof.

Section. 2. The provisions of this Act shall become effective on January 1, 1977.

Approved July 22, 1976

CHAPTER 635

SENATE BILL NO. 628

AN ACT TO AMEND TITLE 17, CHAPTER 6, SECTION 612 PROVIDING FOR AN EXEMPTION FROM DELAWARE TURNPIKE TOLLS FOR PERSONS ISSUED SPECIAL PLATES FOR HANDICAPPED PERSONS WHO PAY A FEE OF FIVE DOLLARS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Title 17, Chapter 6, Section 612 by adding a new paragraph (g) which shall read as follows:

“(g) The payment of tolls on the Turnpike shall not be required of persons who have been issued special plates for handicapped persons under 21 Delaware Code, Section 2134 when such persons have paid an annual fee of five dollars (\$5.00) to the Turnpike Division of the Delaware Department of Highways and Transportation and have affixed a sticker to their windshield which shall be issued by said Division on payment of this prescribed fee.”

Approved July 22, 1976

CHAPTER 636

SENATE BILL NO. 767

**AN ACT AUTHORIZING THE ADOPTION OF THE
WORLD WHEELCHAIR SYMBOL AS THE
WHEELCHAIR-USER SYMBOL FOR THE STATE
OF DELAWARE.**

WHEREAS, there is an urgent need to adopt an internationally accepted symbol to indicate facilities accessible to wheelchair-users; and

WHEREAS, the wheelchair symbol has been adopted for use around the world by Rehabilitation International's eleventh world congress; and

WHEREAS, the wheelchair symbol is easily recognized by the wheelchair-user; and

WHEREAS, no such standard symbol has been adopted by the State of Delaware.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The World Wheelchair Symbol is hereby authorized and adopted as the wheelchair-user symbol for the State of Delaware and the wheelchair-user symbol shall be prominently displayed at all main entrances to public property and buildings in this State which provide facilities for the wheelchair-user, and that the private use of this symbol shall be encouraged.

Approved July 22, 1976

CHAPTER 637

SENATE BILL NO. 832

**AN ACT TO AMEND CHAPTER 29, TITLE 30 OF
THE DELAWARE CODE RELATING TO EX-
EMPTIONS FROM CERTAIN LICENSING RE-
QUIREMENTS FOR HANDICAPPED PED-
DLERS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2908, Chapter 29, Title 30 of
the Delaware Code by adding thereto a new subsection to
read as follows:

“(f) Notwithstanding any provisions of this Chapter to
the contrary, no handicapped peddler who has reached the
age of 62 years shall be required to pay any fee for a license
pursuant to this Chapter. For the purposes of this section,
the term “peddler” shall include every person who sells, or
offers to sell, at retail, any goods, wares or other com-
modities by travelling from place to place, on the street or
through different parts of this State. The term “handicap-
ped” as used in this section includes, but is not limited to,
the following diagnosis: mental retardation, impairment of
hearing or deafness, speech impairments, substantial loss of
sight, loss of limb or limbs, or paralysis in any substantial
degree, which handicaps require special services or impair or
impede other employment.”

Approved July 22, 1976

CHAPTER 638

HOUSE BILL NO. 1278

**AN ACT TO AMEND CHAPTER 14, TITLE 2 OF THE
DELAWARE CODE RELATING TO THE COL-
LECTION OF TOLLS ON THE DELAWARE
TURNPIKE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend subsection (d) §1404, Chapter 14, Title 2 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

“(d) Fix and revise from time to time and charge and collect tolls for transit over the Turnpike. The Authority shall operate only one facility for this purpose, and that facility shall be located on the Turnpike at or near the boundary line between this State and the State of Maryland. In addition, the Authority shall upon request furnish a user of the Turnpike a toll receipt showing the amount of the toll paid, the classification of the vehicle, the date, and the name of the facility.”

Approved July 16, 1976

CHAPTER 639

HOUSE BILL NO. 1297

**AN ACT TO AMEND CHAPTER 11, TITLE 30,
DELAWARE CODE, RELATING TO MODIFICA-
TIONS OF TAXABLE INCOME.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §1106(a)(2), Chapter 11, Title 30 Delaware Code by striking said subsection (a)(2) in its entirety.

Section 2. This Act shall be effective with respect to all taxable years commencing after December 31, 1976.

Approved July 16, 1976

CHAPTER 640

HOUSE BILL NO. 367

AN ACT TO GRANT APPROVAL TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO PURCHASE A TRACT OF LAND WITHIN WHITE CLAY CREEK STATE PARK, WHITE CLAY CREEK HUNDRED, NEW CASTLE COUNTY, NEWARK, DELAWARE.

WHEREAS, pursuant to the 1973-1974 Capital Improvement Act, being Chapter 578, Volume 58, Laws of Delaware, money was appropriated to the Department of Natural Resources and Environmental Control; and

WHEREAS, part of that money was set aside in the 1973 Annual Capital Project Schedule for the acquisition of land; and

WHEREAS, Chapter 76, Volume 59, Section 2, Delaware Laws prohibits the Department of Natural Resources and Environmental Control from purchasing any land, the purchase price of which is in excess of \$50,000, without prior approval of the General Assembly; and

WHEREAS, the Department of Natural Resources and Environmental Control have taken steps to purchase a tract of unimproved land consisting of approximately 70+ acres known as the Wells Tract located adjacent to White Clay Creek State Park near Newark, Delaware; and

WHEREAS, appraisals have been completed on the Wells Tract; and the fair market value for the Wells Tract is \$456,500.00 or \$6,500.00 per acre; and

WHEREAS, the U.S. Bureau of Outdoor Recreation will approve the project for Federal matching funds from

the Land and Water Conservation Funds in the amount of \$228,250.00; and

WHEREAS, a land survey will be completed by a registered Delaware land surveyor verifying the tract acreage; and

WHEREAS, the tract of land is adjacent to White Clay Creek State Park which will enhance the expansion of recreational and preservation activities in compliance with the part master plan.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Department of Natural Resources and Environmental Control is hereby granted approval by the 128th General Assembly of the State of Delaware, pursuant to Chapter 76, 59 Laws of Delaware, Section 2 to acquire the parcel of land known as the Wells Tract within Walter S. Carpenter Jr. State Park formerly known as White Clay Creek State Park, situated in White Clay Hundred, New Castle County, near Newark, Delaware at the established fair market value.

Section 2. Said purchase shall be made in compliance with Title 29, Chapters 91 and 92, Delaware Code and P.L. 91-646 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Section 3. The purchase price shall be matched with Federal Land and Water Conservation Funds to the fullest extent possible.

Approved July 26, 1976

CHAPTER 641

SENATE SUBSTITUTE NO. 2
FOR SENATE BILL NO. 256
AS AMENDED BYSENATE AMENDMENT NOS. 1, 2 & 5 AND
HOUSE AMENDMENT NOS. 1, 3, 5 & 6**AN ACT TO AMEND TITLE 29 OF THE DELAWARE
CODE BY ADDING A NEW PART RELATING TO
FREEDOM OF INFORMATION AND REQUIRING
THAT MEETINGS OF PUBLIC BODIES AND
RECORDS OF PUBLIC BODIES BE OPEN TO
PERSONAL INSPECTION BY ANY CITIZEN OF
THE STATE OF DELAWARE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Title 29, Delaware Code, by
adding thereto a new Part X to read as follows:

**"PART X. PUBLIC RECORDS AND MEETINGS
CHAPTER 100. FREEDOM OF INFORMATION ACT****§10001. Declaration of Policy.**

It is vital in a democratic society that public business
be performed in an open and public manner so that the
citizens shall be advised of the performance of public
officials and of the decisions that are made by such
officials in formulating and executing public policy.
Toward this end, this Act is adopted, and shall be
construed.

§10002. Definitions.

'Public body' means any regulatory, administrative,
advisory, executive or legislative body of the State or any
political subdivision of the State including, but not limited

to, any board, bureau, commission, department, agency, committee, counsel, legislative committee, association, or any other entity established by an act of the General Assembly of the State of Delaware, which (1) is supported in whole or in part by public funds; or (2) expends or disburses public funds; or (3) is specifically charged by any other public body to advise or make recommendations.

'Public business' means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

'Public funds' are those funds derived from the State or any political subdivision of the State, but not including grants-in-aid.

'Public record' is written or recorded information made or received by a public body relating to public business. For purposes of this Act, the following records shall not be deemed public:

(1) Any personnel, medical or pupil file, the disclosure of which would constitute an invasion of personal privacy, under this legislation or under any State or Federal Law as it relates to personal privacy.

(2) Trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature.

(3) Investigatory files compiled for civil or criminal law enforcement purposes including pending investigative files, pre-trial and presentence investigations; child custody and adoption files where there is no criminal complaint at issue.

(4) Criminal files and criminal records, the disclosure of which would constitute an invasion of personal privacy. Any person may, upon proof of identity, obtain a copy of his personal criminal record. All other criminal records

and files are closed to public scrutiny. Agencies holding such criminal records may delete any information, before release, which would disclose the names of witnesses, intelligence personnel and aides or any other information of a privileged and confidential nature.

(5) Intelligence files compiled for law enforcement purposes, the disclosure of which could constitute an endangerment to the local, State or national welfare and security.

(6) Any records specifically exempted from public disclosure by statute or common law.

(7) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor.

(8) Any records involving labor negotiations or collective bargaining.

(9) Any records pertaining to pending or potential litigation which are not records of any court.

(10) Any record of discussions allowed by §10004 (2) to be held in executive session.

'Meeting' means the formal or informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business.

'Agenda' shall include but is not limited to a general statement of the major issues expected to be discussed at a public meeting.

'Public body', 'Public record' and 'Meeting' shall not include activities of the Farmers Bank of the State of Delaware or the University of Delaware, except that the Board of Trustees of the University shall be a 'public

body', and University documents relating to the expenditure of public funds shall be 'public records', and each meeting of the full Board of Trustees shall be a meeting.

§10003. Examination and copying of public records.

All public records shall be open to inspection and copying by any citizen of the State of Delaware during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen. If the record is in active use or in storage and, therefore, not available at the time a citizen requests access, the custodian shall so inform the citizen and make an appointment for said citizen to examine such records as expediently as they may be made available. Any reasonable expense involved in the copying of such records shall be levied as a charge on the citizen requesting such copy.

It shall be the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records.

§10004. Open Meetings.

(1) Every meeting of all public bodies shall be open to the public except those closed pursuant to paragraphs (2), (3), (4), and (7) of this section.

(2) A public body at any meeting may call for an executive session closed to the public pursuant to subparagraph (3) below for any of the following purposes:

(a) Discussion of individual citizen's qualifications to hold a job or pursue training unless the citizen requests that such a meeting be open.

(b) Preliminary discussions on site acquisitions for any publicly funded capital improvements.

(c) Activities of any law enforcement agency in its efforts to collect information leading to criminal apprehension.

(d) Strategy sessions with respect to collective bargaining, pending or potential litigation, when an open meeting would have effect on the bargaining or litigation position of the public body.

(e) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor.

(f) Discussion of the content of documents, excluded from the definition of 'public record' in §10002, where such discussion may disclose the contents of such documents.

(g) The hearing of student disciplinary cases unless the student requests a public hearing.

(h) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing.

(i) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.

(j) Training and orientation sessions conducted to assist members of the public body in the fulfillment of their responsibilities.

(k) Discussion of potential or actual emergencies related to preservation of the public peace, health and safety.

(l) Where the public body has requested an attorney at law to render his legal advice or opinion concerning an issue or matter under discussion by the public body and

where it has not yet taken a public stand or reached a conclusion in the matter.

(m) Preliminary discussions resulting from tentative information relating to the management of the public schools in the following areas: school attendance zones; personnel needs; and fiscal requirements.

(3) A public body may hold an executive session closed to the public upon affirmative vote of a majority of members present at a meeting of the public body. The purpose for such executive session shall be announced ahead of time and shall be limited to the purposes listed in paragraph (2) above. Executive sessions may be held only for the discussion of public business, and all voting on public business must be made at a public meeting and the results of the vote made public, unless disclosure of the existence or results of the vote would disclose information properly the subject of an executive session pursuant to subparagraph (2) above.

(4) This section shall not prohibit the removal of any person from a public meeting who is willfully and seriously disruptive of the conduct of such meeting.

(5) Notice of meetings.

(a) This paragraph concerning notice of meetings shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace health or safety, or to the General Assembly.

(b) All public bodies shall give public notice of their regular meetings at least seven (7) days in advance thereof. The notice shall include the agenda, if such has been determined at the time, and the dates, times and places of such meetings; however, the agenda shall be subject to change to include additional items or the deletion of items at the time of the public body's meeting.

(c) All public bodies shall give public notice of the

type set forth in subsection (b) above of any special or rescheduled meeting no later than 24 hours before such meeting.

(d) Public notice required by this section shall include, but not be limited to, conspicuous posting of said notice at the principal office of the public body holding the meeting, or if no such office exists at the place where meetings of the public body are regularly held, and making a reasonable number of such notices available.

(e) When the agenda is not available as of the time of the initial posting of the public notice it shall be added to the notice at least 6 hours in advance of said meeting.

(6) Minutes

Each public body shall make available for public inspection and copying a public record minutes of all regular, special and emergency meetings. Such minutes shall include a record of those members present and a record, by individual members, of each vote taken and action agreed upon. Such minutes or portions thereof, and any public records pertaining to executive sessions conducted pursuant to the provisions of this section may be withheld from public disclosure so long as public disclosure would defeat the lawful purpose for the executive session, but no longer.

(7) This section shall not apply to the proceedings of (a) grand juries, (b) petit juries, (c) special juries, (d) the deliberations of any court, (e) the board of Pardons and Parole and (f) public bodies having only one member.

§10005. Enforcement.

(1) Any action taken at a meeting in violation of this section may be voidable by the Court of Chancery. Any citizen may challenge the validity under this Act of any action of a public body by filing suit within thirty days of the citizen's learning of such action but in no event later

than six months after the date of the action. Any citizen denied access to public records as provided in this Act may bring suit within ten days of such denial. Venue in such cases where access to public records is denied shall be placed in a court of competent jurisdiction for the county or city in which the public body ordinarily meets or in which the plaintiff resides. Remedies permitted by this section include a declaratory judgment, writ of mandamus and other appropriate relief."

Section 2. If any provisions of this Act or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of this Act without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

Section 3. If the provisions of this Act conflict with any other law or regulation passed by the State of any political subdivision thereof, the provisions of this Act shall control.

Section 4. §5109, Part V, Title 29, Delaware Code, is hereby amended by repealing §5109 in its entirety.

Section 5. This Act shall become effective on January 1, 1977.

Approved January 1, 1977

CHAPTER 642

HOUSE BILL NO. 261

AN ACT TO AMEND CHAPTER 51, PART IV, TITLE 30 OF THE DELAWARE CODE RELATING TO THE MOTOR FUEL TAX; AND PROVIDING FOR THE REFUNDING OF SUCH TAX PAID ON FUEL FOR TAXICABS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 5120, Chapter 51, Part IV, Title 30, Delaware Code, is amended by adding to subsection (a) thereof a new paragraph to be known as paragraph (3), which new paragraph shall read as follows:

“(3) Gasoline sold and delivered to, and used and consumed by, the operators of taxicab businesses in the operation of a taxicab or taxicabs in the normal course of such businesses; provided, however, that the main base of operations of the taxicab business in each case must be in the State of Delaware, and the application provided for in Subsection (b) hereof must certify that all fees and taxes then due from such business to the State or to any local government of the State by the operator and/or owner of such taxicab business shall have been paid in full. For purposes of this paragraph (3), the definition of ‘Taxicab’ shall be as set forth in §101, Title 21 of the Delaware Code.”

Section 2. This Act shall be come effective July 1, 1976.

Approved July 27, 1976

CHAPTER 643

HOUSE BILL NO. 622

**AN ACT TO AMEND CHAPTER 6, TITLE 13, OF THE
DELAWARE CODE RELATING TO UNIFORM
RECIPROCAL ENFORCEMENT OF SUPPORT.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §602, Chapter 6, Title 13, of the Delaware Code by replacing the period (.) with a comma (,) after the word "otherwise" in subsection (2) and adding the following words:

"and includes the duty of paying arrearages of support past due and unpaid."

Section 2. Amend §602, Chapter 6, Title 13, of the Delaware Code, by replacing the period (.) with a comma (,) after the word "enacted" and adding the following words:

"including any province or territory of the Dominion of Canada or any foreign country."

Section 3. Amend §602, Chapter 6, Title 13, of the Delaware Code by adding thereto a new subsection (9) to read as follows:

"(9) Support order means any judgment, decree, or order of support in favor of an obligee, whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered."

Section 4. Amend §630, Chapter 6, Title 13, of the Delaware Code by adding after the period (.) following the word "order" the following:

"If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the Court, upon request of either party, or the Court itself, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the Court. The Court may designate the judge of the initiating Court as a person before whom a deposition may be taken. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the Court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the Court may adjudicate the paternity issue. Otherwise the Court may adjourn the hearing until the paternity issue has been adjudicated."

Section 5. Amend Chapter 6, Title 13, Delaware Code, by adding the following new section to be known as §639:

"§639. Foreign Support Orders.

An obligee may register a foreign support order in a Court of this State in the manner, with the effect, and for the purposes herein provided. The Chief Judge of the Family Court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders:

(1) Registration Procedure:

(a) An obligee seeking to register a foreign support order in a Court of this State shall transmit to the Chief Judge of the Family Court the following:

(1) One certified copy of the order with all modifications thereof,

(2) One copy of the reciprocal enforcement of support act of the state in which the order was made, and

(3) A statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and address of obligor, the amount of support remaining unpaid, and a list of states in which the order is registered. Upon receipt of these documents the Chief Judge of the Family Court, without payment of a recording fee or other costs to the obligee, shall record therein the Registry of Foreign Support Orders. The recording constitutes registration under this act.

(b) Within ten days (10) after the registration the Clerk of the Court shall send by certified or registered mail to the obligor at the address given at registration with a copy of the registered support order and the post office address of the obligee. The Clerk of the Court shall docket the case. The Court shall proceed diligently to enforce the order.

(2) Effect of Registration; Enforcement Procedure;

(a) Upon registration, the registered Foreign Support Order shall be treated in the same manner as a support order issued by a Court of this state. It shall have the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(b) The obligor shall have twenty days (20) after the mailing of notice of the registration in which to petition the Court to vacate the registration or for other relief. If he does not so petition, the registered support order is confirmed.

(c) At the hearing to enforce the registered support

order, the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the Court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the Court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the Court any ground upon which enforcement of a support order of this State may be stayed, the Court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State."

Approved July 27, 1976

CHAPTER 644

HOUSE BILL NO. 845
AS AMENDED BY SENATE AMENDMENT NO. 2
AND HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND PART IV, CHAPTER 21, TITLE
5, DELAWARE CODE, TO REMOVE THE PRO-
HIBITION AGAINST POST-JUDGMENT WAGE
ATTACHMENTS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Subsection (c), Section 2111,
Chapter 21, Title 5, Delaware Code, by striking the
subsection in its entirety and substituting in lieu thereof
the following new subsection (c):

“(c) In any action for the recovery or repayment of
the money loaned, the lender shall be entitled to recover
only the principal sum loaned and the earned interest
charges to the date of judgment, together with post-judg-
ment interest at 6 percent per annum less the total payments
made on said loan by the borrower.”

Approved July 27, 1976

CHAPTER 645
HOUSE SUBSTITUTE NO. 1
FOR

HOUSE BILL NO. 926
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, PART III, TITLE 25 OF THE DELAWARE CODE RELATING TO THE LANDLORD-TENANT CODE: AND PROVIDING LIMITATIONS UPON THE AMOUNT OF WHICH MAY BE DEMANDED AS A SECURITY DEPOSIT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5511, Chapter 55, Part III, Title 25 of the Delaware Code by adding the following sentence to the end of subsection (a):

“No landlord may require a security deposit in excess of one month’s rent on contracts for one year or more.”

Section 2. Amend §5511, Chapter 55, Part III, Title 25 of the Delaware Code by inserting a new subsection (d) and renumbering the remaining subsections:

“(d) In the event a landlord rejects a tenant’s application, all fees paid, except for a reasonable sum to cover costs for credit determinations, must be returned to the tenant within five (5) business days. All application deposits in excess of \$35 must be returned to the tenant if the tenant cancels his apartment application within five (5) business days of signing.”

Approved July 27, 1976

CHAPTER 646

HOUSE BILL NO. 928

AN ACT TO AMEND CHAPTER 86, PART VIII, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF CONSUMER AFFAIRS OF THE DEPARTMENT OF COMMUNITY AFFAIRS AND ECONOMIC DEVELOPMENT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend subsection (a), Section 8612, Chapter 86, Title 29 of the Delaware Code by striking the words "Chapter 70 of Title 25" as the same appear in paragraph (1), and substituting in lieu thereof the following:

"Chapter 51 through Chapter 61 and Chapter 70 of Title 25".

Approved July 27, 1976

CHAPTER 647

HOUSE BILL NO. 1196
AS AMENDED BY SENATE AMENDMENT NO. 1**AN ACT TO AMEND PART C, SUBCHAPTER III, TITLE 10 OF THE DELAWARE CODE RELATING TO THE VISITATION RIGHTS OF GRANDPARENTS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §950, Part C, Subchapter III, Title 10 of the Delaware Code by adding a new subsection (7) as follows:

“(7) Upon petition thereto grant grandparents reasonable visitation rights as the court shall determine with respect to the grandchild regardless of marital status of the parents of the child or the relationship of the grandparents to the person having custody of the child.”

Section 2. This Act shall take effect immediately.

Approved July 27, 1976

CHAPTER 648

SENATE BILL NO. 236
AS AMENDED BY HOUSE AMENDMENT NOS.
3, 4 AND 5

**AN ACT TO AMEND PART VII, TITLE 7 OF THE
DELAWARE CODE RELATING TO THE CON-
TROL AND ABATEMENT OF NOISE.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Part VII, Title 7 of the Delaware Code by adding thereto a new Chapter, to be designated as Chapter 71, which new Chapter shall read as follows:

“CHAPTER 71. NOISE CONTROL AND ABATEMENT

SUBCHAPTER 1. NON-VEHICLE PROVISIONS

§7101. Declaration of Purpose.

The Delaware General Assembly finds and determines that the people of this State are entitled to and should be ensured an environment free from noise which unnecessarily degrades the quality of their life; that the levels of noise often reach such a degree as to endanger the health, safety and welfare, jeopardize the value of property and erode the integrity of the environment of the people of this State.

The General Assembly also finds that a substantial body of science and technology exists by which noise may be substantially abated; and that the dangers of excessive noise can be abated by the adoption and enforcement of noise standards embodied in regulations based upon these scientific and technological findings.

The General Assembly also finds that the problem of combating noise involves a high degree of cooperation on the part of various State agencies and departments; this Act makes specific provisions for such inter-agency cooperation.

§7102. Short Title.

This Act shall be known and may be cited as the **Delaware Noise Control Act**.

§7103. Definition.

(a) 'Council' shall mean the Noise Control Council created under the provisions of this Act.

(b) 'Farming operations' shall mean any activity which is involved in the production of agricultural, livestock, dairy or poultry products for sale.

(c) 'Manufacturer' shall mean any person employing five or more employees and who is licensed as a manufacturer by the Department of Finance in accordance with the provisions of Chapter 27, Title 30 of the Delaware Code.

(d) 'Motor vehicle' shall mean any vehicle defined as a motor vehicle in accordance with the provisions of §101, Chapter 1, Title 21 of the Delaware Code.

(e) 'Noise' shall mean any sounds of such level and duration as to be or tend to be injurious to human health and welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the State of Delaware or any portions thereof, excluding all aspects of noise regulated by the Federal Occupational Safety and Health Act (OSHA).

(f) 'Person' shall mean any corporation, company,

association, society, firm, partnership, and any joint stock company, as well as individuals; and shall also include the State and all of its political subdivisions; agencies and instrumentalities as well as any department, board or agency of the government of the United States. 'Person' for purposes of the enforcement of the non-vehicle provisions of this Chapter, shall not include persons engaged in farming operations.

(g) 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control.

§7104. Administration of this Act.

The Secretary of the Department of Natural Resources and Environmental Control or his duly authorized designee shall exercise general supervision over the administration and enforcement of the provisions of this Chapter, and shall have jurisdiction over noise emanating from motor vehicles to the extent of approving standards, codes and regulations proposed by the Secretary of the Department of Public Safety.

The Secretary of the Department of Public Safety shall exercise general supervision over the administration and enforcement of the provisions of this Chapter with regard to noise emanating from motor vehicles.

The provisions of this Subchapter shall not apply to noise caused or created by the work of any public service company incident to the repair or maintenance of its equipment or facilities which may have been damaged or destroyed as the result of any emergency situation including but not limited to acts of God, accidents and explosions.

§7105. Power and Duties of the Department of Natural Resources and Environmental Control.

The Department of Natural Resources and Environmental Control shall have the power and its duty shall be to:

- (a) adopt standards, rules and regulations, after public hearing, for the prevention, control, reduction and abatement of noise pollution, applicable throughout the State or to such parts or regions thereof specifically designated in such regulations. The procedure for public hearings shall conform to the procedure described in §6006, Chapter 60, Title 7 of the Delaware Code; such rules and regulations, however, shall not purport to exercise jurisdiction over any person or activity not included or affected by the provisions of this Subchapter;
- (b) cooperate with all other State departments, divisions and agencies in the formulation and preparation of rules and regulations for the control of noise;
- (c) enter into agreements with any other State department in order to effectuate the provisions of this Chapter;
- (d) enforce the provisions of this Chapter, and all regulations, codes and rules, promulgated pursuant thereto, except those provisions of this Chapter pertaining to motor vehicles.
- (e) receive or initiate complaints of noise, hold hearings in connection therewith and institute legal proceedings for the prevention of noise and for the recovery of penalties, in accordance with the provisions of this Chapter;
- (f) keep records of violations cited, enforcement procedures initiated and completed in accordance with the provisions of this section;
- (g) conduct and supervise research programs for the purpose of determining the causes, effects and hazards of noise;

(h) conduct and supervise Statewide programs of noise control education, including the preparation and distribution of information relating to noise control;

(i) require the registration of persons involved in operations which result in excessive noise, except operations involving the emission of noise from motor vehicles; and require the filing of reports by such persons, which reports would contain information relating to the sources of said noise and such other information as the Department shall prescribe. Such registration may be revoked or suspended or renewal withheld for any violation of this Chapter or of any statutes, rules, regulations or orders promulgated hereunder. The Department may, in accordance with a fee schedule adopted as a rule or regulation, establish and charge non-refundable fees for registration, which may be annual or periodic as the Department shall determine. The registration fee shall not be less than ten dollars (\$10.00), nor more than two hundred fifty dollars (\$250.00), based on criteria contained in the fee schedule;

(j) enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected source of noise and ascertaining compliance or non-compliance of any statute, rule or regulation of the Department. Any information relating to secret processes or methods of manufacture or production obtained in the course of such inspection, investigation or determination shall be kept confidential and shall not be admissible in evidence in any court or in any other proceedings except to the extent herein provided. If tests of any type are made for the purpose of determining whether or not a violation has occurred, or for any other purpose in connection with such entry and inspection, a duplicate of the results of the tests shall be furnished promptly to the person suspected of violating the statute, code or regulation;

(k) with the approval of the Governor, cooperate with

and receive money from the Federal government, the State government or any county or municipal government or from private sources for the study and control of noise; and

(l) review and approve any plan to construct any highway corridor; the construction or operation of which may in the opinion of the Department cause or contribute to an amount of noise deemed excessive by the Department.

§7106. Prohibited Acts.

No person shall obstruct, hinder or delay, or interfere with by force or otherwise, the performance of any State personnel of any duty under the provisions of this Chapter, or refuse to permit such personnel to perform their duties by refusing them, upon proper identification or presentation of a written Order of the Department, entrance to any premises.

§7107. Enforcement; Non-Vehicle Violations.

(a) Whenever the Department of Natural Resources and Environmental Control has cause to believe that any person is violating any statute, rule or regulation promulgated in accordance with this Chapter, the Department shall cause a prompt investigation to be made in connection therewith.

If upon inspection the Department discovers a condition which is in violation of any provision of this Chapter or any other statute, rule or regulation promulgated pursuant thereto, it shall be authorized to order such violation to cease and is authorized to take such steps necessary to enforce such an Order. The said preliminary Order shall state the items which are in violation, and shall provide a reasonable specified time within which the violation must cease.

The person responsible shall make the corrections necessary to comply with the requirements of this Chapter or other statute, rule or regulation promulgated pursuant thereto within the time specified in the Order.

(b) Whenever a hearing provided by §7108 of this Chapter is not requested by a violator cited in the preliminary Order of the Department, said preliminary Order, in original or modified form, shall become a final order twenty days after notice has been given to the violator.

(c) Nothing herein shall be deemed to prevent the Department from prosecuting any violation of this Chapter or any other code, rule or regulation promulgated pursuant thereto, notwithstanding that such violation is corrected in accordance with its Order. The Department shall not be prevented from directly prosecuting any violations of this Chapter or any other statute, rule or regulation promulgated pursuant thereto without the necessity of first issuing an Order.

§7108. Violations Hearing.

(a) Any person cited for a violation of a statute, rule or regulation promulgated in accordance with this Chapter may, upon application made within fifteen days notice thereof, be entitled to a public hearing before the Department. Within thirty days after the receipt of an application for such a public hearing, the Department shall conduct such a hearing; provided, however, that the applicant be notified, in writing, fifteen days before the schedule date of the hearing; and provided, also, that not less than fifteen days' notice shall be published in a newspaper of general circulation in the county in which the violation has occurred and in a daily newspaper of general circulation throughout the State.

(b) Any interested citizen, or group of citizens, other

than the alleged violator or the Department, shall have the right to appear at, and to enter a written or oral statement at the violations hearing before the Department. Such citizen, however, shall not have the right to subpoena or to cross-examine witnesses at such hearings.

(c) Within thirty days after a hearing held in accordance with subsection (a) of this section the Department shall issue an appropriate final Order modifying, approving or disapproving its preliminary Order. A copy of said final Order shall be served upon all interested parties and shall also be made available to any person who requests a copy of the Order from the Department.

(d) In the event that no hearing is requested by the Violator cited in the preliminary Departmental Order, the Department shall, twenty days after but within thirty days of the issuance of the preliminary Order, publish notice of that Order, now final, in a newspaper of general circulation in the county in which the violation occurred and in a daily newspaper of general circulation throughout the State.

§7109. Testimony at Hearings.

Testimony taken at any hearing shall be under oath and recorded stenographically, but the parties shall not be bound by the strict rules of evidence prevailing in the courts of Law and Equity. True copies of any transcript and of any other record made of or at such hearings shall be furnished to any party thereto upon request, and at his expense.

§7110. Conduct of Hearings.

Any administrative or non-judicial hearings required by this Chapter shall be held before the Secretary of the Department of Natural Resources and Environmental Control or before members of the Department designated by

the Secretary. The Secretary, or persons designated by him to hear the case, shall have the power to subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter under investigation in any such hearing. The respondent to a complaint made by it, or to it, pursuant to this Chapter, shall subpoena and compel the attendance of such witnesses as the respondent may designate and require the production for examination of any books or papers relating to any matter under investigation in any such hearing.

§7111. Appeals of Final Orders; Environmental Appeals Board.

(a) Any person or persons jointly or severally aggrieved by any final Order of the Department, or any taxpayer, or any officer, department, board or bureau of the State may appeal that Order to the State Environmental Appeals Board within twenty days after a final Order has been announced by the Secretary; provided, however, that before any person cited as a violator in said final Order may appeal such an Order to the Board, such person must have requested a departmental hearing before the Secretary in accordance with §7108 of this Chapter.

(b) The Board may affirm, modify or reverse the final Order of the Department.

(c) Whenever a final Order of the Department is appealed the Board shall hold a public hearing in accordance with §6006, Chapter 60, Title 7 of the Delaware Code.

(d) If the Board overrules the Secretary, it shall state its reasons for doing so.

(e) No decision of the Board shall be valid unless signed by a minimum of five members.

§7112. Injunctive Relief.

If any person violates any of the provisions of this Chapter or any statute, regulation or order promulgated pursuant to the provisions thereof, the Department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Any person who violates the provisions of this Chapter or any rule, regulation or order promulgated pursuant thereto shall be subject to a fine of not more than three thousand dollars (\$3,000.00) for each offense occurring after the Order of Injunction. The Superior Court or the Court of Chancery shall have jurisdiction to grant injunctions **ad interim**, injunctions **pendente lite**, mandatory injunctions, cease-and desist orders and any other type of injunctive relief. If the violation of an injunction is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The Department is hereby authorized and empowered to compromise and settle any non-vehicular claim within its jurisdiction for a penalty under this Chapter in such amount in the discretion of the Department as may appear appropriate and equitable under all circumstances, including a rebate of any such penalty paid to the extent of seventy-five percent (75%) thereof, where such person satisfies the Department within one year or such other period of time as the Department may deem reasonable that such violation has been eliminated or removed or such order or injunction has been met or satisfied as the case may be.

§7113. Judicial Review; Appeal of Board's Decision.

(a) Any person or persons, jointly or severally affected by any decision or non-decision of the Board, or any taxpayer, or any officer, department, board or bureau of the State, may appeal to the Superior Court in and for the coun-

ty in which the noise source in question is wholly or principally located by filing a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Any such appeal shall be perfected within thirty days of the decision of the Board.

(b) The court may affirm, reverse or modify the Board's decision. The Board's findings of fact shall not be set aside unless the court determines that the record contains no substantial evidence that would reasonably support the findings. If the court finds that additional evidence should be taken, the court may remand the case to the Board for completion of the record.

SUBCHAPTER II. MOTOR VEHICLES.

§7120. Powers and Duties of the Department of Public Safety.

The Department of Public Safety, after consideration with the Secretary of the Department of Highways and Transportation and upon approval of the Secretary of the Department of Natural Resources and Environmental Control, shall have the power and its duty shall be to:

(a) adopt regulations, after public hearing, establishing the standards, test procedures and instrumentation to be utilized in the control of noise from motor vehicles;

(b) adopt regulations, after public hearing, necessary for the inspection of noise control and abatement equipment of vehicles to assume compliance with the noise standards promulgated by the Department;

(c) for any public hearings required by the provisions

of this Subchapter, the procedure shall conform to the procedure established in §6006, Chapter 60, Title 7 of the Delaware Code.

§7121. Motor Vehicle Noise Inspection.

Any motor vehicle which is subject to inspection by the Division of Motor Vehicles or any other duly authorized body shall, as a condition of compliance with said inspection, pass such tests as may be required to demonstrate that the motor vehicle is in compliance with all State and Federal standards and requirements for the control of noise which are applicable to such motor vehicles.

§7122. Motor Vehicle Violations; Enforcement.

Any person who operates a motor vehicle or owns a motor vehicle which he permits to be operated upon public highways of this State which generates noise in excess of standards adopted by the Department of Public Safety shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), which shall be enforced in accordance with the provisions of Chapter 7, Title 21 of the Delaware Code.

§7123. Time Limitation.

Any rule or regulation establishing standards and requirements for the control of noise from motor vehicles shall be applicable to such classification of motor vehicles, as the Department of Public Safety shall determine to be necessary to carry out the purposes of this Chapter and shall apply to such motor vehicles not earlier than one hundred eighty days following the signing of this Act by the Governor.

§7124. Noise Control Council.

There is hereby created in the Department of Natural Resources and Environmental control a Noise Control Council, which shall consist of thirteen members: the Director of the Division of Consumer Affairs, the Secretary of the Department of Health and Social Services, the Secretary of the Department of Labor, the Secretary of the Department of Public Safety, the Director of the Division of Motor Vehicles, the Secretary of the Department of Natural Resources and Environmental Control, and seven public members, all of whom shall be appointed by the Governor. The public members shall include a medical doctor, an industrialist, an ecologist, and a mechanical engineer.

Of the seven members to be appointed by the Governor, at least three, but no more than four, members shall be affiliated with one of the major political parties and at least two, but no more than three, of the said appointed members shall be affiliated with the other major political party; provided, however, that shall be no more than a bare majority representation of major political party over the other major political party. Any person who declines to announce his political affiliation shall also be eligible for appointment by the Governor.

Of the seven members to be appointed by the Governor, three shall be appointed for a term of one year, two for a term of two years, and two for a term of three years beginning on January 1, 1977. Thereafter, all appointments shall be made for terms of four years beginning each January 1. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the Council, by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any appointed member of the Council for cause after a public hearing.

Members of the Council shall serve without compensation, but shall be reimbursed for expenses actually incurred in attending meetings of the Council and in the performance of their duties as members thereof.

The Council shall have available to it the services of members of the staff of the Department of Natural Resources and Environmental Control and the Department of Public Safety for the production of the Report to the Governor required by §7125 of the Chapter. The budgeting requests of these departments shall be reviewed by the General Assembly with such personnel needs noted and specified.

The Council shall elect bi-annually a Chairman and a Vice-Chairman from its own membership, and seven members of the Council shall constitute a quorum to transact its business.

§7125. Noise Control Council; Powers and Duties.

The Noise Control Council shall have the power and its duty shall be to:

(a) request from any Secretary of any State department information which might be utilized in a noise control program;

(b) consider any matter relating to the preservation and improvement of the noise control program and advise the Administrator thereof;

(c) from time to time submit to the Administrator of the noise control program any recommendations which it deems necessary for the proper conduct and improvement of the program;

(d) study the noise control program and make recommendations thereon to the Secretary of the Department of

Natural Resources and Environmental Control;

(e) study the Delaware Constitution, the Delaware Code, the Laws of Delaware and departmental regulations regarding noise control and make its recommendations for the improvement of same;

(f) study and investigate the state of the art of noise control, and the technical capabilities and limitations of noise control, and report its findings and recommendations thereon to the Administrator of the noise control program;

(g) study and investigate the need for programs for the long-range technical support of the noise control program, and report its findings and recommendations thereon to the Administrator;

(h) hold public hearings at least once a year with regard to existing noise control statutes, rules and regulations; upon the state of the art of noise control; technical capabilities and limitations in noise control; and reports its recommendations thereon to the Administrator of the noise control program; and

(i) submit to the Governor an annual Report which indicates the progress which has been made in the state of the art of noise control within the year; included in the Report should be a record of the steps taken by the Department of Natural Resources and Environmental Control and the Department of Public Safety to implement that technological progress throughout the State, either in the form of rules and regulations or in the initiation of specific noise control programs. Also included within the report shall be a record of the noise violations of the previous year; the record should indicate the sources, location and severity of those violations as well as the disposition of the enforcement of the pertinent statutes, rules or regulations violated.

§7126. Liberal Interpretation.

The powers, duties and functions vested in any State department under the provisions of this Chapter shall not be construed to limit in any manner the powers, duties and functions vested therein or in any person under any other provision of law, or any civil or criminal remedies now or hereafter available to any person related to community noise control.

§7127. Other Ordinances or Remedies.

No existing civil or criminal remedy now or hereafter available to any person shall be superseded by this Chapter or any statute, rule or regulation promulgated pursuant thereto.

No ordinances or resolutions of any governing body of a municipality or county or board of health which establish specific standards for the level or duration of community noise more stringent than those provided by this Chapter or any statute, rule or regulation promulgated pursuant thereto shall be superseded. Nothing in this Chapter or in any statute, rule or regulation promulgated pursuant thereto shall preclude the right of any governing body of a municipality or county board of health, subject to the approval of the Department of Natural Resources and Environmental Control to adopt ordinances, resolutions or regulations which establish specific standards for the level or duration of community noise more stringent than this Chapter or any statute, rule or regulation promulgated pursuant thereto."

§7128. Farming Operation Exemption.

All persons and vehicles engaged in farming operation are exempted from the provisions of this Chapter while engaged in farming operations.

Section 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Approved July 27, 1976

CHAPTER 649

SENATE BILL NO. 701
AS AMENDED BY SENATE AMENDMENT NO. 1**AN ACT TO AMEND CHAPTER 56, TITLE 29,
DELAWARE CODE, ENTITLED "PENSION FOR
MEMBERS OF THE STATE JUDICIARY".**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 5601(a), Chapter 56, Title 29, Delaware Code is amended by striking said subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) which shall read as follows:

“(a) The State Judiciary Retirement Fund shall be established and maintained by the Board of Pension Trustees. The State Treasurer shall act as the Board of Trustees’ Agent in the care of the assets of the Fund. Each member of the State Judiciary who elects to accept the provisions of this chapter shall contribute to the Fund each year an amount equal to five percent (5%) of his total compensation which exceeds \$6,000.00. Such contribution shall be prorated on a monthly basis, and shall commence with the first pay period ending after June 30, 1976.”

Section 2. This act shall become effective June 30, 1976.

Approved July 27, 1976

CHAPTER 650

SENATE BILL NO. 742
AS AMENDED BY SENATE AMENDMENT NOS. 1 & 4

AN ACT TO AMEND TITLE 31, DELAWARE CODE, RELATING TO LICENSED CLINICAL SOCIAL WORKERS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Title 31, Delaware Code by establishing a new chapter to be designated as Chapter 37, which new chapter shall read as follows:

“CHAPTER 37. SOCIAL WORKERS

SUBCHAPTER 1. PURPOSE AND CONSTRUCTION: DEFINITIONS.

§3701. Purpose of subtitle; license required.

(a) The General Assembly finds that the profession of Social Work profoundly affects the lives of the people of this State. It is the purpose of this subtitle to protect the public by setting standards of qualifications, education, training, and experience for those who seek to engage in the clinical practice of Social Work, thereby promoting high standards of professional performance for those engaged in the profession of social work.

(b) In order to safeguard the welfare and health of the people of the State of Delaware, a person may not represent him or herself as a Licensed Clinical Social Worker in this State or use the abbreviation LCSW or engage in the practice of clinical social work for fee in a setting other than under the auspices of a public or private nonprofit agency exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 unless he or she has been duly licensed under the provisions of this subtitle.

§3702. Definitions.

As used in this Chapter:

(a) "Board" means the State Board of Social Work Examiners.

(b) "Clinical Social Work" is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, and groups.

(c) "Licensed Clinical Social Worker" means any individual duly licensed under the provisions of this Chapter.

(d) "Clinical Practice" means the practice of clinical social work for fee in a setting other than under the auspices of a public or private nonprofit agency exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954.

§3703. Limitation on Scope of Chapter.

This Chapter may not be construed to limit:

(a) The activities, services and use of an official title by a person in the employ of a federal, state, county, municipal agency, or of other political subdivisions or of private, nonprofit agencies insofar as those services are part of the duties of office or position with the agency. However, an individual in this employ may elect to be subject to this Chapter by applying for a license hereunder.

SUBCHAPTER II. BOARD OF SOCIAL WORK EXAMINERS.

§3710. Board of Social Work Examiners - Creation; Composition; Appointment; Qualifications of Members; Terms of Office; Removal of Members; Vacancies.

(a) There is created a State Board of Social Work Examiners who shall administer the provisions of this Chapter.

(b) The Board shall consist of five (5) qualified persons who shall be appointed by the Governor and whose function it shall be to examine applicants for licensing as clinical social workers.

(c) Members of the Board.

(1) Each member of the Board shall be a citizen of the United States and a resident of this State at the time of appointment.

(2) Three of the members shall be licensed under the provisions of this Chapter, except that the members constituting the first Board shall be persons eligible for licensing as clinical social workers under the provisions of this Chapter. One member shall be selected from and represent the general public.

(d) The term of office of each member of the Board is three years, except that the length of term of the members first appointed shall be as follows: one member shall be appointed for one year; two members for terms of two years; and two members for terms of three years.

(e) The selection of Board members shall be guided by affirmative action policy.

(f) At least one appointment to the Board shall be made from a list of qualified members of the Delaware Chapter, National Association of Social Workers, and one from Delaware Chapter of National Association of Black Social Workers, such list to be furnished to the Governor

by said associations.

(g) Every member of the Board shall receive a commission of appointment from the Governor, and before beginning the term of office, shall file with the Recorder of Deeds in the County in which he or she resides a written oath or affirmation for the faithful discharge of official duty.

(h) The Governor may remove any member of the Board for misconduct, incompetence, neglect of duty, or for any other sufficient cause after giving the member a written statement of the charges and an opportunity to be heard.

(i) Appointments to fill a vacancy occurring otherwise than through the expiration of a term shall be for the unexpired term.

§3711. Compensation and Expenses.

Each member of the Board shall serve without compensation, but he or she shall be reimbursed for all proper traveling, incidental and clerical expenses in carrying out the provisions of this Chapter.

§3712. Organization; Meetings; Officers; Quorum.

(a) The Board shall hold regular meetings at times and places as established by the Board or the President. In no event shall there be fewer than two meetings a year.

(b) The Board shall elect annually a President, Vice-President and Secretary-Treasurer.

(c) A quorum of the Board shall consist of not less than three members.

(d) A person may not be appointed to serve more than two consecutive terms.

§3713. Powers.

(a) The Board shall adopt and publish rules and regulations which are consistent with the Constitution and laws of this State which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it.

(b) The Board shall administer, coordinate, and enforce the provisions of this Chapter, establish fees, evaluate the qualifications of applicants, supervise the examination of applicants.

(c) The Board shall establish continuing education requirements.

(d) The Board shall adopt and have an official seal, which must be affixed to all certificates issued by the Board.

(e) In carrying into effect the provisions of this Chapter, the Board, under the hand of its President and the seal of the Board, may subpoena witnesses and compel their attendance and also may require the production of books, papers, documents, etc.

(f) If any person refuses to obey any subpoena so issued or refuses to testify or produce any books, papers, or documents, the Board upon notice to the person may present its petition to the Superior Court of any county setting forth the facts. Thereupon the court shall, in a proper case, issue its subpoena to such person requiring his or her attendance before such Court and here to testify or to produce such books, papers, and documents as may be deemed necessary and pertinent by the Board.

(g) Any person failing or refusing to obey the subpoena or order of the Court may be proceeded against in the same manner so for refusal to obey any other subpoena or order of the Superior Court.

(h) Any member of the Board may administer oaths and affirmations to witnesses appearing before the Board.

(i) The Board shall be empowered to accept grants from any appropriate source to develop tests, to participate in research, and to carry on its functions.

(j) The Board shall act in an advisory capacity to any State Agency in all matters pertaining to the administration and purposes of this Chapter.

§3714. Receipts and Disbursements; Employees.

(a) All money received by the Board shall be paid over to the State Treasurer and shall be credited to the General Fund of the State in accordance with Chapter 61 of Title 29.

(b) All disbursements made by the Board for necessary operating expenses or other authorized expenditures shall be paid by the State Treasurer, out of funds appropriated by the General Assembly for such purpose.

(c) The Board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which, in the opinion of the Board, is reasonably necessary for the proper performance of its duties under this Chapter.

§3715. Records and Reports.

(a) The Board shall keep a record of its proceedings and a register of all applications for licensing.

(b) The Board shall annually publish a list of the names and addresses of all persons who are Licensed Clinical Social Workers eligible to engage in the practice of clinical social work under this Chapter.

(c) The Board shall duly publish those rules and regulations adopted by the Board.

(d) The records of the Board shall be prima facie

evidence to the proceedings of the Board set forth therein. A transcript thereof, duly certified by the Secretary Treasurer of the Board, under seal, shall be admissible in evidence with the same force and effect as if the original was produced.

(e) Annually, prior to December, the Board shall submit to the Governor, a report of its transactions for the fiscal year ending June 30, and shall also transmit for him or her a complete statement of the receipts and expenditures of the Board, attested by affidavits of its President and its Secretary-Treasurer.

SUBCHAPTER III. LICENSING OF CLINICAL SOCIAL WORKERS

§3720. Requirements for Licensing.

Any persons holding themselves out to the general public as a Licensed Clinical Social Worker, as defined in Section 3710 of the Chapter, in this State, shall submit evidence that they are qualified as such Licensed Clinical Social Worker and shall be licensed as provided in this subchapter. No person shall hold him or herself out to the public, in this State, as being a Licensed Clinical Social Worker qualified for practice as defined in Section 3710 of this Chapter, or use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is a Licensed Clinical Social Worker unless such person has been duly licensed under the provisions of this Subchapter.

§3721. General Requirements for Licensing.

The Board shall issue a license as a clinical social worker to any applicant who:

(1) Has a doctorate or master's degree in Social Work from a college or university accredited by the Council on Social Work Education, and

(2) Has the equivalent of two (2) years of full time clinical social work experience subsequent to the receipt of an approved graduate social work degree, and

(3) Demonstrates professional competence by satisfactorily passing an examination in the area of specialization in which he intends to practice. The examination may be written or oral or both as prescribed by the Board.

§3722. Experience.

Each applicant shall submit proof satisfactory to the Board that subsequent to the receipt of a master's degree from an accredited school of social work, he or she acquired two years, or its equivalent, of clinical social work experience acceptable to the Board. This experience shall consist of not less than 3,200 hours, at least 1,600 of which have been under professional supervision acceptable to the Board.

§3723. Issuance of License Without Examination.

(a) From January 1, 1977 until March 1, 1977, a license as a Clinical Social Worker may be issued without examination to an applicant who has a master's degree or equivalent including completion of a graduate social work program and satisfies the Board that he or she is and actually has been employed, for at least one year in the clinical practice of social work.

(b) These exemptions shall expire on March 1, 1977.

(c) After March 1, 1977, no person may present him or herself as a Licensed Clinical Social Worker as defined by Section 3702 (d) of this Chapter unless he or she is licensed under this Chapter.

(d) Violation of the foregoing shall be class A misdemeanor.

§3724. Reciprocity.

An applicant for licensing under the provisions of this subchapter shall be exempted from the requirement for any examination provided for in this Subchapter if:

(1) the Board is satisfied that the applicant is licensed under the laws of a state or territory that imposes substantially the same requirements as this Chapter; and

(2) pursuant to the laws of such state or territory, the applicant has taken and passed an examination similar to that for which the exemption is sought.

§3725. Suspension, Revocation of License.

(a) The Board may reprimand, revoke, suspend, or refuse to renew the license of any licensee who:

(1) has been convicted of a misdemeanor under this Chapter;

(2) had been convicted in this State or any other state of any crime that is a felony in this state;

(3) is unable to perform the functions of this profession by reason of mental or physical illness;

(4) has committed any gross negligence, incompetence, or misconduct in the practice of Social Work;

(5) has violated one or more of the rules and regulations of the Board.

(b) A license may be suspended for a period not to exceed six (6) months after which time the Board shall revoke or restore the license.

(c) Any person may prefer charges of fraud, deceit, incompetence, gross negligence or misconduct against any licensee. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the Board.

(d) All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within three (3) months after the date on which they shall have been received.

(e) The time and place for the hearing shall be fixed by the Board and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or sent by registered mail to the last known address of the licensee, at least twenty (20) days before the date fixed for the hearing.

(f) At any hearing, the accused licensee shall have the right to appear personally or by counsel, to cross examine witnesses appearing against him or her, to produce evidence and witnesses in his or her own defense, and, to subpoena witnesses and documents. A record shall be made of all proceedings before the Board.

§3726. Bribery, Fraud, Misrepresentation, and False Statements.

The following shall be Class A misdemeanors:

(a) obtaining or attempting to obtain a license or renewal thereof by bribery or fraudulent representation;

(b) knowingly making a false statement in connection with any application under this Chapter;

(c) knowingly making a false statement on any form promulgated by the Board in accordance with this Chapter or the rules and regulations promulgated thereunder.

§3727. Applications and References.

Applications for licensing shall:

(a) Be on forms prescribed and furnished by the Board.

(b) Contain official transcripts and statements showing the applicant's education and qualifying experience. Such statements and transcripts shall be verified by the Board.

§3728. License Renewals.

(a) All licenses shall be effective when issued by the Board.

(b) The license shall expire on a biennially basis as established by the Board.

(c) A license may be renewed by the payment of the renewal fee.

(d) Any renewal after due date may be reinstated by the Board upon the payment of all renewal fees and a registration fee of \$10.

(e) At the time of the license renewal, each applicant shall present satisfactory evidence that in the period since the license was issued, he or she has completed continuing education requirements as developed and specified by the Board.

§3729. Reissuance of Revoked Licenses.

A licensee whose license to practice clinical social work has been revoked may become eligible for a new license after one year from the date of revocation of license, at the discretion of the Board and upon meeting all requirements of this Chapter.

§3730. Appeals.

Any person who feels aggrieved by any action of the Board in denying, failing to renew, suspending, or revoking his or her license to practice clinical social work may appeal therefrom to the Superior Court of the county in which such person resides. The decision of the Board

shall be prima facie correct and the burden of proof shall be on the appellant to show that the Board acted contrary to law, fraudulently, arbitrarily, or capriciously. The appellant shall be heard on the records and proceedings of the Board which shall be certified to the court by the Board within fifteen (15) days after service on the Board of a notice of appeal. The Court may affirm, reverse, or modify the decision of the Board and the decision of the Court shall be final.

§3731. Privileged Communications.

No Licensed Clinical Social Worker may disclose any information acquired from persons consulting him or her in a professional capacity except:

(a) with the written consent of the person or persons or, in the case of death or disability, of his/her personal representative, other person authorized to sue, or the beneficiary of an insurance policy on his life, health, or physical condition.

(b) that a licensed Clinical Social Worker shall not be required to treat as confidential a communication that reveals prior commission or the contemplation of any violent crime or harmful act.

(c) when the person is a minor under the laws of the State and the information acquired indicates that the minor was the victim or subject of a crime, the Licensed Clinical Social Worker may be required to testify fully in any examination, trial, or other proceeding in which the commission of such a crime is the subject of inquiry.

(d) when the person waives the privilege by bringing charges against the Licensed Clinical Social Worker.

§3732. Fees.

(a) All fees necessary to carry out the provisions of this Chapter shall be as established and published by the

Board.

(b) All fees under this Chapter are non-refundable and shall be desposited with the State Treasurer.

§3733. Severability Clause.

If any section of this Chapter, or any part thereof, shall be adjudged by any Court of competent jurisdiction, to be invalid, such judgement shall not affect, impair, or invalidate the remainder of any other section or part thereof."

Section 2. This Act shall become effective January 1, 1977.

Approved July 22, 1976

CHAPTER 651

SENATE BILL NO. 756

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR THE ESTABLISHMENT OF A FIRST-PHASE VIRUS DIAGNOSTIC LABORATORY.

WHEREAS, in the absence of a virus diagnostic facility in Delaware such services are performed for this state by the New Jersey Department of Health at an annual contract rate of \$15,000; and

WHEREAS, physicians need the services of a convenient virus laboratory, specially at a time when an epidemic of swine influenza is predicted; and

WHEREAS, Delaware physicians and patients alike would be faced with critical diagnostic frustrations should an epidemic of swine influenza occur in this state; and

WHEREAS, there is good reason to believe that the New Jersey Department of Health, which has raised the annual rate from \$6,000 in 1965 to the present \$15,000, will continue to insist upon recurring increases.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$54,893 is appropriated to the Department of Health and Social Services to be used by the Division of Public Health for the establishment of a first-phase virus diagnostic laboratory.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any funds appropriated and unexpended on June 30, 1977, shall revert to the General Fund.

Approved July 29, 1976

CHAPTER 652

HOUSE SUBSTITUTE NO. 1
FOR HOUSE BILL NO. 321**AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE REDUCTION OF THE NUMBER OF PUPILS COMPOSING A UNIT IN KINDERGARTEN AND GRADE ONE THROUGH GRADE SIX, AND PROVIDING A SUPPLEMENTARY APPROPRIATION TO PROVIDE FOR REALLOCATION TO THE SCHOOL DISTRICTS TO CARRY OUT THIS INTENTION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Section 1703, Title 14, Delaware Code, by striking paragraph (a) of said section and inserting in lieu thereof the following paragraph:

“(a) As used in this chapter, ‘unit’ or ‘unit of pupils’ is defined according to this schedule of numbers of pupils for elementary schools:

Beginning	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6
July 1, 1977	25	25	25	25	25	25
July 1, 1978	24	24	24	25	25	25
July 1, 1979	23	23	23	24	24	24
July 1, 1980	22	22	22	23	23	23
July 1, 1981	21	21	21	22	22	22
July 1, 1982	20	20	20	21	21	21
July 1, 1983	20	20	20	20	20	20

In grades seven through twelve the unit is defined as 20 pupils. A major fraction shall be considered a unit and shall be considered any fraction greater than one-half of the total number of pupils authorized per unit for a given year.”

Section 2. Amend Section 1703(b), Title 14, Delaware Code, by adding new sentences to read as follows:

“Whenever more than one unit of pupils is authorized in a district in a given category, the first unit shall be a full unit. Only the last unit in any category may be a major fraction.”

Section 3. Amend Section 1703 (c), Title 14, Delaware Code, by striking the first three sentences and substituting in lieu thereof the following:

“In the case of kindergartens, ‘unit’ or ‘unit of pupils’ is defined according to this schedule:

Beginning July 1, 1977	- 48 pupils
Beginning July 1, 1978	- 46 pupils
Beginning July 1, 1979	- 42 pupils
Beginning July 1, 1980, and thereafter	- 40 pupils

Kindergarten pupils may be enrolled for one-half school days in groups approximating one-half the unit authorized, thus providing that each ‘unit’ represents two instructional groups within the unit authorized. A major fraction shall be considered a unit and shall consist of any fraction greater than one-half of the unit authorized.”

Section 4. Amend Section 1715, Title 14, Delaware Code, by striking the first three sentences and substituting in lieu thereof the following:

“In the case of kindergartens, ‘unit’ or ‘unit of pupils’ is defined according to this schedule:

Beginning July 1, 1977	- 48 pupils
Beginning July 1, 1978	- 46 pupils
Beginning July 1, 1979	- 42 pupils
Beginning July 1, 1980, and thereafter	- 40 pupils

Kindergarten pupils may be enrolled for one-half school days in groups approximating one-half the unit authorized, thus providing that each ‘unit’ represents two instructional groups within the unit authorized. A major fraction shall be considered a unit and shall consist of any

fraction greater than one-half of the unit authorized.”

Approved July 29, 1976

CHAPTER 653

HOUSE BILL NO. 1066

**AN ACT TO AMEND CHAPTER 43, TITLE 21, OF
THE DELAWARE CODE RELATING TO MOTOR
VEHICLES, USED BY RAILROAD COMPANIES
TO TRANSPORT EMPLOYEES.**

*B it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 43, Title 21 of the Delaware Code by adding a new section thereto to read as follows:

**§4374. Equipment required on motor vehicles
transporting railroad employees;
penalty.**

(a) Every motor vehicle provided by a railroad company and used to transport employees shall be equipped with adequate seating facilities, heating facilities and facilities for communication between occupants of the front seat of the vehicle and the occupants in the rear compartment of the vehicle. This requirement shall not apply to motor vehicles used to transport employees distances of less than 5 miles from their regular assembly point nor in cases of extreme emergency.

(b) If any dispute arises as to the adequacy of the facilities provided for in this Section, it shall be submitted to and decided by the Director of the Division of Motor Vehicles.

(c) The Department may rescind, cancel or suspend the registration of any motor vehicle described in subsection (a) of this Section and may rescind, cancel, suspend

or take possession of the current registration plates of any such motor vehicle which is determined by the Department to be not equipped as required by this section.”

Approved July 29, 1976

CHAPTER 654

HOUSE BILL NO. 952

AN ACT TO AMEND CHAPTER 65, PART IV, TITLE 11 OF THE DELAWARE CODE RELATING TO PRISONS AND PRISONERS; AND GRANTING CERTAIN EMPLOYMENT POWERS TO THE DEPARTMENT OF CORRECTION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 65, Part IV, Title 11 of the Delaware Code by adding thereto a new section, designated as §6506, which new section shall read as follows:

“§6506. Employment of Personnel.

(a) The Department shall be the hiring agency for all correctional guards or officers employed by the Department. Any applicant for employment by the Department shall take such physical, mental and intelligence tests as the Department shall prescribe, and shall provide the Department with such information as it may need for its employment decisions.

(b) The initial employment of any person by the Department shall be on a probationary basis for the first six months or in accordance with the Union contract during which time the probationary employee shall not be eligible for Merit System status. Upon the successful completion of the probationary period, the employee shall be covered by the Merit System of Personnel Administration.”

Approved July 29, 1976

CHAPTER 655

SENATE BILL NO. 766

AN ACT AUTHORIZING THE DELAWARE INSTITUTE FOR VETERINARY MEDICAL EDUCATION TO ENTER INTO CONTRACTUAL ARRANGEMENTS WITH THE UNIVERSITY OF PENNSYLVANIA AND CORNELL UNIVERSITY FOR POSITIONS IN THEIR ENTERING CLASSES IN VETERINARY MEDICINE FOR THE ACADEMIC YEAR 1977; AND FURTHER PROVIDING A PAY-BACK SYSTEM FOR RECIPIENTS OF FINANCIAL ASSISTANCE.

WHEREAS, the General Assembly and the Governor of Delaware have expressed their concern about the lack of opportunity for Delaware residents to study veterinary medicine by the enactment and signing of Senate Bill No. 108 of the 128th General Assembly; and

WHEREAS, the Board of Trustees of the Delaware Institute for Veterinary Medical Education has thoroughly investigated educational opportunities in veterinary medicine for Delaware residents and found that such opportunities are indeed limited and likely to become more so in the future; and

WHEREAS, the Board of Trustees of the Delaware Institute for Veterinary Medical Education has recommended that contractual arrangements should be entered into with the University of Pennsylvania and Cornell University to provide for four (4) positions per year in their entering classes in veterinary medicine for qualified students who are bona fide residents of Delaware.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Board of Trustees of the Delaware Institute for Veterinary Medical Education shall enter into contractual arrangements with the University of Pennsylvania and Cornell University for four (4) positions in the entering classes of veterinary medicine for the academic year 1977, and four (4) positions each year thereafter so that the number of positions by 1980 and thereafter shall be for a total of sixteen (16) students in the four-year veterinary medical curriculum.

Section 2. Any person who is a recipient of financial assistance for veterinary medical education shall be required to pay back twenty-five percent (25%) of the contract cost associated with his education under terms and conditions to be established by the Board.

Approved July 30, 1976

CHAPTER 656

HOUSE BILL NO. 1190

AN ACT TO AMEND CHAPTER 87, TITLE 29, DELAWARE CODE RELATING TO THE CREATION OF A DELAWARE AGRICULTURE MUSEUM BOARD; AND FURTHER EMPOWERING THE DEPARTMENT OF STATE TO LEASE 10 ACRES OF LAND FROM THE BOARD OF TRUSTEES OF DELAWARE STATE COLLEGE FOR THE SITE OF THE AGRICULTURE MUSEUM; AND FURTHER PROVIDING FUNDS FOR THE DESIGN AND CONSTRUCTION OF THE DELAWARE AGRICULTURE MUSEUM BY APPROPRIATING AND TRANSFERRING FUNDS FROM THE CAPITAL INVESTMENT FUND.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 87, Title 29, Delaware Code by adding thereto the following new sections which shall read as follows:

“§8720. Delaware Agriculture Museum Board.

The Delaware Agriculture Museum Board is established which shall consist of nineteen (19) members to be appointed in the following manner:

(a) Six (6) members appointed by the Governor, two (2) of whom shall come from New Castle County, and two (2) from Kent County, and two (2) from Sussex County. Two members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years and two (2) members shall be appointed for a term of three (3) years. Thereafter members shall be appointed for a term of three (3) years.

(b) Seven (7) members of the Executive Committee of the Delaware Agriculture Museum Association, Inc., during their terms of office;

(c) the Master of the Delaware State Grange, Patrons of Husbandry, during the term of his office;

(d) the President of the Delaware Farm Bureau, during his term of office;

(e) the Secretary of Agriculture, or his designee;

(f) the Secretary of State, or his designee;

(g) two (2) members appointed by the Board of Trustees of Delaware State College, one (1) of which shall be the Chairman of the Department of Agriculture and Natural Resources.

§8721. Powers of the Board.

(a) The Board shall build and operate a Museum of Delaware Agriculture.

(b) Management of the Delaware Agriculture Museum shall be the responsibility of the Director of the Division of Historical and Cultural Affairs. All business of the Museum shall be conducted through the Division of Historical and Cultural Affairs.

(c) The Delaware Agriculture Museum Board may accept gifts; may engage in trade; and may sell or exchange objects in its possession. Money realized from any source other than admissions shall be kept in a special fund to be controlled by the Board for the advancement of the Museum's programs. The Board may permit sales on museum property, provided that a commission from such sales shall be paid to the Board.

(d) The Delaware Agriculture Museum Board shall establish a reasonable scale of admission fees for the Delaware Agriculture Museum. All admission fees collected shall be returned to the General Fund of the State of Delaware.

(e) All income realized from admission fees and other sources will be reported in the annual report of the Division of Historical and Cultural Affairs. This accounting shall describe expenditures from all trust funds and monies appropriated from the General Fund.

(f) The Board may adopt rules and regulations necessary for the proper performance of its duties and the regulations of proceedings before it, provided such rules and regulations are consistent with the provisions of this Act and the laws of this State.

(g) The Board shall approve all budget requests, and shall establish guidelines for expenditures of any General Fund appropriations to the Museum that might be authorized by the General Assembly.

(h) The Board shall adopt and have an official seal."

Section 2. The Department of State is hereby authorized and empowered to enter into a ninety-nine (99) year lease agreement for a site location for the Delaware Agriculture Museum with the Board of Trustees of Delaware State College. The Delaware Agriculture Museum shall be located on a ten (10) acre site more or less on the campus of Delaware State College.

Section 3. The Delaware Agriculture Museum Board, through the Department of State, or its successor, shall, upon the expiration of the lease agreement

authorized herein, have the option to renew the lease for the same period of time and under the same conditions of rental.

Section 4. In the event the land leased in accordance with the provisions of this Act permanently ceases to be used as an Agricultural Museum than all lands leased under the provisions of this Act, including improvements thereon, shall revert to the Board of Trustees of Delaware State College.

Section 5. The sum of \$1,200,000 is hereby appropriated and transferred, when first available, from the Capital Investment Fund, established by Chapter 62, Title 29, Delaware Code, to the Division of Historical and Cultural Affairs (20-06-000) to be used exclusively to accomplish the design and development of a Delaware Agriculture Museum.

Approved July 30, 1976

CHAPTER 657

HOUSE BILL NO. 1156
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND TITLE 10 AND TITLE 31 OF
THE DELAWARE CODE RELATING TO MAN-
DATORY COMMITMENT OF MINORS WHO
HAVE BEEN ADJUDICATED DELINQUENT BY
FAMILY COURT FOR HAVING COMMITTED
CERTAIN DESIGNATED ACTS.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Section 937, Chapter 9, Title 10, Delaware Code, by redesignating present subsections (c) and (d) of said Section as (d) and (e) respectively, and by adding a new subsection (c) to read as follows:

“(c) Subject to the provisions governing amendability pursuant to Section 938 of this Chapter, the court shall commit a delinquent child to the custody of the Department of Correction under such circumstances and for such periods of time as hereinafter provided:

(1) Where he has been once or more than once adjudicated delinquent for committing separate and distinct acts or courses of conduct not arising from the same transaction or occurrence, committed within any one-year period, which said acts, when aggregated, would constitute two offenses: designated as felonies under Subchapter 11, Chapter 5, Title 11; or attempts to commit any such felonies, or which would constitute burglaries in any degree involving a dwelling house pursuant to Subpart B, Subchapter III, Chapter 5, Title 11, or attempts thereof, or any combination thereof, then custody shall be awarded for one year;

(2) Where he is once or more than once adjudicated a delinquent based upon the commission of separate and distinct acts or courses of conduct, not arising from the same transaction or occurrence, committed within any such three-year period, which would' when aggregated, constitute three or more offenses: designated as felonies were he an adult and tried as such pursuant to Subchapter II, Chapter 5, Title 11, or attempts to commit any felonies; or which would constitute burglaries in any degree involving a dwelling house pursuant to Subpart B, Subchapter III, Chapter 5, Title 11; or attempts to commit any such burglaries or any combination thereof, then custody shall be awarded for three years;

(3) Where he is once or more than once adjudicated a delinquent based upon the commission of separate and distinct acts or courses of conduct, not arising from the same transaction or occurrence, committed within any one-year period, which, if he were an adult and tried as such, would constitute, when aggregated, three or more offenses of burglary not involving a dwelling house pursuant to Subpart B, Subchapter III of Chapter 5, Title 11, then custody shall be awarded for one year; provided that such period of commitment shall also apply where the adjudication or adjudications of delinquency are based upon the commission of two said burglaries and one additional act or course of conduct, not arising out of the same transaction or occurrence, committed within any one-year period which, if he were an adult and tried as such, would constitute a felony pursuant to Subchapter II of Chapter 5, Title 11;

(4) Where he has been committed upon adjudication as a delinquent in accordance with subsection (c) (1), (2) and (3) and he is subsequently adjudicated a delinquent based upon the commission of an act, which if he were an adult and tried as such, would constitute the offense of escape pursuant to Subpart E, Subchapter VI of Chapter 5, Title 11, then custody shall be awarded for a period of six months, said period of commitment to run consecutive-

ly with any other mandatory period of commitment imposed pursuant to this section;

(5) Where he has been committed upon adjudication as a delinquent in accordance with subsection (c) (1), (2) and (3) or (4), of this Section, and he is subsequently charged with the commission of an act, which, if he were an adult and tried as such, would constitute the offense of escape pursuant to Subpart E, Subchapter VI of Chapter 5, Title 11, or if he is absent from custody in violation of any administrative pass or leave granted to him by the Department and approved by the Court, and further, if he is charged with the commission of an act or course of conduct during the period of his escape which, if he were an adult and tried as such, would constitute a felony pursuant to Subchapter II of Chapter 5, Title 11, or Subchapter III of Chapter 5, Title 11, then the Court shall conduct a hearing to determine whether the child is amenable to the rehabilitative processes of the Court pursuant to Section 938(c) of this Chapter. If the Court should determine that the child is amenable to the rehabilitative processes of the Court, and, at subsequent hearing, the child is adjudicated a delinquent based upon his commission of an act or course of conduct constituting a felony after escape or during an unauthorized absence, then he shall be committed to such facility established for youthful offenders in accordance with Section 6526 of Title 11 for not less than three years; said period of commitment to commence on the date when custody is so awarded.

(6) Where a child is adjudicated a delinquent based upon the conditions outlined in (c) (1), (2), (3) (4) or (5) of this Section, the Court may, at the time of sentencing or upon subsequent hearing initiated by the filing of a petition by the Department of its duly authorized representative, due notice of which has been given to the Attorney General, suspend all of the commitment in excess of six months, when it determines by a preponderance of the evidence before it that such lesser period of commitment; (1) would best serve the needs of the child; and (2) would

pose no probable threat to property or person upon his earlier release. In the event that the Court should determine that all or a portion of the commitment in excess of six months should be suspended as hereinbefore provided, then it shall set forth with particularity the reasons relied upon in so doing in its order or disposition.

(7) Nothing hereinbefore provided shall be construed as prohibiting the Court, upon petition and recommendation of the Department, from securing for any child otherwise subject to the mandatory commitment provisions of this Section such care and treatment as it deems necessary for diagnosed conditions of mental illness or retardation, provided that the provisions for such treatment shall not deter the Court from imposing such mandatory term of commitment as is applicable under this Section unless the same shall be sooner suspended in accordance with (c) (6) of this Section.

(8) As used in (c) of this Section, 'child' shall mean any juvenile who is charged with an act or course of conduct occurring on or after his fourteenth birthday which causes the provisions of (c) of this Section to be applicable.

(9) A copy of each and every order or disposition of the Court respecting a child committed pursuant to this Section shall be made available to the victim or victims of the delinquent acts giving rise to the commitment upon written request to the Court therefor.

Section 2. Amend Section 938(c), Subchapter III, Title 10, Delaware Code by inserting after "motion" in the third line thereof, and before the word "defer," the following:

" . . . or, if a child is charged in accordance with Section 937(c) (5) and the act or course of conduct occurred after the child had attained his fourteenth birthday, the Court shall . . . "

Section 3. Amend Section 5106, Chapter 51, Title 31, Delaware Code by adding thereto a new paragraph to be designated paragraph (9) to read as follows:

“(9) Place a juvenile committed to its custody pursuant to Section 937(c)(4), Title 10, in a facility providing the maximum available security.”

Section 4. Amend Section 5107, Chapter 51, Title 31, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new Section 5107 to read as follows:

“Section 5107. Commitments to the Department.

The Family Court of the State may commit to the custody of the Department any juvenile who is subject to the jurisdiction of such Court and who is delinquent, as that term is defined in Section 901, Title 10; provided, however, that where the adjudication is pursuant to Section 937(c) of Title 10 the juvenile shall be committed for the designated statutory period. The Department shall accept the custody of any juvenile so committed to it.”

Section 5. Amend Section 5108, Chapter 51, Title 31, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new Section 5108 to read as follows:

“Section 5108. Power to Discharge or Release.

(a) Except as to a delinquent child committed for a mandatory period pursuant to Section 937(c) of Title 10, the Department may at its discretion discharge finally any juvenile committed to its custody if the Department shall determine: (1) such discharge is in the best interest of the juvenile; and (2) that the juvenile does not pose a probable threat to property or person, provided that a certificate of discharge, setting forth grounds establishing compliance

with these conditions of release, shall be provided ten (10) calendar days prior to the date of release to the Judge of Family Court who originally signed the commitment order, or, in his absence, to the Chief Judge of said Court.

(b) No person shall be retained in the legal custody of the Department beyond his or her eighteenth birthday; provided, however, that any delinquent child who is seventeen years of age or older but less than eighteen years of age who has been committed to the custody of the Department may remain in said custody for one full year; provided, further, that any delinquent child who is committed to the custody of the Department for a mandatory period pursuant to Section 937(c) of Title 10 shall be transferred into or retained in the custody of a facility established pursuant to Section 6526 of Title 11 for youthful offenders upon reaching the age of eighteen where he shall remain until the completion of the mandatory period of custody.

(c) No child committed to the custody of the Department under §937(c) of Title 10 shall be released on pass or on extended leave for any purpose except in accordance with the procedure set forth in subsection (a) of this Section. Upon receipt of notification that the Department intends to extend such privileges to a child so committed, the Court may deny, or may impose such reasonable terms and conditions as it deems necessary, upon said temporary release."

Section 6. The provisions of this Act shall be effective with respect to acts of courses of conduct which occur after its passage by the General Assembly and execution by the Governor. No adjudication of delinquency occurring prior thereto shall be relied upon in determining appropriate disposition of a delinquent youth pursuant to Section 937, Title 10 of the Delaware Code.

Approved July 30, 1976

CHAPTER 658

HOUSE BILL NO. 1305

**AN ACT TO AMEND TITLE 10 OF THE DELAWARE
CODE RELATING TO MANDATORY COMMIT-
MENT OF MINORS WHO HAVE BEEN AD-
JUDICATED DELINQUENT BY FAMILY COURT
FOR HAVING COMMITTED CERTAIN
DESIGNATED ACTS.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all the members elected to each House thereof concurring therein):

Section 1. Amend Subparagraph (1) of Section 937 (c), Chapter 9, Title 10, Delaware Code, by striking said subparagraph in its entirety, and by substituting a new subparagraph (1) therefor to read as follows:

“(1) Where he has been once or more than once adjudicated delinquent for committing separate and distinct acts or courses of conduct not arising from the same transaction or occurrence, committed within any one-year period, which said acts, when aggregated, and were he an adult and tried as such, would constitute two offenses designated as felonies under Subchapter II, Chapter 5. Title 11, or attempts thereof; or two burglaries in any degree involving a dwelling house pursuant to Subpart B, Subchapter III, Chapter 5, Title 11, or attempts thereof, or two robberies in any degree pursuant to Subpart C, Subchapter III, Chapter 5, Title 11, or attempts thereof, of any combination thereof, then custody shall be awarded for one year;”

Section 2. Amend Subparagraph (2) of Section 937 (c), Chapter 9, Title 10, Delaware Code, by striking said subparagraph in its entirety and by substituting therefor a new subparagraph to read as follows:

“(2) Where he is once or more than once adjudicated a delinquent based upon the commission of separate and distinct acts or courses of conduct, not arising from the same transaction or occurrence, committed within any three-year period, which said acts would, when aggregated, and were he an adult and tried as such, constitute three or more offenses designated as felonies pursuant to Subchapter II, Chapter 5, Title 11, or attempts thereof; or three or more burglaries in any degree involving a dwelling house pursuant to Subpart B, Subchapter III, Chapter 5, Title 11 or attempts thereof; or three or more robberies in any degree pursuant to Subpart C, Subchapter III, Chapter 5, Title 11, or attempts thereof, or any combination thereof, then custody shall be awarded for three years;”

Section 3. The provisions of this act shall be effective with respect to acts or courses of conduct constituting robberies in any degree, or attempts thereof, which occur after its passage by the General Assembly and execution by the Governor.

Approved July 30, 1976

CHAPTER 659

SENATE BILL NO. 781

**AN ACT DIRECTING THE SECRETARY OF STATE
TO EXECUTE AND DELIVER A DEED TO PORT
MAHON WHARF CO., INC. OF LANDS
PREVIOUSLY DEEDED TO THE STATE OF
DELAWARE BY PORT MAHON WHARF CO.,
INC.**

WHEREAS, the Port Mahon Wharf Co., Inc. constructed a dock on their property for the use of the State of Delaware in or about the year 1952; and

WHEREAS, the purpose of the construction of the dock by the Port Mahon Wharf Co., Inc. was to enable the State of Delaware to have dockage facilities for its watercraft; and

WHEREAS, in or about 1966 a State of Delaware audit revealed that the State of Delaware had a potential problem in their record keeping because of the use of private facilities for state purposes without compensation to the owner; and

WHEREAS, in order to accommodate the State of Delaware, the Port Mahon Wharf Co., Inc. executed and delivered a deed for nominal consideration to a part of their property believed to include the previously constructed wharf; and

WHEREAS, the State of Delaware has subsequently purchased other lands in the general area of the wharf and has in existence docking facilities and available services for the watercraft of the State of Delaware; and

WHEREAS, the purpose of the conveyance of the land by the Port Mahon Wharf Co., Inc. has ceased to ex-

ist, and the State of Delaware has no need for the previously conveyed land; and

WHEREAS, it would be an injustice for the State of Delaware to retain ownership of this unnecessary land, which land divides the lands of Port Mahon Wharf Co., Inc. into two parcels.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Secretary of the State of Delaware is hereby authorized, empowered and directed to execute and deliver, subject to the provisions of Section 2 hereof, a deed and such affidavits as are required by law, in the name and under the Great Seal of the State of Delaware, a deed to Port Mahon Wharf Co., Inc. of:

ALL that certain piece of land and premises situated in Little Creek Hundred, Kent County and State of Delaware, bounded on the west by Port Mahon - Little Creek Road, on the east by the Port Mahon River and on the north and south by other lands of the grantee, and more particularly described as follows:

BEGINNING at a stake in the west bank of the easterly right of way line ditch of the Port Mahon - Little Creek Road which point is located at an angle in said road's line at approximately 194 feet south of the common corner of other lands of the grantor and lands now or formerly of Irwin H. Jenkins, et us.; thence north 45° west a distance of about 94 feet to a new corner now established in the aforesaid right of way ditch line being a common corner for these lands and other lands of the grantor; thence turning and bearing north 43° east along a new line separating these lands from other lands of the grantor to a point in the mean low water line of the south shore of the Mahon River; thence turning and bearing

with the meanderings of said river in a southerly direction about 100 feet to another point in the mean low water line of said River; thence turning and bearing southwesterly along other lands of the grantor back to the place of beginning.

Section 2. The State of Delaware shall convey all its right, title and interest in and to the land hereinbefore described to Port Mahon Wharf Co., Inc., on condition that Port Mahon Wharf Co., Inc. complies with the following prerequisites for the conveyance by the State:

(a) Have prepared at their own expense a deed containing the above stated descriptions: and

(b) Have prepared at their own expense such affidavits and other documents as are required by law to transfer legal title and to comply with applicable recording statutes; and

(c) Pay to the State of Delaware the sum of one dollar (\$1.00) upon receipt of the above referenced deed and applicable affidavits.

Section 3. The Secretary of State is hereby directed by execute and deliver the deed and applicable affidavits to Port Mahon Wharf Co., Inc., upon the compliance by Port Mahon Wharf Co., Inc., with the prerequisites hereinbefore set forth.

Section 4. This Act shall be deemed and taken as a public act.

Approved July 30, 1976

CHAPTER 660

HOUSE BILL NO. 142

**AN ACT TO AMEND CHAPTER 71, TITLE 29,
DELAWARE CODE, RELATING TO THE USE OF
STATE-OWNED VEHICLES, AND PROVIDING A
PENALTY FOR VIOLATIONS.**

WHEREAS, State owned motor vehicles are essential and serve a useful purpose, if not abused, in carrying out the responsibilities and services of State government; and

WHEREAS, allegations and rumors are quite rampant, some true, some not true, that State owned motor vehicles are being driven by State employees for private purposes; and

WHEREAS, many of the allegations and rumors stem largely from the fact there exist only departmental regulations concerning the use of State owned motor vehicles which is very easily abused; and

WHEREAS, it is the feeling of the members of the General Assembly that statutory legislation is much more effective than departmental regulation.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 71, Title 29, Delaware Code by adding thereto a new section to be designated as §7105 to read as follows:

“§7105. Use of State owned vehicles, penalty.

(a) No motor vehicle owned by the State of Delaware, with the exception of the Governor's car, State Police vehicles and those vehicles designated as emergency vehicles by the Governor, shall be driven by State employees of any department, agency or commission of this State before or after the prescribed working hours of employees of that department, agency or commission.

(b) Every motor vehicle owned by the State of Delaware, with the exception of those vehicles exempted under paragraph (a) of this section, shall be parked at the agency office to which the motor vehicle is assigned.

(c) Whoever violates the provisions of this section, for the first offense, shall be fined not less than \$10 nor more than \$25. For each subsequent like offense, he shall be fined not less than \$25 nor more than \$50. Justice of the Peace Courts shall have jurisdiction of offenses under this section."

Approved July 30, 1976

CHAPTER 661

HOUSE BILL NO. 1279

**AN ACT TO AMEND TITLE 9 OF THE DELAWARE
CODE RELATING TO THE APPLICATION OF
THE NEW CASTLE COUNTY ZONING AND SUB-
DIVISION REGULATIONS TO LANDS,
BUILDINGS AND OTHER STRUCTURES USED
OR TO BE USED FOR HOSPITAL PURPOSES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §2601, Chapter 26, Title 9,
Delaware Code by striking the period "." at the end of
the first sentence thereof and substituting in lieu thereof
the following:

" , provided, however, that no such regulation or
regulation promulgated pursuant to Chapter 30 of this Ti-
tle shall apply to any lands, buildings, or other structures
proposed to be used by or for any non-profit corporation
organized under the laws of this State and engaged at the
time of such proposal in the operation in this State of one
or more acute general hospital facilities for the purpose of
such or similar operations, or to any lands, buildings, or
other structures of such corporation devoted to such
operations."

Approved July 30, 1976

CHAPTER 662

SENATE BILL NO. 27

**AN ACT TO AMEND CHAPTER 7, TITLE 14 OF THE
DELAWARE CODE, RELATING TO AUTHORITY
OF TEACHERS AND ADMINISTRATORS IN THE
PUBLIC SCHOOLS TO ADMINISTER COR-
PORAL PUNISHMENT.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §701, Chapter 7, Title 14 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof a new §701 to read as follows:

**§701. Authority of teachers and administrators to
administer corporal punishment.**

Every teacher and administrator in the public schools of this State shall have the right to exercise the same authority as to control behavior and discipline over any pupil during any school activity as the parents or guardians may exercise over such pupils. The above authority may include corporal punishment where deemed necessary. Where corporal punishment is deemed necessary it may be administered by any public school teacher or administrator in accordance with district board of education policy."

Approved July 30, 1976

CHAPTER 663

SENATE BILL NO. 861

**AN ACT TO AMEND CHAPTERS 593 AND 148,
VOLUME 60 LAWS OF DELAWARE RELATING
TO PENSION BENEFITS OF CORRECTION OF-
FICERS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Section 6 Chapter 593, Volume 60 Laws of Delaware by striking it in its entirety and inserting in lieu thereof the following:

“This Act shall become effective May 1, 1977.”

Section 2. Amend Section 1, Chapter 148, Volume 60 Laws of Delaware by striking the phrase “April 1, 1976.” and inserting in lieu thereof the phrase “April 30, 1977.”

Approved July 30, 1976

CHAPTER 664

HOUSE BILL NO. 857

AN ACT TO AMEND CHAPTER 51 AND CHAPTER 53, TITLE 3, DELAWARE CODE, RELATING TO THE PROMOTION OF APPLES AND THE APPLE TAX.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 51, Title 3, Delaware Code by striking Subsection (c) of §5102 and substituting in lieu thereof the following new Subsection (c):

“(c) The Department shall call an annual meeting of all known commercial Delaware apple-growers during the month of January or February of each year. At such annual meeting the Department shall render to the growers a full and complete report of its activities.”

Section 2. Amend Chapter 53, Title 3, Delaware Code by striking all of §5302 and substituting in lieu thereof the following new §5302:

“§5302. Tax Levy.

There is levied and imposed upon all apples grown annually in this state a tax, whether the said apples are in bulk or loose in boxes or any other container, or packed in any style package. The need for a tax and the rate of tax shall be determined by the majority vote of the growers of apples in this state at the annual meeting of the apple-growers to be held each year in January or February as provided in §5102(c) of this Title. The number of apple-growers in this state shall be certified by the Secretary of the Department of Agriculture or his legal designee. The provisions of this chapter shall not apply to apples sold by growers direct to cider or vinegar plants for use in making cider or vinegar. Each grower shall be exempt from the tax

on a maximum of 500 bushels of apples for each calendar year.”

Approved July 30, 1976

CHAPTER 665

HOUSE BILL NO. 1308

**AN ACT TO AMEND TITLE 2 AND TITLE 17 OF THE
DELAWARE CODE RELATING TO THE
DEPARTMENT OF TRANSPORTATION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 15, Title 2 of the Delaware Code is hereby repealed.

Section 2. Chapter 6, Title 17 of the Delaware Code is hereby repealed.

Section 3. The provisions of Section 2 of this Act shall become effective upon the release of the Department of its obligations under the January 1, 1962 trust agreement between the Department and Bank of Delaware, Trustee, and any agreement supplement thereto.

Approved July 30, 1976

CHAPTER 666

HOUSE BILL NO. 1253

**AN ACT APPROPRIATING CERTAIN UNEXPENDED
BOND FUNDS TO THE DEPARTMENT OF
STATE FOR THE REPAIR OF THE ROOF OF
THE OCTAGONAL SCHOOLHOUSE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$11,553.04 in the State Bond Account, representing funds remaining after completion of the air conditioning project in the Johnson Building which was authorized by the 1969 Capital Improvement Bond Act (2006001-49-80) is hereby appropriated to the Department of State for the repair of the roof of the Octagonal Schoolhouse, a State owned historic site at Cowgill's Corner in Kent County.

Section 2. Any funds appropriated herein remaining unexpended or unencumbered as of June 30, 1977 shall revert to the Bond Reversion Account.

Approved July 30, 1976

CHAPTER 667

HOUSE BILL NO. 718
AS AMENDED BY
HOUSE AMENDMENT NOS. 2 AND 3**AN ACT TO AMEND CHAPTER 51 OF TITLE 30,
DELAWARE CODE, RELATING TO MONTHLY
REPORTS OF DISTRIBUTORS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §5114(b) of Chapter 51, Title 30, Delaware Code, by striking said paragraph (b) in its entirety and substituting in lieu thereof a new paragraph (b) to read as follows:

“(b) Distributors having average monthly taxable sales and/or use of 500,000 or more gallons during the month of June shall, when complying with the provisions of §5113(b) of this Chapter, pay to the Department of Public Safety the tax or taxes on 75% of the estimated gallons of gasoline sold and/or used during the said month of June. The remaining 25% shall be paid on or before the twenty-fifth day of the next calendar month.”

Section 2. This Act shall become effective on August 1, 1976.

Approved July 30, 1976

CHAPTER 668

HOUSE BILL NO. 948
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DELAWARE NATIONAL GUARD TO PAY PRIOR YEAR OBLIGATIONS.

WHEREAS, equipment belonging to the United State Government valued at \$1,526 was lost during the fiscal year ending June 30, 1975; and

WHEREAS, the United State Government and the State Survey Board for the Delaware National Guard have determined that the Delaware National Guard is responsible for said losses; and

WHEREAS, the Governor instructed the National Guard to assist Sussex County residents during the ice storm of December, 1973; and

WHEREAS, the National Guard provided electricity from their own generators to farms and institutions denied power due to the emergency; and

WHEREAS, Federal Government regulations require the State to replace the consumed resources; and

WHEREAS, fuel valued at \$461 was consumed during said operation;

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of one thousand, nine hundred and eighty-seven (\$1,987) is hereby appropriated to the Delaware National Guard in order to pay prior year's obligations consisting of liability claims payable to the

United States Government; and to reimburse for fuel consumed while assisting Sussex County residents during the ice storm of 1973.

Supplies and Materials (02-69)	\$ 461.00
Contractual Services (02-59)	<u>1,526.00</u>
Total	\$1,987.00

Section 2. The appropriation herein shall be considered a supplemental appropriation and shall be paid from General Fund monies not otherwise appropriated.

Section 3. The appropriation herein unexpended as of July 30, 1976, shall revert to the General Fund of the State of Delaware.

Approved July 30, 1976

CHAPTER 669

HOUSE BILL NO. 914
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE PURPOSE OF PAYING JURORS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$80,403.35 is hereby appropriated to the Office of the Director for the Administrative Office of the Courts (02-17-001) for the purpose of paying jurors.

Section 2. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. The funds hereby appropriated remaining unexpended on July 30, 1976, shall revert to the General Fund of the State of Delaware.

Approved July 30, 1976.

CHAPTER 670

HOUSE BILL NO. 1055
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES, FOR OPERATIONAL COSTS FOR FISCAL YEAR 1976.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. There is hereby appropriated the sum of \$15,000 to the Department of Administrative Services, to meet the operational deficiencies for the fiscal year ending June 30, 1976.

Section 2. The sum appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended as of July 30, 1976, shall revert to the General Fund.

Approved July 30, 1976

CHAPTER 671
SENATE BILL NO. 415
AS AMENDED BY NOS. 1, 3 & 4

**AN ACT TO AMEND CHAPTER 12 OF TITLE 3,
DELAWARE CODE, RELATING TO THE
REGISTRATION AND CLASSIFICATION OF
PESTICIDE PRODUCTS AND CERTIFICATION
OF THOSE WHO USE PESTICIDES CLASSIFIED
FOR RESTRICTED USE AND FURTHER PRO-
VIDING FOR THE ENFORCEMENT OF SAME.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 12 of Title 3, Delaware Code, by striking said chapter in its entirety and substituting in lieu thereof a new Chapter 12, to read as follows:

**“CHAPTER 12. PESTICIDES
SUBCHAPTER I. GENERAL PROVISIONS**

§1201. Declaration of purpose.

The purposes of this Chapter are:

(1) To regulate the sale, use and application of pesticides in the interest of the overall public welfare;

(2) To protect the consumer by requiring that pesticides sold in this State be correctly labeled with warnings and adequate directions for use;

(3) To restrict the use of any pesticides which are found to be so hazardous to man or to his environment that restrictions are necessary in the overall public interest, weighing the benefits and the risks of that use.

§1202. Definitions.

For the purposes of this Chapter:

(1) 'Active ingredient' means -

(a) In the case of pesticides other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, mites, nematodes, fungi, rodents, weeds, or other pests;

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from the plant; or

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) 'Adulterated' shall apply to any pesticide if its strength or purity falls below the standard of quality expressed on labeling under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

(3) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shell fish.

(4) 'Applicators' -

(a) 'Certified applicator' means any individual who is certified under this Chapter to use or supervise the use of any pesticide which is classified for restricted use.

(b) 'Private applicator' means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation

other than trading of personal services between producers of agricultural commodities) on the property of another person.

(c) 'Commercial applicator' means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by §1202(4) (b).

(d) 'Under the direct supervision of a certified applicator' Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(5) 'Committee' means the Pesticide Advisory Committee.

(6) 'Defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(7) 'Department' means the Department of Agriculture of the State of Delaware.

(8) 'Desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(9) 'Device' means any instrument or contrivance (other than firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus or other microorganism on or in living man or other living animals); but shall not include equipment used for the application of pesticides when sold

separately therefrom.

(10) 'Distributed' means to offer for sale, hold for sale, sell, barter or supply pesticides or devices within this State.

(11) 'Environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(12) 'E.P.A.' means the United States Environmental Protection Agency.

(13) 'FIFRA' means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended October 21, 1972.

(14) 'Fungus' means any non-chlorophyll-bearing thallophytes (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverwort), as for example, rust, smut, mildew, mold, yeast and bacteria, except those on or in living man or other animals, and except those on or in processed food, beverages, or pharmaceuticals.

(15) 'Ingredient statement' means a statement which contains

(a) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and

(b) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(16) 'Inert ingredient' means an ingredient which is not an active ingredient.

(17) 'Insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the

class Insecta, comprising sixlegged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(18) 'Label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or its containers or wrappers.

(19) 'Labeling' means all labels and all other written, printed or graphic matter -

(a) accompanying the pesticide or device at any time; or

(b) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the E.P.A., the United States Department of Agriculture and Interior, the Department of Health, Education and Welfare, state experiment stations, state agricultural colleges and other similar Federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(20) 'Land' means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(21) 'License' is written permission issued by the Department to engage in the business of applying any pesticides to the lands of another.

(22) 'Misbranded' shall apply -

(a) to any pesticide or its container if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) to any pesticide -

(i) if it is an imitation of or is offered for sale under the name of another pesticide;

(ii) if its labeling bears any reference to registration under this Chapter and such pesticide has not been registered pursuant to this Chapter;

(iii) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3 (d) of FIFRA, are adequate to protect health and the environment;

(iv) if the label does not contain a warning or caution statement which may be necessary, and if complied with, adequate to prevent injury to living man and other vertebrate animals;

(v) if the label or container of the product does not bear an ingredient statement that may be clearly read and understood when the unit for sale is displayed under customary conditions of purchase, handling, storage, and use; or

(vi) if any word, statement, or other information required by or under the authority of this Chapter to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matters in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(c) to any device or its container if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

(23) 'Nematode' includes invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be referred to as nemas or eelworms.

(24) 'Permit' means a written certificate, issued by the Department, authorizing the purchase, possession, and/or use of certain pesticides which are to be used for purposes designated as 'state restricted pesticide uses' or for experimental use.

(25) 'Person' means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

(26) 'Pest' means -

(a) any insect, rodent, nematode, fungus, weed, or

(b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which is declared to be a pest under regulations pursuant to Section 1203(e) of this Chapter.

(27) 'Pesticide' means -

(a) any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; or

(b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(28) 'Plant regulator' means any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of or-

namental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(29) 'Registrant' means the person who has registered any pesticide pursuant to the provisions of this Chapter.

(30) 'Restricted use pesticide' means any pesticide or pesticide use classified by the Administrator of E.P.A. for use only by a certified applicator or competent individual under the direct supervision of a certified applicator.

(31) 'State restricted pesticide use' means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the Department determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable adverse effects on the environment.

(32) 'Unreasonable adverse effects on the environment' means any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

(33) 'Weed' means any plant which grows where not wanted.

(34) 'Wildlife' means all living things that are neither human, domesticated, nor, as defined in this Chapter, pests, including but not limited to mammals, birds and aquatic life.

SUBCHAPTER II. REGULATION OF SALE AND USE OF PESTICIDES AND DEVICES

§1203. Regulation: duties and powers.

(a) In order to regulate the sale and/or use of pesticides and devices in this State the Department shall, by regulation, provide that every pesticide and device

distributed and/or used within this State shall be duly registered with the Department. The Department may require a registration fee, not to exceed \$15.00, for each pesticide or device registered.

(b) Any regulation adopted by the Department pursuant to its authority under §1237 of this Chapter may prescribe the methods to be used in application of pesticides, and may relate to the time, place, manner, materials, and amounts and concentrations, in connection with the application of the pesticides, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the Department deems necessary to prevent damage or injury by drift or misapplication to:

(1) Plants, including forage plants, or adjacent or nearby lands;

(2) Wildlife in the adjoining or nearby areas;

(3) Fish and other aquatic life in waters in reasonable proximity to the areas to be treated; or

(4) Humans, animals, or beneficial insects.

The Department may also, by regulation, after a public hearing following due notice, determine "State restricted pesticide uses" for the State or for designated areas within the State, and may require a permit for purchase, possession, and application of a pesticide labeled for a use which is designated as a "State restricted pesticide use".

(c) In issuing such regulations, the Department shall give consideration to pertinent research findings and recommendations of other agencies of the State, the Federal government, or other reliable sources.

(d) The Department shall adopt "restricted use pesticide" classifications. For the purpose of uniformity

and in order to enter into cooperative agreements, these classifications shall conform to all current and future classifications adopted by E.P.A.

(e) The Department, after notice and hearing, and in agreement with the Department of Natural Resources and Environmental Control of the State of Delaware, is authorized to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other microorganisms on or in living man or other living animals) which is injurious to health or the environment.

(f) In order to comply with Section 4 of FIFRA, the Department is authorized to make such reports to the E.P.A. in such form and containing such information as E.P.A. may from time to time require.

(g) The Department is authorized, by regulation, to determine standards of coloring or discoloring for pesticides.

§1204. Registration of pesticides which do not have E.P.A. registration for intended use.

(a) Applicability of Section.

The provisions of this Section shall become effective upon certification of the State by the Administrator of E.P.A. pursuant to Section 24(c) of FIFRA.

(b) Requirements of registration

Every pesticide which does not have E.P.A. registration for the use intended and which is formulated for distribution and use within this State shall be duly registered with the Department in accordance with the provisions of this Section.

(c) Registration procedure

Any application for the registration of a pesticide

under the provisions of this section shall be filed with the Department and include the information set forth pursuant to the regulations adopted under §1203. The Department may register such pesticide if it determines that:

(1) Its composition is such as to warrant the proposed claim for it;

(2) Its labeling and other material required to be submitted comply with the requirements of this Chapter;

(3) It will perform its intended function without unreasonable adverse effects on the environment;

(4) When used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects upon the environment;

(5) The classification for general or restricted use is in conformity with Section 3 (d) of FIFRA; and provided, that the Department shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other; or

(6) Special local needs exist.

§1205. Revocation-Suspension of registration.

(a) The Department may, after due notice, including notice to registrant and opportunity for a hearing, revoke the registration of a pesticide registered pursuant to this Chapter if the pesticide or its labeling does not comply with the requirements of this Chapter or the regulations promulgated by the Department, or to prevent unreasonable adverse effects on the environment. A person affected by such revocation may request a hearing before the Department. A hearing shall be held within thirty days after request. Within thirty days after the hearing the Department shall affirm, withdraw or modify its action by an order based upon the record of the hearing. An appeal

from that order may be taken to Superior Court within thirty days of the date of the order.

(b) The Department may suspend the registration of any pesticide pending the completion of revocation proceedings if the continued use of a pesticide during the time required for revocation proceedings would be likely to result in unreasonable adverse effects on the environment. A revocation order shall be issued with the suspension order so that the hearing procedure may be initiated as provided in cases of revocation of registration. If no request for a hearing is made within thirty days of the suspension order the revocation order will be effective and the registration is revoked.

§1206. Licensing.

(a) No person shall engage in the business of applying pesticides to the lands of another unless such person has been duly licensed by the Department. Further, no license shall be issued to any person, nor shall it remain valid, unless such person is certified or has a certified applicator in his employ at all times. No license shall be required of any private applicator.

(b) The Department shall classify or subclassify licenses to be issued under this Chapter. Such classifications may include but not be limited to pest control operators, ornamental, agricultural, or right-of-way pesticide applicators. Separate subclassifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests (provided, that no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the Department under the authority of this Chapter).

§1207. Licensing procedure.

(a) Application for a license shall be made in writing

to the Department on a designated form obtained from the Department.

(b) The Department shall require an annual fee not to exceed \$25.00 for each licensee.

(c) If the Department finds the applicant qualified to apply pesticides in the classifications he has applied for, and if the applicant files the proper proof of financial responsibility as required under §1208 (a) of this Chapter, and if the applicant applying for a license to engage in aerial application of pesticides has met all the requirements of the Federal Aviation Administration and any other applicable federal or state laws or regulations to operate the equipment described in the application, the Department shall issue a license limited to the classifications for which he is qualified, provided, that such financial security required under §1208 (a) of this Chapter is not dated to expire at an earlier date, in which case said license shall be dated to expire upon expiration date of said financial security. The Department may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for the Department shall inform the applicant in writing of the reasons therefor.

§1208. Denial of license.

(a) The Department shall refuse to grant a license until the applicant has furnished evidence of financial responsibility with the Department consisting either of a surety bond or a liability insurance policy or certification thereof, or other evidence of financial responsibility acceptable to the Department, within the financial capabilities of the industries involved. The Department may determine the insurance and surety requirements after due notice and a hearing.

(b) The Department may refuse to grant a license to any person who has committed any unlawful acts pursuant

to Section 1224 of this Chapter.

§1209. Suspension; modification; revocation.

(a) The Department may, after notice and opportunity for a hearing, suspend or modify any license granted under this Chapter, where the Department has reasonable grounds to believe that the licensee is responsible for any unlawful acts pursuant to Section 1224 of this Chapter. The Department shall furnish the licensee with notice of the time and place of the hearing, which notice shall be served personally or by registered mail directed to his place of business or last known address with postage fully paid within ten (10) days prior to the time fixed for the hearing.

(b) (1) The Department may, after notice and opportunity for hearing, revoke any license granted under this Chapter if the licensee has been found guilty of any unlawful act under this Chapter.

(b) (2) Should the surety furnished become unsatisfactory, said licensee shall, upon notice, immediately execute a new bond, insurance, or other financial responsibility and shall he fail to do so, the Department shall revoke his license and give him notice of said fact.

§1210. Renewal of License.

All licenses shall continue in full force and effect until December 31st of each year whereupon they shall become invalid unless renewed, except that a license for which a renewal application has been submitted to the Department by November 30th, shall remain in full force and effect until such time as the Department gives written notice to the registrant of renewal or denial. Forms for renewal shall be mailed to all holders of current licenses by the Department by October 1st of each year.

§1211. Exemption.

The provisions of this Subchapter relating to licenses

and requirements for their issuance shall not apply to research personnel applying pesticides to bona fide experimental plots.

§1212. Registering non-certified individuals.

The Department shall by regulation provide a program of registering non-certified individuals in the employ of licensees.

§1213. Nonresidents; service of process.

Any nonresident applying for a license under this Chapter shall appoint and constitute the Secretary of State of this State, his agent for the acceptance of legal process in any civil action against him. Any such process when so served shall be of the same legal force and validity as if served upon such non-resident personally within the State. Such appointment shall be irrevocable and binding on his executor or administrator; provided, however, that any such non-resident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the Secretary of State as such agent. The Secretary of State shall be allowed such fees therefor as provided by law for designating resident agents. The Department shall be furnished with a copy of such designation of the Secretary of State or of a resident agent, such copy to be duly certified by the Secretary of State.

§1214. Permits.

(a) No person shall use a pesticide for a use designated as a "State restricted pesticide use" until that person has a permit duly issued by the Department.

(b) Applications for permits shall be made to the Department on forms prepared by it. The Department shall grant a permit to purchase and/or use a pesticide designated for use as a "State restricted pesticide use" subject to such restrictions as it finds necessary in each

case to protect the overall public interest and welfare. The permit may specify the area, time, amount or rate of application or such other conditions of use as the Department finds necessary to carry out the purposes of this Chapter. Permits shall be issued on an annual basis.

(c) The Department shall promulgate such rules, regulations and fees necessary to carry into effect the provisions of this Section and to alter or uniformly suspend such rules, regulations, and fees when necessary. Prior to the promulgation of any rules, regulations, and fees, the Department shall hold public hearings following due notice. The hearing shall be conducted by the Department for the purpose of receiving evidence relevant and material to the issues, following the conclusion of which the Department shall issue such rules, regulations and fees as it sees fit, based on the evidence received at such hearings. An appeal from that order may be taken to the Superior Court within thirty (30) days of the date of the order.

(d) The Department may require a permit fee.

(e) Provided the State is authorized by the Administrator of E.P.A. to issue experimental use permits, the Department may:

(1) issue an experimental use permit to any person applying for an experimental use permit if it determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under Section 1204 of this Chapter. An application for an experimental use permit may be filed at the time of or before or after an application for registration if filed;

(2) prescribe terms, conditions, and period of time for the experimental use permit which shall be under the supervision of the Department; and

(3) revoke or modify any experimental use permit, at any time, if it finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to

avoid unreasonable adverse effects on the environment.

(f) All permits, except experimental use permits, shall continue in full force and effect until December 31st of each year whereupon they shall become invalid unless renewed, except that a permit for which a renewal application has been submitted to the Department by December 31st shall remain in full force and effect until such time as the Department gives written notice to the permit holder of renewal or denial. Forms for renewal shall be mailed to all holders of current permits by the Department by October 1st of each year.

(g) (1) The Department may deny a permit to any person if it finds after a hearing that the public interest requires such denial.

(g) (2) The Department may revoke a permit, after due notice to permit holder and opportunity for hearing, if it finds that the permit holder has violated this Chapter, or if an emergency creates a clear and present danger to the overall public interest and welfare from the uses authorized by the permit.

(g) (3) A person whose permit is denied or revoked may request a hearing before the Department. A hearing shall be held within thirty (30) days after request. Within thirty (30) days after the hearing the Department shall affirm, withdraw, or modify its action by an order based upon the record of the hearing. An appeal from that order may be taken to the Superior Court within thirty (30) days of the date of the order.

SUBCHAPTER III: CERTIFICATION OF APPLICATORS.

§1215. Applicability of Subchapter.

The provisions of this Subchapter shall become applicable upon approval by the Administrator of E.P.A. of the State Plan submitted by the Governor pursuant to Sec-

tion 4(a) (2) of FIFRA.

§1216. Requirement of Certification.

In order to prevent unreasonable adverse effects on the environment, including injury to users of pesticides and others, no individual shall use any restricted use pesticide unless such individual has either been duly certified by the Department or is under the direct supervision of a certified applicator.

§1217. Standards; classifications.

(a) The Department in promulgating regulations under this Chapter shall prescribe standards for the certification of applicators of pesticides. Such standards shall relate to the use and handling of pesticides, or to the use and handling of the pesticides or class of pesticides covered by the individual's certification, and shall be relative to the hazards involved. In determining standards, the Department shall consider the characteristics of the pesticide formulation such as: the acute mammalian toxicity; the persistence, mobility, and susceptibility to biological concentration; the use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information; the relative hazards of patterns of use such as granular soil applications, ultra low volume or aerial dust applications, or air blast sprayer applications; and the extent of the intended use. Further, the Department shall adopt by regulation the certification standards of the E.P.A.

(b) The Department shall classify or subclassify certifications to be issued under this Chapter. Such classifications shall include commercial applicators and private applicators, and classifications and subclassifications may include, but not be limited to, pest control operators, ornamental, agricultural, or right-of-way pesticide applicators. Separate subclassifications may be specified as to ground, aerial, or manual methods used by any applicator

to apply pesticides or to the use of pesticides to control insects and plant diseases, rodents, or weeds. Each classification shall be subject to separate examination procedures and requirements.

§1218. Certification procedure.

The Department, by regulation, shall provide for a certification procedure. Such procedure shall consist, in part, of an application, and examination, except that the examination requirement may be waived in part or whole by the Department on a reciprocal basis with any other state which has substantially the same standards.

§1219. Renewal of certification.

An applicator's certification shall automatically renew under the classification or subclassification for which such applicator is certified, provided, however, re-examination may be required by the Department;

(1) of any applicator whose certification, license, or permit has been suspended, revoked, or modified;

(2) at any time if significant technological developments have occurred to require additional knowledge related to the classifications or subclassifications for which the applicator has been certified, and to assure a continuing level of competence and ability to use pesticides safely and properly; or

(3) when required by additional standards established by the E.P.A.

Such re-examination or special examination requirements may be waived by the Department when the applicator can furnish satisfactory evidence of completion of educational courses, programs, or seminars approved by the Department relating to the applicator's certification.

§1220. Denial; revocation; suspension; modification.

(a) If the applicant is not certified under the provisions of this Subchapter the Department shall notify such applicant, in writing, of the reasons therefor.

(b) The Department, after due notice and opportunity for hearing may suspend, revoke, or modify any provision of any certification, including reciprocal certification, issued under this subchapter if the Department finds that the certified applicator or any individual acting under the direct supervision of such certified applicator has committed any acts declared by this Chapter to be unlawful, or the certified applicator has been convicted or is subject to a final order imposing a civil penalty under Section 14 of FIFRA.

§1221. Hearing Procedure.

All hearings which are held for the suspension, modification, or revocation of license, permit, or certification shall be conducted by the Secretary of the State Department of Agriculture or his designee. The licensee, permit holder, or certified applicator shall have the right to appear personally, and to be represented by Counsel, and to produce evidence and witnesses in his own behalf. The Department shall supply a stenographer to take down the testimony and shall preserve a full record of the proceeding. A transcript of the record may be purchased by any person interested in such hearing on payment to the Department the cost of preparing such transcript. The Department shall notify the licensee, permit holder, or certified applicator of its decision in writing within ten (10) days after the conclusion of the hearing.

§1222. Appeals.

Any licensee, permit holder, or certified applicator who feels aggrieved by an action of the Department in denying, suspending, modifying, or revoking his license, permit, or certification may take an appeal, within thirty (30)

days of such action, to the Superior Court, and after full hearing the Court shall make such decree as seems just and proper. Written notice of such appeal, together with the grounds therefor, shall be served upon the Secretary of the Department.

§1223. Reinstatement.

Upon denial, suspension, modification, or revocation of a license, permit, or certification any person may reapply to the Department after a time period set by the Department not to exceed one year.

SUBCHAPTER IV: UNLAWFUL ACTS - PENALTIES - JURISDICTION.

§1224. Unlawful Acts; Penalties; Jurisdiction.

(a) The following acts shall constitute a class A misdemeanor:

(1) Making a pesticide recommendation or use or application inconsistent with the labeling, the E.P.A., or Delaware State registration for the pesticide, or in violation of the E.P.A., or Delaware State restrictions of the use of that pesticide; except that the first offense shall constitute a class B misdemeanor;

(2) Making false or fraudulent records, invoices or reports;

(3) Engaging in the business of applying a pesticide on the lands of another without having a license granted by the Department;

(4) Applying a restricted use pesticide without a certified applicator in direct supervision;

(5) Using fraud or misrepresentation in making an application for, or renewal of, a license, permit, or certification;

(6) Aiding or abetting a licensed or an unlicensed person to evade the provisions of this Chapter, conspiring with such a licensed or an unlicensed person to evade the provisions of this Chapter, or allowing one's license, permit, or certification to be used by another person;

(7) Distributing, selling, or offering for sale within this State any of the following:

(i) any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is visibly affixed to such container a label approved by the E.P.A. or by the Department, in the case of State registration;

(ii) any pesticide which is adulterated, not branded, or misbranded, or any container which is misbranded or not branded.

(8) Detaching, altering, defacing, or destroying, in whole or in part, any label or labeling prior to purchase by the ultimate consumer, provided for in this Chapter or regulations promulgated hereunder or to add any substance to, or take any substance from a pesticide in a manner that may defeat the purpose of this Chapter;

(9) Using for one's own advantage or to reveal any information relative to formulas of products acquired by authority of Section 1203 or Section 1204 of this Chapter.

(b) The following acts shall constitute a class B misdemeanor:

(1) The first offense of Section 1224 (a)(1);

(2) Refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit, or certification;

(3) Distributing, selling, or offering for sale within this State any pesticide required to be colored or

discolored by the E.P.A. under Section 25(c)(5) of FIFRA unless such pesticide is so colored or discolored.

(c) The following acts shall constitute a class C misdemeanor:

(1) Operating in a faulty, careless, or negligent manner;

(2) Neglecting or, after notice, refusing to comply with the provisions of this Chapter, the rules adopted hereunder, or any lawful order of the Department;

(3) Refusing or neglecting to keep and maintain the records required by this Chapter, or to make reports when and as required;

(4) Purchasing or using a restricted use pesticide except in accordance with a duly issued certification from the Department;

(5) Selling or offering to sell a restricted use pesticide unless the purchaser is a certified applicator and is certified to use that restricted use pesticide, and that certification is valid;

(6) Purchasing or using a pesticide designated for "State restricted pesticide use" except in accordance with a permit granted by the Department;

(7) Selling or offering to sell a pesticide designated for "State restricted pesticide use" unless the purchaser has a permit for its purchase and use and that permit is valid;

(8) Engaging in the business of applying pesticides to the lands of another without financial security which is currently in compliance with the requirements of Section 1208 of this Chapter;

(9) Distributing, selling, or offering for sale within

this State any pesticide which has not been registered pursuant to the provisions of Section 1203 or Section 1204 of this Chapter, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in this connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; provided, that in the discretion of the Department, a change in the labeling or formula of a pesticide may be made within a registration period without requiring re-registration of the product.

(d) The Superior Court shall have exclusive original jurisdiction over offenses under this Chapter.

§1225. Penalties.

The penalties provided by this Chapter shall not apply to:

(a) Any carrier while lawfully engaged in transporting a pesticide or device within this State, if such carrier shall, upon request, permit the Department to copy all records showing the transactions in and movement of the pesticide or device;

(b) Any person who prepares or packs any pesticide or device intended solely for export to a foreign country according to the specifications or directions of the purchaser;

(c) The manufacturer or shipper of a pesticide for experimental use only:

1. by or under the supervision of an agency of this State or of the Federal Government authorized by law to conduct research in the field of pesticides; or

2. by others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "for experimental use only, not to be sold," together with the

manufacturer's name and address; provided, however, that if an experimental use permit has been obtained from the Department, pesticides may be sold for experiment purposes subject to such restrictions and conditions as may be set forth in the permit.

SUBCHAPTER V: INSPECTION AND SEIZURE.

§1226. Inspection.

For the purpose of carrying out the provisions of this Chapter the Department may enter upon any public premises, and in the case of private premises may enter with the written approval of the occupier of the premises, in order to:

(1) inspect and sample lands actually or reported to be exposed to pesticides:

(2) inspect storage or disposal areas; or

(3) inspect or investigate complaints of injury to humans or land; or

(4) sample pesticides being applied or to be applied; or

(5) observe the use of a restricted use pesticide or State restricted pesticide use.

Should the Department be denied access to any land where such a access was sought for the purposes set forth in this Chapter it may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application issue the search warrant for the purposes requested.

§1227. Seizure.

(A) Any pesticide or device that is distributed within this State may be liable to seizure and forfeiture by the

Department upon application to Superior Court in and for the County wherein the pesticide in question is located;

(1) in the case of a pesticide, the court shall order forfeiture without compensation;

(a) if it is adulterated or misbranded; or

(b) if it has not been registered under the provisions of Section 1203 or 1204 of this Chapter; or

(c) if it fails to bear on its label the information required by this Chapter; or

(d) if it is a white powder pesticide and is not colored as required under this Chapter; or

(2) in the case of a device, if it is misbranded.

(B) If the pesticide or device is forfeited or condemned, it shall, after entry of decree, be disposed of by destruction or sale as the Department may direct and the proceeds, if such pesticide or device is sold, less legal costs, shall be paid to the General Fund; provided, that the pesticide or device shall not be sold contrary to the provisions of this Chapter; and provided, further, that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the Department may direct that said pesticide or device be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(C) When a decree of condemnation or forfeiture is entered against the pesticide or device, Department costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

SUBCHAPTER VI: PESTICIDE ADVISORY COMMITTEE.

§1228. Establishment of Committee.

A Pesticide Advisory Committee is hereby established.

§1229. Composition; appointments; terms; removal; vacancies.

(a) The Pesticide Advisory Committee shall consist of three pesticide applicators residing in the State, one qualified to operate ground equipment, one qualified to operate aerial equipment, and one qualified for structural pest control; one entomologist in public service; one environmental health specialist from the State Department of Health and Social Services; one toxicologist in public service; one plant pathologist in public service; one member from the agricultural chemical industry; one member from the food processing industry; one producer of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides; two representatives of the Department of Natural Resources and Environmental Control - one who in his employment is responsible for the protection of environmental control, and one who in his employment is responsible for fish and wildlife protection.

(b) Such members shall be appointed by the Governor for terms of three years and may be appointed for successive three year terms at the discretion of the Governor, provided, however, that at the inception of this Chapter the current members of the Committee established by 58 Delaware Laws, Chapter 166, continue to serve until the expiration of their respective terms.

(c) The Governor may remove for cause any member of the Committee prior to the expiration of his term.

(d) Upon the death, resignation, or removal for cause of any member of the Committee, the Governor shall fill such vacancy.

§1230. Function.

The Committee shall advise the Department on any and all problems relating to the sale, use, disposal, and storage of pesticides in the State.

§1231. Meetings.

The Committee shall elect one of its members chairman, and shall meet at such time and place as shall be specified by the chairman, the Department, or a majority of the members of the Committee.

§1232. Compensation.

Each member of the Committee shall be reimbursed for all proper and necessary expenses but shall receive no compensation for time spent in attending the work of the Committee.

SUBCHAPTER VII: MISCELLANEOUS.

§1233. Reports of pesticide accidents, incidents, or loss.

(a) The Department may by regulation require the reporting of significant pesticide accidents or incidents to the Department.

(b) Any person claiming damages from a pesticide application shall have filed with the Department on a form prescribed by the Department a written statement claiming that he has been damaged. This report shall have been filed within sixty (60) days after the date that damage occurred, except that if a growing crop is alleged to have been damaged, the report must be filed prior to the time that twenty-five percent (25%) of the damaged crop has been harvested. Such statement shall contain, but shall not be limited to the name of the person allegedly responsible for the application of said pesticide, if known; the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred, and the date on which the alleged damage occurred. The

Department shall prepare a form to be furnished to persons to be used in such cases and such form shall contain such other requirements as the Department may deem proper. The Department shall, upon receipt of such statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility of the damages claimed, and furnish copies of such statements as may be requested. The Department shall inspect damages whenever possible and when it determines that the complaint has sufficient merit it shall make such information available to the person claiming damage and to the person who is alleged to have caused the damage.

(1) The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

(2) Where damage is alleged to have occurred, the claimant shall permit the Department, the licensee and his representatives, such as bondsman or insurer, to observe within reasonable hours the lands or non-target organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee.

(c) Nothing in this Chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the Department.

§1234. Licensee to keep records; duration; submission to Department.

(a) The Department shall require licensee or certified commercial applicators to maintain records with respect to applications of pesticides. Such relevant information as the Department may deem necessary may be specified by

regulation. The Department may require licensee to maintain records related to applications of certain "State restricted pesticide uses".

(b) Such records shall be kept for a period of two (2) years from the date of the application of the pesticide to which such records refer.

(c) Such records shall be made available for inspection to the Department by the licensee or certified applicator upon request in writing by the Department.

§1235. Storing and disposal of pesticides and pesticide containers.

No person shall transport, store, or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The Department may promulgate rules and regulations governing the storing and disposal of such pesticides or pesticide containers. In determining these standards, the Department shall take into consideration any regulations issued by the E.P.A.

§1236. Stop sale, use or removal orders.

When the Department has reasonable cause to believe a pesticide or device is being distributed or used in violation of any of the provisions of this Chapter, or any of the prescribed regulations under this Chapter, it may issue and serve a written 'Stop Sale, Use or Removal' order upon the owner or custodian of any such pesticide or device. Any such 'Stop Sale, Use or Removal' order shall remain in effect no longer than thirty (30) days, or until a permanent injunction is obtained from the Court of Chancery, or until voided by the Superior Court, whichever comes first. The pesticide or device shall not be sold, used or removed until the provisions of this Chapter have been complied with and the pesticide or device has been released in writing by the Department or the violation

has been otherwise disposed of as provided in this Chapter by a court of competent jurisdiction.

§1237. Enforcement of chapter.

This Chapter shall be enforced by the State Department of Agriculture. The Department may establish regulations, but only after public hearing following due notice to carry out the purposes of this Chapter, and all authority vested in the Department by virtue of the provisions of this Chapter may with like force be executed by such employees of the Department as may be designated for said purpose. Due notice shall be given under this Section at least ten days prior to the public hearing and shall consist of publication in newspapers of general circulation, a registered letter to the Pesticide Advisory Committee, and may also be sent to representatives of pesticide application trade associations.

§1238. Cooperative agreements.

The Department may cooperate, receive grants-in-aid, and enter into agreements with any agency of the Federal Government, of this State or its subdivisions, or with any agency of another State, to obtain assistance in the implementation of this Chapter, in order to;

- (a) secure uniformity of regulations;
- (b) cooperate in the enforcement of the Federal pesticide control laws through the use of state and/or federal personnel and facilities and to implement cooperative enforcement programs;
- (c) develop and administer state plans for training and for certification of certified applicators consistent with the Federal standards;
- (d) contract for training with other agencies for the purpose of training certified applicators;

(e) contract for monitoring pesticides for the national plan;

(f) prepare and submit state plans to meet Federal certification standards, as provided for in Section 4 of FIFRA; or

(g) regulate certified applicators.

§1239. Information.

The Department may, in cooperation with the University of Delaware, Delaware State College, other educational institutions, or trade associations publish information and conduct short courses of instruction in the areas of knowledge required in this Chapter.

§1240. Repeals.

Jurisdiction in all matters pertaining to the distribution, sale, use, application, and transportation of pesticides and devices, is by this Chapter vested exclusively in the Department, and all acts and parts of acts inconsistent with this Chapter, with the exception of Chapter 60, Title 7, are hereby expressly repealed.

§1241. Severability and savings clause.

If any provision of this Chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Chapter and the applicability thereof to other persons and circumstances shall not be affected thereby."

Section 2. A sum of \$25,230 is hereby appropriated to this Department for fiscal year 1977 for the purpose of establishing an administrative staff to begin carrying out the provisions of this Chapter.

Section 3. This Act shall become effective January

1, 1977.

Approved July 30, 1976.

CHAPTER 672

SENATE BILL NO. 818

**AN ACT TO AMEND SUBCHAPTER I, CHAPTER 3,
TITLE 9, DELAWARE CODE RELATING TO
MOBILE HOMES ON FARMS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §313 of Subchapter I, Chapter 3, Title 9, Delaware Code by striking the second paragraph in its entirety commencing with the word "Nothing" and ending with the word "State".

Approved July 30, 1976

CHAPTER 673

SENATE BILL NO. 561

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF CORRECTION TO REIMBURSE THREE STATE EMPLOYEES FOR EXPENSES AND OTHER PAYMENTS IN THE SETTLEMENT OF FEDERAL LITIGATION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of one thousand one hundred fifty-eight dollars and twenty-two cents (\$1,158.22) is hereby appropriated to the Department of Correction to be used in reimbursing Harry W. Towers for expenses and other payments incurred in the settlement of prolonged litigation arising directly from his employment.

Section 2. The sum of one thousand one hundred fifty-eight dollars and twenty-two cents (\$1,158.22) is hereby appropriated to the Department of Correction to be used in reimbursing Harold Martin for expenses and other payments incurred in the settlement of prolonged litigation arising directly from his employment.

Section 3. The sum of one thousand one hundred fifty-eight dollars and twenty-two cents (\$1,158.22) is hereby appropriated to the Department of Corrections to be used in reimbursing Ernest Dixon for expenses and other payments incurred in the settlement of prolonged litigation arising directly from his employment.

Section 4. This Act is a supplementary appropriation act and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 5. The funds so appropriated shall be used

only for the purposes herein specified, and any funds appropriated but unexpended by July 1, 1977, shall thereupon revert to the General Fund of the State Treasury.

Approved August 3, 1976

CHAPTER 674

SENATE SUBSTITUTE NO. 1
FOR SENATE BILL NO. 631

**AN ACT TO AMEND CHAPTER 1, TITLE 7 OF THE
DELAWARE CODE, RELATING TO THE PRO-
TECTION OF WILDLIFE.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend §103(f)(2) of Chapter 1, Title 7, Delaware Code, by striking the word "not" immediately following the word "instrumentalities" and before the word "including" as the same appears in said paragraph (2) of §103.

Section 2. Amend §103(f)(3) of Chapter 1, Title 7, Delaware Code, by striking said paragraph (3) in its entirety and substituting in lieu thereof a new paragraph (3) to read as follows:

"(3) Whoever is convicted of a violation of this subsection shall be fined not less than \$100, nor more than \$500, or imprisoned for not more than 60 days or both. Whoever is found guilty of any subsequent offense shall be fined not less than \$500, nor more than \$1,000, or imprisoned for not less than six (6) months or both. Anyone found guilty of a first offense shall be required to turn in any valid hunting license and shall be denied the privilege of hunting in the State for a period of two (2) years, commencing with the date of conviction; for any subsequent offense anyone found guilty shall be required to turn in any valid hunting license and be denied the privilege of hunting in the State for a period of five (5) years, commencing with the date of conviction. Anyone subsequently found guilty of hunting during the times when these hunting privileges are denied shall be fined not less than \$100 nor more than \$500. Justices of the Peace shall

have jurisdiction of offenses hereunder.”

Section 3. Amend §103(f)(4) of Chapter 1, Title 7, Delaware Code, by striking said paragraph (4) in its entirety and substituting in lieu thereof a new paragraph (4) to read as follows:

“(4) Title to any weapons, ammunition, lights, communication systems and/or instrumentalities, including motor vehicles, seized from anyone apprehended for violation of either first and/or subsequent offenses of this subsection, upon conviction of the said violation, shall vest in the State. Said weapons, lights, communication systems and/or instrumentalities, including motor vehicles, shall be disposed of by public auction. Costs of the auction will be taken from the proceeds; any balance from the auction will revert to the General Fund of the State of Delaware.”

Approved August 3, 1976

CHAPTER 675

SENATE BILL NO. 769

AN ACT TO AMEND SUBCHAPTER 11, CHAPTER 87, TITLE 9, DELAWARE CODE RELATING TO THE MONITION METHOD OF SALE OF LANDS FOR DELINQUENT TAXES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Subchapter 11, Chapter 87, Title 9, Delaware Code by adding thereto the words "or Kent County" immediately following the words "New Castle County" wherever they appear in said Subchapter 11.

Section 2. Amend Subchapter 11, Chapter 87, Title 9, Delaware Code by adding thereto the words "or the Receiver of Taxes for Kent County" immediately following the words "The Department of Finance of New Castle County" wherever they appear in said Subchapter.

Section 3. Amend Subchapter 11, Chapter 87, Title 9, Delaware Code by striking the words "New Castle County" wherever they appear in said Subchapter and inserting in lieu thereof the words "the County where the property is located."

Section 4. Amend Subchapter 11, Chapter 87, Title 9, Delaware Code by adding thereto the words "or Receiver of Taxes" immediately following the words "The Department of Finance" wherever they appear in said Subchapter.

Section 5. Amend §8725 of Subchapter 11, Chapter 87, Title 9, Delaware Code by striking the words "at Wilmington" as the same appears in said section and substituting in lieu thereof "at _____".

Section 6. Amend Subchapter 11, Chapter 87, Title 9, Delaware Code by striking the words "County of New Castle" wherever they appear in said Subchapter 11 and inserting in lieu thereof the words "County where the property is located".

Section 7. Amend §8732 of Subchapter 11, Chapter 87, Title 9, Delaware Code by adding thereto the following:

"The following fees shall be charged by the Receiver of Taxes for Kent County:

For preparing description of lien property: \$25.00."

Approved August 3, 1976

CHAPTER 676

SENATE BILL NO. 803
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND TITLE 10 AND TITLE 11 OF
THE DELAWARE CODE RELATING TO LEGAL
REPRESENTATION FOR PUBLIC OFFICERS
AND EMPLOYEES UNDER CERTAIN CIRCUM-
STANCES.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §3925, Chapter 39, Part III, Title 10, Delaware Code by adding thereto a new sentence to read as follows: "The provisions of this section shall also apply to all Federal Courts within this State."

Section 2. Amend §5105, Part III, Chapter 51, Title 11, Delaware Code by adding thereto a new sentence to read as follows: "The provisions of this section shall also apply to all Federal Courts within this State."

Section 3. Amend §5307, Part III, Chapter 53, Title 11, Delaware Code by adding thereto a new sentence to read as follows: "The provisions of this section shall also apply to all Federal Courts within this State."

Section 4. Amend §5902, Part III, Chapter 59, Title 11, Delaware Code by adding thereto a new sentence to read as follows: "The provisions of this section shall also apply to all Federal Courts within this State."

Approved August 3, 1976

CHAPTER 677

SENATE BILL NO. 806

**AN ACT TO AMEND CHAPTER 79, DELAWARE
CODE RELATING TO THE ESTABLISHMENT
OF A DIVISION OF MENTAL RETARDATION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §7908 and §7909 of Subchapter I, Chapter 79, Title 29, Delaware Code by striking the words "Mental Retardation" wherever they appear in said sections.

Section 2. Amend Chapter 79, Title 29, Delaware Code by adding thereto a new section to be designated as Section 7942 which new section shall read as follows:

"§7942. Division of Mental Retardation.

The Division of Mental Retardation is established having the power to perform and shall be responsible for the performance of all the powers, duties and functions heretofore vested in Chapter 55 of Title 16, Delaware Code and Chapter 79 of Title 29, Delaware Code."

Approved August 3, 1976

CHAPTER 678

SENATE BILL NO. 837

**AN ACT TO AMEND CHAPTER 273 of VOLUME 46,
LAWS OF DELAWARE, ENTITLED: "AN ACT
TO REINCORPORATE THE TOWN OF ODESSA
IN NEW CASTLE COUNTY" RELATING TO
ELECTION PROCEDURES.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Section 10 of Chapter 273, Volume 46, Laws of Delaware, by striking said section in its entirety as the same appears in said Chapter and substituting in lieu thereof a new Section 10 to read as follows:

"SECTION 10. ELECTION PROCEDURES

- (a) Qualifications for Registration as a Qualified Voter.**

Every applicant for registration shall be held and considered to be qualified voter if applicant is a citizen of the State of Delaware, living within the boundaries of Odessa; who shall be the age of eighteen (18) years on or before the date of local elections.

No idiot or insane person, person convicted of a crime deemed by law a felony or person who shall have been rendered incapable of voting by reason of violating Section 7 of Article V of the Constitution of this State for ten (10) years next following his conviction and sentence thereunder, shall be held or constituted a qualified voter.

- (b) Registration Dates and Hours for Odessa Election.**

Registration officers for the Town of Odessa shall sit for the purpose of ascertaining and registering the persons

who are qualified to enjoy the right of an elector in the Town of Odessa and who apply in person for registration, and whose names do not already appear as qualified voters on the registration records for said Town (at the place or places that have been selected and designated) on the second Saturday of March from ten o'clock (10:00) a.m. until two o'clock (2:00) p.m., and on the third Saturday of March from three o'clock (3:00) p.m. until seven o'clock (7:00) p.m.

(c) Notice of Registration.

It is the responsibility of Mayor and Council to notify potential registrants of the Town within ten (10) days prior to the second Saturday of March by notices published in five (5) public places within the Town of Odessa and in at least one newspaper covering the town.

(d) Registration Records.

There shall be an original and duplicate permanent registration record. The original permanent registration record of all voters shall consist of loose-leaf forms which shall be properly indexed alphabetically. The binder or binders shall be known as the ODESSA TOWN REGISTRATION RECORD. The Record shall remain at all times in the care of the office of the Town.

The duplicate permanent registration record shall be housed in locked fire-protected cabinets and shall be known as THE TOWN OF ODESSA MASTER RECORD. The registration record shall contain the following information:

(1) applicant's surname, given names and initials of other names;

(2) date of application for registration;

(3) place of residence, including street number, post office designation of the address at which the

applicant claims to reside;

(4) telephone number;

(5) length of applicant's residence in the Town;

(6) identification of the applicant including birth date, social security number, sex, height, color of hair, and color of eyes;

(7) signature of applicant.

(e) Public Inspection of Registration Record.

The registration record shall be open to inspection of anyone desiring to examine the same without fee or reward. Anyone desiring to do so may be permitted to make copies or partial copies thereof.

(f) Registration Supplies.

Mayor and Council, acting for the Town shall furnish necessary maps, oaths, certificates and instructions for the use of the registration officers.

(g) Registration Officers.

Mayor and Council shall appoint one chief registrar and two assistant registrars prior to each registration period.

(h) Oath of Office for Registration Officers.

'I, _____, residing in Odessa, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of registration officer for the Town of Odessa according to the best of my ability.'

(i) Compensation.

Each registrar shall receive Twelve Dollars and Fifty Cents (\$12.50) per day for each day of actual service. Registration officers shall be neither candidates for local office nor current office-holders during his or her time of tenure as registrar.

The general municipal election shall be held in the local Fire Hall in said Town on the first Monday in April of each year from one o'clock (1:00) until seven o'clock (7:00) in the afternoon. All persons desiring to be candidates at any municipal election shall file with the Secretary of the Council a written statement of their candidacy, at least thirty (30) days previous to said election, and a vote cast for any person whose candidacy has not been filed shall not be counted unless the State declares that write in votes must be counted in municipal elections. The Mayor shall, at least forty-five (45) days before any general election, give notice of such election, together with the names of offices to be filled by posting notices in five (5) or more public places in said Town. At least ten (10) days previous to said election, the Mayor shall post notices in five (5) or more public places in said Town setting forth the names of the candidates for each office to be filled at said election. There shall be an inspector and two judges, which judges shall also act as clerks at such election, elected by the Council.

At such election every citizen of said Town, who shall have attained the age of eighteen (18) years and has properly registered shall have a right to vote. The inspector and judges of the election shall decide on the legality of the votes offered. Immediately after the election is closed, the votes shall be tallied and read aloud in public, and the persons having the highest number of votes shall be declared duly elected for the term specified. Those elected shall be immediately sworn into office by the Mayor and duly recorded in the minutes by the Town Secretary.

A failure to hold an election on an election day shall not dissolve the corporation, but the authority of each officer shall continue until the next general municipal ele-

ction. In the event an election is not contested, it shall and may be lawful to open polls at one o'clock (1:00) p.m. and close them at two o'clock (2:00) p.m."

Approved August 3, 1976

CHAPTER 679

HOUSE BILL NO. 733
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND CHAPTER 26, TITLE 24 OF
THE DELAWARE CODE RELATING TO PHYSICAL
THERAPY; AND PERMITTING THE
EXAMINING BOARD OF PHYSICAL THERAPISTS
TO SET FEES FOR EXAMINATIONS AND
TEMPORARY CERTIFICATES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2607, Chapter 26, Title 24 of the Delaware Code by striking the words "to the Board \$25" as the same appear in the last sentence of said section, and substituting in lieu thereof the following:

"an examination fee set by the Board,"

Section 2. Amend §2607, Chapter 26, Title 24 of the Delaware Code by adding thereto the following:

"The examination fee shall not exceed \$75.00."

Section 3. Amend §2610, Chapter 26, Title 24 of the Delaware Code by striking the words "to the Secretary-Treasurer of the Board a fee of \$25" as the same appear in the last sentence of said section, and substituting in lieu thereof the following:

"a fee set by the Board, which fee shall not exceed the fee paid by applicants under §2607 of this Chapter."

Section 4. Amend §2611, Chapter 26, Title 24 of the Delaware Code by adding to the end of said section the following sentence:

"The person shall pay a temporary certificate fee set

by the Board, which fee shall not exceed fees paid by applicants under §2610 of this Chapter.”

Section 5. Amend §2612, Chapter 26, Title 24 of the Delaware Code by striking the words “not to exceed \$25” as the same appear in the last sentence of said section, and substituting the words “and a revival fee of \$10” in lieu thereof.

Approved August 3, 1976

CHAPTER 680

HOUSE BILL NO. 831

**AN ACT TO AMEND CHAPTER 4, PART I, TITLE 11
OF THE DELAWARE CODE RELATING TO
VOLUNTARY INTOXICATION AS A DEFENSE
AGAINST CRIMINAL LIABILITY.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §421, Chapter 4, Part I, Title 11 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

§421. Voluntary Intoxication.

The fact that a criminal act was committed while the person committing such act was in a state of intoxication, or was committed because of such intoxication, is no defense to any criminal charge if the intoxication was voluntary."

Approved August 3, 1976

CHAPTER 681

HOUSE BILL NO. 964
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR THE PURPOSE OF CONTINUING TO FUND THE DELAWARE ECONOMETRIC MODEL FOR THE REMAINDER OF FISCAL YEAR 1976.

WHEREAS, the Delaware Econometric Model is in need of additional funds to continue the project for the balance of Fiscal 1976; and

WHEREAS, the Delaware Econometric Model is a unique and highly useful tool, developed for the State at a modest cost; and

WHEREAS, the continued use and development of the Delaware Econometric Model is in the best interests of the State.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of five thousand dollars (\$5,000.00) is hereby appropriated to the Department of Finance for the purpose of continuing to fund the Delaware Econometric Model for the remainder of Fiscal 1976.

Section 2. This Act is a supplementary appropriation act and the funds hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. The funds herein appropriated which remain unexpended or unencumbered on June 30, 1977,

shall revert to the General Fund of the State of Delaware.

Approved August 3, 1976

CHAPTER 682

HOUSE BILL NO. 1194
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO PROVIDE A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF JUSTICE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of nine hundred seventy-one dollars and eight cents (\$971.08) is hereby appropriated to the Department of Justice for the payment of bills incurred in a prior fiscal year for which no funds were appropriated.

Section 2. This Act is a supplementary appropriation act for fiscal year 1976 and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds hereby appropriated shall be expended only in the manner set forth herein and any funds appropriated by this Act which are unexpended on June 30, 1977, shall revert to the General Fund of the State Treasury.

Approved August 3, 1976

CHAPTER 683

HOUSE BILL NO. 1195
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO PROVIDE A SUPPLEMENTARY
APPROPRIATION TO THE DEPARTMENT OF
JUSTICE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of five thousand four hundred seventy-three dollars and forty-three cents (\$5,473.43) is hereby appropriated to the Department of Justice for the payment of bills for fiscal year ending June 30, 1976.

Section 2. This Act is a supplementary appropriation act for fiscal year 1976 and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds hereby appropriated shall be expended only in the manner set forth herein and any funds appropriated by this Act which are unexpended on June 30, 1977, shall revert to the General Fund of the State Treasury.

Approved August 3, 1976

CHAPTER 684

HOUSE BILL NO. 1249

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE BY CREATING A NEW CHAPTER 46 TO PROVIDE THAT THE COSTS OF DEMOLITION OF BUILDINGS PAID FOR BY FUNDS OF ANY MUNICIPALITY OR POLITICAL SUBDIVISION SHALL BE A LIEN UPON ALL LANDS WITHIN THE STATE OWNED BY THE OWNERS OF SUCH BUILDINGS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Title 25 of the Delaware Code by adding thereto a new Chapter 46 to read as follows:

“CHAPTER 46. LIENS FOR RAZING OR DEMOLITION OF STRUCTURES BY PUBLIC EXPENDITURE.

§4601. Priority of liens; transfer of lien upon execution sale.

(a) All public expenditures paid for the costs of razing or demolishing any abandoned or vacant or an otherwise unsafe building within its jurisdiction by an municipality or other political subdivision of this State in the exercise of its slum clearance and redevelopment authority, or its urban renewal authority, or its authority in carrying out the provisions of any duly adopted building code remaining not reimbursed to the municipality or political subdivision by the owner or legal agent or prior lienholder of such building and in arrears for 30 days after payment by the municipality or political subdivision, shall be and constitute a lien upon all lands and premises owned by the owner, legal agent, or prior lienholder within the State in which the razed building was situate.

(b) Such liens shall have preference and priority to all liens of recognizance, mortgage or judgment created or suffered by the owner on the lands and premises upon which the razed or demolished building was situate, although such other lien or liens shall be of a date prior to the time of the attaching of such lien for razing or demolition of any such building at public expense.

(c) In case of the sale under execution process of any lands and premises upon which liens for razing or demolition of any such building at public expense exist, the liens shall be transferred to the fund arising from the sale in the hands of the officer making the sale, and the real estate so sold shall be discharged therefrom.

§4602. Duration of lien.

The lien for razing or demolition of a building at public expense shall continue a lien against all lands of the owner of such building within the State for a period of five years from the expiration of thirty (30) days after the costs of razing or demolition of such building have been paid by the municipality or other political subdivision and not reimbursed by the owner, agent or prior lienholder of such lands and premises but if the lands and premises upon which the building was situated remains the property of the person who was the owner at the time that the public expense of razing or demolition of such building was incurred, the lien shall continue until the amount of the public expenditure is collected."

Approved August 3, 1976

CHAPTER 685

HOUSE BILL NO. 1250

**AN ACT TO AMEND CHAPTER 91, TITLE 29 OF
THE DELAWARE CODE, RELATING TO THE
ADVANCED PLANNING FUND.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Subsection (b), Section 9121,
Subchapter II, Chapter 91, Title 29, Delaware Code, by
striking said Subsection (b) in its entirety and substituting
in lieu thereof the following:

“(b) The Fund shall initially consist of \$300,000.”

Approved August 3, 1976.

CHAPTER 686

HOUSE BILL NO. 1254

**AN ACT TO AMEND CHAPTER 17, TITLE 24,
DELAWARE CODE RELATING TO MEETINGS
OF THE BOARD OF MEDICAL PRACTICE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §1711(c), Chapter 17, Title 24, Delaware Code by striking said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

“(c) Meetings of the Board shall be held at least four (4) times a year at such place or places as the Board shall determine. Meetings of the Board shall be open to the public, provided, however, the Board may close any meeting where patient records are to be discussed by a two-thirds vote of all Board members present at such meeting, or by similar vote may close a meeting where any one or more of the following duties of the Board are to be discharged:

(1) Investigating the character of an applicant for a certificate to practice medicine;

(2) Investigating any charges of unprofessional conduct;

(3) Investigating complaints and charges of physical or mental illness or excessive use or abuse of drugs, including alcohol, resulting in inability to practice medicine with reasonable skill and safety; or

(4) Suspension, revocation or reinstatement of any certificate to practice medicine.”

Approved August 3, 1976.

CHAPTER 685

HOUSE BILL NO. 1250

**AN ACT TO AMEND CHAPTER 91, TITLE 29 OF
THE DELAWARE CODE, RELATING TO THE
ADVANCED PLANNING FUND.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Subsection (b), Section 9121,
Subchapter II, Chapter 91, Title 29, Delaware Code, by
striking said Subsection (b) in its entirety and substituting
in lieu thereof the following:

“(b) The Fund shall initially consist of \$300,000.”

Approved August 3, 1976.

CHAPTER 686

HOUSE BILL NO. 1254

**AN ACT TO AMEND CHAPTER 17, TITLE 24,
DELAWARE CODE RELATING TO MEETINGS
OF THE BOARD OF MEDICAL PRACTICE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §1711(c), Chapter 17, Title 24, Delaware Code by striking said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

“(c) Meetings of the Board shall be held at least four (4) times a year at such place or places as the Board shall determine. Meetings of the Board shall be open to the public, provided, however, the Board may close any meeting where patient records are to be discussed by a two-thirds vote of all Board members present at such meeting, or by similar vote may close a meeting where any one or more of the following duties of the Board are to be discharged:

(1) Investigating the character of an applicant for a certificate to practice medicine;

(2) Investigating any charges of unprofessional conduct;

(3) Investigating complaints and charges of physical or mental illness or excessive use or abuse of drugs, including alcohol, resulting in inability to practice medicine with reasonable skill and safety; or

(4) Suspension, revocation or reinstatement of any certificate to practice medicine.”

Approved August 3, 1976.

CHAPTER 687

HOUSE BILL NO. 1268

**AN ACT TO AID WHYY, INC., ENGAGED IN
EDUCATING THE PEOPLE OF THIS STATE, BY
MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$110,000 is appropriated to WHYY, INC., to be used to aid and support the operation of WHYY-TV as an educational, non-profit, non-commercial, instructional and cultural television serving the State.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1977, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State of Delaware not otherwise appropriated.

Approved August 3, 1976.

CHAPTER 688

HOUSE BILL NO. 1284

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE BUDGET DIRECTOR FOR THE PURPOSE OF PAYING AN EMPLOYEE WHO DID NOT RECEIVE HIS PROPER SALARY INCREMENTS.

WHEREAS, as the result of an audit by the State Auditor of Accounts, confirmed in by the State Personnel Office, it was revealed that William L. Phillips did not receive proper merit increases dating back to November 1, 1970 as a result of administrative errors in not receiving a promotional increment on November 1, 1970, the anniversary date not being changed and improper subsequent timely reviews resulting in insufficient annual increments to June 30, 1976; and

WHEREAS, the employee is entitled statutorily and by regulation of the State Personnel Office to the proper merit increases;

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$3,610.29 is hereby appropriated to the Budget Office for the purpose of providing pay due to said employee, who did not receive his proper salary increments during, and for, the period from November 1, 1970 through June 30, 1976. The amount appropriated shall be as follows:

10-02-001 Budget Office

Salaries & Wages of Employees	\$3,242.88
Pension	<u>367.41</u>
TOTAL	\$3,610.29

Section 2. The sum appropriated herein shall be considered a supplemental appropriation and shall be paid by the State Treasurer out of the General Fund of the State of Delaware not otherwise appropriated. Any funds herein appropriated that remain unexpended on June 30, 1977, shall revert to the General Fund.

Approved August 3, 1976.

CHAPTER 689

HOUSE BILL NO. 1298

AN ACT CONTINUING THE COMMITTEE ESTABLISHED PURSUANT TO HOUSE JOINT RESOLUTION NO. 26 OF THE 128TH GENERAL ASSEMBLY TO ENABLE THE COMMITTEE TO CONTINUE TO STUDY THE ADMINISTRATION AND OPERATION OF THE PUBLIC SCHOOL SYSTEM IN THIS STATE AND FURTHER AUTHORIZING THE COMMITTEE TO EMPLOY A CONSULTANT AND PROVIDING AN APPROPRIATION FOR SUCH CONSULTANT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The Committee established pursuant to House Joint Resolution No. 26 of the 128th General Assembly, to study the administration and operation of the public school system in this State is continued until June 30, 1977. The thirteen members of the Committee as of the effective date of this Act shall remain as Committee members, except as provided in the following sentence. In the event that any member of the Committee ceases to hold his or her present seat in the General Assembly, he or she will remain a member of the Committee until January, 1977, whereupon his or her replacement shall be named by the Speaker of the House or the President Pro-Tempore of the Senate, as the case may be. In the event that the Governor's appointee shall cease to be a member of such committee, his replacement shall be named by the Governor.

Section 2. The Committee shall have such powers and duties as are set forth in House Joint Resolution No. 26 and shall submit its report and any recommendations to the Governor and General Assembly on or before May 1, 1977.

Section 3. The Committee shall have the authority to engage the services of a consultant who shall work with the Committee under the guidance of the Controller General.

Section 4. The Joint Finance Committee of the 128th General Assembly is authorized to include the sum of \$25,000 for the position of the consultant to the Committee in the FY 77 budget for the Office of Controller General to conduct studies during the fiscal year commencing July 1, 1976. Any of such funds remaining unexpended or unencumbered on June 30, 1977 shall then revert to the General Fund of the State of Delaware.

Section 5. Any funds appropriated by House Joint Resolution No. 26 of the 128th General Assembly to the Committee for the purpose of covering the expenditures of the Committee herein continued and remaining unexpended and unencumbered on June 30, 1976, shall be retained by such Committee and shall not revert to the General Fund of the State of Delaware until June 30, 1977.

Section 6. Any provisions of House Joint Resolution No. 26 that are inconsistent with the provisions of this Act are hereby declared null and void.

Approved August 3, 1976.

CHAPTER 690

HOUSE BILL NO. 1306

**AN ACT TO AMEND CHAPTER 65, TITLE 29,
DELAWARE CODE RELATING TO COST-OF-
LIVING SALARY SUPPLEMENTS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Section 6532 (a), Title 29, Delaware Code by striking the words “,except elected and appointed officials,” after the word “State” and before the word “shall” of said subsection and substituting in lieu thereof the following words:

“,except elected officials, the judiciary, cabinet secretaries and members of boards and commissions,”.

Section 2. Amend Section 6532, Title 29, Delaware Code by adding a new subsection which shall read as follows:

“(c) For purposes of this section, an “employee” is defined as one who is compensated with a regular State pay check.”

Section 3. The effective date of this Act is July 1, 1976.

Approved August 3, 1976.

CHAPTER 691

HOUSE BILL NO. 1307
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO VARIOUS AGENCIES OF THE STATE AND TO BORROW MONEY TO BE USED FOR THE LOCAL SHARE OF SCHOOL CONSTRUCTION PROGRAMS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 56, CHAPTER 369, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTER 299, LAWS OF DELAWARE, PERTAINING TO CAPITOL COMPLEX ELECTRIC DISTRIBUTION SYSTEM AND CENTRAL HEATING AND AIR CONDITIONING; AMENDING VOLUME 57, CHAPTER 306, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTERS 320 AND 736, VOLUME 58, CHAPTER 347, AND VOLUME 59, CHAPTER 223, LAWS OF DELAWARE, PERTAINING TO BOND AUTHORIZATION FOR LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 60, CHAPTER 271, LAWS OF DELAWARE, PERTAINING TO THE TRANSFER OF FUNDS FROM THE CONSTRUCTION OF A WOMEN'S PRISON TO THE CONSTRUCTION OF A MAXIMUM SECURITY BUILDING.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereof concurring therein):

Section 1. There is appropriated to the agencies of this State set forth in Section 8 hereof the sum of \$31,547,900 or so much thereof as may be necessary for carrying out the purposes of this Act, which shall be used for the purposes set forth in Section 8 of this Act.

Section 2. There is appropriated to the State Board of Education for school construction purposes in the School Districts hereinafter set forth in Section 10 of this Act the sum of \$2,265,501 constituting the sum total of local shares of school construction programs herein authorized for the financing of which such School Districts have not issued local school bonds.

Section 3. The funds appropriated by this Act may be used for the costs incidental to the uses set forth in Section 8 of this Act, and are to include but not be limited to design, planning, land acquisition, acquisition of utility and service areas, construction, repairing, remodeling, equipping, landscaping, and inspection costs but are not to be used for ordinary or normal maintenance expense of highways, bridges or other properties except for that maintenance as outlined in Section 15 of this Act.

Section 4. None of the monies appropriated by this Act shall be expended before July 1, 1976. None of the monies appropriated by this Act shall be expended after June 30, 1979, on any of the individual projects authorized in the 1977 Annual Capital Projects Schedule unless such projects have progressed into any or all of the following phases prior to July 1, 1979: Initial Engineering, Planning, Procurement, Construction.

Section 5. The said sum of \$31,547,900 or so much thereof as may be necessary for carrying out the purposes of this Act, shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code, and Chapter 75, Title 29, Delaware Code, where applicable. For purposes of

identification, the bonds issued pursuant to this Authorization Act may be known, styled or referred to as "Capital Improvement Bonds of 1977."

Section 6. There is appropriated from the General Fund of the State such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the State Treasurer by and with the approval of the Issuing Officers. Any monies received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 7. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for each subsequent fiscal year or biennium, shall contain under the Debt Service item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Section 8. The monies appropriated herein, or so much thereof as is necessary to carry out the purposes of this Act, shall be expended by the following State agencies or their successors and the State Board of Education shall allocate to the designated school districts according to the following tabulation of maximum totals and shares, or in the proportions represented by said maximum totals and

shares:

	<u>State Funds</u>
(a) Department of Administrative Services	\$ 18,000
(b) Department of Corrections	1,973,000
(c) Department of Health and Social Services	1,905,000
(d) Department of Hwys. and Transportation	
(1) Corridor Projects	\$ 7,612,000
(2) Non-Corridor Projects	3,048,000
(3) Intersection Improvements	350,000
(4) Miscellaneous Small Projects	547,000
(5) Dirt Road Program	1,000,000
(6) Suburban Street Improvements	899,000
(7) Suburban Drainage Program	30,000
(8) Engineering, Administrative Salaries, Surcharges, Etc.	3,000,000
Sub-Total	<u>16,486,000</u>
(e) Department of Natural Resources & Environmental Control	3,235,000
(f) Department of State	64,000
(g) State Board of Education	

Name of School District	Total Cost	Local Share	State Share
1) Kent Vo-Tech	\$ 272,000	\$ -0-	\$ 272,000
2) Lake Forest			
High School Addition	1,499,000	600,000	899,000
North Elementary Addition	92,000	37,000	55,000
3) Newark			
Brookside- Heat Plant Replacement	105,000	42,000	63,000
Smith-Lighting	50,000	20,000	30,000
4) New Castle Vo-Tech			
Storage Building and Alterations	75,000	-0-	75,000
5) Wilmington			
P.S. duPont High Renovations	2,500,000	1,000,000	1,500,000
6) Conrad Area			
Reimburse Land			

Name of School District	Total Cost	Local Share	State Share
Acquisition Fund	16,200	-0-	16,200
7) Indian River			
Reimburse Land			
Acquisition Fund	17,400	-0-	17,400
8) State Board of Education			
Minor Capital			
Improvements	2,419,501	919,501	1,500,000
School Building			
Maintenance	700,000	-0-	700,00
9) Laurel			
Central Middle			
Elementary-			
Renovations	355,000	142,000	213,000
W. Laurel Elementary-			
Mechanical			
and Electrical Work	51,000	20,000	31,000
N. Laurel Elementary-			
Mechanical			
and Electrical Work	94,000	38,000	56,000
10) Appoquinimink			
Townsend Elementary			
School-			
Renovations	1,118,000	447,000	671,000
TOTAL	\$9,364,101	\$3,265,501	\$6,098,600

	State Funds
(h) University of Delaware	\$ 1,350,000
(i) Delaware State College	150,000
(j) Delaware Technical and Community College	268,300
GRAND TOTAL - STATE FUNDS	\$31,547,900

Section 9. The monies allocated in Section 8(d) of this Act shall be expended for highway construction or related purposes, but they shall not be used for office supplies or for office equipment and furnishings. The monies

authorized in Section 8(d) (8) of this Act and termed Engineering, Administrative Salaries, Surcharges, etc., shall be accounted for by project. No monies allocated in Section 8(d) shall be used to finance the rehabilitation and resurfacing of roads by the "tar-and-chip" method. No new non-corridor projects will be considered until the previous year's priority list of non-corridor projects has been considered, completed or bids awarded.

Section 10. (a) The sum of \$2,265,501 appropriated by Section 2 of this Act may be used for the costs of the purposes for which such local shares were authorized in the respective amounts allocated to each school district as follows:

Name of School District	Amount
(a) Lake Forest	
High School Addition	\$ 600,000
North Elementary Addition	37,000
(b) Newark	
Brookside-Heat Plant Replacement	42,000
Smith-Lighting	20,000
(c) State Board of Education	
Minor Capital Improvements	919,501
(d) Laurel	
Central Middle Elementary-Renovations	142,000
West Laurel Elementary-	
Mechanical and Electrical Work	20,000
North Laurel Elementary-	
Mechanical and Electrical Work	38,000
(e) Appoquinimink	
Townsend Elementary School-Renovations	447,000
TOTAL	<u>\$2,265,501</u>

(b) The said sum of \$2,265,501 or so much as may be necessary for carrying out the purposes of Section 2 of this Act shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29,

Delaware Code and Chapter 75, Title 29, Delaware Code where applicable but shall not be within any debt or other limitation of the State within the meaning of Subchapter II, Chapter 74, Title 29, Delaware Code.

(c) Any funds borrowed pursuant to Section 2 of this Act and remaining unexpended after the completion of the programs authorized by this Act and any funds borrowed for a school district pursuant to this Act and remaining unexpended because a project authorized by this Act is not timely undertaken shall be deposited in a special account for that school district and appropriated against their future capital improvement bond requirements. Any funds that shall accrue to any school district in this State from the Treasury of the United States for building purposes shall be deposited in the State Treasury and shall be allocated by the State Board of Education to the School District for which the funds are appropriated. The said funds shall be in addition to any other local share and/or State share.

Section 11. The sums of money appropriated and allocated for school construction purposes pursuant to Section 8(g) of this Act shall be expended in accordance with the provisions of this Act, and Chapter 75, Title 29, Delaware Code.

Section 12. No money appropriated and allocated by this Act for school construction purposes pursuant to Section 8(g) of this Act shall be expended for educational supplies of an expendable nature which are consumed or materially changed as they are used; provided, however, that nothing herein contained shall preclude the purchase of all education supplies necessary for the initial operation of schools so built, altered or added to in accordance with the provisions of the School Construction Capital Improvements Act, being, Chapter 75, Title 29, of the Delaware Code.

Section 13. (a) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education

and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 8(g) hereof as shall be necessary to provide for the customary audit function, but in no event, shall such allocation exceed one-half percent of such total cost. The State Auditor of Accounts shall be responsible for arranging the audit function in accordance with Section 2906 and Section 2907 of Title 29, Delaware Code.

(b) In compliance with Section 7526 of Title 29, Delaware Code, the State Board of Education and the local school districts shall allocate such portions of the total appropriation for the total cost of any school construction authorized by Section 8(g) hereof as shall be necessary to provide for the customary supervision (construction inspection services). The limitation of one percent prescribed in Section 7526 of Title 29, Delaware Code, for construction inspection services is hereby set aside and such allocation by the State Board of Education and the local school districts shall not exceed the following percentages:

- | | |
|--------------------------------------|---------------------|
| (1) Normal new construction | |
| in excess of \$1,000,000 | 1 ¼ % of total cost |
| (2) Small projects up to \$1,000,000 | 1 ½ % of total cost |
| (3) Reconstruction and renovations | 1 ½ % of total cost |

(c) In contracting for the supervision (construction inspection services) as prescribed in Section 13(b) hereinabove, the State Board of Education shall give first preference to an experienced Delaware organization, able to, and offering to provide quality service on a "non-profit, at cost" basis, and in so contracting it shall not be subject to the bidding laws as prescribed by Chapter 69, Title 29, Delaware Code. If no such organization is able to or is willing to offer to perform such specialized service on such "non-profit, at cost" basis, then the State Board of Education may contract for such services with profit making organizations on a bid basis as prescribed by Chapter 69, Title 29, Delaware Code.

Section 14. Any funds borrowed pursuant to this Act and remaining unexpended after the completion of the programs authorized by this Act and any funds borrowed pursuant to this Act and remaining unexpended because a project authorized by this Act is not timely undertaken, shall be deposited in a special account and applied, at the discretion of the State Treasurer with the approval of the Bond Issuing Officers, against future capital improvement bond and note requirements. All acts to the contrary notwithstanding.

Section 15. (a) The sum of \$1,500,000 appropriated by Section 8(g) (8) of this Act to the State Board of Education for minor capital improvements to school buildings, or so much thereof as shall be necessary to carry out the purpose of this Act, shall be paid by the State Board of Education to the local districts in the following amounts:

School District	Maximum Total Cost	Maximum State Share	Local Share
Alexis I. duPont	\$ 164,458	\$ 98,675	\$ 65,783
Alfred I. duPont	223,890	134,334	89,556
Appoquinimink	57,877	34,726	23,151
Claymont	58,700	35,220	23,480
Conrad Area	152,620	91,572	61,048
De La Warr	25,013	15,008	10,005
Marshallton-McKean	47,253	28,352	18,901
Mount Pleasant	64,512	38,707	25,805
New Castle-Gunning			
Bedford	174,285	104,571	69,714
Newark	260,002	156,001	104,001
Stanton	195,890	117,534	78,356
Wilmington	78,072	46,843	31,229
Caesar Rodney	55,178	33,107	22,071
Capital	122,161	73,296	48,865
Lake Forest	43,393	26,036	17,357
Milford	57,003	34,202	22,801
Smyrna	102,725	61,635	41,090
Cape Henlopen	15,300	9,180	6,120
Delmar	6,000	3,600	2,400

School District	Maximum Total Cost	Maximum State Share	Local Share
Indian River	51,068	30,641	20,427
Laurel	51,292	30,775	20,517
Seaford	73,440	44,064	29,376
Woodbridge	22,248	13,349	8,899
Bush School	1,500	1,500	-0-
Kent County Vo-Tech	14,880	14,880	-0-
New Castle Vo-Tech	39,395	39,395	-0-
Sterck	30,932	30,932	-0-
Sussex County Vo-Tech	3,354	3,354	-0-
Sub-Total	\$2,192,441	\$1,351,489	\$ 840,952
Vocational Equipment	139,010	95,681	43,329
State Board of Education	88,050	52,830	35,220
TOTAL	\$2,419,501	\$1,500,000	\$ 919,501

(b) The State Board shall in no case pay more toward the completion of the minor capital improvements for each school district as herein contemplated, than the total amounts designated as "Maximum State Share", nor less than sixty percent rounded to the nearest one hundred dollars of the final actual total costs when such total costs are less than the "Maximum Total Cost" herein designated. As is customary in the case of 100% State supported schools, 100% of the funds herein contemplated for such schools, shall be wholly provided by the State.

(c) The State Board shall establish criteria for the types of minor capital improvements which it will approve under this section. The State Board shall pay local districts only for the actual expenses of repairs and replacements of a capital nature which shall include but not be limited to the rebuilding or major repair of roofs, floors, heating systems, painting, electrical, and plumbing or water systems and facilities. The State Board shall in any case, pay only sixty percent of the total costs of such minor capital improvements.

(d) Before any minor capital improvements or repairs of a capital nature authorized by this section are undertaken by any school district, the school district shall send a request to the State Board of Education which request shall itemize the improvements or repairs needed and show the estimated cost of each item. The State Board, using the criteria established pursuant to subsection (c) of this section, shall decide as to the right of payment to the local school district and show the estimated cost of each item.

(e) In order to determine the right of payment to the school district under this section, the State Board, or its designated representative, shall:

(i) Inspect the building or buildings to determine that the minor capital improvements requested by the school district are needed and are in accordance with the criteria established pursuant to subsection (c) of this section;

(ii) Provide necessary help to the school district for letting of bids on repairs or replacements meeting the aforesaid criteria;

(iii) Inspect the improvements upon completion to determine that all specifications have been met and that the work and materials used are of acceptable quality; and

(iv) Pay the State's share of the cost of the improvements or repairs made by the school district in accordance with the provisions of this section after the improvements or repairs are accepted as meeting all specifications as to workmanship and materials and when the school district's share has been deposited with the State Treasurer in accordance with the provisions of this section.

(f) The State Board of Education shall, if and when the criteria established in this section are met, pay the school district for the school building improvement, except that the amount paid to each school district shall not be in excess of 60 percent of the total cost.

(g) Any school district may levy and collect a tax to pay their 40 percent share of the cost of the minor capital improvements authorized by this section. Such taxes shall be collected by local taxation within the school district according to the provisions set forth in Chapter 19, Title 14, of the Delaware Code.

(h) Any school district, as an alternate to the levy and collection of a tax to pay its 40 percent share as provided in (g) above, may authorize the issuance of bonds to pay its 40 percent share of the cost of the minor capital improvements authorized by this section, pursuant to Chapter 21, Title 14, Delaware Code. In the event that such share is to be raised by the alternate method herein permitted, the provisions of Section 7507, Chapter 75, Title 29, Delaware Code, shall apply.

(i) The provisions of Chapter 75, Title 29, Delaware Code, shall not apply to the minor capital improvements authorized by this section except for the applicability of Section 7507 of said Chapter as provided in (h) above.

Section 16. The sum of \$700,000 appropriated by Section 8(g) (8) of this Act to the State Board of Education for "School Building Maintenance", shall be allocated to the school districts in accordance with the following provisions:

(a) The maximum allocation to any district shall be the sum of the allotments for each school building in the district based upon the following formula: \$9 for each year since the date of pupil occupancy of the building up to a maximum of 30 such years multiplied by the full number of units of 25 pupils in the building on a full-time basis as of September 30, 1975.

(b) The allotment for each school district as computed in (a) of this section shall be expended only for the purpose of maintenance of buildings and such integral parts as the heating plant, plumbing and electrical system, painting; it shall not be used for the purchase of routine

janitorial supplies, upkeep of grounds nor the repair of any equipment not a basic part of the building.

(c) Before the State Board of Education shall make any allotment pursuant to this section, it shall require that the school district submit a plan of the maintenance and the estimated cost thereof.

(d) The State Board of Education shall establish such rules and regulations as it deems necessary to assure that the purpose of this appropriation is carried out.

Section 17. No funds appropriated by this Act to the Department of Natural Resources and Environmental Control for land acquisition can be expended without prior approval by the State Planning Office with respect to compliance with the Delaware Development Plan. In addition, no land purchase in excess of \$50,000 shall be contracted by the Department of Natural Resources and Environmental Control, without prior approval of the General Assembly; provided however, that the Department of Natural Resources and Environmental Control shall not be prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures.

Section 18. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after June 30, 1982, except as provided in Chapter 75, Title 29, Delaware Code.

Section 19. All monies appropriated by this Act shall be considered to be in compliance with and shall be expended in accordance with the intent of the 1977 Annual Capital Projects Schedule, as amended.

Section 20. All State departments and agencies shall submit all architectural, structural, electrical, and mechanical plans, specifications and cost estimates during the design and development phases and prior to bid to the State Architect. The State Architect shall be responsible for reviewing and approving these plans prior to bid advertisement and no construction contracts (except Highway construction contracts and school district minor cap-

ital improvements) shall be executed without the prior approval of the State Architect.

Section 21. No bonds or notes shall be issued or sold, or monies borrowed on behalf of this State, pursuant to this Act, without the full guarantee to the buyer that the State of Delaware is an equal opportunity employer.

Section 22. Each State agency and institution of higher learning receiving funds by this Act must, on a semi-annual basis beginning with June 30, 1975, report to the State Planning Office the status of every capital improvement project for which they have received funds either in this Bond Act or in any previous Bond Act and for which the project is not complete as of the effective date of this Act.

Section 23. (a) There shall be established under this Act a "Capital Improvement Review Board," which shall be responsible for monitoring the budget and planned expenditure as set forth by any agency or school district on the individual projects authorized by this Act, except school district minor capital improvement projects. The Board shall be composed of the following: The State Architect, The Auditor of Accounts, The Secretary of Finance, The State Treasurer, The State Planner. The Secretary of Finance shall serve as Chairman of the Board. The Chief Administrative Officer of each agency or school district, shall participate and have a vote in the decisions of the Board as pertains to their particular agency or school district projects.

(b) The Board also shall have the authority and responsibility to determine the beneficial completion date of each individual project authorized under this Act and as excepted under paragraph (a) of this section. Recognition shall be given to contracts, construction delays and/or other conditions which may affect the completion date. The Board shall cause to revert any unexpended funds to the appropriate special accounts as provided in Section 10 (c) and Section 14 of this Act upon completion of any individual project.

(c) Any bonds or notes of the State authorized or issued pursuant to Section 5 and Section 10 of this Act shall include one quarter of one percent of the total appropriation to provide for the costs incurred by the Board in carrying out its mandated responsibilities.

(d) The Board shall advise the Governor, Members of the General Assembly, and the Controller General on a quarterly basis as to status of each individual project. The report shall note any unusual condition concerning the project.

Section 24. This Act may be known, styled or referred to at the "Annual Capital Improvements Act of 1977".

Section 25. The State share apportioned to a school district by such school construction bond authorized by this Act shall not be expended unless the local share for such school district shall have been deposited with the State Treasurer not later than two years after the effective date of this Act.

Section 26. Notwithstanding the provision of Section 9133, Chapter 91, Title 29 of the Delaware Code, the Secretary of Finance is not required to refund the \$150,000 advanced to Delaware State College for land acquisition and the \$42,000 advanced to Delaware Technical and Community College for land acquisition to the "Advanced Land Acquisition Fund" from the proceeds of this bond bill.

Section 27. Chapter 369, Volume 56, Laws of Delaware is hereby amended by striking it in its entirety.

Section 28. Volume 57, Laws of Delaware, Chapter 299, Section 7 (b) is hereby amended by striking therefrom the amount of \$650,000 and substituting in lieu thereof the amount of \$300,000 and adjusting the totals accordingly.

Section 29. Chapter 306, Volume 57, Laws of Delaware is hereby amended by striking it in its entirety.

Section 30. Chapter 320, Volume 57, Laws of Del-

aware is hereby amended by striking the figure \$6,700,000 wherever the same may appear and substitute in lieu thereof the figure \$4,393,000.

Section 31. Amend Section 10, Chapter 736, Volume 57, Laws of Delaware, by striking subsections (f), (j), and (l) and substitute in lieu thereof the new subsections (f), (j), and (l) to read as follows:

	Total Cost	Local Share	State Share
“(f) Lake Forest	\$1,006,333	\$ 402,333	\$ 604,000
(j) New Castle Gunning-Bedford	3,461,000	1,384,000	2,077,000
(l) Stanton	634,000	161,000	473,000”

Section 32. Volume 58, Laws of Delaware, Chapter 347, Section 10 (g) is hereby amended by striking the State Share amount of \$1,619,000 and substituting in lieu thereof the amount \$1,500,000. The amounts for Total Cost, State Share and down totals should be adjusted accordingly.

Section 33. Volume 58, Laws of Delaware, Chapter 347, Section 10 (h) is hereby amended by striking the State Share amount of \$3,081,000 and substituting in lieu thereof amount of \$461,000. The amounts for Total Cost, State Share and down totals should be adjusted accordingly.

Section 34. Volume 58, Laws of Delaware, Chapter 347, Section 7 (g) is hereby amended by striking therefrom the amount of \$12,791,100 and substituting in lieu thereof the amount of \$10,052,100 and adjusting the total accordingly.

Section 35. Volume 58, Laws of Delaware, Chapter 347, Section 10 is hereby amended by striking therefrom the amount of \$12,791,100 appearing in the first sentence thereof and substituting in lieu thereof the amount of \$10,052,100.

Section 36. Section 11, Chapter 223, Volume 59, Laws of Delaware is hereby amended by striking subsection (i) in its entirety.

Section 37. Funds appropriated in Section 8, Paragraph (d), Chapter 271, Volume 60, Laws of Delaware also known as the Capital Improvement Act of 1976, for the construction of Women's Prison, and Comegys replacement which remain unexpended shall be used for the purpose of constructing a new Maximum Security Building at the Delaware Correctional Center. The funds which remain are approximately \$1,500,000 from the original appropriation of \$1,600,000.

1977 ANNUAL CAPITAL PROJECTS SCHEDULE To Be Financed Through General Obligation Bonds

Department of Administrative Services	\$ 18,000
Department of Corrections	1,973,000
Department of Health and Social Service	1,905,000
Department of Highways and Transportation	16,486,000
Department of Natural Resources and Environmental Control	3,235,000
Department of State	64,000
State Board of Education	6,098,600
Delaware State College	150,000
Delaware Technical and Community College	268,300
University of Delaware	1,350,000
TOTAL Capital Budget	\$31,547,900
"Deauthorized" Projects	5,899,700
TOTAL	\$25,648,200

1977 ANNUAL CAPITAL PROJECTS SCHEDULE

Agency and Project Identification	State Share	Total
DEPARTMENT OF ADMINISTRATIVE SERVICES		
Replacement Arden Building Roof	\$ 18,000	
Sub-Total		\$ 18,000

Agency and Project Identification	State Share	Total
DEPARTMENT OF CORRECTIONS		
Delaware Correctional Center- Three Prefabricated Buildings	\$500,000	
Delaware Correctional Center-New Maximum Security Building	750,000	
Planning, engineering and feasibility study for the placement of a Women's Correctional Institution	500,000	
Former Kent County Correctional Center-Renovations	100,000	
Delaware Correctional Center - Sewage Bridge House - Security Improvements	70,000 25,000	
Woods Haven-Kruse School - Fire Detection and Safety System (Bancroft, Mahaffey School Building)	15,000	
Woods Haven-Kruse School - Downspouts (Bancroft, Mahaffey and Garage Building)	13,000	
Sub-Total		\$1,973,000
DEPARTMENT OF HEALTH AND SOCIAL SERVICES		
Hospital for the Mentally Retarded-Life Safety, Electric Generators, Fire Alarm, Fire Doors	\$275,000	
Governor Bacon Health Center-Electrical Loop	218,000	
Delaware Hospital for the Chronically Ill-Electrical Feed	160,000	
Roof Repair	72,000	
Delaware Hospital for the Chronically Ill-Minor Capital Improvements	60,000	
Roadway and Parking Facility Repair and Installation of Safety Con- trols, etc. on Hospital Boilers	13,000	
Sussex Service Center-Georgetown Sewer	100,000	
Delaware State Hospital- Renovate CT Building	500,000	
Delaware State Hospital Minor Capital Improvements		
Roof Repairs		
Housekeeping Warehouse	\$ 4,000	
R.E. Building	13,000	
Springer Building, Section A	24,000	
Comegys Building	15,000	

Agency and Project Identification	State Share	Total
DEPARTMENT OF HEALTH AND SOCIAL SERVICES		
(Continued)		
Rebuild No. 3 Boiler	25,000	
Replace Carpeting, Kent-2, Carvel Building	19,000	
Replace Floor Tile, Main Building	57,000	
Renovate Banton Building	350,000	
Sub-Total		\$1,905,000
DEPARTMENT OF HIGHWAYS AND TRANSPORTATION		
Corridor Projects Rt. 141		
Prices Corner Phase III	\$1,800,000	
Rt. 141-Kennett Pike Inter-change Phase II	860,000	
Third Street Bridge Wilmington Super structure	1,500,000	
Concord Pike, Murphy Road-Talleyville	2,407,000	
Interstate 95-Widening and Reconstruction Christina River Bridge, Mill Creek Bridge, R.R. Bridge, Roadway, Christina Intersection to S. Wilmington Viaduct	445,000	
Safety Projects-Statewide	250,000	
Rt. 7-I-95 to Christina (Old Road)	350,000	\$7,612,000
Non-Corridor Projects S. Chapel Street		
S. Chapel Street Railroad Overpass	\$430,000	
duPont Road Overpass Phase I	650,000	
Rt. 4-Rt. 2 to Rt. 896 Phase II	910,000	
Ruthar Drive Extended-Rt. 273 to Red Mill Road PE & Right of Way	250,000	
Saulsbury Road, Dover-Rt. 8 to Walker Road	208,000	
Stein Highway, Seaford- Tulls Crossing to W. City Limits	600,000	\$3,048,000
Intersection Improvements		
Cleveland Avenue, Newark	\$ 150,000	
Rt. 41 and Greenbank Road	200,000	\$ 350,000
Miscellaneous Small Projects Maryland		

Agency and Project Identification	State Share	Total
DEPARTMENT OF HIGHWAYS AND TRANSPORTATION (Continued)		
Avenue, Lancaster Avenue to Broom Street	\$ 175,000	
Old Mill Road, Friends Meeting Road, Bengé Road	272,000	
Bulkhead-Rip-Rap Recreation (Port Penn)	<u>100,000</u>	\$ 547,000
Dirt Road Program		1,000,000
Suburban Street Improvements		
Wilmington Manor (East)	\$ 60,000	
Haines Avenue, Gordon Heights	99,000	
Springfield Avenue, Hillcrest	51,000	
Grandview Avenue, Gordon Heights	46,000	
Lighthouse Road, Gordon Heights	73,000	
Princess Avenue, Washington Avenue, Capital Drive in Con- cord Manor, Cherry Drive in McDaniel Heights	120,000	
Minquadale	150,000	
Ashley, Ashley Heights	150,000	
Woodcrest	150,000	\$ 899,000
Suburban Drainage Program Polk Dr.	\$ 30,000	
Engineering, Administrative Salaries, Surcharges, etc.	<u>3,000,000</u>	
Sub-Total		\$16,486,000

**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

Fort Delaware Visitors Center	\$ 400,000
Solid Waste Reclamation Plant	1,500,000
Bulkheading South Bethany Beach	50,000
Lums Pond	490,000
Killens Pond	280,000
Beach Erosion Control	250,000

Agency and Project Identification	State Share	Total
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DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL (Continued)

Mud Mill Pond Dam	110,000	
Craig's Pond Dam	55,000	
Baltimore Mills Pond	100,000	
Sub-Total		\$3,235,000

DEPARTMENT OF STATE

Abbotts Mill	\$ 5,000	
Dickinson Mansion	10,000	
Zwaanendael Museum	6,000	
Octagonal School	3,000	
Odessa Methodist Church		
State Museum	40,000	
Sub-Total		\$ 64,000

STATE BOARD OF EDUCATION

	Total Cost	Local Share	State Share
Kent Vo-Tech	\$ 272,000	\$ -0-	\$ 272,000
Lake Forest High School			
Addition	1,499,000	600,000	899,000
North Elementary Addition	92,000	37,000	55,000
Newark			
Brookside-Heat Plant			
Replacement	105,000	42,000	63,000
Smith-Lighting	50,000	20,000	30,000
New Castle Vo-Tech			
Storage Building and Altera- tions	75,000	-0-	75,000
Wilmington			
P.S. duPont High School- Renovations	2,500,000	1,000,000	1,500,000
Conrad Area			
Reimburse Land			
Acquisition Fund	\$ 16,200	\$ -0-	\$ 16,200
Indian River			
Reimburse Land			
Acquisition Fund	17,400	-0-	17,400

Agency and Project Identification	Total Cost	Local Share	State Share
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STATE BOARD OF EDUCATION (Continued)

State Board of Education			
Minor Cap. Improvements	2,419,501	919,501	1,500,000
School Bldg. Maintenance	700,000	-0-	700,000
Laurel			
Central Middle Elementary- Renovations	355,000	142,000	213,000
West Laurel Elementary- Mechanical and Electrical Work	51,000	20,000	31,000
North Laurel Elementary- Mechanical and Electrical Work	94,000	38,000	56,000
Appoquinimink			
Townsend Elementary School- Renovations	1,118,000	447,000	671,000
Sub-Total	<u>\$9,364,101</u>	<u>\$3,265,501</u>	<u>\$ 6,098,600</u>

	State Share	Total
DELAWARE STATE COLLEGE		
Health and Physical Education Facilities	<u>\$ 150,000</u>	
Sub-Total		\$ 150,000
DELAWARE TECHNICAL AND COMMUNITY COLLEGE	\$ 200,000	
Wilmington Campus	18,300	
Stanton Campus Equipment	<u>50,000</u>	
Southern Campus Parking		
Sub-Total		\$ 268,300
UNIVERSITY OF DELAWARE	\$ 950,000	
Life Science-Equipment		
Agricultural Science Building- Design	<u>400,000</u>	
Sub-Total		<u>\$ 1,350,000</u>

GRAND TOTAL-State Funds

\$31,547,900

**PROJECT AUTHORIZED AND UNISSUED-ABANDONED
AND/OR COMPLETED AND REMAINING
AUTHORIZATION NOT REQUIRED**

	Vol. & Chap.		Unissued Amount
Mill Creek Flood Control Project 1969	56	369	\$ 500,000
Electric Distribution System			
Capitol Complex 1970	57	299	330,000
Central Heating and Air Conditioning			
Capitol Complex 1970	57	299	20,000
Supp. to Sewage Disposal Bonds of			
1965	57	306	200,000
School Escalation Costs 1970	57	320	1,306,700
New Castle Gunning Bedford			
High School Addition 1971	57	736	429,000
Stanton-Classroom and Food Service			
Meadowood 1971	57	736	78,000
Lake Forest-Add Rooms Frederica 1971	57	736	82,000
New Castle Gunning Bedford			
Elementary School Design and			
Construction 1972	58	347	119,000
Newark-Middle School 1972	58	347	2,620,000
Indian River Planning	59	223	215,000
TOTAL			<u>\$5,899,700</u>

Approved August 3, 1976

CHAPTER 692

HOUSE BILL NO. 623

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY AND TO ISSUE BONDS AND NOTES THEREFOR; AND APPROPRIATING THE FUNDS THUS OBTAINED TO THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, WHICH FUNDS SHALL BE EXPENDED IN ACCORDANCE WITH THE PURPOSES OF THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members to each House thereof concurring therein):

Section 1. There is hereby appropriated to the Division of Soil and Water Conservation of the Department of Natural Resources and Environmental Control the sum of five hundred thousand dollars (\$500,000.00) or so much thereof as the Division deems necessary for carrying out the purposes of this Act, which money shall be used in accordance with the provisions of Section 6 and Section 7 of this Act.

Section 2. The sum of five hundred thousand dollars (\$500,000.00) or so much thereof as may be necessary for carrying out the purposes of this Act shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29 of the Delaware Code, where applicable.

Section 3. There is hereby appropriated from the General Fund of the State of Delaware such sums as may be necessary for the expenses incident to the issuance of

the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any funds received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 4. The Governor, Secretary of State and State Treasurer of the State of Delaware as Issuing Officers are hereby authorized, fully empowered and directed upon their joint signatures to borrow such sums as are set forth by this Act.

Section 5. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for each subsequent fiscal year or biennium, shall contain under the Debt Service Appropriation provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by Constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Section 6. The sum of five hundred thousand dollars (\$500,000.00) and any funds subsequently appropriated for this purpose is hereby appropriated to the Division of Soil and Water Conservation of the Department of Natural Resources and Environmental Control, to be expended in accordance with the purposes of the Watershed Protection and Flood Prevention Act (P.L. 566, 83rd Con-

gress, 68 St. 666 and P.L. 1018, 84th Congress, 70 St. 1088), in the manner set forth in Section 7 of this Act.

Section 7. The funds herein appropriated shall be placed in a revolving fund administered by the Division of Soil and Water Conservation, to be expended in the purchase of heavy earth-moving and other machinery and equipment needed in the soil conservation work of this State. Each Conservation District may, upon application to the Division, borrow from the revolving fund for the purchase of such earth-moving and other machinery and equipment needed for soil conservation work.

Soil conservation equipment and machinery purchased by a District with money from the revolving fund shall become the property of such District upon repayment to the revolving fund of the total sum allocated to the county for purchase of the machinery and equipment. For the purpose of such repayment, each District shall be allowed a maximum term of five years from the date money is received by the District from the revolving fund.

Until all loans made against the revolving fund have been paid in full such loans shall be considered a lien against said equipment by the State of Delaware and shall be satisfied before the sale of such equipment may be made.

Approved August 3, 1976

CHAPTER 693

SENATE BILL NO. 812

**AN ACT TO AUTHORIZE AND APPROVE THE
TRANSFER OF CERTAIN REAL PROPERTY BY
THE STATE BOARD OF EDUCATION TO THE
DEPARTMENT OF ADMINISTRATIVE SERVICES
FOR SALE TO A CHARITABLE ORGANIZATION
FOR A NOMINAL PRICE.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. The transfer and conveyance of real property formerly known as the Viola School No. 156 site on Plymouth Bear Chapel Road to the Department of Administrative Services for sale to "The Church of God in Christ, Inc." for consideration of one dollar (\$1.00) is hereby approved.

Section 2. The Department is hereby authorized and empowered to execute and deliver to "The Church of God in Christ, Inc." a good and sufficient deed transferring and conveying said real property in accordance with the provisions of §4520, Chapter 45, Title 7 of the Delaware Code. The property shall be used for religious programs and activities.

Section 3. In the event that the Viola School No. 156 site is no longer utilized for religious activities and programs of "The Church of God in Christ, Inc.", the land authorized to be transferred and conveyed by this Act shall automatically revert to the State of Delaware, and the deed conveying the said land shall contain a reverter provision to this effect.

Approved August 3, 1976

CHAPTER 694

SENATE BILL NO. 805

AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND SUBCHAPTER II, CHAPTER 83,
TITLE 11, DELAWARE CODE, RELATING TO
PENSIONS BENEFITS FOR DELAWARE STATE
POLICE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §8323 of Subchapter II, Chapter 83, Title 11, Delaware Code by adding thereto a new paragraph to be designated as paragraph (h) to read as follows:

“(h) No retired member of the Uniformed Division, Delaware State Police, entitled to receive a pension under (a) of this Section, shall receive a monthly pension less than any retiree on the retired rolls from the immediately prior retiring class, and of the same active duty rank, if such difference is solely the result of a cost of living increase granted to such retiree.”

Approved August 5, 1976

CHAPTER 695

SENATE BILL NO. 814
AS AMENDED BY SENATE AMENDMENT NO. 1

**AN ACT TO AMEND SUBCHAPTER II OF CHAPTER
83, TITLE 11, DELAWARE CODE RELATING TO
THE POLICE RETIREMENT FUND.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend §8322 of Subchapter II, Chapter 83, Title 11, Delaware Code by striking the figure "2" as the same appears in the second and third sentence of said section and substituting in lieu thereof the figure "5".

Section 2. This Act shall become effective for the pay period beginning July 1, 1977.

Approved August 5, 1976

CHAPTER 696

SENATE BILL NO. 815
AS AMENDED BY SENATE AMENDMENT NO. 1**AN ACT TO AMEND PART V, SUBCHAPTER 1,
CHAPTER 83, TITLE 11, DELAWARE CODE,
RELATING TO SALARIES OF STATE POLICE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §8303, Part V, Subchapter 1, Chapter 83, Title 11, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new section 8303 to read as follows:

§8303. Salaries.

Each of the State Police shall receive a salary in accordance with the following State Police compensation schedule:

STATE POLICE COMPENSATION SCHEDULE

	Trooper	Trooper I C	Corporal	Sergeant	Lieutenant	Captain	Staff Captain	Major
1	11,340							
2	11,540							
3	11,740							
4	11,940	13,140						
5	12,140	13,440						
6	13,140	13,740	14,314					
7	13,140	14,740	15,314					
8	13,140	14,740	15,314	15,750				
9	13,840	14,740	15,314	15,750				
10	13,840	15,240	15,814	16,450	17,308			
11	13,840	15,240	15,814	16,450	17,308			
12	14,540	15,240	15,814	17,050	18,108	19,313		
13	14,540	15,740	16,414	17,050	18,108	19,313		
14	14,940	15,940	16,914	17,650	18,908	20,113	21,113	
15	14,940	15,940	16,914	17,650	18,908	20,113	21,113	22,613
16	15,140	16,140	17,114	18,250	19,608	20,813	21,813	23,313
17	15,340	16,340	17,314	18,250	19,608	20,813	21,813	23,313
18	15,540	16,540	17,514	18,750	20,208	21,413	22,413	23,913
19	15,740	16,740	17,714	18,750	20,208	21,413	22,413	23,913

Superintendent-\$26,538 prior to 17 years of service and \$28,538 thereafter

Deputy Superintendent-\$24,538 prior to 17 years of service and \$26,038 thereafter

Years of service commenced as of anniversary date of hire "

Section 2. The effective date of this Act is July 1, 1977.

Approved August 5, 1976

CHAPTER 697

HOUSE BILL NO. 849
AS AMENDED BY HOUSE AMENDMENT
NOS. 2 and 7**AN ACT AMENDING TITLE 30, CHAPTER 13, OF
THE DELAWARE CODE BY REPEALING AND
REVISING CERTAIN LAWS RELATING TO IN-
HERITANCE TAX.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 13, Title 30 of the Delaware Code by striking said chapter in its entirety and inserting in lieu thereof a new Chapter 13 to read as follows:

**CHAPTER 13. INHERITANCE TAX.
SUBCHAPTER I. PROPERTY SUBJECT TO TAX.****§1301. Definitions.**

“Executor” means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting in the State of Delaware, then any person in actual or constructive possession of any property of the decedent.

“Gross Estate” of a decedent means the fair market value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, to the extent so provided in this chapter.

“Beneficiary” means any heir, legatee, devisee, grantee or other person who receives or is entitled to property which is included in the gross estate of the decedent under the provisions of this chapter.

“Personal property” means all kinds of personal property whether tangible or intangible except tangible per-

sonal property having a situs without this State, unless otherwise specified.

“Real property” means real property situated within this State, but not real property situated without this State unless otherwise specified.

§1302. Property Included in Gross Estate; Resident Decedent.

The gross estate of a decedent who at the time of his death was a resident of this State shall include, to the extent provided for in this Chapter, the value of all real and personal property to the extent of the interest therein of the decedent at the time of his death.

§1303. Property Included in Gross Estate; Non-Resident Decedents.

The gross estate of a decedent who at the time of death was not a resident of this State shall include, to the extent provided for in this Chapter, the value of all real and tangible personal property having an actual situs in this State to the extent of the interest therein of the decedent at the time of his death.

§1304. Powers of Appointment.

(a) The value of the gross estate shall include the value of all property with respect to which the decedent exercised or released effective upon his death a general power of appointment, or with respect to which the decedent at any time exercised or released a general power of appointment, either in whole or in part and irrespective of the means by which such exercise or release was accomplished if such property would have been included in the gross estate had it been owned by the decedent.

(b) The value of the gross estate shall include the value of property with respect to which the decedent exercised a general power of appointment within six months of

his death if the property affected by such exercise would have been subject to the provisions of §1306 of this title had such property been owned by the decedent at the time of such exercise and had been transferred by him at that time.

(c) The value of the gross estate shall include the value of property with respect to which the decedent at any time exercised a general power of appointment if the property affected by such exercise would have been subject to the provisions of §1307 of this title had such property been owned by the decedent at the time of his death or if possession or enjoyment of the property can, through ownership of such interest, be obtained by anyone only by surviving the decedent.

(d) A disclaimer or renunciation, or lapse of a general power of appointment shall not be deemed to be an exercise or release of such power.

(e) For purposes of this chapter the term "general power of appointment" means a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate; except that a power of appointment which is exercisable by the decedent only in conjunction with another person who is either the creator of the power or who has a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent shall not be deemed a general power of appointment.

(f) The value of property with respect to which the decedent possessed a power of appointment other than a general power of appointment as herein defined and the value of property with respect to which decedent possessed but did not exercise or release a general power of appointment shall not be included in the value of the gross estate of the decedent.

§1305. Jointly Owned Property.

The gross estate shall include the value of all property to the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety, or deposited with any banking institution or depository in the joint names of the decedent and any other person and payable to either or the survivor, except such part thereof as may be proved to have originally belonged to such other person or never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth; provided, nevertheless, for up to \$200,000 of the value of real property held by the decedent and his or her surviving spouse as tenants by the entirety and other personal property jointly owned by the decedent and his or her surviving spouse, one-half the value of such property shall be conclusively presumed to have been acquired from the decedent by the surviving spouse for an adequate and full consideration in money or money's worth.

§1306. Transfers in Contemplation of Death.

(a) General Rule -- The value of the gross estate shall include the value of all property to the extent of any interest therein, of which the decedent has made any transfer in the nature of a final disposition or distribution thereof (except in the case of a bona fide sale for an adequate and full consideration in money or moneys' worth) in contemplation of death.

(b) Application of general rule -- If the decedent, within a period of six months ending with the date of his death (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth), transferred an interest in property or exercised or released a general power of appointment, such exercise or transfer or release shall, unless shown to the contrary, be deemed to have been in contemplation of death within the meaning of this section and §§1304 and 1308 (relating to powers of appointment and revocable transfers); but no such exercise

or transfer or release made before such six month period shall be treated as having been made in contemplation of death.

§1307. Transfers taking Effect at or after Death.

The gross estate shall include the value of all real and personal property to the extent of the interest therein of which the decedent at any time made a transfer by deed, grant, gift or settlement (except in cases of a bona fide purchase for adequate and full consideration in money or money's worth" intended to take effect in possession or enjoyment at or after the death of the grantor, donor, or settlor to any person, body politic or corporate, whether resident or non-resident of this State, in trust or otherwise.

§1308. Revocable Transfers.

(a) General Rule -- The value of the gross estate shall include all property to the extent of any interest therein of which decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power by the decedent alone or by the decedent acting with any other person (unless such other person is a person having a substantial interest in the property, subject to the power, which is adverse to the exercise of the power in favor of the decedent), to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of decedent's death.

(b) Date of Existence of Power -- For purposes of subsection (a), the power to alter, amend, revoke, or terminate shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice of even though the alteration, amendment, revocation or termination takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date

of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose, if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.

(c) For the purposes of Subsection (a) hereof, no relinquishment of a power shall be deemed to be in contemplation of death unless such relinquishment was perfected by the decedent within six months prior to his death.

§1309. Annuities.

(a) General Rule -- The value of the gross estate shall include the value of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent under any form of contract or agreement (other than as insurance under policies on the life of the decedent), if, under such contract or agreement, an annuity or other payment was payable to the decedent during lifetime, or the decedent possessed the right to receive such annuity or payment, either alone or in conjunction with another for his life or for a period not ascertainable without reference to his death or for any period which does not, in fact, end before his death.

(b) Amount Includible -- Subsection (a) shall apply to only such part of the value of the annuity or other payment receivable under such contract or agreement as is proportionate to that part of the purchase price therefore contributed by the decedent. For the purposes of this section, any contribution by the decedent's employer or former employer to the purchase price of such contract or agreement (whether or not to an employee's trust or fund forming a part of a pension, annuity, retirement, bonus or profit sharing plan) shall be considered to be contributed by the decedent if made by reason of his employment.

(c) Exemption of Annuities under Certain Trusts and Plan--Notwithstanding the provisions of this section or of any provisions of law, there shall not be deemed to be a transfer from any decedent the value of an annuity or other payment received by any beneficiary (other than the executor or administrator of the decedent's estate) under any arrangement referred to in §2039 of the Federal Internal Revenue Code as presently enacted or hereafter amended, or any successor to such section relating to similar subject matter except to the extent that such annuities are includible under the applicable provisions of the Federal Internal Revenue Code in effect at the time of decedent's death as a part of the gross estate of such decedent.

§1310. Proceeds of Life Insurance.

(a) The gross estate shall include the value of all property to the extent of the amount receivable by the estate as insurance under policies on the life of the decedent.

(b) The proceeds of policies of life insurance otherwise than to the estate of the insured and whether paid directly by the insurer to beneficiaries designated in the policies or to a trustee, testamentary or inter vivos, designated therein and held, managed and distributed by such trustee to or for the benefits of such persons or classes of persons under such plan and in such estates as may have been prescribed by the insured under agreement with such trustee shall be exempt from and not subject to the provisions of this chapter.

§1311. Transfers for Insufficient Consideration.

(a) In General -- If any one of the transfers, trusts, interests, rights or powers enumerated and described in §§1304 and 1306 to 1308 inclusive is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the

fair market value at the time of death of the owner of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

(b) Marital Rights Not Treated as Consideration -- For purposes of this chapter, a relinquishment or promised relinquishment of dower or curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property, or estate, shall not be considered to any extent a consideration "in money or money's worth."

§1312. Prior Interests.

Except as otherwise specifically provided therein, §§1304 to 1311 inclusive, shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whenever made, created, arising, existing, exercised, or relinquished.

§1313. Exemption -- Charitable, Educational, Religious, Etc. Bequests.

The value of any property, estate or interest devised or bequeathed for charitable, educational, library, hospital, historical or religious purposes or for purposes of public benefit or improvement, shall not be included in the gross estate of the decedent and shall not be subject to the taxes imposed in this chapter.

SUBCHAPTER II. RATES AND DETERMINATION OF TAX.

§1321. Basis of Computation of Tax -- Definition of Beneficiary's Net Taxable Share of the Gross Estate.

(a) For purposes of the tax imposed by §1322 of this chapter, each beneficiary's net taxable share of the gross

estate shall be determined by deducting from the value of the property included in the gross estate to which the beneficiary is entitled, that portion of the deductions provided in §1323, which are properly allocable or attributable to or charged against such property.

(b) The rates of tax imposed by §1322 of this chapter shall be the rates in effect as of the date of decedent's death.

§1322. Tax Imposed.

A tax computed at the following rates is hereby imposed on the transfer to each beneficiary of his net taxable share of the gross estate as determined in accordance with §1321:

Class A. Where the property or any interest or estate therein passes to or for the use of the husband or wife of the decedent, the tax on such property, interest or estate shall be at the following rates:

On that part of its value exceeding \$70,000 and not exceeding \$100,000, two per cent;

On that part of its value exceeding \$100,000 and not exceeding \$200,000, three per cent;

On that part of its value exceeding \$200,000, four per cent;

Class B. Where the property or any interest or estate therein passes to or for the use of a parent, grandparent, child by birth, wife or widow of a son or the husband or widower of a daughter, a child by legal adoption, or the lineal descendant of the decedent, the tax on such property, interest or estate shall be at the following rates:

On that part of its value exceeding \$3,000 and not exceeding \$25,000, one per cent;

On that part of its value exceeding \$25,000 and not exceeding \$50,000, two per cent;

On that part of its value exceeding \$50,000 and not

exceeding \$75,000, three per cent;

On that part of its value exceeding \$75,000 and not exceeding \$100,000, four per cent;

On that part of its value exceeding \$100,000 and not exceeding \$200,000, five per cent;

On that part of its value exceeding \$200,000, six per cent.

Class C. Where the property or any interest or estate therein passes to or for the use of (1) a brother, or sister, either of the whole or half blood of the decedent, or a lineal descendant of any such brother or sister of the whole or half blood of the decedent, (2) a brother or sister of decedent's parent or the child or children of any brother or sister of the decedent's parent, the tax shall be at the following rates:

On that part of its value exceeding \$1,000 and not exceeding \$25,000, five percent;

On that part of its value exceeding \$25,000 and not exceeding \$50,000, six percent;

On that part of its value exceeding \$50,000 and not exceeding \$100,000, seven percent;

On that part of its value exceeding \$100,000 and not exceeding \$150,000, eight percent;

On that part of its value exceeding \$150,000 and not exceeding \$200,000, nine percent;

On that part of its value exceeding \$200,000, ten percent.

Class D. In case of property or any interest or estate therein passing to or for the use of any person, not described in Class A, Class B or Class C of this section, the tax shall be at the following rates:

On that part of its value not exceeding \$25,000, ten percent;

On that part of its value exceeding \$25,000 but not exceeding \$50,000, twelve percent;

On that part of its value exceeding \$50,000 but not

exceeding \$100,000, fourteen percent;

On that part of its value exceeding \$100,000, sixteen percent.

§1323. Deductions Allowable in Determining Value of Each Beneficiary's Taxable Share of the Net Estate.

(a) In determining the value of each beneficiary's net taxable share of the gross estate, the deductions allowable from the value of property included in the gross estate to which the beneficiary is entitled, shall be:

- (1) Funeral expenses;
- (2) Administration expenses;
- (3) Claims against the estate;

(4) Unpaid mortgages on, or any indebtedness in respect of, property included in the value of the gross estate, the amount of such mortgage or indebtedness to be limited to that proportion of such mortgage or indebtedness as the decedent's interest in such property included in the gross estate bears to the total value of such property.

(b) Where any property, real, personal or mixed, which can be identified as having been received by the decedent, or to which he is entitled, as beneficiary of the estate of any person who died within two years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received, if an inheritance tax under this chapter was collected from such estate, and if such property is included in decedent's gross estate, a deduction of an amount equal to the value of such property at the time of the prior decedent's death shall be allowed.

(c) In determining the value of each beneficiary's net taxable share of the gross estate no deduction shall be allowed by reason or on account of the payment, or liabi-

lity for payment, of any Delaware inheritance tax, or of any Delaware estate tax, or of any estate, inheritance, legacy or succession tax of the United States or of any state or jurisdiction outside of this State.

§1324. Credit for Gift Tax.

(a) In General -- If a tax on a transfer of property by gift has been paid under Chapter 14 of this Title, and thereafter on the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent under this chapter, then there shall be credited against the tax imposed by §1322 the amount of the tax paid on the gift under Chapter 14 of this Title with respect to so much of the property which constituted the gift as is included in the gross estate. Unless the will of the decedent, a trust or other legally effective written instrument governing the source of payment of the tax imposed by §1322 provides that such tax is to be paid from a source other than the property referred to in the foregoing sentence, the credit shall be applied against the tax imposed by §1322 on the transfer to the beneficiary entitled to such property, or if more than one beneficiary is entitled to such property, then the credit shall be apportioned against the tax imposed by §1322 on the transfer to each beneficiary of his net taxable share of the gross estate in proportion to the share of the property which is so included in the gross estate as that beneficiary is entitled to receive.

§1325. Regulations Governing Valuation of Estates.

The Secretary or his delegate may promulgate such rules and regulations as are deemed necessary or appropriate with respect to determining the value of property includible in the gross estate under this Chapter, including the valuation of annuities, contingent or remainder interests, and the use of tables of mortality.

SUBCHAPTER III. RETURNS AND PAYMENT OF TAX.

§1341. Inheritance Tax Returns.

A. Resident Returns

The executor of every resident decedent of this State shall make a return with respect to the inheritance tax imposed by Subchapter II according to the forms and regulations prescribed by the Secretary or his delegate if any one of the following conditions applies:

(a) The value of the gross estate at the death of the decedent exceeds \$20,000;

(b) The value of the gross estate at the death of the decedent exceeds \$3,000 and one or more of the beneficiaries are persons described in Class B of §1322;

(c) The value of the gross estate at the date of death of the decedent exceeds \$1,000 and one or more of the beneficiaries are persons described in Class C of §1322;

(d) One or more of the beneficiaries are persons described in Class D of §1322;

(e) In all other cases where the decedent owned an inheritable or joint title to real property.

B. Non-Resident Returns

The executor of every non-resident decedent of this State who, at the time of his death, owned any tangible personal property, real property, or any interest therein, which is made subject to the provisions of this Chapter by the provisions of §1303, shall make a return with respect to the inheritance tax imposed by Subchapter II according to the forms and regulations prescribed by the Secretary or his delegate.

§1342. Time and Place for Filing Returns and Payments.

(a) Returns made under this chapter shall be filed within nine months of the date of the decedent's death.

(b) Any executor required to make and file a return under this chapter shall, without assessment, notice or demand, pay the tax due to the Department of Finance on or before the date fixed for filing such return, determined without regard to any extension of time for filing the return.

(c) The Secretary of Finance shall prescribe the place of filing any returns required under this chapter and for the payment of any tax due under this chapter.

§1343. Extension of Time for Filing and Payment.

(a) The Secretary of Finance upon written request may extend the time for filing any return required under this chapter and may extend the time for payment of the tax shown or required to be shown on such return for a reasonable period from the date fixed for the filing of the return or for the payment of the tax.

(b) If the time for filing the federal estate tax return of the decedent is extended under the federal internal revenue laws, the time for filing any return required under this chapter shall be automatically extended for a like period, provided that the Secretary or his delegate shall be furnished with an executed copy of such extension grant before or with the filing of the return required under this chapter.

(c) Any extension of the time for payment granted under subsection (a) of this section shall extend the time within which any assessment may be made for an equal period of time.

§1344. Allocation of Inheritance Tax and Liability for Payment.

(a) Every executor shall make payments of the tax out of the property of the decedent in accordance with the instructions of the decedent expressed in the provisions of a valid will, trust or other legally effective written instrument governing the source of payment of the tax. Unless such instructions provide otherwise, each beneficiary shall be personally liable for the tax imposed under §1323 on the transfer to him of his net taxable share of the gross estate; and the executor shall determine the value of each beneficiary's net taxable share of the gross estate and the tax which is imposed with respect to the transfer thereof, and prior to distribution the executor shall deduct the tax from each beneficiary's net taxable share of the gross estate or collect the tax from the beneficiary entitled to such property. No executor shall deliver or be compelled to deliver any specific legacy or property subject to the tax to any beneficiary until he has collected or otherwise provided for the tax due thereon.

Any executor who delivers any specific legacy or property subject to the tax to any beneficiary without collecting or otherwise providing for payment of the tax due shall be personally liable for such tax.

(b) In all cases other than those referred to in subsection (c) of this section in which any property required to be included in the gross estate does not come into possession of the executor, and unless instructions of the decedent within the meaning of subsection (a) direct payments of the tax out of other property of the decedent, the executor shall recover from the beneficiaries in possession of such property an amount equal to the tax imposed under §1322 with respect to the transfer of such property. The Court of Chancery of the county in which the decedent's estate is being administered may by order direct the payment of such amount to the executor by such beneficiary or beneficiaries in possession.

(c) Where a tax is imposed on an estate for life or for a term of years, or to terminate on the expiration of a certain period, or on any remainder or reversionary interest,

the tax on such estate or interest as between the executor, trustee, tenant for life or for years, remainderman or reversioner and other beneficiaries shall be charged to the corpus of the property in which such estate exists, unless otherwise provided for by the testator or transferor, and shall be payable at once in the same manner and within the same time as if the estate or interest had vested in possession.

§1345. Special Lien for Inheritance Taxes.

(a) Unless the tax imposed by this chapter is sooner paid in full or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(b) If the tax imposed under this chapter is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, non-exercise, or release of a power of appointment, or beneficiary who receives or has on the date of the decedent's death, property included in the gross estate to the extent of the value at the time of the decedent's death of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser, or holder of a security interest, who purchases or takes a security interest in such property for value and without notice of the lien, shall be divested of the lien provided in subsection (a) hereof and a like lien shall then attach to all property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to such a purchaser or holder of a security interest.

(c) If the tax imposed by this Chapter is not paid

when due, the Secretary of Finance or his delegate may file in the Office of the Prothonotary, as clerk of the Superior Court of the county in which the real or personal property of the decedent is located, a certificate specifying the amount of tax, addition to tax, penalty and interest due, the name and last known address of the person described in Section 1345 (d) or Section 1346 (b) liable for the amount and the fact that the Secretary of Finance or his delegate has complied with all the provisions of this Chapter in the assessment of the tax. From the time of the filing, the amount set forth in the certificate shall thereupon be and constitute a judgment of record in such court with like force and effect as any other judgment of the court. The Prothonotary shall enter the certificates in the regular judgment docket and index them as soon as they are filed. No property, legal or equitable, wages, salaries, deposits or moneys in banks, savings institutions or loan associations, or other property or income of any person described in Section 1345 (d) or Section 1346 (b) shall be exempt from execution or attachment process issued upon, or for collection, of any judgment except as otherwise provided by law.

SUBCHAPTER IV. PROCEDURE AND AD- MINISTRATION AND EN- FORCEMENT.

§1351. Incorporation of Certain Personal Income Tax Procedure and Administration Provisions.

The provisions of §1181 through 1203 inclusive, of this Title, other than §1194(b), §1195(c), (g), and (i), §1196(b) and (c), shall apply to the returns and determination of tax due under this chapter, and the words "income tax" whenever they appear in those sections shall be deemed to refer to the inheritance tax, and references to the "taxpayer" whenever they appear in those sections shall be deemed to refer to the executor.

§1352. Incorporation of Certain Personal Income Tax Enforcement Provisions.

the tax on such estate or interest as between the executor, trustee, tenant for life or for years, remainderman or reversioner and other beneficiaries shall be charged to the corpus of the property in which such estate exists, unless otherwise provided for by the testator or transferor, and shall be payable at once in the same manner and within the same time as if the estate or interest had vested in possession.

§1345. Special Lien for Inheritance Taxes.

(a) Unless the tax imposed by this chapter is sooner paid in full or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(b) If the tax imposed under this chapter is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, non-exercise, or release of a power of appointment, or beneficiary who receives or has on the date of the decedent's death, property included in the gross estate to the extent of the value at the time of the decedent's death of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser, or holder of a security interest, who purchases or takes a security interest in such property for value and without notice of the lien, shall be divested of the lien provided in subsection (a) hereof and a like lien shall then attach to all property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to such a purchaser or holder of a security interest.

(c) If the tax imposed by this Chapter is not paid

when due, the Secretary of Finance or his delegate may file in the Office of the Prothonotary, as clerk of the Superior Court of the county in which the real or personal property of the decedent is located, a certificate specifying the amount of tax, addition to tax, penalty and interest due, the name and last known address of the person described in Section 1345 (d) or Section 1346 (b) liable for the amount and the fact that the Secretary of Finance or his delegate has complied with all the provisions of this Chapter in the assessment of the tax. From the time of the filing, the amount set forth in the certificate shall thereupon be and constitute a judgment of record in such court with like force and effect as any other judgment of the court. The Prothonotary shall enter the certificates in the regular judgment docket and index them as soon as they are filed. No property, legal or equitable, wages, salaries, deposits or moneys in banks, savings institutions or loan associations, or other property or income of any person described in Section 1345 (d) or Section 1346 (b) shall be exempt from execution or attachment process issued upon, or for collection, of any judgment except as otherwise provided by law.

SUBCHAPTER IV. PROCEDURE AND ADMINISTRATION AND ENFORCEMENT.

§1351. Incorporation of Certain Personal Income Tax Procedure and Administration Provisions.

The provisions of §1181 through 1203 inclusive, of this Title, other than §1194(b), §1195(c), (g), and (i), §1196(b) and (c), shall apply to the returns and determination of tax due under this chapter, and the words "income tax" whenever they appear in those sections shall be deemed to refer to the inheritance tax, and references to the "taxpayer" whenever they appear in those sections shall be deemed to refer to the executor.

§1352. Incorporation of Certain Personal Income Tax Enforcement Provisions.

The provisions of §1211 through 1244 inclusive, of this Title other than §1214 and §1218 shall apply to the enforcement of this chapter as if the chapter referred to therein were this chapter and the tax referred to therein were the inheritance tax.

§1353. Rules and Regulations.

The Secretary of Finance or his delegate shall have the authority to administer and enforce the provisions of this Chapter, and pursuant thereto may issue such rules and regulations, and require such facts and information as may be deemed necessary or appropriate."

Section 2. If any clause, sentence, paragraph or part of this Act or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction, to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act.

Section 3. The provisions of this Act shall become effective on the next first day of January after enactment and shall apply to decedents dying on or after the effective day of this Act.

Approved August 5, 1976

CHAPTER 698

HOUSE BILL NO. 1245

**AN ACT TO AMEND CHAPTER 74, TITLE 16,
DELAWARE CODE, RELATING TO RADIATION
CONTROL.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §7403, Title 16, Delaware Code, by adding thereto a new subsection (9) to read as follows:

“(9) ‘Users of ionizing radiation, means persons who supervise the application of ionizing radiation and/or apply ionizing radiation to human beings for diagnostic and/or therapeutic purposes.’”

Section 2. Amend §7404, Title 16, Delaware Code, by deleting the first sentence in subsection (a) in its entirety and substituting in lieu thereof a new sentence to read as follows:

“(a) There is created an Authority on Radiation Protection which shall consist of the Secretary of the Department of Health and Social Services or his duly authorized designee; the Secretary of the Department of Natural Resources and Environmental Control or his duly authorized designee; the Chief of the Bureau of Environmental Health of the Department of Health and Social Services; and four other persons to be appointed by the Governor.”

Section 3. Amend §7405, Title 16, Delaware Code, by striking it in its entirety and inserting in lieu thereof a new §7405 to read as follows:

“§7405. Rules and regulations; adoption; notice; hearing.

The Authority shall adopt rules and regulations as

may be necessary for the control of sources of ionizing radiation. Prior to adoption of any rule or regulation the Authority shall publish or otherwise circulate notice of its intended action and afford interested parties an opportunity, at a public hearing, to submit data and views orally or in writing. Such rules and regulations may provide for the establishment of fees by the Authority for the issuance of licenses, permits or registrations. No code, rule, regulation or amendment or repeal thereof shall be effective until 60 days after adoption thereof."

Section 4. Amend §7406, Title 16, Delaware Code, by striking it in its entirety and inserting in lieu thereof a new §7406 to read as follows:

"§7406. Licensing and registration of sources and users of ionizing radiation.

(a) The Authority shall provide for general or specific licensing or registering or exemption of by-product, sources, special nuclear materials or devices or equipment utilizing such materials. Such rule or regulation shall provide for amendment, suspension or revocation of license or registrations.

(b) The Authority may require registration or licensing of other sources of ionizing radiation as it may deem necessary.

(c) The Authority may require licensing or certification of users or ionizing radiation.

(d) The Authority may provide for recognition of other state or federal licenses or registrations."

Approved August 5, 1976

CHAPTER 699

SENATE BILL NO. 564

AN ACT TO AMEND SECTION 4074, TITLE 31, DELAWARE CODE, RELATING TO COMMITMENT AND DISBURSEMENT OF LOAN PROCEEDS AND SECURING LOANS TO MORTGAGE LENDERS WITH MORTGAGES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §4074, Title 31, Delaware Code, by striking subsection (d) in its entirety and substituting in lieu thereof a new subsection (d) to read as follows:

“(d) The agency shall require as a condition of each loan to a mortgage lender that such mortgage lender shall on or prior to the one hundred and twentieth day following the receipt of the loan proceeds have entered into written commitments to make new residential mortgages having a stated maturity of not less than 15 years from the date thereof for twenty-five percent (25%) of the loan, by the two hundred and seventieth day for seventy-five percent (75%) of the loan, and by the three hundred and sixth-fifth day for one hundred percent (100%) in any aggregate principal amount equal to the amount of such loan; and shall further require that such loan proceeds be disbursed on or prior to the two hundred and tenth day following the receipt of the loan proceeds for twenty-five percent (25%) of the loan, by the three hundred and sixty-fifth day for seventy-five percent of the loan, and by the four hundred and fifty-fifth day for one-hundred percent (100%) in any aggregate principal amount equal to the amount of such loan.”

Section 2. Amend §4074(e), Title 31, Delaware Code, by adding thereto immediately after paragraph (iv) a new paragraph (v) to read as follows:

“(v) any other mortgages secured by real estate on which there is located a residential structure, the collateral value of which shall be determined by regulations issued from time to time by the agency;”

Section 3. Amend §4074(e), Title 31, Delaware Code, by redesignating present paragraph (v) as new paragraph (vi), and by redesignating each succeeding paragraph accordingly.

Approved August 5, 1976

CHAPTER 700

SENATE BILL NO. 615
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND TITLES 17 AND 21,
DELAWARE CODE RELATING TO OMNIBUS
CHANGES IN THE DEPARTMENT OF HIGH-
WAYS AND TRANSPORTATION AND THE DE-
PARTMENT OF PUBLIC SAFETY.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend Chapter 5, Title 17, Delaware Code by striking §505 in its entirety and inserting a new §505 to read as follows:

**§505. Selling of non-uniform traffic control devices.
Penalty.**

Whoever sells or offers for sale for use on any public highway in this state any traffic control device which does not conform to the Delaware Manual on Uniform Traffic Control Devices for Division of Highways shall be fined not less than \$25.00 nor more than \$1,000.00 and shall make restitution to the purchaser in an amount equal to the entire sum originally paid for the device or devices. In the event a sale consists of the sale of more than one separate device, each sale of each separate device shall constitute a violation of this section.

Section 2. Amend Chapter 5, Title 17, Delaware Code by striking §510 in its entirety and substituting in lieu thereof the following new §510 to read as follows:

“§510. Speed limit and weight limits on structure.

(a) The Department may conduct an investigation of any public or private bridge, causeway, viaduct, or other

elevated structure which crosses any public highway regardless of the owner or the owners of said bridge, causeway, viaduct or elevated structure and regardless of what government has jurisdiction over it.

(b) If it finds that a public structure set forth in subsection (a) cannot safely withstand vehicles traveling at the speed permissible under the Delaware Code, or cannot withstand vehicular gross weights, including carried load, permissible under the Delaware Code, the Department shall determine and declare the maximum speed or gross weight, including carried load, or both, of vehicles which such structure can withstand and shall cause or permit signs stating such maximum speed or gross weight, including carried load, to be erected and maintained before the entrance to such structure.

(c) If it finds that a private structure as set forth in subsection (a) hereof cannot withstand the usage to which it is being subjected, the Department shall declare the maximum usage to which the structure can be subjected. The Department shall notify the owner and/or user of the private structure, who shall not permit the maximum safe usage as determined by the Department to be exceeded.

(d) Whoever violates any of the provisions of section (c) shall be fined not less than \$25 nor more than \$500, or imprisoned not less than 10 days nor more than 30 days or both."

Section 3. Amend §4105 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new §4105 to read as follows:

"§4105. Persons and vehicles working on highways and utilities; exceptions.

(a) Unless specifically made applicable, the provisions of this title except those contained in Subchapter IX of this chapter shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon a hi-

ghway or in work upon utility facilities along a highway so long as proper traffic control devices are posted, but shall apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by traffic control devices.

(c) The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of the Secretary of Public Safety.

(d) Traffic control devices shall be used as required in the standards adopted under Title 17, Chapter 1, §146. Failure to comply with this section shall be cause for immediate cessation of operations in the affected area and the immediate reopening of the highway in a safe manner.

(e) Failure to comply with the lawful order to effect immediate cessation of operations and the reopening of the highway shall subject the violator to a fine of not less than \$100 nor more than \$500.

Section 4. Amend §4126 and §4126A of Chapter 41, Title 21, Delaware Code by striking said sections in their entirety and substitute in lieu thereof a new Section 4126 to read as follows:

“§4126. Unlawful use of controlled access highways; penalties.

(a) On any State highway designated by the Department of Highways and Transportation as a “controlled access highway”, no person shall --

(1) drive a vehicle over, upon, or across any curb, central dividing section or other separation or dividing

line;

(2) make a left turn or a semicircular or u-turn except through an opening provided for that purpose in the dividing curb section, separation, or line;

(3) drive any vehicle except in the proper lane provided for that purpose in the proper direction in said lane;

(4) drive any vehicle from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility proper;

(5) drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established;

(6) back a vehicle upon any shoulder or roadway;

(7) operate or drive a bicycle;

(8) operate or drive any nonmotorized vehicle or wagon;

(9) lead or participate in a parade;

(10) lead or participate in a funeral procession, convoy, or other type of procession, either walking or riding;

(11) walk as a pedestrian except to contact aid in the event of an accident, breakdown, or other emergency;

(12) operate a vehicle of any type or kind prohibited by traffic control devices at the entrances;

(13) disobey the restriction stated on any traffic control device erected at the entrances.

(b) Any person who violates any of the provisions of

subsection (a) of this section shall be punished by a fine not less than \$5 nor more than \$100, or by imprisonment for not less than five (5) days nor more than ninety (90) days or both; Justices of the Peace shall have original jurisdiction to hear, try and finally determine alleged violation of this section.

Section 5. Amend §4146, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert a new section to read as follows:

“§4146. Pedestrians on highways; penalty.

(a) Where a sidewalk is provided and is accessible it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk facing traffic only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and shall walk facing traffic.

(d) Except as otherwise provided in this chapter, any pedestrian upon a highway shall yield the right of way to all vehicles upon the highway.

(e) The provisions of this section shall not require that pedestrians on one way roadways of controlled access highways walk facing traffic to the nearest emergency reporting device.

(f) Whoever violates this section shall, for the first offense be fined not less than \$2 nor more than \$25, or imprisoned not less than 2 nor more than 10 days, or both. For each subsequent like offense within one year, he shall be fined not less than \$10 nor more than \$25, or imprison-

ed not less than 2 nor more than 30 days, or both."

Section 6. Amend §4147 of Chapter 41, Title 21, Delaware Code by striking said section and insert in lieu thereof a new section to read as follows:

"§4147. Pedestrians soliciting rides or business.

(a) No person shall stand in a highway for the purpose of soliciting any employment, business or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a highway for the purpose of soliciting the watching or guarding of any vehicle while parking or about to be parked on a highway.

(c) No person shall stand in a highway for the purpose of soliciting a ride.

(d) No person shall at any time be jailed solely for violation of paragraph (c) of this section."

Section 7. Amend §4169, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute a new section to read as follows:

"§4169. Specific speed limits; penalty.

(a) Where no special hazard exists, the following speeds shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful.

(1) All types of vehicles:

(a) 25 miles per hour in any business district;

(b) 25 miles per hour in any residential district;

(c) 20 miles per hour at all school crossings where 20 MPH regulatory signs are in effect during specific periods.

(d) 50 miles per hour on two lane roadways;

(e) 55 miles per hour on four lane roadways and on divided roadways.

(b) Whenever the Department of Highways & Transportation shall determine, on the basis of engineering studies and traffic investigations, or upon the basis of a Federal law or directive by the Congress or the President, that a maximum speed limit set pursuant to Subsection (a) of this section in any particular place on the State maintained highway system is greater or less than is reasonable or safe, the Department shall declare a reasonable and safe maximum limit thereat, which limit shall be effective when posted. Such maximum limit may be declared to be effective either part or all of the time and differing limits may be established for different times of the day, for different types of vehicles, for different weather conditions and when other significant factors differ. Such maximum limits may be posted on fixed or variable signs. Any speed in excess of such displayed limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful.

(c) Whoever violates any provision of this section shall, for the first offense, be fined not less than \$25 nor more than \$200, or be imprisoned not less than ten (10) nor more than thirty (30) days, or both. For each subsequent violation of this section a person shall be fined not less than \$50 nor more than \$400, or imprisoned not less than fifteen (15) nor more than sixty (60) days, or both. A subsequent violation, before being punishable as such, shall have been committed within 24 months after the commission of the prior offense."

Section 8. Amend §4171, Chapter 41, Title 21, Delaware Code by striking subsection (b) and substitute a new subsection (b) to read as follows:

(b) A minimum speed limit, below which no person shall drive a vehicle except when necessary for safe opera-

tion or in compliance with law may be displayed on appropriate traffic control devices.”

Section 9. Amend §4505, Chapter 45, Title 21, Delaware Code by inserting a new subsection (c) to read as follows:

“§4505. Regulation of weights or exclusion of classes of vehicles.

(c) Justices of the Peace shall have original jurisdiction to hear, try and finally determine alleged violation of this section.”

Section 10. **Severability.**

If any provision of this Act, or any rule, regulation or order thereunder or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected hereby.”

Approved August 5, 1976

CHAPTER 701

SENATE BILL NO. 619
AS AMENDED BY HOUSE AMENDMENT NO. 1
TO HOUSE AMENDMENT NO. 2
HOUSE AMENDMENT NO. 1 TO HOUSE
AMENDMENT NO. 2

**AN ACT TO AMEND TITLES 17 AND 21, DEL-
AWARE CODE RELATING TO OMNIBUS
CHANGES IN THE DEPARTMENT OF HIGH-
WAYS AND TRANSPORTATION AND THE DE-
PARTMENT OF PUBLIC SAFETY.**

*Be it enacted by the General Assembly of the State of
Delaware (two-thirds of all members elected to each
House thereof concurring therein):*

Section 1. Amend §134 of Chapter 1, Title 17,
Delaware Code by adding thereto the following sections to
read as follows:

**“§134. Authority in incorporated towns and cities;
construction and maintenance of highways.**

(d) With respect to State highways within their cor-
porate limits, incorporated cities and towns in the State
may erect and maintain such traffic control signals as shall
be authorized by proper ordinance of the city or town and
by the Department.

(e) Local authorities, on the basis of an engineering
study and traffic investigation within their respective
jurisdictions, may prohibit the operation of trucks or other
commercial vehicles or impose limitations as to the weight
thereof on designated highways which prohibitions and
limitations shall be posted as set forth in Chapter 45,
§4505 of Title 21 of the Delaware Code; except that the
alteration of weights or the prohibitions of trucks or other
commercial vehicles shall not be effective on any state-

maintained highway until such alteration has been approved by the Department.

(f) Each rule and regulation adopted pursuant to this section shall be in the form of a resolution signed by the Secretary. A permanent record of these shall be kept by the Department and at the time of adoption a copy of each shall be forwarded to the Department of Public Safety, to the New Castle County Police, if within their jurisdiction, and to the incorporated city or town in which the highway lies.

(g) Pursuant to this section, the Department is authorized to perform all engineering studies and traffic investigations necessary to implement this section and Chapter 41 of Title 21 and to install, maintain, operate, and remove all traffic control devices necessary to comply with this section and Chapter 41 of Title 21. Where concurrent authority is granted, the incorporated town or city shall have the responsibility for traffic control devices.

(h) Nothing in this section shall be construed as granting to the Department or to the local jurisdiction the right to make any rules and regulations respecting the use of highways in incorporated areas contrary to the Delaware Code.

Section 2. Amend §141 of Chapter 1, Title 17, Delaware Code by striking said section in its entirety and substitute a new §141 to read as follows:

“§141. Regulation of traffic; exceptions.

(a) The Department shall have jurisdiction and control of all State highways of this State outside of the limits of incorporated cities and towns for the purpose of regulating traffic and for the use and operation of all vehicles thereover; and may adopt any and all rules and regulations respecting the use of such highways and the operation of all vehicles upon the same.

(b) Each rule and regulation adopted pursuant to this section shall be in the form of a resolution signed by the Secretary. A permanent record of these shall be kept by the Department and at the time of adoption a copy of each shall be forwarded to the Department of Public Safety and to the New Castle County Police, if within their jurisdiction.

(c) Pursuant to this section, the Department is authorized to perform all engineering studies and traffic investigations necessary to implement this section and Chapter 41 of Title 21 and to install, maintain, operate and remove all traffic control devices necessary to implement Chapter 41 of Title 21 and regulations adopted thereunder.

(d) The Department, on the basis of engineering studies and traffic investigations may prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways which prohibitions and limitations shall be posted as set forth in Chapter 45, §4505 of Title 21 of the Delaware Code.

(e) Nothing in this section shall be construed as granting the Department the power to make any rules and regulations respecting the use of highways contrary to Delaware law.

Section 3. Amend Chapter 1, Title 17, Delaware Code by adding thereto a new section to be numbered 146 to read as follows:

“§146. Authority to establish standards for traffic control devices.

(a) The Department shall adopt a uniform standard for each type of traffic control device to be used on all highways open to the public in this State. Such standard shall correlate with, and so far as practical, conform to the standards used in other states.

(b) The standards shall be recorded in a manual to be known as the Delaware Manual on Uniform Traffic Control Devices for Streets and Highways. The manual shall have separate chapters setting individual standards for signs, signals and markings.

(c) Any traffic control device erected in violation of the manual, except experimental devices erected by the Department, shall be unofficial, unauthorized and unenforceable.

(d) A person or corporation shall not sell or offer for sale in this State any traffic control device or other device intended to regulate, warn or guide traffic unless it conforms with the State manual and specifications adopted under this section.

Section 4. Amend §179 of Chapter 1, Title 17, Delaware Code by striking said section in its entirety and substitute a new §179 to read as follows:

“§179. Restrictions on use of controlled-access facilities.

The Department may prohibit the use of specific classes of motor-driven vehicles or of other vehicles on controlled-access highways either all the time or during such times as necessary for safety. Notice of such prohibition shall be posted on traffic control devices at the entrance to the controlled-access facilities.”

Section 5. Amend Chapter 5, Title 17, Delaware Code by striking §507, and §514 in their entirety.

Section 6. Amend Chapter 1 of Title 21, Delaware Code, by adding thereto the following definition:

“School bus - Every motor vehicle which has the words “School Bus” displayed on the front and rear of the vehicle as specified under §4364 of this title, and which is painted with the national school bus chrome yellow as

specified under §4365 (a) of this title, and which is equipped with the flashing lamps as required under §4366 of this title, and which meets the minimum size requirements of §4365(b), of this title, and which meets other regulations as required by the Department of Public Safety.”

Section 7. Amend Chapter 5, Title 21, Delaware Code, by striking §501, §504, §505, §506 in their entirety.

Section 8. Amend §4101 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute a new section to read as follows:

“§4101. Provisions refer to vehicles upon highways; exceptions; powers of local authorities.

(a) The provisions of this title relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.

2. That the provisions of Subchapter IX of this chapter shall apply upon highways and elsewhere throughout the State.

3. Upon application by a majority of persons having a property interest in a private road or way upon which motor vehicles are driven, the appropriate agency or officer of any town, city or county in which such private property is located may petition the Department of Public Safety in a manner prescribed by the Department, requesting the Department assume jurisdiction over such private property. Upon acceptance of jurisdiction over the private property the Department shall, by written notice, so notify each governmental body and property owner affected and shall supply copies of such notice to all appropriate courts and law enforcement agencies. One week following the official acceptance of such jurisdiction, all provisions of Titles 17 and 21 shall apply to the affected

private property. The installation and maintenance of all traffic control devices authorized by the Department of Highways & Transportation shall be undertaken by the owners at no cost to the State.

(b) Local authorities, except as expressly authorized by law, shall not enact or enforce any rule or regulations contrary to the provisions of this Chapter. Local authorities may regulate the use of the highways by processions or assemblages. Nothing in this chapter shall be construed to prevent the owner of real property, used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right, from prohibiting such use nor requiring other or different or additional conditions than those specified in this chapter or otherwise regulating such use as seems best to such owner."

(c) The authority to authorize, maintain, install and remove all traffic control devices necessary to implement this TITLE is provided to the Department of Highways and Transportation and to local authorities in their respective jurisdiction by Title 17, Chapter 1. Unless otherwise provided in this TITLE, the authorities granted are uniformly applicable to all sections of this title.

Section 9. Amend §4103 of Chapter 41, Title 21, Delaware Code by striking Subsection (a) of said section in its entirety and substitute a new subsection to read as follows;

"§4103. Obedience to authorized persons directing traffic.

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or authorized flagman or fire policeman or uniformed adult school crossing guard invested by law with authority to direct, control or regulate vehicle and pedestrian traffic. This section shall not operate to relieve a driver of the duty to operate his vehicle with due regard to the safety of all persons using the highway.

Section 10. Amend §4107 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute a new section to read as follows:

“§4107. Obedience to and required traffic control devices.

(a) The driver of any vehicle shall obey the instructions of any traffic control device applicable thereto placed in accordance with the provisions of this title, unless otherwise directed as authorized in §4103, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

(b) No provision of this chapter for which traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official traffic control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. This section shall not operate to relieve a driver of the duty to operate his vehicle with due regard to the safety of all persons using the highway.

(c) Whenever a particular section does not state that traffic control devices are required, such section shall be effective even though no traffic control devices are erected or in place.

(d) In the event a traffic control signal is erected and maintained at a place other than an intersection, the provisions of this Title shall be applicable except as to those provisions which by their nature can have no application.

(e) Whenever traffic control devices are placed in position approximately conforming to the requirements of this title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(f) Any traffic control device placed pursuant to the

provisions of this title and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this title, unless the contrary shall be established by competent evidence."

Section 11. Amend §4108 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new §4108 to read as follows:

"§4108. Traffic control signal legend.

(a) Whenever traffic controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors Green, Red and Yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

(A) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a traffic control device at such place prohibits either such turn. Vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited.

(B) Unless otherwise directed by a pedestrian control signal as provided in §4109 of this title, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked cross walk.

(2) Circular yellow or yellow arrow:

(A) Vehicular traffic facing the circular yellow signal is thereby warned that a red signal for the previously permitted movement will be exhibited immediately thereafter.

(B) Vehicular traffic facing the yellow arrow signal shown alone or in combination with another indication is thereby warned that the previously displayed green arrow signal is being terminated. The yellow arrow signal may be followed by a red signal or a green signal.

(C) Pedestrians facing a yellow signal, unless otherwise directed by a pedestrian control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Red Indication:

(A) Vehicular traffic facing the red signal shall stop before crossing the stop limit, whether marked by sign or painted line, or if none, before entering the cross walk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown or as provided in paragraph B of this subsection.

(B) When a traffic control device is not in place prohibiting such turn, vehicular traffic facing a circular red signal may cautiously enter the intersection to turn right, or to turn left from a one-way roadway onto a one-way roadway.

(C) When turns on red are permitted, the right to proceed to turn after stopping shall be subject to the rule applicable after making a stop as at a stop sign.

(D) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) Green arrow or arrows:

(A) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the

movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent cross walk and to other traffic lawfully using the intersection.

(B) Vehicles facing such signals are thereby advised that other traffic movements may be prohibited from the lane or lanes that the signal indication controls. Making or attempting to make any prohibited movement is unlawful.

(C) Pedestrians facing such signals shall not enter the roadway unless they can do so safely and without interfering with any vehicular traffic.

(5) When lane use control signals are placed over the individual lanes of roadway or highway, vehicular traffic may travel in any lane or lanes over which a green signal is shown, but shall not enter or travel in any lane or lanes over which a red signal is shown. Left turns may be made across such lane if not otherwise prohibited. Vehicular traffic shall move from any lane over which a steady amber signal is displayed as soon as the movement can be made in safety. Vehicular traffic may use a lane over which a flashing yellow signal is displayed for the purpose of making a left turn.

(6) In the event that traffic signals are in place and no lighted indication is visible to an approaching driver, he shall reduce speed and prepare to yield to other vehicles in or approaching the intersection."

Section 12. Amend §4109, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substituting a new section to read as follows:

"§4109. Pedestrian control signals.

(a) Whenever special pedestrian control signals exhibiting the words or symbols "Walk" or "Don't Start" or "Don't Walk" are in place, such signals shall take

precedence over pedestrian movements outlined in §4108 of this title. Such signals shall apply as follows:

(1) Walk or Flashing Walk -- Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right of way by the driver of all vehicles.

(2) Don't Walk or Flashing Don't Walk or Don't Start -- No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety island."

Section 13. Amend §4110 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new section to read as follows:

"§4110. Flashing signals.

(a) Whenever a flashing red or yellow signal is used in a traffic signal or with a traffic sign, it shall require obedience by vehicle traffic as follows:

(1) Flashing Red - When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before crossing the stop limit whether marked by a sign or painted line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop as at a stop sign.

(2) Flashing Yellow - When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signals only with caution.

(b) In the event that flashing signals are in place and no lighted indication is visible to an approaching driver, he shall reduce speed and prepare to yield to other vehicles in

or approaching the intersection. If facing a stop sign, he shall stop and proceed as from a stop sign.

(c) This section shall not apply at railroad grade crossings."

Section 14. Amend §4112 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new section to read as follows:

"§4112. Interference with official traffic control devices or railroad signs or signals.

No person shall, without lawful authority, attempt to, or in fact alter, damage, deface, injure, twist, knock down, interfere with the operation of, or remove any public roadway, bridge, drain, light, gate or traffic control device, railroad sign or signal or other appurtenance or any inscription, shield or insignia thereon or any other part thereof."

Section 15. Amend §4114 of Chapter 41, Title 21, Delaware Code, Subsection (c) by adding to the end thereof a new sentence to read as follows:

This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, driveway or highway."

Section 16. Amend §4117 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute a new §4117 to read as follows:

"§4117. When overtaking on the right is permitted.

(a) The driver of the vehicle may overtake and pass upon the right of another vehicle only under conditions permitting such movement in safety. In no event except as permitted in paragraph (c) of this section shall such movement be made by driving off the roadway, main traveled portion, or regular moving traffic lane of the highway.

(b) Overtaking and passing on the right except as permitted herein shall be unlawful:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon any roadway which is officially marked for more than one traffic lane in one direction;

(3) Upon any roadway on which traffic restricted to one direction of movement and the roadway is of sufficient width for two or more lanes of moving vehicles.

(c) When the vehicle overtaken is making or about to make a left turn, the vehicle approaching from the rear may pass on the right using the shoulder if necessary."

Section 17. Amend §4118 of Chapter 41, Title 21, Delaware Code by adding a new sentence at the end thereof to read as follows:

In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable."

Section 18. Amend §4119 of Chapter 41, Title 21, Delaware Code by striking it in its entirety and substitute in lieu thereof a new §4119 to read as follows:

"§4119. Further limitations on driving to left of center of Roadway.

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

(1) When approaching or upon a curve or the crest of a grade in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within 100 feet of or traversing

any intersection or railroad grade crossing, unless otherwise indicated by official traffic control devices;

(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a oneway roadway, nor under the conditions described in §4114 (a) (2), nor to the driver of a vehicle turning left into or from an alley, private road, driveway or highway."

Section 19. Amend §4120 of Chapter 41, Title 21, Delaware Code by striking the words Department of Public Safety in subsection (a) and substitute in lieu thereof the words Department of Highways and Transportation.

Section 20. Amend §4120 of Chapter 41, Title 21, Delaware Code by striking Subsection (b) in its entirety and substitute in lieu thereof a new Subsection (b) to read as follows:

"§4120. No passing zones.

(b) Where signs or markings are in place to define a no passing zone no driver, shall at any time drive on the left side of the roadway within such no passing zone or on the left side of any pavement striping designed to mark such no passing zone throughout its length. This section does not apply under the conditions described in §4114(a) (2), nor to a driver of a vehicle turning left into or from an alley, private road, driveway or highway."

Section 21. Amend §4121 of Chapter 41, Title 21, Delaware Code by striking §4121 in its entirety and substitute in lieu thereof a new §4121 to read as follows:

"§4121. One way roadways, reversible lanes and rotary traffic islands.

(a) Upon a roadway where traffic control devices establish one way traffic a vehicle shall be driven only in the

direction designated. Such designation may be at all times or at times as shall be indicated by traffic control devices.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(c) A driver about to enter a rotary traffic island shall yield the right of way to any vehicles passing around it.

Section 22. Amend §4122 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute a new section to read as follows:

“§4122. Driving on roadways laned for traffic.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes for two way traffic a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of oncoming traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively by traffic control devices to traffic moving in the direction the vehicle is proceeding.

(3) Traffic control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such traffic control device.

(4) Traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device."

Section 23. Amend §4123 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new section to read as follows:

"§4123. Following too closely.

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any truck or vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space but not less than 200 feet so that an overtaking vehicle may enter and occupy such space without danger except that this shall not prevent a motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(c) Vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions."

Section 24. Amend §4125, Chapter 41, Title 21, Delaware Code by renumbering it 4126A and add a new §4125 to read as follows:

"§4125. Turning out of slow moving vehicle.

On a two-lane highway where passing is unsafe because of traffic in the opposite direction or other conditions, a slow moving vehicle, behind which five (5) or more vehicles are formed in line, shall turn off the roadway wherever sufficient area for a safe turnout exists, in order to permit the vehicles following to proceed. As used in this section, a slow moving vehicle is one which is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place."

Section 25. Amend Chapter 41, of Title 21, Delaware Code, by creating a new Subchapter to be designated as Subchapter 111A to read as follows:

"SUBCHAPTER 111A. CONTROLLED ACCESS HIGHWAYS".

Section 26. Amend Chapter 41, Title 21, Delaware Code by transferring §4126 and §4127 under the new Subchapter 111A herein created by Section 25.

Section 27. Amend Chapter 41, Title 21, Delaware Code by adding thereto a new §4130 to read as follows:

"§4130. Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic control signal indication to proceed."

Section 28. Amend §4133 of Chapter 41, Title 21, Delaware Code, by striking said section in its entirety and inserting in lieu thereof a new section to read as follows:

"§4133. Vehicle entering roadway.

The driver of a vehicle about to enter or cross a road-

way from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.”

Section 29. Amend Chapter 41, Title 21, Delaware Code by adding thereto a new section to be designated as §4136 to read as follows:

“§4136. Driving upon sidewalk or bicycle path by vehicles and bicycles.

(a) No person shall drive any motor vehicle upon a sidewalk or bicycle path or sidewalk area or bicycle path area except upon a permanent or duly authorized temporary driveway.

(b) A person riding a bicycle upon a sidewalk or bicycle path lawfully used by pedestrians shall give audible signal before overtaking and passing such pedestrian.

(c) A person shall not ride a bicycle upon a sidewalk in a business district, when use of a sidewalk is prohibited by official traffic control devices, or when a usable bicycle only lane has been provided adjacent to the sidewalk.”

Section 30. Amend §4141 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

“§4141. Pedestrian obedience to traffic control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of a traffic control device specifically applicable to him, unless otherwise directed by a police officer or uniformed adult school crossing guard. This section shall not operate to relieve the responsibilities and duties set forth in other sections of this Subchapter.

(b) Pedestrians shall be subject to traffic and pedestrian control signals as provided in §4108 and §4109.

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter."

Section 31. Amend §4142 of Chapter 41, Title 21, Delaware Code by striking paragraph (b) in its entirety and insert in lieu thereof a new paragraph (b) to read as follows:

"§4142. Pedestrians' right of way in crosswalks.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of vehicle which is so close as to constitute an immediate hazard.

Section 32. Amend §4144 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

"§4144. Drivers to exercise due care.

(a) Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person, or a person wholly or partially blind, carrying a cane or walking stick white in color, or white tipped with red or accompanied by a guide dog upon a roadway."

Section 33. Amend §4149, Chapter 41, Title 21, Delaware Code by striking said section and inserting a new section to reads as follows:

"§4149. Walking on highways under influence of drugs or liquor.

(a) No person shall walk or be upon a highway of this State while under the influence of intoxicating liquor and/or narcotic drugs to a degree which renders himself a

hazard.”

Section 34. Amend Chapter 41, Title 21, Delaware Code by adding thereto a new §4151 to read as follows:

“§4151. Pedestrians’ right of way on sidewalks.

The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.”

Section 35. Amend §4152 of Chapter 41, Title 21, Delaware Code by striking subsection (b) in its entirety and insert a subsection (b) to read as follows:

(b) Traffic control devices may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when traffic control devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by traffic control devices.”

Section 36. Amend §4153, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert a new section to read as follows:

“§4153. Limitations on Turning Around.

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

(b) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.”

Section 37. Amend §4155 of Chapter 41, Title 21, Delaware Code by striking Subsection (a) & (b) of said

section in their entirety and insert a new subsection (a) & subsection (b) to read as follows:

“§4155. Turning movements and required signals.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in §4152 of this title, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway or turn so as to proceed in an opposite direction unless and until such movement can be made with safety without interfering with other traffic. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last 300 feet or more than one-half mile traveled by the vehicle before turning.”

Section 38. Amend §4162 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety.

Section 39. Amend §4163 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert a new §4163 to read as follows:

“§4163. Certain vehicles must stop at all railroad grade crossings.

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at any grade any track or tracks of a railroad shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided,

and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) This section shall not apply at:

(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;

(2) Any railroad grade crossing at which traffic is regulated by a traffic control signal;

(3) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;

(4) Any railroad grade crossing at which an official traffic control device gives notice that the stopping requirement imposed by this section does not apply."

Section 40. Amend §4164, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follow:

"§4164. Stop signs and yield signs.

(a) Except when directed to proceed by police officers or traffic control devices, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a marked stop line but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(b) The operator of any vehicle who has come to a full stop as provided in subsection (a) of this section shall yield the right of way to any vehicle or pedestrian in the

intersection or to any vehicle approaching on another roadway so closely as to constitute an immediate hazard and shall not enter into, upon, or across such roadway or highway until such movement can be made in safety.

(c) Whenever a yield sign notifying drivers to yield the right of way has been erected it shall be unlawful for a driver of any vehicle on the highway whose traffic is regulated by such a sign to fail to yield the right of way to any vehicle approaching on or from another highway or merging roadway, or to a pedestrian legally crossing a roadway. If required for safety to stop, the stop shall be made at a marked stop line but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Any such driver having so yielded to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard or to a pedestrian legally crossing a roadway shall not enter into, upon or across such roadway or highway, until such movement can be made in safety."

Section 41. Amend §4165 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and inserting in lieu thereof a new section to read as follows:

"§4165. Emerging from alley, driveway, private road or building.

(a) The driver of a vehicle emerging from an alley, driveway, private road or building where there is no official traffic control device shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, driveway, or private road and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and before entering the roadway shall yield the right of way to all vehicles approaching on the roadway."

Section 42. Amend §4166, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and substitute in lieu thereof a new section to read as follows.

“§4166. Overtaking and passing school bus; stop signal devices.

A. School Bus:

(1) It shall be unlawful to operate or permit to be operated a vehicle which purports to be a school bus and which does not meet the following requirements:

(a) Carries a valid school bus inspection sticker.

(b) Meets all requirements set by the Department of Public Safety.

(c) Complies with Chapter 43, §4364, §4365 and §4366.

(2) If licensed in another state, these requirements still prevail except that an inspection sticker is not required.

(3) It shall be unlawful for the driver of any vehicle which does not meet the requirements of this section to attempt to or to control traffic while stopped on the roadway to pick up and discharge passengers.

B. School Bus Flashing Lamps.

(1) School bus flashing lamps are intended to identify the vehicle as a school bus and to inform other users of the highway that such vehicle is about to stop or is stopped on the roadway or shoulder to take on or discharge school children. They are separate from the brake lamps and shall not be used in lieu of or to supplement the brake lamps.

(2) The amber warning lamps shall be activated approximately 10 seconds prior to the red stop lamps to give

motorists advance notice that the bus is preparing to stop or has stopped to pick up and discharge pupils. The lamps shall always be used prior to the red when available and shall be used only after the bus is relatively parallel with the travelway. The bus may be in motion when the amber warning lamps are activated.

(3) The red stop lamps shall be activated only when the bus is stopped, but only when the bus is stopped on the shoulder or roadway to pick up and discharge pupils. The red stop lamps shall not be displayed while the bus is in motion either before or after a stop.

(4) The amber warning lamps and/or the red stop lamps shall not be activated:

(a) in designated school bus loading zones;

(b) at intersections or other places where traffic is controlled by traffic control signals or police officers;

(c) when the bus is not being used as a school bus.

C. School Bus Words:

The words "School Bus" shall be displayed whenever the bus is operated as a school bus. The words shall be covered, or concealed, or removed when the bus is not in actual service as a school bus.

D. Overtaking and Passing School Bus:

When a school bus is stopped on the roadway or shoulder approximately parallel to the travelway and displays flashing lamps in accordance with Section B, the driver of any vehicle approaching the school bus from the front or from the rear shall stop before passing the bus and remain stopped until such bus begins to move or no longer has the red stop lamps activated. On roadway or roadways with four or more lanes, the driver approaching from the front shall not stop.

E. Stopping of School Bus on Shoulder:

Whenever practical, a school bus driver shall stop on the shoulder to pick up and discharge passengers.

F. Amber lights; Exception:

School buses not equipped with flashing amber lamps shall operate the red lamps only as permitted in B(3).

G. Identification Violators:

If any vehicle is witnessed by a police officer to be in violation of subsection D of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed such violation of subsection D of this section."

Section 43. Amend §4168 of Chapter 41, Title 21, Delaware Code by striking subsection (b) in its entirety and substitute in lieu thereof a new subsection (b) to read as follows:

"§4168. General speed restrictions.

(b) The driver of every vehicle shall, consistent with the requirements of the provisions of subsection (a) of this section, drive at an appropriate speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions."

Section 44. Amend §4171, Chapter 41, Title 21, Delaware Code by striking subsection (b) and substitute a new subsection (b) to read as follows:

"§4171. Minimum speed.

(b) A minimum speed limit, below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law may be displayed on appropriate traffic control devices."

Section 45. Amend §4173 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and inserting in lieu thereof a new section to read as follows:

"§4173. Speed and weight limits on elevated structures.

(a) No person shall drive a vehicle over any bridge or elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such bridge has traffic control devices displayed.

(b) No person shall drive a vehicle over any bridge or elevated structure constituting a part of a highway when such vehicle's gross weight, including carried load, is greater than the maximum weight which can be maintained with safety to such bridge or structure, when such structure has traffic control devices displayed.

(c) The existence of traffic control devices shall be conclusive evidence of the maximum speed or gross weight, including carried load, which can, with safety to any such structures be maintained thereon.

Section 46. Amend §4174 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

"§4174. Complaint and summons in speed violations.

(a) In every charge of violation of any speed regulation in Chapter 41 except §4168 and §4172, the complaint and the summons or notice to appear shall specify the

speed at which the defendent is alleged to have driven and the maximum or minimum speed applicable at the location."

Section 47. Amend §4176 of Chapter 41, Title 21, Delaware Code by striking subsection (a) and (b) in their entirety and insert a new subsection (a) and (b) to read as follows:

"§4176. Careless or inattentive driving.

(a) Whoever operates a vehicle in a careless or imprudent manner, or without due regard for road, weather, and traffic conditions then existing, shall be guilty of careless driving.

(b) Whoever operates a vehicle and who fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while operating the vehicle, shall be guilty of inattentive driving."

Section 48. Amend §4177, Chapter 41, Title 21, Delaware Code, by striking the words Motor Vehicle in Subsection (a) wherever same appears and inserting the word vehicle in lieu thereof.

Section 49. Amend §4177, Chapter 41, Title 21, Delaware Code, by adding a new subsection (d) to read as follows:

(d) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this section.

Section 50. Amend §4178, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

"§4177. Stopping, standing or parking; general.

(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle whether attended or unattended upon the roadway except when necessary to avoid conflict with other traffic or where it is necessary for public utility vehicles to temporarily stop along the highway to make alterations in or repairs to utility facilities so long as proper traffic control devices are posted or where it is in compliance with the directions of a police officer or traffic control device.

(b) Whenever any person authorized to make arrests under this title finds a vehicle standing upon the highway in violation of provisions of Subsection (a) of this section or of §4179, of this chapter he may move such vehicle or require the driver or other person in charge of the vehicle to move same to a position off the highway.

(c) Any person authorized to make arrests under this title is hereby authorized to remove or cause to be removed any unattended vehicle illegally left standing upon any highway, bridge causeway or in any tunnel in such a position or under such circumstances as to obstruct the normal movement of traffic.

(d) Subsection (a) and (b) of this section shall not apply to the driver of any vehicle which is disabled while on the roadway in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position."

Section 51. Amend §4179 of Chapter 41, Title 21, Delaware Code by striking subsections (a) and (b) in their entirety and insert in lieu thereof new subsections (a) and (b) to read as follows:

"§4179. Stopping, standing and parking; penalty.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or

traffic control device, in any of the following places --

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal;
- (8) Between a safety zone or island and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone or island, unless a different length is indicated by traffic control devices;
- (9) Within 50 feet of the nearest rail or railroad crossing, unless a different length is indicated by traffic control devices;
- (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly designated by traffic control devices.
- (11) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
- (12) Upon the roadway of any highway when it is practical to stop, stand or park off the roadway;
- (13) On the roadway side of any vehicle stopped or parked on the shoulder or at the edge or curb of a highway;
- (14) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (15) At any place where official traffic control devices prohibit stopping, standing or parking;

(16) At any place where such parking, standing, or stopping obstructs the free passage of other traffic.

(17) Wherever a curb is marked yellow or a yellow line is placed at the edge of a roadway or shoulder;

(18) In the area between roadways of a divided highway, including crossovers.

(b) No person shall move a vehicle not lawfully under his control into such prohibited area or away from a curb such distance as is unlawful.

Section 52. Amend §4180, Chapter 41, Title 21, Delaware Code by striking said subsections (a), (b), (c) and (d) in their entirety and substitute in lieu thereof a new subsection (a), (b), (c) and (d) to read as follows:

“§4180. Additional parking regulations; penalty.

(a) Except as otherwise provided in this section every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right hand wheels parallel to and within 12 inches of the right hand curb or outside edge of the shoulder.

(b) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or outside edge of the shoulder, or its left wheels within 12 inches of the left-hand curb or outside edge of the shoulder.

(c) Local authorities within their respective jurisdictions may, by ordinance, permit angle parking on any highway except that angle parking shall not be permitted on a Federal-aid or State highway unless the Department of Highways and Transportation has determined that the highway is of sufficient width to permit angle parking without interfering with the free movement of traffic on the roadway.

(d) The Department of Highways and Transportation may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any highway where, in its opinion, such stopping, standing or parking is dangerous to those using the highways, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such prohibitions or restrictions may be declared to be effective either part or all of the time and differing limits may be established for different times of the day, for different types of vehicles, for different weather conditions, and when other significant factors differ.

Section 53. Amend §4184, Chapter 41, Title 21, Delaware Code by striking subsection (b) said section in its entirety.

Section 54. Amend §4185 of Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

“§4185. Riding on motorcycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator and said motorcycle shall be equipped with passenger footrests.

(b) Every person operating or riding on a motorcycle shall wear a safety helmet and eye protection approved by the Secretary of Public Safety.

(c) No portion of the handle bars on a motorcycle may extend more than 15 inches above the level of the operator's regular seat. The operator shall keep at least one hand on a handgrip of the handlebars at all times when moving.

(d) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.

(e) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

(f) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator."

Section 55. Amend §4186 of Chapter 41, Title 21, Delaware Code, by adding a new subsection (c) to read as follows:

"§4186. Obstruction to driver's view of driving mechanism.

(c) Every person riding in a passenger car shall occupy a seating position designed and intended for his use."

Section 56. Amend §4187, Chapter 41, Title 21, Delaware Code by striking said section in its entirety and insert in lieu thereof a new section to read as follows:

"§4187. Coasting prohibited.

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of any motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged."

Section 57. Amend §4188, Chapter 41, Title 21, Delaware Code by striking subsection (b) in its entirety and insert a new subsection (b) to read as follows:

"§4188. Following fire apparatus; driving vehicle over fire hose.

(b) No person shall drive any vehicle over any line of

hose, which has been laid for the purpose of extinguishing a fire without the consent of the fire department official in command."

Section 58. Amend §4191, Chapter 41, Title 21, Delaware Code by striking subsection (a) in its entirety and insert a new subsection (a) to read as follows:

"§4191. Trailers and towed vehicles.

(a) No vehicle shall be driven upon any highway drawing or having attached thereto more than one other vehicle, except that a vehicle with semi-trailer may draw in addition thereto, one other vehicle. This section does not apply to farm tractors.

Section 59. Amend §4191, Chapter 41, Title 21, Delaware Code by adding a subsection (c) to read as follows:

(c) It shall be unlawful to ride in a towed vehicle except when necessary to steer the towed vehicle."

Section 60. Amend §4194, Chapter 41, Title 21, Delaware Code by inserting a new subsection (c) to read as follows:

(c) A trailer or semi-trailer designed for attachment to a bicycle may be used when securely attached thereto."

Section 61. Amend Chapter 43, Title 21, Delaware Code by adding thereto a new §4364 to read as follows:

"§4364. School bus markings.

(a) Every school bus shall bear the words "School Bus" in black letters at least 8 inches high with a stroke width of at least $\frac{3}{4}$ inches on both the front and rear of the body or on signs attached thereto. Lettering shall be placed as high as possible and between the flashing lamps required in §4366 without impairment of its visibility, but under no circumstances shall the bottom of the letters be lower than the top of the window line of the vehicle on which it is displayed.

(b) When a school bus is being operated upon a highway for purposes other than the actual transportation of children, all markings thereon indicating "School Bus" shall be covered, concealed or removed."

Section 62. Amend Chapter 43, Title 21, Delaware Code by adding thereto a new section to be designated §4365 to read as follows:

"§4365. School bus color and size.

(a) Every school bus body, including hood, cowl and fenders shall be painted the uniform color "National School Bus Chrome Yellow". Front and rear bumpers shall be painted black. Body trim, if used, shall be black.

(b) Every school bus body excluding mirrors shall have a minimum width of 84 inches and a minimum height from the road surface to the top of the roof of 100 inches."

Section 63. Amend Chapter 43, Title 21, Delaware Code by adding thereto a new section to be designated §4366 to read as follows:

"§4366. School bus flashing lamps.

(a) Every school bus must be equipped with two amber and two red lamps at the rear of the vehicle, and two amber and two red lamps at the front of the vehicle, which shall be controlled by a manually actuated switch, and when actuated shall flash alternately at the rate of 60 to 120 cycles per minute. The lamps must be mounted at the same horizontal level. Lamps shall be sealed beam units at least 5½ inches in diameter and shall have sufficient intensity to be visible at 500 feet in normal sunlight."

Section 64. Amend §4505, Chapter 45, Title 21, Delaware Code by striking said section in its entirety and insert a new section to read as follows:

“§4505. Regulation of weights or exclusion of classes of vehicles.

(a) Traffic control devices may be erected on any highway establishing the maximum permitted weight of any vehicle including load that may be driven thereover.

(b) Traffic control devices may be erected on any highway prohibiting the operation of trucks or other commercial vehicles thereover.”

Section 65. Amend §6509, Chapter 65, Title 21, Delaware Code by striking said section in its entirety and insert a new section to read as follows:

“§6509. Display of Lights.

Each traction engine or tractor and all vehicles attached thereto, shall comply with the requirements of §4345, Chapter 43, Title 21, Delaware Code.”

Section 66. Amend §6514, Chapter 65, Title 21, Delaware Code, by striking said section in its entirety and insert a new section to read as follows:

“§6514. Permit for Excess Weight.

Whenever it is necessary to operate a vehicle in excess of the weight prescribed by this chapter, a special permit shall be obtained from the Department of Highways and Transportation. Such permit shall be issued under the terms and authority of §4504, Chapter 45, Title 21, Delaware Code.”

Section 67. Amend §6515, Chapter 65, Title 21, Delaware Code by striking said section in its entirety.

Section 68. Amend §6516, Chapter 65, Title 21, Delaware Code, by striking said section in its entirety and substitute a new section to read as follows:

“§6516. Permits to Move Vehicles Without Tires.

The Secretary of Highways and Transportation and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.”

Section 69. Amend §6520, Chapter 65, Title 21, Delaware Code, by striking said section in its entirety and inserting a new section to read as follows:

“§6520. Traffic Laws Apply to Persons Driving Traction Engine and Tractors.

(a) Every person driving a tractor or traction engine shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulation in this subchapter and except as to those provision of this title which, by their nature, can have no application.”

Section 70. Amend §2735, Chapter 27, Title 21, Delaware Code, by striking the period (.) at the end of said section and substituting in lieu thereof the following:

“ except that a person whose license is revoked under §2732 (a) (3) may apply and be issued a license under the provisions of this Title.”

Section 71. Severability.

If any provision of this Act, or any rule, regulation or order thereunder or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected hereby.”

Approved August 5, 1976

CHAPTER 702

SENATE BILL NO. 675
AS AMENDED BY SENATE AMENDMENT NOS.
2 & 4
AND
HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND CHAPTER 41, OF TITLE 21,
DELAWARE CODE, RELATING TO OMNIBUS
CHANGES IN THE DEPARTMENT OF PUBLIC
SAFETY.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend §4172 of Chapter 42, Title 21, Delaware Code, by striking said section in it's entirety and insert in lieu thereof a new section to read as follows:

**“§4172. Speed exhibitions; drag races; and other
speed contests.**

(a) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, and no person shall aid, abet, promote, assist or in any manner participate in any such race, competition, contest, test or exhibition.

(b) No person shall accelerate or try to accelerate his vehicle at a rate which causes the drive wheels to spin or slip on the road surface. This subsection shall not apply during periods of inclement weather.

(c) No owner or person in charge of a vehicle shall permit his vehicle or any vehicle under his control to be used by another person for any of the purposes listed in part (a) or part (b) of this section. If any vehicle is witnessed by a police officer to be in violation of this sec-

tion and the identity of the operator is not otherwise apparent, the person in whose name such vehicle is registered as the owner shall be held *prima facie* responsible for such violation.

(d) Whoever violates any of the provisions of this section shall be fined for the first offense not less than \$25 nor more than \$200 or imprisoned not less than ten (10) days nor more than thirty (30) days, or both. For each subsequent like offense, he shall be fined not less than \$50 nor more than \$400 or imprisoned not less than fifteen (15) days nor more than sixty (60) days or both. Upon receiving notice of a conviction for a first offense, the Secretary shall forthwith suspend the drivers license of the person convicted, for a period of not longer than six (6) months. Upon receiving notice of a conviction of a subsequent like offense, the Secretary shall suspend the drivers license for a one year period. Notwithstanding the foregoing, there shall not be a suspension of drivers license upon conviction for a first offense under paragraph (b) of this section."

Section 2. Amend §4177, Chapter 41, Title 21, Delaware Code, by adding thereto a new subsection to be designated as subsection (e) to read as follows:

"(e) Notwithstanding the penalties specified in subsection (a) of this section and notwithstanding the one year revocation specified in subsection (b) of this section, anyone so convicted shall be permitted to apply for a drivers license or driving privileges during the period of revocation if the applicant sets forth in the application that:

(1) the conviction upon which the application is based is a first offense within the meaning of §4177, Title 21, Delaware Code, as amended; and

(2) no prior revocation ruling against the applicant has been ordered within the last five (5) years; and.

(3) the applicant has satisfactorily completed a course

of instruction and/or rehabilitation program and paid all fees in connection therewith. Said course of instruction and/or rehabilitation program shall be available within the time period within which his license was revoked unless additional time is deemed necessary by the Secretary. The administration and fees of the said course of instruction and/or rehabilitation program shall be under the authority of the Secretary; and

(4) the applicant, after satisfactorily completing said course, may apply for his license. A period of at least six (6) months must elapse between the time of surrender of the applicant's license until the issuance of such license; and

(5) proof of financial responsibility has been furnished as required under Chapter 29, Title 21, Delaware Code; and

(6) subsection (e) shall terminate on July 1, 1980. The Secretary shall provide the General Assembly with a comprehensive report on the results of the implementation of subsection (e) on the third day of the session beginning in January, 1980."

Section 3. Amend Title 21, Chapter 27, Section 2732, Subsection (a) (1) by striking paragraph (1) of Subsection (a) in its entirety and insert in lieu thereof a new paragraph (1) to read as follows:

"(1) Manslaughter or homicide resulting from the operation of a motor vehicle;"

Section 4. Amend Chapter 41, Title 21 of the Delaware Code by adding thereto a new section to be designated as §4172A and to read as follows:

"§4172A. Malicious Mischief By A Motor Vehicle.

(a) No person shall operate a motor vehicle in such a manner as to cause willful, wanton, or reckless damage to

or destruction of property owned by another person, party, company, or corporation.

(b) No owner or person in charge of a motor vehicle shall permit his motor vehicle or any motor vehicle under his control to be operated by another person in such a manner as to cause willful, wanton, or reckless damage to or destruction of property owned by another person, party, company or corporation.

(c) Whoever being an operator violates any of the provisions of this section shall be fined for the first offense not less than twenty five dollars (\$25.00) nor more than two hundred dollars (\$200.00) or imprisoned not less than ten (10) days nor more than thirty (30) days, or both. Upon receiving the notice of such conviction, the Secretary shall forthwith suspend the driver's license of the person convicted, for a period of not longer than six (6) months. For each subsequent like offense, he shall be fined not less than fifty dollars (\$50.00) nor more than four hundred dollars (\$400.00) or imprisoned not less than fifteen (15) days nor more than sixty (60) days, or both. Upon receiving a court record of conviction for a subsequent like offense, the Secretary shall suspend the driver's license for a one (1) year period.

(d) Whoever being the owner or person in charge of a motor vehicle who permitted such motor vehicle to be operated in violation of the provisions of this section shall be fined for the first offense not less than twenty five dollars (\$25.00) nor more than two hundred dollars (\$200.00) or imprisoned not less than ten (10) days nor more than thirty (30) days, or both. For each subsequent like offense he shall be fined not less than fifty dollars (\$50.00) nor more than four hundred dollars (\$400.00) or imprisoned not less than fifteen (15) days nor more than sixty (60) days, or both.

(e) The provisions of this section shall apply to the operation of motor vehicles on public highways and elsewhere throughout the state."

Section 5. Severability.

If any provision of this Act, or any rule, regulation or order thereunder or the application of such provision to any person or circumstances shall be held invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected hereby.

Approved August 5, 1976

CHAPTER 703

SENATE BILL NO. 724

**AN ACT TO AMEND SUBCHAPTERS V AND VI OF
CHAPTER 65, TITLE 11, DELAWARE CODE,
RELATING TO THE ESTABLISHMENT OF TWO
SEPARATE CLASSIFICATIONS COMMITTEE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Subchapter V, Chapter 65, Title 11, Delaware Code by adding thereto a new section to be designated as Section 6528 which shall read as follows:

“§6528. Institutional Classification Board; Institutional Release Classification Board.

(a) The Department shall classify persons in the several institutions and facilities by the use of two separate and distinct classification boards to be known as The Institutional Classification Board and The Institutional Release Classification Board with powers and responsibilities delineated in Subchapter VI.

(1) The Institutional Classification Board shall be responsible for the classification of all inmates residing and remaining in the several institutions and facilities.

(2) The Institutional Release Classification Board shall be responsible for the classification of all inmates that are being considered for release from the several institutions and facilities under the jurisdiction of the department.”

Section 2. Amend §6529 of Subchapter VI, Chapter 65, Title 11, Delaware Code by striking said Section in its entirety and substituting two new sections to be designated as Sections 6529 and 6529A to read as follows:

“§6529. Institutional Classification Board.

(a) The Institutional Classification Board shall classify persons in the several institutions and facilities and shall promulgate regulations in accordance with which one or more classification committees shall be organized and operated not inconsistent with §6528 (a) (1).

(b) Said board's purpose is the organization and harmony of inmate life (e.g. determining maximum or minimum security).

(c) The Institutional Classification Board shall consist of an equal number of individuals from both the custodial staff and the treatment staff.

(d) The warden shall maintain the power to veto decisions of the board.

§6529A. Institutional Release Classification Board.

(a) The Institutional Release Classification Board shall classify any and all inmates seeking release from an institution for whatever reason.

(b) The Institutional Release Classification Board shall consist of seven members; two members each from the custodial staff and treatment staff as well as three individuals to be appointed by the Council on Administration of Justice and whose terms shall run concurrently with that of the membership of said Council.

(c) The three individuals to be appointed by the Council on Administration of Justice shall receive compensation in the amount of \$75.00 per meeting. However, no member so appointed shall receive compensation in excess of \$3,000 per annum.

(d) The warden of the institution shall possess veto power over decisions of the board and also shall possess discretionary authority to grant a furlough in the event of

the sudden death of a member in an inmate's immediate family."

Approved August 5, 1976

CHAPTER 704

SENATE BILL NO. 725
AS AMENDED BY SENATE AMENDMENT NO. 2
AND HOUSE AMENDMENT NO. 1

**AN ACT TO AMEND SUBCHAPTER VII, CHAPTER
65, TITLE 11, DELAWARE CODE, RELATING TO
FURLOUGHS FOR INMATES WITHIN THE
DELAWARE CORRECTIONAL SYSTEMS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §6538 of Subchapter VII, Chapter 65, Title 11, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new section 6538 to read as follows:

“§6538. Furloughs.

(a) The Department shall promulgate strict rules and regulations subject to the approval of the Institutional Release Classification Board under which inmates, as part of a program looking to their release from the custody of the Department, or their treatment, may be granted temporary furloughs from the institution to visit their families or to be interviewed by prospective employers.

(b) In the case of death, furloughs shall only be granted to an inmate for his immediate family which would include said inmate's mother, father, son, daughter, brother, sister, husband or wife. An inmate shall only be granted a furlough to attend a private viewing or wake with his immediate family. The Institutional Release Classification Board, or the Warden in charge of the Institution, in cases of emergency, shall set the conditions of an inmate's furlough, including the determination of whether the inmate should be handcuffed to the officer and when such action should take place.

(c) Inmates taking part in choral presentations and other legitimate programs shall be escorted by custodial officers whenever leaving the institution. Transportation and custodial costs shall be borne by the individuals or groups requesting the inmate's appearance and shall not be at the state's expense."

Approved August 5, 1976

CHAPTER 705

SENATE BILL NO. 726

AN ACT TO AMEND SUBCHAPTER VI, CHAPTER 65, TITLE 11, DELAWARE CODE, RELATING TO WORK RELEASE PROGRAMS AND POLICIES AND ATTENDING EDUCATIONAL CLASSES OUTSIDE CONFINES OF THE CORRECTIONAL INSTITUTION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §6533 of Subchapter VI, Chapter 65, Title 11, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section 6533 to read as follows:

“§6533. Outside employment; work release.

(a) The Department shall adopt rules and regulations governing the employment of trustworthy inmates outside the institutions and facilities under the jurisdiction of the Department. Said Department shall adopt policies and procedures outlining the latitude and limitations of employers who utilize the service of inmates and provide provisions for any violation by said employer.

(b) Any inmate employed under the provisions of subsection (a) of this section shall continue to be in the legal custody of the Department, notwithstanding his absence from an institution by reason of such employment and any employer of any such person shall be considered the representative of, or keeper for, the Department.

(c) Whoever, being an employer or other person, through negligent control of the inmate or otherwise permits, or whoever counsels, advises, aids, assists, abets or procures the escape from the legal control of the Department of any inmate employed under this subchapter shall

be fined, or imprisoned, or both."

Section 2. Amend Subchapter VI, Chapter 65, Title 11, Delaware Code by adding thereto a new section to be designated as Section 6533A to read as follows:

"§6533A. Outside Education.

(a) The Department shall adopt rules and regulations governing the education of trustworthy inmates under the jurisdiction of the Department, except that whenever the Department requests placement of inmates in a school of a recognized school district, the approval of the Board of Education of that district shall be a prerequisite to such placement, and tuition shall be paid under the terms of Chapter 6 of Title 14.

(b) Any inmate being educated under the provisions of subsection (a) of this section shall continue to be the legal custody of the Department, notwithstanding his absence from an institution by reason of such education, and any educator of any such person shall be considered the representative of, or keeper for, the Department.

(c) Whoever, being an educator or other person, through negligent control of the inmate or otherwise permits, or whoever counsels, advises, aides, assists, abets or procures the escape from the legal control of the Department of any inmate being educated under this subchapter shall be fined, or imprisoned, or both."

Approved August 5, 1976

CHAPTER 706

SENATE BILL NO. 734

AN ACT TO AMEND CHAPTER 89, PART VIII, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF CORRECTION; AND PROVIDING CERTAIN CRITERIA FOR THE EMPLOYMENT OF PERSONNEL.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 89, Part VIII, Title 29 of the Delaware Code by adding thereto a new section, designated as §8914, which new section shall read as follows:

“§8914. Officers and Employees.

Notwithstanding the provisions of §5920, Title 29 of the Delaware Code or any other section, the application by any person seeking employment in the Department shall be rejected if it indicates, on its face, that the applicant does not meet the minimum qualifications for the position sought. Applications shall also be rejected if the applicant has made false statements or misrepresentations on his application; is habituated to the intemperate use of alcoholic beverages or the use of harmful drugs which makes him unable to perform duties required by the position; has a record of court convictions or infamous or other conduct which render him unsuitable for employment; or has been separated from any branch of the armed forces under conditions other than honorable.”

Approved August 5, 1976

CHAPTER 707

SENATE BILL NO. 735
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND CHAPTER 43, TITLE 11 OF
THE DELAWARE CODE TO BAR PAROLES FOR
PRISONERS WHO ESCAPE OR ATTEMPT TO
ESCAPE OR AID OR ABET ESCAPE OR AT-
TEMPTS TO ESCAPE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §4347, Chapter 43, Title 11, of the Delaware Code by adding at the end of subsection (d) the following:

“No parole shall be issued to any prisoner who has been convicted in a court of law and sentenced for committing or attempting to commit the offense of ‘escape after conviction’ as set forth in §1253, Chapter 5, Subchapter VI, Subpart E, Title 11 of the Delaware Code until such time as that prisoner has served the amount of time equivalent to and commensurate with that imposed in the sentence set forth by the court for said escape or attempt to escape.

No parole shall be issued to any prisoner who has been convicted and sentenced in a court of law for the offense of “Conspiracy in the Second Degree” as defined in §512, Chapter 5, Subchapter 1, Title 11 of the Delaware Code with respect to directly and actively aiding or abetting an escape as defined in §1253, Chapter 5, Subchapter VI, Subpart E, Title 11 of the Delaware Code until such time as an equivalent amount of time commensurate with that which has been imposed under the sentence set forth by the court for said conspiracy has been served.”

Approved August 5, 1976

CHAPTER 708

SENATE BILL NO. 737
AS AMENDED BY SENATE AMENDMENT NOS. 1 & 2

AN ACT TRANSFERRING JUVENILE MOTOR VEHICLE VIOLATIONS FROM THE EXCLUSIVE JURISDICTION OF THE FAMILY COURT TO THE JUSTICE OF THE PEACE COURTS, WITH CERTAIN EXCEPTIONS, BY AMENDING TITLE 10 AND TITLE 21 OF THE DELAWARE CODE.

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

Section 1. Amend subsection (2) a, §921, Title 10 of the Delaware Code by striking subsection (2) a in its entirety and substituting in lieu thereof the following:

“(2) a. Any child charged in this State with delinquency by having committed any act or violation of any laws of this State or any subdivision thereof except: murder in the first degree, rape, kidnapping; any child 16 years of age or older charged with violating the provisions of Title 21 of the Delaware Code, except as provided in §927 of this Title, or any other crime over which the General Assembly has granted or may grant jurisdiction to another court.”

Section 2. Amend subsection (10), §921, Title 10 of the Delaware Code by striking subsection (10) in its entirety and substituting in lieu thereof the following:

“(10) Any child in the State under the age of 16 years charged with delinquency by having committed a violation of any provision of Title 21 of the Delaware Code; and any child in the State 16 years of age or older charged with having violated any of the provisions specified in §927, Title 10 of the Delaware Code;

a. The court having jurisdiction of violations of Title 21, Delaware Code, not covered above shall not proceed, except to continue the case, without the presence of a custodian, near relative, attorney, or other interested person.

b. Any judge of a court of proper jurisdiction, if he determines the existence of circumstances beyond the violation of Title 21 of the Delaware Code which indicates to him that the child 16 or 17 years old may be dependent, neglected, or delinquent, shall, in addition to hearing the violation of Title 21, cause a complaint to be filed charging dependency, neglect, or delinquency.

c. Any sentence imposed against any child 16 or 17 years old by a court having jurisdiction of the offenses in Title 21 of the Delaware Code, except those offenses within the jurisdiction of the Family Court, shall be limited to a fine and costs. No court shall detain a child 16 years of age or older in a jail or adult correctional institution or jail pending trial on any violation of Title 21, Delaware Code. Any child pending trial shall, in the default of bail, be detained only in a juvenile correctional facility.

d. Any child 16 or 17 years old who fails or refuses to pay a fine imposed by a court having jurisdiction of the offenses in Title 21, Delaware Code, except those offenses within the jurisdiction of the Family Court, and after exhaustion of all other legal remedies for collection provided by the State, shall be charged with delinquency and referred to the Family Court."

Section 3. Amend Chapter 9, Title 10 of the Delaware Code by adding §927 thereto, which shall read as follows:

"§927. Exclusive Jurisdiction over Motor Vehicle Violations.

The Court shall have exclusive original civil jurisdiction in all proceedings in this State involving children

charged with violating any of the following motor vehicle provisions of Title 21:

(1) altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty, or certification sticker, or vehicle identification plate under §2316, Title 21 of the Delaware Code;

(2) driving while license is suspended or revoked under §2756, Title 21 of the Delaware Code;

(3) penalties under §2971 (a), Title 21 of the Delaware Code;

(4) obedience to police officers under §4103, Title 21 of the Delaware Code;

(5) reckless driving under §4175, Title 21 of the Delaware Code;

(6) operation of vehicle while under the influence of intoxicating liquor or drug under §4177, Title 21 of the Delaware Code;

(7) duty of driver involved in accident resulting in injury or death to any person under §4202, Title 21 of the Delaware Code;

(8) duty to report accidents under §4203, Title 21 of the Delaware Code;

(9) introduction, sale, distribution or advertisement for sale to public of motor vehicle master keys under §4601, Title 21 of the Delaware Code;

(10) reporting of keys under §4603, Title 21 of the Delaware Code;

(11) possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock-picking devices, and hot wires under §4604, Title 21 of the

Delaware Code;

(12) driving a tractor under the influence of liquor or drugs under §6520, Title 21 of the Delaware Code;

(13) injuring vehicle or obstructing its operation under §6701, Title 21 of the Delaware Code;

(14) driving vehicle without consent of owner under §6702, Title 21 of the Delaware Code;

(15) tampering with vehicle under §6703, Title 21 of the Delaware Code;

(16) receiving or transferring stolen vehicle under §6704, Title 21 of the Delaware Code;

(17) removed, falsified or unauthorized identification number on vehicle or engine; removed or affixed license/registration plate with intent to misrepresent identity under §6705, Title 21 of the Delaware Code;

(18) possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card under §6708, Title 21 of the Delaware Code;

(19) removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers under §6709, Title 21 of the Delaware Code;

(20) unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers under §6710, Title 21 of the Delaware Code.

Where appropriate, the Court has the power to impose the penalties provided for under §6707, Title 21 of the Delaware Code."

Section 4. Amend subsection (a), §704, Title 21 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof the following:

“(a) Justices of the Peace and the Municipal Court for the City of Wilmington shall have jurisdiction over a child 16 or 17 years of age or older charged with having violated the provisions of Title 21, Delaware Code, except as provided in §927, Title 10 of the Delaware Code.”

Section 5. Amend §704, Title 21 of the Delaware Code by adding subsection (f) thereto, which shall read as follows:

“(f) The jurisdiction of the Family Court in matters involving the violation of the provisions of Title 21 of the Delaware Code by children 16 years of age or over is hereby terminated, with the exception of those offenses over which the Family Court has expressly retained jurisdiction under §927, Title 10 of the Delaware Code, and except for such actions for the violation of the Delaware Code, and except for such actions for the violation of the provisions of this Title which were commenced prior to the effective date hereof.”

Approved August 5, 1976

CHAPTER 709

SENATE BILL NO. 859

**AN ACT LIMITING THE AUTHORIZATION OF
GENERAL OBLIGATION BONDS OF THE STATE
OF DELAWARE.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. The authorization by the General Assembly of the State of Delaware of General Obligation Bonds shall be limited in any fiscal year to 75% (seventy-five percent) of the Principal Retirement of the prior fiscal year.

Approved August 5, 1976

CHAPTER 710

SENATE BILL NO. 855

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR PAYMENT OF CLAIMS RELATING TO "VETERANS" MILITARY PAY ACT NO. III".

WHEREAS, the 127th General Assembly passed Senate Bill No. 454 which provided for an extension of the deadline when claims and payments may be made under the Veterans' Military Pay Act No. III; and

WHEREAS, the 128th General Assembly passed Senate Bill No. 9, also providing for an extension of the deadline when claims and payments may be made under the Veterans' Military Pay Act No. III; and

WHEREAS, additional claims have been filed subsequent to the deadlines of June 30, 1974, and June 30, 1975, and the remaining funds reverted to the General Fund of the State of Delaware on June 30, 1975, thus leaving the account depleted; and

WHEREAS, there have been at least eighty-four applications received to date in the Department of Finance.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of twenty-five thousand dollars (\$25,000.00) is hereby appropriated to the Department of Finance to be used toward payment of **bona fide** veterans' claims under guidelines of the Veterans' Military Pay Act No. III.

Section 2. Funds appropriated herein shall be paid

by the State Treasurer from the General Fund monies not otherwise appropriated.

Section 3. No funds appropriated herein shall be used for the payment of any claim under the Veterans' Military Pay Act No. III unless such application and claim was filed with the Department of Finance prior to May 1, 1976. The General Assembly shall consider on an individual basis any claims received after May 1, 1976.

Section 4. Funds herein appropriated and remaining unexpended or unencumbered on June 30, 1977 shall revert to the General Fund of the State of Delaware.

Approved August 6, 1976

CHAPTER 711

SENATE BILL NO. 857

AN ACT AWARDING SPECIAL PENSION BENEFITS, APPROPRIATING MONIES TO FUND SUCH PENSIONS, AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ADMINISTER PAYMENT OF SUCH PENSIONS AS IF THE AWARDS WERE PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE; AWARDING SPECIAL PENSION BENEFIT, APPROPRIATING MONIES TO FUND SUCH PENSION, AND DIRECTING THE BOARD OF PENSION TRUSTEES TO ADMINISTER PAYMENT OF SUCH PENSION AS IF THE AWARD WERE PURSUANT TO CHAPTER 83, TITLE 11, DELAWARE CODE; AND AUTHORIZING THE SUSSEX COUNTY COUNCIL TO AWARD A PENSION BENEFIT TO A FORMER EMPLOYEE AS IF THE AWARD WERE PURSUANT TO CHAPTER 64, TITLE 9, DELAWARE CODE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Special pension benefits are awarded to the following as if they were awarded pension benefits pursuant to the provisions of the State Employees Pension Plan as prescribed by Chapter 55, Title 29, Delaware Code:

<u>Legislative Bill Reference</u>	<u>Pensioner</u>	<u>Nature of Pension Benefit</u>
S.B. 717	Ann Cannon	Disability
S.B. 809	Bessie George	Survivor's
S.B. 822	Kathleen Porter	Survivor's
H.B. 341	John E. Jones	Disability
H.B. 412	Mrs. William S. Queen	Survivor's
H.B. 425	Elton R. Wood	Disability

Legislative Bill Reference	Pensioner	Nature of Pension Benefit
H.B. 572	Helen Carmean	Survivor's
H.B. 633	Norman F. Hastings	Disability
H.B. 634	Mrs. Fred Perkins	Survivor's
H.B. 788	Mrs. Harrison B. Lomax, Jr.	Survivor's
H.B. 945	Mrs. Stanley J. Lewandowski	Survivor's
H.B. 1115	Mrs. Grace G. Gottwals	Disability

Section 2. Pensioner Charles A. Dougherty is awarded an increase in his pension benefit based upon his employment with the Levy Court of New Castle County as if he were awarded credited service for county employment pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 3. Pensioner Edward Carpenter is awarded an increase in pension benefit based upon $\frac{3}{4}$'s of the current active duty pay as a Corporal of the State Police as if the pension benefit were awarded under Chapter 83, Title 11, Delaware Code.

Section 4. Mrs. Ellis P. Sartin is awarded a survivor's pension benefit based upon Mr. Ellis P. Sartin's employment with the State of Delaware as if he were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 5. (a) George B. Davis is awarded a pension benefit based upon his employment with the State of Delaware as if he were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

(b) The State Board of Pension Trustees is directed to compute the amount of pension benefits payable to George B. Davis on the same basis as pensions payable under Chapter 55, Title 29, Delaware Code, and to make such payments retroactive to June 1, 1975.

Section 6. Anne E. Klumpp is awarded a pension benefit based upon her employment with the State of Delaware as if she were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 7. Leo B. Green is awarded a pension benefit based upon his employment with the State of Delaware as if he were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 8. Nicholas DeSimone is awarded a pension benefit based upon his military service and two years out-of-state teaching experience as if he were awarded credited service for his military service and two years out-of-state teaching experience pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 9. Angeline Morris is awarded a survivor's pension benefit based upon Charles Morris's employment with the State of Delaware as if she were awarded a survivor's pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 10. Helen Dryden shall be awarded an increase in her pension benefit based upon her employment with the Levy Court of New Castle County as if she were awarded credited service for county employment pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 11. Margaret C. Harris is awarded a pension benefit based upon her employment with the State of Delaware as if she were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 12. Herman Roach is awarded a pension benefit based upon his employment with the State of Delaware as if he were awarded a pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 13. Joseph J. Conte is awarded an increase in his pension benefit upon retirement as if he were awarded credited service for his periods of disability pursuant to the provisions of Chapter 55, Title 29, Delaware Code; provided he pays into the fund the sum of (1) the additional employee contributions which would have been made to the fund based upon what his salary would have been during the periods of disability, (2) an amount determined by applying the rate of State appropriations to the fund for his total earnings during the periods of disability, and (3) interest compounded at the rate of six percent (6%) per annum on the sum of (1) and (2) from the end of the calendar year accrued to the date paid.

Section 14. Esther Stevens is awarded an increase in her pension benefit effective upon retirement based upon her employment with the Levy Court of New Castle County as if she were awarded credited service for county employment pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 15. Inez Roach is awarded an increase in her pension benefit based upon her employment with Sussex County as if she were awarded credited service for county employment pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 16. Dorothy Jackson is awarded an increase in her pension benefit upon retirement as if she were awarded credited service for her period of disability pursuant to the provisions of Chapter 55, Title 29, Delaware Code; provided she pays into the fund the sum of (1) the additional employee contributions which would have been made to the fund based upon what her salary would have been during the period of disability, (2) an amount determined by applying the rate of State appropriations to the fund on her total earnings during the period of disability, and (3) interest compounded at the rate of six percent (6%) per annum on the sum of (1) and (2) from the end of the calendar year accrued to the date paid.

Section 17. Mrs. Bessie Sudler is awarded a minimum pension benefit based upon her employment with the State of Delaware as if she were awarded a minimum pension benefit pursuant to the provisions of Chapter 55, Title 29, Delaware Code.

Section 18. The sum of \$40,000 is hereby appropriated and shall be paid out of the General Fund of the State of Delaware for the purpose of providing pension benefits to those recipients in Section 1 through 17 of this Act for FY 1977.

Section 19. The Board of Pension Trustees is directed to administer payment of the aforesaid pension benefits as if they were awarded pursuant to the provisions of Chapter 55, Title 29, or Chapter 83, Title 11, Delaware Code; and the aforesaid appropriation shall be deposited by the State Treasurer in the State Employees' Retirement Fund for the aforesaid purpose.

Section 20. Any portion of the funds appropriated by this Act which shall not have been expended for the purpose set forth shall revert on June 30, 1977, to the General Fund of the State of Delaware.

Section 21. The Sussex County Council is hereby directed to determine that Catherine Prettyman Wilkins is eligible for a pension benefit as if she were eligible pursuant to Chapter 64, Title 9, Delaware Code.

Section 22. This Act shall become effective July 1, 1976.

Approved August 6, 1976

CHAPTER 712

HOUSE BILL NO. 86
AS AMENDED BY HOUSE AMENDMENT NOS.
1, 2 AND 3

**AN ACT TO AMEND CHAPTER 31, TITLE 15 OF
THE DELAWARE CODE RELATING TO PRI-
MARY ELECTIONS AND NOMINATIONS OF
CANDIDATES, AND PROVIDING FOR A
DIRECT PRIMARY.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Amend Chapter 31, Part III, Title 15 of the Delaware Code by adding thereto a new section, designated as §3101A, which new section shall read as follows:

“§3101A. Direct Primary Elections.

The nominations of candidates by all political parties for all officers to be decided at a general election shall be conducted by direct primary. All such primaries shall be conducted by the county Department of Election under the applicable provisions of this Title.”

Section 2. Amend §3101 Chapter 31, Part III, Title 15 of the Delaware Code by striking §3101 in its entirety, and substituting in lieu thereof:

“§3101. Nomination, Withdrawal and Primary Election Dates.

The following schedule shall apply for all candidates:

(a) Notification of candidacy shall be on or before twelve o'clock noon (12:00 p.m.) of the last Friday in July. In the event the last Friday in July is a legal holiday, then the last day to give notification shall be the next day

which is not a Saturday, Sunday or a legal holiday.

(b) Such notification of candidacy may be withdrawn on or before twelve o'clock noon (12:00 p.m.) of the second Friday in August. In the event the second Friday in August is a legal holiday, then the final day to withdraw shall be the next day which is not a Saturday, Sunday or a legal holiday.

(c) Primary elections for all political parties shall be conducted on the first Saturday next following the first Monday in September.

(d) After the deadline for Notification of Candidacy set forth in subsection (a) and before the deadline for withdrawal set forth in subsection (b), a candidate may change his candidacy and become a candidate for a different office in the coming election. Such change of candidacy shall be deemed to be irrevocable withdrawal from candidacy for the first announced office."

Section 3. Amend subsection (a), Section 3103, Chapter 31, Title 15 of the Delaware Code by striking paragraph (4) in its entirety.

Section 4. Amend §3103, Chapter 31, Part III, Title 15 of the Delaware Code by striking the figure "2%" as the same appears in subsection (b), and substituting the figure "1%" in lieu thereof.

Section 5. Amend subsection (c), Section 3103, Title 15 of the Delaware Code by striking the words "pursuant to §3106 of this Title" as they appear in the last sentence thereof and substituting in lieu thereof the words "pursuant to §3101 of this Title".

Section 6. Amend §3106, Chapter 31, Part III, Title 15 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§3106. Filing of Candidacy for Nomination at a

Primary Election; Withdrawal

(a) Any person desiring to be a candidate shall give notice in the following manner:

(1) Candidates for Statewide office:

(i) Any Statewide candidate shall notify the Chairman of the State committee of his respective political party, or his designee in writing, on forms prescribed by the State Election Commissioner on or before the deadline set forth in §3101 (a) of this Title.

(ii) At the time of giving notice as required above, each candidate shall tender the required filing fee, if any, be giving a check to the State Election Commissioner, payable to the State committee of the candidate's political party, together with a copy of the notice given the party's State Chairman. At such time, the Commissioner shall receipt a third copy of said notice, to be provided the candidate.

(iii) Except incumbents, the notification given to the State Election Commissioner shall include nominating petitions signed by not less than two percentum (2%) of the total number of qualified electors of the candidate's party in this State. These petitions shall be prepared by Representative Districts and shall include the signatures, printed names and addresses of all qualified voters signing them. Each petition shall contain a general declaration, subscribed to by each person signing the petition, that such signer is a duly qualified and registered elector of the candidate's party, and is signing the petition under oath. This statement shall be followed by a warning that persons placing illegal signatures on the petition may be subject to prosecution for perjury. Each petition shall also include a statement signed by the person gathering the signatures that such person witnessed the placing of each signature upon the petition.

(2) Candidates for all other offices:

(i) All candidates for county or countywide office, members of the General Assembly, and/or municipal office for any municipality holding its election at the time of the general election shall notify the county Chairman, or his designee, in writing (or the city Chairman, or his designee, if applicable for municipal candidates) of their respective political party in their county of residence on forms prescribed by the State Election Commissioner on or before the deadline set forth in §3101 (a) of this Title.

(ii) At the time of giving notice as required above, each candidate shall tender the required filing fee, if any, by giving a check to the county Department of Elections, payable to the county committee of the candidate's political party (or city committee, if applicable for municipal candidates), together with a copy of the notice given to the party Chairman. At such time, the Department shall receipt a third copy of the notice, to be provided the candidate.

(b) If any of the filing fees mentioned in (a) above are not required, each candidate shall still give notice to the election agency having jurisdiction, as specified in (a)(1) and (a)(2), and shall receive a receipted copy of the prescribed form.

(c) Any candidate who has filed for nomination as required above may withdraw said filing by notifying the respective elections agency with whom he filed on forms prescribed by the State Election Commissioner on or before the deadline set forth in §3101 (b) of this Title. The elections agency having jurisdiction shall promptly notify the same political party Chairman who received the original notice of filing. The filing fee of the candidate so withdrawing shall be returned to him. In the event a candidate withdraws after the deadline set forth in §3101 (b) of this Title, he shall forfeit the filing fee to the political party. In cases where no filing fee was required, any candidate withdrawing after the deadline shall submit to the respective elections agency a check payable to the Treasurer of the State of Delaware in the amount of fifty

dollars (\$50.00).

(d) Following the deadline for withdrawal of candidates, the State Election Commissioner shall promptly turn over the filing fee checks of the Statewide candidates to the State Chairmen of their respective political parties. At the same time, the Commissioner shall notify each county Department of Elections of all those Statewide candidates who have qualified under this section.

The county Departments shall also at this time submit to the county Chairman (or city Chairman, if applicable) all filing fee checks from candidates of their respective political parties and shall notify the Commissioner of all persons who have qualified as candidates.

(e) Any notice of candidacy or withdrawal of candidacy required by this section shall include the signature of each candidate, together with his proper and correct name typed or printed, and the address from which he is registered to vote."

Section 7. Amend §3107, Chapter 31, Part III, Title 15 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§3107. Determination of Nominee.

Any candidate for party nomination to any office who receives a plurality of the votes cast in his party's primary election for that office shall be the nominee of his party for such office."

Section 8. Amend §3113, Chapter 31, Part III, Title 15 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§3113. Nominating Conventions.

The method of nominating candidates for the National Electoral College, for offices within a particular

(i) All candidates for county or countywide office, members of the General Assembly, and/or municipal office for any municipality holding its election at the time of the general election shall notify the county Chairman, or his designee, in writing (or the city Chairman, or his designee, if applicable for municipal candidates) of their respective political party in their county of residence on forms prescribed by the State Election Commissioner on or before the deadline set forth in §3101 (a) of this Title.

(ii) At the time of giving notice as required above, each candidate shall tender the required filing fee, if any, by giving a check to the county Department of Elections, payable to the county committee of the candidate's political party (or city committee, if applicable for municipal candidates), together with a copy of the notice given to the party Chairman. At such time, the Department shall receipt a third copy of the notice, to be provided the candidate.

(b) If any of the filing fees mentioned in (a) above are not required, each candidate shall still give notice to the election agency having jurisdiction, as specified in (a)(1) and (a)(2), and shall receive a receipted copy of the prescribed form.

(c) Any candidate who has filed for nomination as required above may withdraw said filing by notifying the respective elections agency with whom he filed on forms prescribed by the State Election Commissioner on or before the deadline set forth in §3101 (b) of this Title. The elections agency having jurisdiction shall promptly notify the same political party Chairman who received the original notice of filing. The filing fee of the candidate so withdrawing shall be returned to him. In the event a candidate withdraws after the deadline set forth in §3101 (b) of this Title, he shall forfeit the filing fee to the political party. In cases where no filing fee was required, any candidate withdrawing after the deadline shall submit to the respective elections agency a check payable to the Treasurer of the State of Delaware in the amount of fifty

dollars (\$50.00).

(d) Following the deadline for withdrawal of candidates, the State Election Commissioner shall promptly turn over the filing fee checks of the Statewide candidates to the State Chairmen of their respective political parties. At the same time, the Commissioner shall notify each county Department of Elections of all those Statewide candidates who have qualified under this section.

The county Departments shall also at this time submit to the county Chairman (or city Chairman, if applicable) all filing fee checks from candidates of their respective political parties and shall notify the Commissioner of all persons who have qualified as candidates.

(e) Any notice of candidacy or withdrawal of candidacy required by this section shall include the signature of each candidate, together with his proper and correct name typed or printed, and the address from which he is registered to vote."

Section 7. Amend §3107, Chapter 31, Part III, Title 15 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§3107. Determination of Nominee.

Any candidate for party nomination to any office who receives a plurality of the votes cast in his party's primary election for that office shall be the nominee of his party for such office."

Section 8. Amend §3113, Chapter 31, Part III, Title 15 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§3113. Nominating Conventions.

The method of nominating candidates for the National Electoral College, for offices within a particular

political party, and for formulation of the party platform may be by convention.”

Section 9. The provisions of this Act shall become effective on January 1, 1976.

Approved August 9, 1976

CHAPTER 713

SENATE BILL NO. 852

AN ACT TO AMEND AN ACT ENTITLED: "AN ACT TO AMEND CHAPTER 31, TITLE 15, OF THE DELAWARE CODE RELATING TO PRIMARY ELECTIONS AND NOMINATIONS OF CANDIDATES, AND PROVIDING FOR A DIRECT PRIMARY" BY CHANGING THE EFFECTIVE DATE THEREOF.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend an Act entitled: "An Act to amend Chapter 31, Title 15 of the Delaware Code relating to primary elections and nominations of candidates, and providing for a direct primary" by striking the numbers "1976" as the same appears in said Section 9 of said Act and substituting the number "1978" in lieu thereof.

Approved August 10, 1976

CHAPTER 714 Vol. 60

HOUSE BILL NO. 1257
AS AMENDED BY HOUSE AMENDMENT NO. 1**AN ACT TO AMEND CHAPTER 29, TITLE 24,
DELAWARE CODE RELATING TO REAL
ESTATE BROKERS AND SALESMEN.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend §2902(f), Chapter 29, Title 24, Delaware Code by inserting after the word "receive" and before the word "the" as the same appear in said subsection the words "compensation at the rate of \$50.00 per meeting and".

Section 2. Amend §2909, Chapter 29, Title 24, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §2909 to read as follows:

"§2909. Certificates to nonresidents.

A nonresident of this State who is a licensed broker or salesman in another state may obtain a similar license as a broker or salesman in this State by complying with the provisions of this Chapter, provided that the nonresident broker or salesman is regularly engaged in the real estate business in the other state, and provided that such other state offers the same reciprocal privileges to licensed brokers and salesman of this State. Such nonresident licensed broker or salesman need not maintain a place of business within this State. The Commission may license such nonresident broker or salesman without examination if he has been duly licensed for a broker's or salesman's license in the other state. The Commission may, in its discretion, refuse to license as a broker or salesman an applicant who is not a resident of this State.

Every nonresident applicant prior to being licensed, shall file an irrevocable consent that legal action may be

commenced against him in the proper court of any county of this State in which a cause of action may arise or in which the plaintiff may reside, by service of any process or pleading authorized by the laws of this State upon any member of the Commission, or the Secretary thereof. In case any processes or pleadings are served upon any member of the Commission, or the Secretary, a copy thereof shall be immediately forwarded by certified or registered mail to the main office of the licensee against which process or pleadings are directed."

Section 3. Amend §2910, Chapter 29, Title 24, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §2910 to read as follows:

"§2910. Issuance of a broker's certificate within a corporation.

Corporations, partnerships and associations shall not be licensed under this Chapter, but nothing in this Chapter shall prevent a corporation or partnership from acting as a real estate broker provided that every officer of any corporation and every member of any partnership actually negotiating or attempting to negotiate the listing, sale, purchase, rental, exchange or lease of any real estate or of the improvements thereon, or collecting rents or attempting to collect, on behalf of said corporation or partnership, shall be licensed as a broker or salesman. All officers of any corporation or all members of any partnership, acting as a broker or salesman, shall be deemed in violation of this Chapter unless there be full compliance with these provisions."

Section 4. Amend §2912(a), Chapter 29, Title 24, Delaware Code by inserting after the word "chapter" and before the word "at" as the same appear in said subsection the words "or reprimand any licensee".

Section 5. Amend Section 2912, Chapter 29, Title 24, of the Delaware Code by adding a new subsection designated as subsection (c) to read as follows:

“(c) The commission shall suspend or revoke any certificate issued under the provisions of this Chapter at any time where the certificate holder has been convicted in a court of competent jurisdiction of this or any other State, or a Federal Court, of the crime of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or has had entered a plea of guilty or nolo contendere to any similar offense.”

Section 6. Amend §2918, Chapter 29, Title 24, Delaware Code by striking said Section in its entirety and substituting in lieu thereof a new §2918 to read as follows:

“§2918. Maintenance of place of business.

Each licensed broker who is a resident of this State shall maintain an office within this State. The original license of a broker and of each salesman under contract to such broker shall be prominently displayed in the broker's office. The address of the office shall be designated in the broker's license, and no license issued under this Chapter shall authorize the licensee to transact real estate business at any other location, unless there is an approved branch office.

Each licensed broker shall also maintain a conspicuous sign on the outside of his office of such size and content as the Commission shall deem proper.

If the broker maintains more than one place of business within the State, he shall apply for and obtain an additional license in his name at each such branch office. Every such application shall state the location of the branch office and the name of the person in charge of it. Each branch office shall be under the direction and supervision of a broker licensed at that address.”

Approved August 17, 1976

CHAPTER 715 Vol. 60

HOUSE BILL NO. 1117
AS AMENDED BY HOUSE AMENDMENT NOS.
1 AND 2
AND
SENATE AMENDMENT NOS. 1 AND 2
TO
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND PART II, TITLE 29 OF THE DELAWARE CODE, TO PROVIDE FOR REGISTRATION OF LEGISLATIVE AGENTS, TO REQUIRE REPORTS BY LEGISLATIVE AGENTS, TO PROHIBIT CERTAIN TYPES OF COMPENSATION FOR LEGISLATIVE AGENTS, AND TO PRESCRIBE PENALTIES FOR VIOLATIONS THEREOF.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Part II, Title 29 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 16, which new Chapter shall read as follows:

“CHAPTER 16. REGISTRATION OF LEGISLATIVE AGENTS”

§1601. Definitions.

(a) As used in this Chapter, the following terms shall have the meanings indicated:

(1) ‘Legislative agent’ means any individual who acts to promote, advocate, influence or oppose any matter pending before the General Assembly by direct communication with the General Assembly, and who in connection therewith either:

(A) has received or is to receive compensation in

whole or in part from any person, or

(B) is authorized to act as a representative of any person who has as a substantial purpose the influencing of legislative action, or

(C) expends any funds during the calendar year for the type of expenditures listed in §1605(c) of this Chapter.

(2) 'Compensation' means any money, service, facility, thing of value, or financial benefit which is received or to be received in return for or in connection with services rendered or to be rendered, whether in the form of a fee, salary, expense, forbearance, forgiveness or any other form of compensation.

(3) 'Employer' means any person on whose behalf a legislative agent acts.

(4) 'Person' means any individual or group of individuals, whether or not formally organized or incorporated.

(5) 'General Assembly' includes any member, committee, or subcommittee of either House of the General Assembly.

(b) The provisions of §1601 (a)(1)(A) and (B) shall not apply to:

(1) persons performing professional services in drafting bills or in advising and rendering opinions to clients as to the construction or effect of proposed, pending or enacted legislation who do not otherwise act as legislative agents;

(2) persons testifying in public before the General Assembly at the specific invitation or request of the General Assembly who do not otherwise act as legislative agents;

(3) persons appearing pursuant to their official duties as elected officials of the State, or any political subdivision thereof, or of the United States, and not as representatives of any other person;

(4) persons who, in relation to the duties or interests of their employment or at the request or suggestion of their employer, communicate with the General Assembly concerning any legislation, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of their employment;

(5) persons communicating with the General Assembly if such communication is undertaken by them as a personal expression and not as agent of their employers as to matters of interest to a person by whom or by which they are employed and if they receive no additional compensation or reward, in money or otherwise, for or as a result of such communication;

(6) persons testifying at public hearings conducted by the General Assembly who do not otherwise act as legislative agents.

(7) persons appearing on behalf of any religious organization with respect to subjects of legislation which directly relates to the religious beliefs and practices of that organization who do not otherwise act as legislative agents.

§1602. Registration of Legislative Agents with Legislative Council.

(a) Every legislative agent shall register with the Legislative Council in a Legislative Agent Docket and file, at that time, the authorization from his employer as required by §1603 of this Chapter. A person who qualifies as a legislative agent in accordance with §1601 (a)(1)(A) and (B) of this Chapter shall register prior to performing any acts as a legislative agent. A person who qualifies as a legislative agent in accordance with the provisions of §1601

(a)(1)(C) of this Chapter must register within five days after so qualifying, if not already registered as a legislative agent.

(b) The information recorded in the Legislative Agent Docket shall include for each separate employer:

(1) the name, residence or business address, and occupation of each legislative agent;

(2) the name and business address of the employer of such legislative agent;

(3) the date on which the employment as legislative agent commenced;

(4) the length of time the employment is to continue; and

(5) the subject matter of legislation as to which the employment relates at that time.

(c) Upon any change in the information recorded in the Legislative Agent Docket, the legislative agent shall within ten business days report such changes to the Legislative Council, which shall record the change in the Docket.

(d) The Legislative Council shall promptly furnish copies of each entry in the Legislative Agent Docket to the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Governor upon request of such persons.

§1603. Employer's Authorization to Act.

Every employer of a legislative agent shall furnish to such agent a written and signed authorization to act, which shall be filed with the Legislative Council by the legislative agent at the time of registration as soon as available and not later than fifteen business days after the legislative agent has registered with Legislative Council. If

the employer is a corporation, association, or labor union, any authorized officer or agent who is not the legislative agent shall furnish and sign the written authorization. The authorization shall include the full and legal name and business addresses of both the employer and the legislative agent, the period of time during which the legislative agent is authorized to act, and the subject or subjects of legislation upon which the employer is represented.

§1604. Compensation of Agent not to be substantially dependent on outcome of legislative action of General Assembly.

No person shall employ a legislative agent nor shall any person be employed as a legislative agent pursuant to any compensation agreement which permits more than half of the compensation to be paid to such a legislative agent to be dependent upon the outcome of any legislative action of the General Assembly.

§1605. Reports by Legislative Agents.

(a) On or before the twentieth day of the month following each calendar quarter, each legislative agent shall file a written report covering the immediately preceding calendar quarter and containing the information required by this Chapter.

(b) A legislative agent shall file separate reports for each employer which he or she represents. Each report shall contain the total expenditures during the reporting period for all direct expenditures, costs or values, whichever is greater, for members of the General Assembly for the following:

- (1) food and refreshment;
- (2) entertainment, including the cost of maintaining a hospitality room;
- (3) lodging expenses away from home for members of the General Assembly;

(4) fair value of travel provided members of the General Assembly if the trip exceeds 100 miles;

(5) recreation expenses provided members of the General Assembly; and

(6) gifts or contributions excluding political contributions as defined in Chapter 80, Title 15 of the Delaware Code provided to members of the General Assembly.

(c) The information shall be reported on a form which shall be available from the Legislative Council and shall show the total expenditures for the reporting period and shall also list the recipient member of the General Assembly any time the expenditures exceed \$50.00 per diem. The records shall be retained for a period of four years from the date of filing and shall be open to the public for inspection and copying in the office of the Legislative Council during normal business hours.

§1606. When report registration or reports or authorizations are considered as filed.

Any registration, report or authorization form shall be considered filed as of the date it is physically filed with the Legislative Council or is mailed if sent by registered or certified mail.

§1607. Violation and penalties.

(a) Any person who knowingly fails to register as a legislative agent as required by this Chapter shall be guilty of a Class C misdemeanor.

(b) Any person who knowingly furnishes false information in any registration, authorization or report required by this Chapter shall be guilty of a Class C misdemeanor.

(c) Any person who fails to file an authorization for or report as required by Section 1605 of this Title shall be

deemed to have voluntarily cancelled his or her registration as a legislative agent and shall be prohibited from reregistering or acting as a legislative agent until all delinquent authorizations and/or reports have been properly filed.

(d) The Speaker of the House, the presiding officer of the Senate, the Legislative Council or any member of the General Assembly shall refer or any other person may refer any suspended violation of this Chapter to the Attorney General of the State.

(e) The Superior Court shall have exclusive jurisdiction over all offenses under this Chapter."

Section 2. Should any clause, sentence, paragraph, section or part of this Act or the application thereof to any person or circumstance be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its application to the clause, sentence, paragraph, section or part of this Act or the application thereof directly involved in the controversy in which judgment shall have been rendered, and to this end the provisions of this Act are declared to be severable.

Section 3. This Act shall take effect on January 1, 1977.

Approved August 23, 1976

CHAPTER 716

SENATE BILL NO. 845
 AS AMENDED BY
 SENATE AMENDMENT NO. 2
 AND
 HOUSE AMENDMENT NO. 1
 AND
 HOUSE AMENDMENT NO. 2
 TO
 HOUSE AMENDMENT NO. 1

AN ACT AMENDING AN ACT ENTITLED: "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1977, AND TO AMEND CERTAIN PERTINENT STATUTORY PROVISIONS"; IT BEING FORMER HOUSE BILL NO. 1274 OF 128TH GENERAL ASSEMBLY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend an Act entitled: "An Act making appropriations for the expense of the State Government for the fiscal year ending June 30, 1977, and to amend certain pertinent statutory provisions" in the following manner:

(a) By striking Sections 64 and 65 of said Act in their entirety.

(b) By striking the budgetary section of said Act in its entirety, which section is entitled," (30-08-005) Office of Health-Related Professional Licensing" and by adding a new budgetary section to the Division of Public Health of said Act reading as follows:

“(35-05-005) Office of Health-Related
 Professional Licensing

Salaries of Board Members	\$ 20,000
Salaries and Wages of Employees (6)	70,103

F.I.C.A. - Employer's Share	3,856
Pensions	7,923
Health Insurance	1,541
Personal Services	3,180
Travel	8,500
Contractual Services	
Rent	700
Other Contractual Services	20,000
Supplies and Materials	1,000
Capital Outlay	450
TOTAL -- Office of Health-Related Professional Licensing	\$137,253"

(c) By computing all totals and sub-totals in said Act in accordance with this Act.

Section 2. It is the intent of this Act to restore those regulatory functions transferred in Sections 64 and 65 to the Department of Administrative Services to their former status under the Department of Health and Social Services as they existed on June 28, 1976.

Section 3. Amend an Act entitled: "An Act making appropriations for the expense of the State Government for the fiscal year ending June 30, 1977, and to amend certain pertinent statutory provisions" in the following manner:

(a) By striking the words and the amount 'Salary of Executive Secretary \$18,500' in its entirety as it appears on line 5, page 26, of former House Bill No. 1274, and substituting in lieu thereof the following words and amount 'Salary of Director \$16,700'.

(b) By computing all totals and sub-totals in said Act in accordance with this Act.

Approved September 8, 1976

CHAPTER 717

SENATE BILL NO. 865

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE BUREAU OF ADULT CORRECTIONS, FOR PERIMETER PATROL OF THE DELAWARE CORRECTION CENTER.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The following amounts are hereby appropriated to the Bureau of Adult Corrections:

Salaries and Wages of Employees (10)		\$ 55,196
Salaries-Hazardous Duty		4,500
Salaries-Shift Differential		2,475
Salaries-Overtime		5,606
F.I.C.A.-Employer's Share		3,965
Pensions		7,658
Contractual Services-Dog Training		3,650
Supplies and Materials		
Uniforms		4,000
Maintenance of Dogs		2,565
Capital Outlay		
Pistols	\$ 360	
Shotguns	500	
4 autos w/special equip. including radio communications equip.	20,500	
Kennels and jackets	3,850	25,210
	TOTAL	\$114,825

Section 2. The sums appropriated herein shall be considered supplemental appropriations and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended and unencumbered as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved September 8, 1976

CHAPTER 718

SENATE BILL NO. 866

AN ACT AUTHORIZING THE TRANSFER OF FUNDS FROM THE SCHOOL BOND REVERSION ACCOUNT AND APPROPRIATING SUCH FUNDS TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$200,000.00 in the School Bond Reversion Account shall be transferred from such Bond Reversion Account and is hereby appropriated to the Department of Corrections for the purpose of enlarging and renovating the Gatehouse at the Delaware Correctional Center located near Smyrna, Delaware.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the project set forth in Section 1 of this Act, and are to include but not be limited to design, planning, construction, equipping, landscaping and other costs.

Section 3. This Act shall take effect, any other law to the contrary, notwithstanding.

Approved September 8, 1976

CHAPTER 719

SENATE BILL NO. 867
AS AMENDED BY HOUSE AMENDMENT NO. 2

**AN ACT AUTHORIZING THE TRANSFER OF FUNDS
FROM THE SCHOOL BOND REVERSION AC-
COUNT AND APPROPRIATING SUCH FUNDS
TRANSFERRED TO THE DEPARTMENT OF
CORRECTIONS.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$400,000.00 in the School Bond Reversion Account shall be transferred from such Bond Reversion Account and is hereby appropriated to the Department of Corrections for the erection of six (6) guard towers equipped with lights and/or the installation of protective or electronic devices essential to prevent escapes from the Delaware Correctional Center located near Smyrna, Delaware.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the project set forth in Section 1 of this Act and are to include but not be limited to design, planning, construction, equipping, landscaping and other costs.

Section 3. This Act shall take effect, any other law to the contrary, notwithstanding.

Approved September 8, 1976

CHAPTER 720

SENATE BILL NO. 868

AN ACT TO AMEND CHAPTER 691, VOLUME 60, LAWS OF DELAWARE ENTITLED, "AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO VARIOUS AGENCIES OF THE STATE AND TO BORROW MONEY TO BE USED FOR THE LOCAL SHARE OF SCHOOL CONSTRUCTION PROGRAMS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 56, CHAPTER 369, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTER 299, LAWS OF DELAWARE, PERTAINING TO CAPITOL COMPLEX ELECTRIC DISTRIBUTION SYSTEM AND CENTRAL HEATING AND AIR CONDITIONING; AMENDING VOLUME 57, CHAPTER 306, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTERS 320 and 736, VOLUME 58, CHAPTER 347, AND VOLUME 59, CHAPTER 223, LAWS OF DELAWARE, PERTAINING TO BOND AUTHORIZATION FOR LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 60, CHAPTER 271, LAWS OF DELAWARE, PERTAINING TO THE TRANSFER OF FUNDS FROM THE CONSTRUCTION OF A WOMEN'S PRISON TO THE CONSTRUCTION OF A MAXIMUM SECURITY BUILDING".

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereof concurring therein):

Section 1. Amend Section 8 of Chapter 691,

Volume 60, Laws of Delaware, by striking the figure "3,235,000" in its entirety as it appears in subsection (e) of Section 8 and substituting in lieu thereof the figure "3,180,000".

Section 2. Amend Section 8 of Chapter 691, Volume 60, Laws of Delaware, by striking the figure "547,000" in its entirety as it appears in subsection (d)(4) of Section 8 and substituting in lieu thereof the figure "602,000".

Section 3. Amend the 1977 Annual Capital Projects Schedule of Chapter 691, Volume 60, Laws of Delaware, by striking the line item "Craig's Pond Dam 55,000" in its entirety as it appears under the caption "DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL" in said Capital Projects Schedule.

Section 4. Amend the 1977 Annual Capital Projects Schedule of Chapter 691, Volume 60, Laws of Delaware, by inserting the line item "Concord Pond Dam 55,000" under "Miscellaneous Small Projects" as it appears under the caption "DEPARTMENT OF HIGHWAYS AND TRANSPORTATION" in said Capital Projects Schedule.

Section 5. Amend Chapter 691, Volume 60, Laws of Delaware, by recomputing all subtotals and totals in accordance with the provisions of this Act.

Section 6. This Act shall take effect, any other law, including Chapter 709, Volume 60, Laws of Delaware, to the contrary notwithstanding.

Approved September 8, 1976

CHAPTER 721

HOUSE BILL NO. 1311

AN ACT TO AMEND CHAPTER 691, VOLUME 60, LAWS OF DELAWARE ENTITLED, "AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO VARIOUS AGENCIES OF THE STATE AND TO BORROW MONEY TO BE USED FOR THE LOCAL SHARE OF SCHOOL CONSTRUCTION PROGRAMS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONIES TO THE STATE BOARD OF EDUCATION ON BEHALF OF LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 56, CHAPTER 369, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTER 299, LAWS OF DELAWARE, PERTAINING TO CAPITOL COMPLEX ELECTRIC DISTRIBUTION SYSTEM AND CENTRAL HEATING AND AIR CONDITIONING; AMENDING VOLUME 57, CHAPTER 306, LAWS OF DELAWARE; AMENDING VOLUME 57, CHAPTERS 320 and 736, VOLUME 58, CHAPTER 347, AND VOLUME 59, CHAPTER 223, LAWS OF DELAWARE, PERTAINING TO BOND AUTHORIZATION FOR LOCAL SCHOOL DISTRICTS; AMENDING VOLUME 60, CHAPTER 271, LAWS OF DELAWARE, PERTAINING TO THE TRANSFER OF FUNDS FROM THE CONSTRUCTION OF A WOMEN'S PRISON TO THE CONSTRUCTION OF A MAXIMUM SECURITY BUILDING".

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereof concurring therein):

Section 1. Amend Section 30 of Chapter 691, Volume 60, Laws of Delaware, by striking the figure "\$4,393,000" in its entirety as it appears in Section 30 and substituting in lieu thereof the figure "\$5,393,300".

Section 2. This Act shall take effect, any other law, including Chapter 709, Volume 60, Laws of Delaware, to the contrary notwithstanding.

Approved September 8, 1976.

CHAPTER 722

HOUSE BILL NO. 1312

**AN ACT TO AMEND CHAPTER 511, VOLUME 60,
LAWS OF DELAWARE, THE 1977 BUDGET AP-
PROPRIATION ACT, ORIGINALLY
DESIGNATED HOUSE BILL NO. 1274 AS
AMENDED BY HOUSE AMENDMENT NO. 1
AND TO MAKE A SUPPLEMENTARY AP-
PROPRIATION FOR CERTAIN GRANTS-IN-AID.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. Amend Chapter 511 of Volume 60, Laws of Delaware, by striking the following appropriations in their entirety with reference to the pages and lines on which the same appear in House Bill No. 1274 as amended by House Amendment No. 1:

Page	Line	Accounting Code	Appropriation	Budget Item
11	10	10-07-000	Prog. Grants, Local "Buy-In"	\$ 29,480
11	10	10-07-000	Aid to Local Law Enforcement	300,000
13	17	12-05-001	Municipal Street Aid	2,000,000
17	24	20-06-001	Historical Society of Delaware	15,000
34	15	35-06-003	West End Neighborhood House	28,522
36	12	35-06-008	Crittenton Home Educational Program	6,000
36	13	35-06-008	1212 Program	5,000
36	14	35-06-008	Forward Step	5,000
39	11	35-12-000	South Wilmington Medical Center	20,000
39	26	35-14-000	Community Legal Aid	10,000
39	32	35-14-000	Bi-County Adult Center	15,000
39	33	35-14-000	Cape Henlopen Social Center	10,000
39	34	34-14-000	East Side Senior Service Bureau	10,000
39	35	35-14-000	Jimmy Jenkins Senior Center	20,000
39	36	35-14-000	Julia Tallman Golden Age Center	5,000
39	37	35-14-000	Laurel Senior Center	20,000
39	38	35-14-000	Modern Maturity Center	20,000
39	39	35-14-000	M.O.T. Senior Center	30,000
39	40	35-14-000	Nanticoke Senior Center	10,000
39	41	35-14-000	Newark Senior Center	15,000
39	42	35-14-000	South Wilmington Senior Citizens Ctr.	10,000
39	43	35-14-000	St. Patrick's Senior Center	25,000
39	44	35-14-000	St. Peter's Adult Center	20,000
39	45	35-14-000	St. Anthony's Community Center	30,000

Page	Line	Accounting Code	Appropriation	Budget Item
39	46	35-14-000	Canby Park - Fraim Senior Center	30,000
39	47	35-14-000	Kent Co. Information & Referral Serv.	10,000
39	48	35-14-000	Absolom Jones Senior Center	30,000
39	49	35-14-000	St. Hedwig's Senior Center	42,000
39	50	35-14-000	West Ctr. City Sen. Activity Ctr.	20,000
39	51	35-14-000	West Ctr. City Sen. Activity Ctr.-Minibus	15,000
39	52	35-14-000	Wilmington Senior Center	66,138
39	53	35-14-000	Brandywine Senior Center	10,000
39	54	35-14-000	Mount Joy Senior Service Center	10,000
39	55	35-14-000	Recreational Oppor. for Nurs. Home Res.	10,000
39	56	35-14-000	Sussex Co. Home Services	10,000
39	57	35-14-000	Kent Co. Office of Aging - Contingency	30,000
39	58	35-14-000	Martin Luther King, Jr. Mem. Foundation	20,000
28	12	35-01-000	Adolescent Program	150,000
37	29	35-07-002	Adult Educable Mentally Retarded Work Study Program	15,000
47	9	40-05-002	Delaware S.P.C.A.	94,000
47	10	40-05-002	Kent Co. Dog Control	15,000
49	28	40-06-004	Recreation Asst. Funds - Local Govts.	226,000
50	14	40-07-002	*Tax Ditches Sussex Co.	30,000
50	15	40-07-002	*Tax Ditches Kent Co.	30,000
50	16	40-07-002	*Tax Ditches New Castle Co.	30,000
56	18	50-01-001	Council for Women	7,500
56	44	50-01-003	Opportunities Industrialization Ctr.	160,000
57	42	50-08-000	Delmarva Advisory Council Grant	13,000
57	44	50-08-000	Miss Delaware Pageant	1,000
58	32	50-10-000	Public Library Grants	33,384
64	46	65-04-000	Peninsula Horticultural Society	800
64	47	65-04-000	Crop Improvement Association	800
75	29	95-04-000	Educational Resources Assoc. Program	20,000
			TOTAL	\$3,788,624

*Pursuant to Section 3921, Title 7, Delaware Code.

Section 2. Further amend Chapter 511 of Volume 60, Laws of Delaware, by substituting the following figure with reference to the page and line on which same appear in House Bill No. 1274 as amended by House Amendment No. 1:

Page	Line	Item Description	From	To	Amount of Decrease
57	39	Other Contractual Services	97,725	67,725	30,000

Section 3. Further amend Chapter 511, Volume 60, Laws of Delaware, by striking Sections 47 and 58 in their entirety and renumbering the subsequent sections accordingly.

Section 4. Further amend Chapter 511 of Volume 60, Laws of Delaware, by reference to the lines and page on which the same appear in House Bill No. 1274 as amended by House Amendment No. 1 by striking in their entirety lines 1 through 9 on page 110 of said bill and substituting in lieu thereof the following new totals which reflect the changes made in Sections 1 and 2 of this Act:

Line		
TOTAL AGENCIES		\$227,108,328
TOTAL HIGHER EDUCATION	\$ 50,725,757	
TOTAL PUBLIC EDUCATION	<u>164,509,201</u>	
TOTAL EDUCATION		<u>215,234,958</u>
SUB-TOTAL -- Agencies and Education		<u>\$442,343,286</u>
LESS: REDUCTIONS IN AUTHORIZED AGENCY POSITIONS AND APPROPRIATIONS PER SECTION 71 OF THIS ACT		<u>(1,761,551)</u>
GRAND TOTAL -- Agencies and Education		<u><u>\$440,581,735</u></u>

Section 5. Supplementary appropriations are herewith made for the following Grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Budget Item</u>	<u>Appropriation</u>
10-07-000	Delaware Agency to Reduce Crime	
10-07-000	Prog. Grants, Local "Buy-in"	\$ 29,480
10-07-000	Aid to Local Law Enforcement	300,000
12-05-001	State Treasurer - Administration	
12-05-001	Municipal Street Aid	2,000,000
20-06-001	Division of Historical & Cultural Affairs Office of Director	
20-06-001	Historical Society of Delaware	15,000
35-01-000	Dept. of Health & Soc. Serv. Off. of Sec.	
35-01-000	Adolescent Program	150,000
35-06-003	Mental Hygiene Clinics	
35-06-003	West End Neighborhood House	28,522
35-06-008	Bureau of Substance Abuse	
35-06-008	Crittenton Home - Educational Program	6,000

Page	Line	Accounting Code	Appropriation	Budget Item
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39	48	35-14-000	Absolom Jones Senior Center	30,000
39	49	35-14-000	St. Hedwig's Senior Center	42,000
39	50	35-14-000	West Ctr. City Sen. Activity Ctr.	20,000
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39	57	35-14-000	Kent Co. Office of Aging - Contingency	30,000
39	58	35-14-000	Martin Luther King, Jr. Mem. Foundation	20,000
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56	44	50-01-003	Opportunities Industrialization Ctr.	160,000
57	42	50-08-000	Delmarva Advisory Council Grant	13,000
57	44	50-08-000	Miss Delaware Pageant	1,000
58	32	50-10-000	Public Library Grants	33,384
64	46	65-04-000	Peninsula Horticultural Society	800
64	47	65-04-000	Crop Improvement Association	800
75	29	95-04-000	Educational Resources Assoc. Program	20,000
TOTAL				\$3,788,624

*Pursuant to Section 3921, Title 7, Delaware Code.

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10-07-000	Prog. Grants, Local "Buy-in"	\$ 29,480
10-07-000	Aid to Local Law Enforcement	300,000
12-05-001	State Treasurer - Administration	
12-05-001	Municipal Street Aid	2,000,000
20-06-001	Division of Historical & Cultural Affairs Office of Director	
20-06-001	Historical Society of Delaware	15,000
35-01-000	Dept. of Health & Soc. Serv. Off. of Sec.	
35-01-000	Adolescent Program	150,000
35-06-003	Mental Hygiene Clinics	
35-06-003	West End Neighborhood House	28,522
35-06-008	Bureau of Substance Abuse	
35-06-008	Crittenton Home - Educational Program	6,000

<u>Accounting Code</u>	<u>Budget Item</u>	<u>Appropriation</u>
35-06-008	1212 Program	5,000
35-06-008	Forward Step	5,000
35-07-002	Div. of Soc. Serv. - Public Welfare	
35-07-002	Adult Educable Mentally Retarded Work	15,000
	Study Program	
35-12-000	State Service Centers	
35-12-000	South Wilmington Medical Center	20,000
35-14-000	Division of Aging	
35-14-000	Community Legal Aid	\$ 10,000
35-14-000	Bi-County Adult Center	15,000
35-14-000	Cape Henlopen Social Center	10,000
35-14-000	East Side Senior Service Bureau	10,000
35-14-000	Jimmy Jenkins Senior Center	20,000
35-14-000	Julia Tallman Golden Age Center	30,000
35-14-000	Laurel Senior Center	20,000
35-14-000	Modern Maturity Center	20,000
35-14-000	M.O.T. Senior Center	30,000
35-14-000	Nanticoke Senior Center	10,000
35-14-000	Newark Senior Center	32,000
35-14-000	South Wilmington Senior Center	10,000
35-14-000	St. Patrick's Senior Center	25,000
35-14-000	St. Peter's Adult Center	20,000
35-14-000	St. Anthony's Community Center	30,000
35-14-000	Canby Park - Fraim Senior Center	30,000
35-14-000	Kent Co. Information & Referral Serv.	10,000
35-14-000	Absolom Jones Senior Center	30,000
35-14-000	St. Hedwig's Senior Center	42,000
35-14-000	West Crt. City Sen. Activity	20,000
35-14-000	West Crt. City Sen. Activity Ctr. Minibus	15,000
35-14-000	Wilmington Senior Center	66,138
35-14-000	Brandywine Senior Center	10,000
35-14-000	Mount Joy Senior Center	10,000
35-14-000	Recreational Oppor. for Nursing Home Residence	10,000
35-14-000	Sussex Co. Home Services	10,000
35-14-000	Kent Co. Office of Aging	30,000
35-14-000	Del. King Memorial Foundation, Inc.	20,000
40-05-002	Division of Fish and Wildlife	
40-05-002	Delaware S.P.C.A.	94,000
40-05-002	Kent Co. Dog Control	15,000
40-06-004	Division of Parks & Recreation - Recreation	

<u>Accounting Code</u>	<u>Budget Item</u>	<u>Appropriation</u>
40-06-004	Recreation Funds Local Government	226,000
40-07-002	Div. of Soil & Water Conservation - Drainage	
40-07-002	*Tax Ditches - Sussex Co.	30,000
40-07-002	*Tax Ditches - Kent Co.	30,000
40-07-002	*Tax Ditches - New Castle Co.	30,000
50-01-001	Comm. Affairs & Ec. Develop. - Office of Secretary	
50-01-001	Council for Women	7,500
50-01-003	Opportunities Industrialization Ctr.	160,000
50-08-000	Division of Economic Development	
50-08-000	City of New Castle - Bicentennial Events	30,000
50-08-000	City of New Castle - Bicentennial Events	30,000
50-08-000	Delmarva Advisory Council Grant	13,000
50-08-000	Miss Delaware Pageant	1,000
50-10-000	Division of Libraries	
50-10-000	Public Library Grants	33,384
65-04-000	Division of Production & Promotion	
65-04-000	Peninsula Horticultural Society	800
95-04-000	Delaware State Advisory Council on Career Education	
95-04-000	Educational Resources Association Program	20,000
	TOTAL	\$3,860,624

*Pursuant to Section 3921, Title 7, Delaware Code.

Section 6. Section 5 of this Act provides for an appropriation to the Division of Aging. It is the intent of this supplemental appropriation to:

(a) Provide an amount of \$10,000 for the purpose of defraying, in part, the cost of aiding eligible community legal aid clients in resolving Social Security and Supplemental Security Income Problems.

(b) Provide an amount of \$15,000 for the purpose of purchasing a minibus for the West Center City Senior Activity Center. Any unexpended portion shall be retained by

the West Center City Senior Activity Center to help defray the initial operating costs of the minibus during fiscal year 1977.

(c) Make payment to the various senior centers, within two months after the effective date of this Act, in the amounts appropriated by line item to the Division of Aging. Each center receiving the appropriation shall provide a statement of expenditures from this appropriation on a quarterly basis to the Budget Director and the Controller General for the State of Delaware. No center receiving the line item appropriation shall grant salary increases which exceed five percent (5%) per annum.

(d) Of the \$66,138 appropriated to the Wilmington Senior Center in Section 5 of this Act, \$7,800 plus fringe benefits costs shall be expended for the purpose of employing one additional staff person for the Information and Referral Service Program.

Section 7. Amend Chapter 511, Volume 60, Laws of Delaware, by recomputing all sub-totals and totals affected by this Act.

Section 8. The sums appropriated in Section 5 herein shall be considered supplementary appropriations and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated.

Any funds remaining unexpended or unencumbered as of June 30, 1977, shall revert to the General Fund of the State of Delaware.

Approved September 8, 1976

CHAPTER 723

FORMERLY SENATE JOINT RESOLUTION NO. 2

IN REFERENCE TO EXTENDING THE REPORTING DATE OF THE COMMITTEE TO STUDY METHODS OF INCREASING THE TOURIST POTENTIAL OF FORT DELAWARE AND PEA PATCH ISLAND AND TO STUDY THE POSSIBILITY OF RESTORATION OF THE LOCK FACILITIES OF THE OLD CHESAPEAKE AND DELAWARE CANAL.

WHEREAS, the 127th General Assembly of the State of Delaware enacted into law House Joint Resolution No. 43 authorizing the establishment of an ad hoc committee to study methods of increasing the tourist potential of Fort Delaware and Pea Patch Island areas; and

WHEREAS, the date for said committee to make its report to the Delaware General Assembly is January 15, 1975; and

WHEREAS, said committee would like to have more time in order to thoroughly complete its task.

NOW, THEREFORE:

Be it enacted by the General Assembly of the State of Delaware:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the reporting date for said committee to submit its report to the members of the General Assembly is hereby changed from January 15, 1975, to June 30, 1975.

BE IT FURTHER RESOLVED that this Resolution be made a part of the Senate and House Journals and that a copy be forwarded to the Chairman of said committee.

Approved January 16, 1975

CHAPTER 724

FORMERLY SENATE
CONCURRENT RESOLUTION NO. 19**APPOINTING DIRECTORS ON THE PART OF THE
STATE FOR THE FARMERS BANK OF THE
STATE OF DELAWARE.**

BE IT RESOLVED by the Senate of the 128th General Assembly of the State of Delaware, the House of Representatives concurring therein, that John P. Ferguson, Calvin R. McCullough and George F. Schlör, be and they are hereby appointed Directors, on the part of the State, of the Farmers Bank of the State of Delaware for the branch at Wilmington; and that Nathan L. Cohen, Julius E. Tudor and William M. Chambers, Jr., be and they are hereby appointed Directors, on the part of the State, of the Farmers Bank of the State of Delaware for the branch at Dover; and that Lewis B. Harrington, Howard A. Clendaniel and Donald J. Lynch, be and they are hereby appointed Directors, on the part of the State, of the Farmers Bank of the State of Delaware for the branch at Georgetown.

Approved February 14, 1975

CHAPTER 725

FORMERLY SENATE
CONCURRENT RESOLUTION NO. 20**IN REFERENCE TO APPOINTING DIRECTORS ON
THE PART OF THE STATE FOR THE FARM-
ERS BANK OF THE STATE OF DELAWARE
FOR THE BRANCH AT DOVER, DELAWARE.**

WHEREAS, pursuant to Senate Concurrent Resolution No. 19 enacted into law on January 30, 1975, nine Directors on the part of the State for the Farmers Bank of the State of Delaware were named in said Resolution; and

WHEREAS, a legal question has arisen concerning one of the Dover Branch members' right to sit as a Director by virtue of the fact that he sits on another Bank Board; and

WHEREAS, it is the pleasure of the General Assembly to rename the Dover Branch members in a separate concurrent resolution.

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 128th General Assembly of the State of Delaware, the House of Representatives concurring therein, that Nathan L. Cohen, Julius E. Tudor and Betty L. Chambers be and they are hereby appointed Directors, on the part of the State, of the Farmers Bank of the State of Delaware for the branch at Dover.

BE IT FURTHER RESOLVED that the members named in Senate Concurrent Resolution No. 19 for the Dover Branch are hereby rescinded and in lieu thereof the members herein named shall be their replacements.

Approved February 14, 1975

CHAPTER 726

FORMERLY SENATE
CONCURRENT RESOLUTION NO. 28**DIRECTING THE PUBLIC SERVICE COMMISSION
TO ADOPT REGULATIONS REQUIRING UTILITY
COMPANIES OF THIS STATE TO INSTITUTE
AND PUBLISH A CUSTOMER BILL OF
RIGHTS ESTABLISHING CERTAIN PROCEDURES
FOR RESOLVING CUSTOMER COMPLAINTS.**

WHEREAS, the various public utilities under the jurisdiction of the Public Service Commission do not have adequate procedures for resolving customer complaints; and

WHEREAS, public utility companies are somewhat monopolistic and are free to ignore legitimate customer complaints thus leaving frustrated customers with little or no remedy; and

WHEREAS, the Public Service Commission has adopted no adequate regulations requiring the public utility companies to establish procedures to resolve customer complaints; and

WHEREAS, such procedures including various guidelines are necessary and essential in order to assure the citizens of Delaware that their complaints will be heard and considered by the public utility companies.

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 128th General Assembly, the House of Representatives concurring therein, that the Public Service Commission is hereby directed to adopt regulations requiring each public utility company to establish within a reasonable time procedures for resolving customer complaints and publishing same for

dissemination to the general public. The said procedures can be fashioned to each public utility's particular operation provided that the procedure must include the following standards and guidelines:

1. Service cannot be discontinued because of non-payment while the company is investigating a customer's complaint about a bill.
2. No notice of discontinuance of service for non-payment may be sent while the complaint is being investigated.
3. No deposit may be required on a disputed bill while the dispute is being investigated.
4. After a utility has completed its investigation, a consumer must be afforded a reasonable time to pay the bill.
5. Procedures to allow customers to continue service if a customer agrees to pay his bills in installments when he finds himself in a financial bind.
6. To establish grievance procedures to insure quick and courteous resolution of complaints and questions and to publish a booklet outlining in simple language the customer's rights and responsibilities.

Approved April 25, 1975.

CHAPTER 727

FORMERLY HOUSE JOINT RESOLUTION NO. 7

DIRECTING THE STATE PERSONNEL COMMISSION AND THE STATE PERSONNEL DIRECTOR TO ESTABLISH AN EQUITABLE AND REALISTIC POSITION CLASSIFICATION AND PAY PLAN FOR STATE PSYCHIATRISTS, PHYSICIANS AND DENTISTS.

WHEREAS, the State of Delaware has both a legal and moral obligation to her citizens institutionalized for medical reasons in State hospitals; and

WHEREAS, these citizens are deserving of, and entitled to, medical and dental treatment of the highest level of competence the State of Delaware can provide; and

WHEREAS, the current State of Delaware minimum starting salary for a psychiatrist is \$19,080, for a physician is \$17,316, and for a dentist is \$15,804; and

WHEREAS, such salaries are not competitive with the equivalent salaries paid by contiguous sovereign states, or states within our geographical location; and

WHEREAS, due to salaries which are not competitive, the necessary medical and dental professionals are not being retained in sufficient quantity to treat the patients in State medical facilities; and

WHEREAS, such disregard for the legal and moral obligations of the State could result in private litigation against the State of Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly of the State of Delaware, with the approval of the Governor, that the

State Personnel Commission and the State Personnel Director establish a Medical/Dental Professional Classification and Pay Plan which will reward academic and professional medical/dental achievement and be competitive with the public sector salaries paid in this geographical region for similar medical and dental training and experience.

BE IT FURTHER RESOLVED that a written Report and Recommendations be provided to the General Assembly of the State of Delaware not later than June 1, 1975, by the State Personnel Commission.

Approved May 16, 1975

CHAPTER 728

FORMERLY SENATE
CONCURRENT RESOLUTION NO. 6
AS AMENDED BY
SENATE AMENDMENT NOS. 1, 2, & 3
AND HOUSE AMENDMENT NO. 1

EXPRESSING THE CONCERN OF THE GENERAL ASSEMBLY OVER THE REPORT BY THE UNIQUE HAZARDS COMMITTEE OF THE DEPARTMENT OF PUBLIC INSTRUCTION, RELATING TO CONSTRUCTION PROJECTS TO ELIMINATE HAZARDS AND REDUCE BUSING; AND DIRECTING THAT THE PRESENT MORATORIUM BE EXTENDED FOR ONE YEAR.

WHEREAS, by Resolution approved by the Governor on October 12, 1971, the 126th General Assembly of the State of Delaware directed the Department of Public Instruction to establish a moratorium of one school year before steps are taken to eliminate the busing of students declared by the Committee to be ineligible for public transportation; and

WHEREAS, the Resolution further required that the Department of Public Instruction submit a report to the General Assembly delineating "safety hazards" as the same applies to the transportation of pupils, including recommendations; and

WHEREAS, the Unique Hazards Committee has submitted its report, together with an additional appropriations request of \$1,590,944, and State funds are not available; and

WHEREAS, it is necessary for the safety of students attending the Stanton Jr. High School, who are forced now to walk along Telegraph Road with the constant threat of injury, that the said Stanton School District provide bus service along Telegraph Road for such students;

and

WHEREAS, there is currently an available bus, with available space to accommodate said students, stopping in the vicinity of Millcreek Trailer Park and, therefore, would not involve any additional cost to the State.

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 128th General Assembly, the House of Representatives concurring therein, that the Department of Public Instruction be directed to continue bus transportation of students previously declared ineligible by the Unique Hazards Committee, and to extend the moratorium for one more school year, or until the funds requested are appropriated and the construction completed. Spur routes shall continue to be served as at present.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Chairman of the Unique Hazards Committee and the Superintendent of the Department of Public Instruction.

Approved May 24, 1975

CHAPTER 729

FORMERLY SENATE JOINT RESOLUTION NO. 30 RELATING TO THE USE OF THE STATE DREDGE

WHEREAS, the Division of Soil and Water Conservation has responsibility under Chapter 39, Title 7, Delaware Code for the conservation, protection development and utilization of the State's soil and water resources; and

WHEREAS, the Division has authority to enter into agreement with landowners in the carrying-out of operations authorized by that Chapter; and

WHEREAS, the Division operates a hydraulic pipeline dredge in carrying out projects under this Chapter and other authorities; and

WHEREAS, the South Shore Marina has periodic need for removal of harbor sediments as a result of the currents caused by the Indian River Inlet; and

WHEREAS, the State dredge is now or periodically is in the vicinity on other assignments,

NOW, THEREFORE:

BE IT RESOLVED by the Senate and House of Representatives of the 128th General Assembly of the State of Delaware, with the approval of the Governor, that the Department of Natural Resources and Environmental Control shall be encouraged to assist in the maintenance of the harbor of the South Shore Marina when in the area; and

BE IT FURTHER RESOLVED that the Department shall make a charge for such service consistent with the total cost of operation including amortization and administration costs.

Approved May 30, 1975

CHAPTER 730

FORMERLY SENATE JOINT RESOLUTION NO. 26

**APPOINTING THE SUSSEX CENTRAL JUNIOR
HIGH SCHOOL BAND AS THE OFFICIAL
STATE OF DELAWARE BICENTENNIAL BAND.**

WHEREAS, the State of Delaware, the First State, should have an Official Bicentennial Band to participate in the principal events of the Bicentennial Year; and

WHEREAS, the State of Delaware is proud to be the home state of one of the outstanding school bands in the United States - the Sussex Central Junior High School Band; and

WHEREAS, the said Sussex Central Junior High School Band in competition with high school bands and in national competition has won a national reputation as one of the top school bands in the United States in recent years; and

WHEREAS, in 1973, the Sussex Central Junior High School Band received a National Freedom Award for its excellent performance; and

WHEREAS, in 1973, the Sussex Central Junior High School Band was selected as the honor band for the inauguration of Governor Sherman W. Tribbitt; and

WHEREAS, this remarkable band is the only junior high school band in the nation to be on the honorable mention list of Ruffles and Flourishes in the top twenty national band rankings; and

WHEREAS, since the Sussex Central Junior High School Band moved into prominence in 1970, it has won 35 first places in difficult competition with scores of other bands; and

WHEREAS, the outstanding record of the Sussex Central Junior High School Band qualifies it for recognition and appointment as the Official State of Delaware Bicentennial Band.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the Sussex Central Junior High School Band is herein formally appointed the Official State of Delaware Bicentennial Band.

BE IT FURTHER RESOLVED that a copy of this Joint Resolution, suitably prepared, be delivered to the principal of the Sussex Central Junior High School as the official notification of this appointment.

BE IT FURTHER RESOLVED that additional copies of this resolution be prepared for distribution to the bandmaster and members of the band as tokens of the appreciation in which this band is held by the people of the State of Delaware.

Approved June 3, 1975

CHAPTER 731

FORMERLY SENATE JOINT RESOLUTION NO. 21

**RELATING TO CONTRACTS AND PURCHASES
MADE BY AGENCIES OF THIS STATE.**

WHEREAS, the unemployment rate in Delaware has reached an unprecedented level of 10.2 percent of the total available work force; and

WHEREAS, the high unemployment rate is largely attributed to the fact that many construction companies and retail outlets have had to close down or cut back due to lack of business; and

WHEREAS, the State of Delaware, through its many agencies, does an enormous dollar volume of business with the business community, both within the State as well as outside the State; and

WHEREAS, during this bleak inflationary spiral the State should, wherein possible, grant preference to business firms located within this State so as to enable the general business community throughout Delaware to become more economically viable and thus re-employ Delawareans who have been temporarily discharged because of the decline in sales and contracts.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that all agency heads and all individuals within any department, division or commission in this State charged with the responsibility of making purchases or letting contracts for their respective agencies are hereby requested, wherever possible, to make purchases and to let contracts to Delaware based firms so as to enable such businesses to become economically viable and thus re-employ Delawareans who are unemployed.

BE IT FURTHER RESOLVED that this Resolution be made a part of the Senate and House Journals and that copies be forwarded to every agency within this State.

Approved June 26, 1975

CHAPTER 732

FORMERLY SENATE JOINT RESOLUTION NO. 32

**ESTABLISHING A COMMITTEE TO STUDY AND
REPORT ON THE ADVANTAGES OF CREAT-
ING A BICENTENNIAL PARK ON THE PLOT
KNOWN AS CAPITOL SQUARE BOUNDED BY
FEDERAL STREET, DUKE OF YORK STREET,
WILLIAM PENN STREET AND LEGISLATIVE
AVENUE.**

WHEREAS, as the Bicentennial Year nears the 128th General Assembly considers it important that the General Assembly, in addition to such appropriations as it has been requested to make to the Bicentennial Commission, give consideration to the special interest the members of the General Assembly have in a proper observance of the year; and

WHEREAS, thousands of visitors from all of the other 49 states and from many foreign nations will come to Dover to pay their respects to one of the Colonial States and the first one to ratify the Constitution; and

WHEREAS, sons of Delaware were in the forefront of the events, many of them tragic, which led to the founding of the United States of America; and

WHEREAS, the General Assembly as part of its observance of the Bicentennial Year would like to pay tribute to these heroes through some public demonstration of our respect; and

WHEREAS, the establishment of a Bicentennial Memorial Park in Capitol Square, adjacent to Legislative Hall, would appear to be a proper response on the part of the General Assembly to the celebration of the 200th Anniversary of the Declaration of Independence; and

WHEREAS, the beautification of Capitol Square

could be completed well in time for the official start of the Bicentennial Year on July 1, 1976; and

WHEREAS, to consider the advantages of the creation of such a memorial park it would be proper to appoint a committee which would study the potential advantages and report to the General Assembly on ways and means of developing the park.

NOW, THEREFORE:

BE IT RESOLVED by the 128th General Assembly of the State of Delaware, the Governor concurring therein, that a committee of nine members, three to be named by the Governor, three by the President Pro Tempore of the Senate and three by the Speaker of the House, be appointed to study and report on the advantages to be gained in the creation of a Bicentennial Memorial Park as a part of the State's observance of the Bicentennial Year starting July 1, 1976.

BE IT FURTHER RESOLVED that no more than two of the three appointees by the Governor, the President Pro Tempore and the Speaker of the House shall be from the same political party.

BE IT FURTHER RESOLVED that the committee shall select a chairman and a vice-chairman.

BE IT FURTHER RESOLVED that staff assistance to the committee shall be provided by the Legislative Council.

BE IT FURTHER RESOLVED that the committee shall report to the Governor, the President Pro Tempore and the Speaker of the House no later than September 12, 1975, on its findings, such report to contain any recommendations the committee proposes.

BE IT FURTHER RESOLVED that the committee shall have the advice of any and all Cabinet Secretaries or

their aides whom it calls upon for counsel.

Approved July 2, 1975

CHAPTER 733

FORMERLY HOUSE JOINT RESOLUTION NO. 21

ESTABLISHING A SPECIAL LEGISLATIVE COMMITTEE TO STUDY SCHOOL DESEGREGATION PROPOSALS AND TO REPORT NO LATER THAN SEPTEMBER 15, 1975; AND REQUESTING A STAY OF THE FEDERAL COURT ORDER TO SUBMIT DESEGREGATION PROPOSALS UNTIL OCTOBER 15, 1975.

WHEREAS, close to fifteen desegregation proposals, relating to the court decision in *Evans v. Buchanan* have been submitted to the State Board of Education; and

WHEREAS, many of these proposals would require a considerable expenditure of public funds and/or statutory revision; and

WHEREAS, the constitutionality, feasibility and desirability of many of these plans appear questionable; and

WHEREAS, the elected members of the General Assembly of the State of Delaware have had no input into any desegregation proposals.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly, the Governor concurring therein, that the State Board of Education is directed to apply to the three-judge Federal District Court in *Evans v. Buchanan* for a stay of the order to submit desegregation proposals until October 15, 1975, in order that the Governor and the leadership of the 128th General Assembly can determine whether a special session of the 128th General Assembly should be called to consider legislation relating to school desegregation proposals.

BE IT FURTHER RESOLVED that a special legisla-

tive committee be formed within three days of enactment of this House Joint Resolution, comprised of all members of the 128th General Assembly who express a desire to serve on the Committee. The Committee shall have a Chairman and a Vice-Chairman appointed by the Speaker of the House and the President Pro Tem of the Senate. The Committee shall have the authority to seek expertise outside the General Assembly and the Committee shall have subpoena power.

BE IT FURTHER RESOLVED that the said special legislative committee shall study the school desegregation proposals submitted to the State Board of Education and report to the Governor and the General Assembly, no later than September 15, 1975, on the advisability of calling a special session of the 128th General Assembly to advise the Governor and the General Assembly as to the feasibility and desirability of the various school desegregation proposals and to advise what legislation, if any, may be required.

BE IT FURTHER RESOLVED that the State Board of Education is directed to submit copies of all school desegregation proposals to all members of the special legislative committee together with a summary of the major features of each proposal.

Approved July 8, 1975

CHAPTER 734

FORMERLY HOUSE JOINT RESOLUTION NO. 24

**ESTABLISHING A COMMITTEE TO STUDY AND
EVALUATE THE PRESENT STATUS AND FUTURE
OF COLLECTIVE BARGAINING FOR
ALL PUBLIC EMPLOYEES IN THE STATE OF
DELAWARE, AND TO INVESTIGATE METHODS
OF IMPLEMENTING COLLECTIVE BARGAINING
AND ARBITRATION PROCEDURES
IF SUCH ARE FOUND TO BE DESIRABLE.**

WHEREAS, it is felt by many people that smooth, cooperative employer-employee relationships within city, county or State agencies would be promoted if public employees had the right to bargain collectively with public agencies; and

WHEREAS, there is a need to develop additional mechanisms, such as arbitration, as a solution to the difficult problems which arise when there is an impasse between a public agency and its employees; and

WHEREAS, it is in the public interest to establish a committee to thoroughly study and evaluate employer-employee relationships in the public sector, and to plan for the future.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly of the State of Delaware, with the approval of the Governor as attested by his signature affixed hereto, that a State Agency Collective Bargaining Committee is hereby established to study and evaluate the present status and the future of collective bargaining within city, county and State agencies.

BE IT FURTHER RESOLVED that the Committee shall be composed of three members of the House (two

members of the majority party and one member of the minority party) appointed by the Speaker of the House; three members of the Senate two members of the majority party and one member of the minority party) appointed by the President pro tempore; and one person representing the Governor appointed by the Governor. The Committee shall elect one of its members as Chairman.

BE IT FURTHER RESOLVED that the Committee shall conduct such studies and research as are necessary to evaluate collective bargaining for employees of the State of Delaware. The Committee shall determine where there is a need for such collective bargaining and the extent of such need and whether or not there is any need for additional mechanisms, such as arbitration.

BE IT FURTHER RESOLVED that the Committee is authorized to hold such hearings as necessary, to require by subpoena or otherwise the attendance of such witnesses and the production of such books and documents as are necessary, and to administer oaths and take testimony where necessary.

BE IT FURTHER RESOLVED that the said Committee shall meet as soon as is practicable after appointment and shall make its first, preliminary report to the Governor and the General Assembly on or before January 15, 1976. The Final Report by the Committee shall be at such time as the Committee determines that it can make recommendations to the General Assembly and the Governor.

Approved July 9, 1975

CHAPTER 735

FORMERLY SENATE JOINT RESOLUTION NO. 25

**DIRECTING THE STATE BOARD OF EDUCATION
TO ABANDON AND/OR DISCONTINUE ANY
RECOMMENDED AND/OR PROPOSED PLANS
TO MERGE OR CONSOLIDATE APPOQUINI-
MINK SCHOOL DISTRICT WITH THE NEWARK
SCHOOL DISTRICT.**

WHEREAS, the sixth district proposal prepared by the staff of the State Board of Education pursuant to Federal District Court order recommends consolidation of Appoquinimink School District with the Newark School District in order to bring about a more equitable ethnic and racial distribution; and

WHEREAS, the academic year 1973 on which the sixth district proposal is based reflects that Appoquinimink School District had 650 black students enrolled or a percentage of 26.7; and

WHEREAS, during the academic year 1974 Appoquinimink School District had a black enrollment of 641 students or a percentage of 26.1; and

WHEREAS, merger between Appoquinimink School District and Newark School District would radically reduce the ethnic ratio of Appoquinimink thus jeopardizing the long and arduous hours of time spent in bringing about a harmonious relationship between the two races; and

WHEREAS, racial relations within the Appoquinimink School District are amicable and the constituents of the school district manifest overwhelming approval of the present setup.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th

General Assembly of the State of Delaware, the Governor concurring therein, that the State Board of Education is hereby directed to abandon and/or discontinue any recommendation and/or proposal which would merge or consolidate the Appoquinimink School District with the Newark School District.

BE IT FURTHER RESOLVED that this Resolution be made a part of the Senate and House Journals and that a copy be forwarded to the State Board of Education.

Approved July 9, 1975

CHAPTER 736

FORMERLY SENATE JOINT RESOLUTION NO. 35

DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO CHANGE THE NAME OF THE PETERSBURG WILDLIFE AREA TO THE NORMAN G. WILDER CONSERVATION AND WILDLIFE AREA.

WHEREAS, Norman G. Wilder became the first professional Executive Director of the old Game and Fish Commission in October, 1948, where he was instrumental in bringing about numerous conservation measures, all of which were aimed at conserving the State's natural resources, until he retired in October, 1972; and

WHEREAS, Norman G. Wilder received his B.S. in Forestry from the University of New Hampshire in 1939 and subsequently earned an M.S. in Wildlife Management from the University of Connecticut in 1941; and

WHEREAS, Norman G. Wilder received numerous awards and honors during his tenure with the State of Delaware, some of which are: the American Conservation Award, the Charles Banks Belt Award, Conservationist of the Year Award from the Delaware Wildlife Federation, Fellow Award from the Delaware Recreation and Parks Society; and

WHEREAS, Norman G. Wilder received an Honorary Doctorate of Laws from Delaware State College in 1972 for his conservationist projects; and

WHEREAS, during Norman G. Wilder's tenure with the Fish and Game Commission, the State of Delaware acquired such lands as: Andrews Lake, Appoquinimink Wildlife Area, Assawoman Bay Wildlife Area, Augustine Beach Fishing Area, Blackiston Wildlife Area, Bowers Beach Fishing Area, C & D Canal, Courseys Pond and Ac-

cess Site, Duck Creek Access Area, Garrisons Pond Wildlife Area and Access Site, Horsey Pond and Access Site, Ingrams Pond and Access Site, Lewes Launching Site and Parking Area, Lums Pond, McGinnis Pond and Access Site, Milford Neck Wildlife Area, Nanticoke Wildlife Area, Petersburg Wildlife Area, Prime Hook Marsh Wildlife Area, Rabbits Ferry School Property, Rehoboth Bay Launching Ramp, Rosedale Beach Launching Site, Waples Pond and Access Site and Woodland Beach Wildlife Area; and

WHEREAS, Norman G. Wilder devoted over twenty years of service to the State of Delaware, all of which were primarily dedicated to conserving and protecting the State's natural resources.

NOW, THEREFORE:

BE IT RESOLVED by the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the Department of Natural Resources and Environmental Control is hereby directed to change the name of the Petersburg Wildlife Area to the Norman G. Wilder Conservation and Wildlife Area in recognition and appreciation of the long years of service which Norman G. Wilder devoted to protecting and conserving the State's most treasured gift, its natural resources.

BE IT FURTHER RESOLVED that this Resolution be made a part of the Senate and House Journals and that a copy be forwarded to the Secretary of the Department of Natural Resources and Environmental Control and a copy to Norman G. Wilder.

Approved July 9, 1975

CHAPTER 737

FORMERLY SENATE JOINT RESOLUTION NO. 38

**EXTENDING THE REPORTING DATE OF THE
COMMITTEE TO STUDY AND REPORT ON
THE ADVANTAGES OF CREATING A BICEN-
TENNIAL PARK ON THE PLOT KNOWN AS
CAPITOL SQUARE BOUNDED BY FEDERAL
STREET, DUKE OF YORK STREET, WILLIAM
PENN STREET AND LEGISLATIVE AVENUE.**

WHEREAS, the 128th General Assembly of the State of Delaware adopted Senate Joint Resolution No. 32 which was subsequently signed into law by the Governor on July 2, 1975; and

WHEREAS, Senate Joint Resolution No. 32 establishes a committee to study the feasibility of creating a bicentennial park on the plot known as Capitol Square; and

WHEREAS, the committee is suppose to report its findings on September 12, 1975; and

WHEREAS, the committee will not have completed its report by September 12, 1975.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly, the Governor concurring therein, that the committee designated in Senate Joint Resolution No. 32 to study the feasibility of establishing a bicentennial park on the plot known as Capitol Square is hereby authorized to report its findings and recommendations to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than January 15, 1976, in lieu of the original date of September 12, 1975.

Approved August 19, 1975

CHAPTER 738

FORMERLY SENATE JOINT RESOLUTION NO. 48

**EXTENDING THE REPORTING DATE OF THE
COMMITTEE TO STUDY THE CHANGES TO
THE STATE EMPLOYEES' PENSION PLAN
PROPOSED BY HOUSE BILL NO. 431 OF THE
128TH GENERAL ASSEMBLY.**

WHEREAS, the First Session of the 128th General Assembly of the State of Delaware adopted Senate Joint Resolution No. 36 providing for a Committee to study the changes to the State employees' pension plan proposed by House Bill No. 431; and

WHEREAS, the Committee is in need of more time to complete its study of the proposed pension changes.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein that the reporting date of the Committee herein referred to is hereby extended to March 15, 1976.

Approved January 20, 1976

CHAPTER 739

FORMERLY SENATE JOINT RESOLUTION NO. 47

DIRECTING THE ACTING COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS TO CEASE THE LETTING OF A FORMAL CONTRACT FOR THE CONSTRUCTION OF A WOMEN'S PRISON UNTIL THE COMMITTEE ON ADULT AND JUVENILE CORRECTIONS RENDERS ITS FINAL RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

WHEREAS, the members of the 128th General Assembly of the State of Delaware have recently learned that the Acting Commissioner of the Department of Adult and Juvenile Corrections is about to consummate a formal contract for the construction of a women's prison; and

WHEREAS, the Senate Committee on Adult and Juvenile Corrections is presently investigating the entire Correctional System pursuant to Senate Resolution No. 103; and

WHEREAS, one of the primary objectives of the Senate Standing Committee on Adult and Juvenile Corrections has been the overcrowded conditions of the Delaware Correctional System and how it can be alleviated; and

WHEREAS, it would be post haste for the Department of Adult and Juvenile Corrections to undertake any construction program for the housing of women inmates until they have reviewed the findings of the Senate Standing Committee on Adult and Juvenile Corrections; and

WHEREAS, it is the feeling of the members of the 128th General Assembly of the State of Delaware that any effort to construct a women's prison should be held in obedience pending the findings and recommendations of the Committee on Adult and Juvenile Corrections.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the Acting Commissioner of the Department of Adult and Juvenile Corrections is hereby directed to cease any activity on the letting of a formal contract for the construction of a women's prison until the Senate Committee on Adult and Juvenile Corrections renders its final recommendations to the General Assembly.

BE IT FURTHER RESOLVED that this Resolution shall be made a part of the Senate and House Journals and that a copy be forwarded to the Acting Commissioner of Adult and Juvenile Corrections immediately upon passage.

Approved February 2, 1976

CHAPTER 740

FORMERLY HOUSE JOINT RESOLUTION NO. 36

**PROVIDING FOR AN EXTENSION OF TIME FOR
THE COMMITTEE TO STUDY ADMINISTRATION
AND OPERATION OF THE PUBLIC
SCHOOL SYSTEM IN THIS STATE.**

WHEREAS, the 128th General Assembly of the State of Delaware enacted House Joint Resolution No. 26 establishing a committee to study the administration and operation of the public school system of this State; and

WHEREAS, the Committee is suppose to submit its report and recommendations to the Governor and General Assembly on or before January 30, 1976; and

WHEREAS, the Committee has not completed its work and is in need of more time to complete its study.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the Committee established pursuant to House Joint Resolution No. 26 to study the administration and operation of the public school system of this State is hereby granted an extension to May 11, 1976.

Approved February 6, 1976

CHAPTER 741

FORMERLY SENATE JOINT RESOLUTION NO. 58

PROVIDING FOR THE ESTABLISHMENT OF A SPECIAL AD HOC COMMITTEE TO REVIEW THE PRISONERS' BILL OF RIGHTS WITH THE OBJECTIVE OF ASSURING THAT THE DOCUMENT CONFORMS WITH PRISONERS' BASIC CONSTITUTIONAL RIGHTS AND THAT THE PRISON ADMINISTRATION CAN ADEQUATELY AND SAFELY DEAL WITH DISCIPLINE AND SECURITY IN THE MOST EXPEDIENT MANNER POSSIBLE.

WHEREAS, the Senate of the 128th General Assembly passed Senate Resolution No. 127 on March 10, 1976, requesting the Council on Administration of Justice to review the Prisoners' Bill of Rights; and

WHEREAS, Chief Justice Daniel L. Herrmann, Chairman of the Council on Administration of Justice, has requested the Senate Committee on Corrections to be relieved of this task because most of the legally trained members of the Council are judges who could have potential conflicts of interest in the event the Bill of Rights is litigated; and

WHEREAS, the Senate Standing Committee on Corrections learned from its recent investigation that the Prisoners' Bill of Rights is causing great problems within the institution with respect to inmate discipline, security and morale problems; and

WHEREAS, many of the provisions of the Prisoners' Bill of Rights, particularly Rules 22 and 35 are embedded in federal case decisions.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th Gen-

eral Assembly of the State of Delaware, the Governor concurring therein, that a separate Ad Hoc Committee is hereby established for the purpose of reviewing the Prisoners' Bill of Rights with the objective of assuring that the Bill of Rights conforms with the inmates' basic constitutional rights and also assuring that the prison administration can adequately and safely deal with discipline and security in the most expedient manner possible.

BE IT FURTHER RESOLVED that the Committee shall be composed of five (5) members to be appointed by the Governor. The Committee shall select its own chairman. A majority of the members of the Committee shall be persons who are trained in law.

BE IT FURTHER RESOLVED that the Committee is authorized to hold such hearings as necessary, to require by subpoena or otherwise the attendance of such witnesses and the production of such books and documents as necessary, and to administer oaths and take testimony where necessary.

BE IT FURTHER RESOLVED that the Committee shall make its report to the Governor and members of the General Assembly on or before June 15, 1976.

Approved May 17, 1976

CHAPTER 742

FORMERLY HOUSE JOINT RESOLUTION NO. 45

**AUTHORIZING THE GOVERNOR TO ENTER INTO
A CONTRACT WITH F.D.I.C. AND FARMERS
BANK.**

WHEREAS, on April 2, 1976, Governor Sherman W. Tribbitt; Robert E. Barnett, Chairman of Federal Deposit Insurance Corporation; and Edward W. Hagemeyer, President of Farmers Bank of the State of Delaware, agreed in a Memo of Understanding as to a plan to adopt to revitalize Farmers Bank of the State of Delaware.

NOW, THEREFORE:

BE IT RESOLVED, by the members of the 128th General Assembly, the Governor concurring therein, that the Governor is authorized to enter into a contract with the Federal Deposit Insurance Corporation and the Farmers Bank of the State of Delaware to adopt a plan to restore the Farmers Bank to a viable, competitive institution.

Approved May 20, 1976

CHAPTER 743

FORMERLY HOUSE JOINT RESOLUTION NO. 39

**ADOPTING THE WORLD WHEELCHAIR SYMBOL
AS THE WHEELCHAIR-USER SYMBOL FOR
THE STATE OF DELAWARE.**

WHEREAS, there is an urgent need to adopt an internationally accepted symbol to indicate facilities accessible to wheelchair-users; and

WHEREAS, the wheelchair symbol has been adopted for use around the world by Rehabilitation International's eleventh world congress; and

WHEREAS, the wheelchair symbol is easily recognized by the wheelchair-user; and

WHEREAS, no such standard symbol has been adopted by the State of Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly of the State of Delaware, with the approval of the Governor as attested by his signature affixed hereto, that the wheelchair symbol, as set forth at the end of this Resolution, shall be adopted as the State of Delaware's wheelchair-user symbol.

BE IT FURTHER RESOLVED that the wheelchair-user symbol shall be prominently displayed at main entrances to public property and buildings which provide facilities for the wheelchair-user, and that the private use of this symbol shall be encouraged.

Approved June 18, 1976



For display on public buildings, motels, theaters, restaurants, store parking lots, and transportation facilities which are fully accessible to wheelchair-users and other persons with limited mobility.

The President's Committee on Employment of the Handicapped, Washington, DC 20210

CHAPTER 744

FORMERLY SENATE JOINT RESOLUTION NO. 61

**REGARDING THE EXTENSION OF THE REPORT-
ING DATE OF THE AD HOC COMMITTEE TO
STUDY THE PRISONERS' BILL OF RIGHTS
ESTABLISHED PURSUANT TO SENATE JOINT
RESOLUTION NO. 58.**

WHEREAS, Senate Joint Resolution No. 58, enacted into law on May 17, 1976, established an Ad Hoc Committee to be appointed by the Governor to review the Prisoners' Bill of Rights; and

WHEREAS, the Resolution had a reporting date for the Committee to report its findings and recommendations on or before June 15, 1976; and

WHEREAS, the Committee feels that they cannot meet the deadline of June 15, 1976.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that the date on which the Ad Hoc Committee shall report its findings and recommendations is hereby extended to September 1, 1976.

Approved June 18, 1976

CHAPTER 745

FORMERLY HOUSE JOINT RESOLUTION NO. 43

MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO CALL A CONSTITUTIONAL CONVENTION FOR THE PURPOSE OF PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly of the State of Delaware, with the approval of the Governor, that, pursuant to Article V of the Constitution of the United States, application is hereby made to the Congress of the United States to call a Convention for the sole and exclusive purpose of proposing to the several States a Constitutional Amendment in the following manner:

“ARTICLE

Capital punishment is not, in itself, cruel and unusual punishment. A penalty of death may be imposed by any of the several States as the penalty for a despicable crime if such crime is clearly set forth by statute and the manner in which the death penalty is imposed is not prohibited by the United States Constitution.”

BE IT FURTHER RESOLVED that this Memorial by the General Assembly of the State of Delaware constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several States have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical with that contained in this Resolution before January 1, 1983, this application for such amendment shall no longer be continued.

BE IT FURTHER RESOLVED that since the method of State application to the Congress for proposing amend-

ments to the United States Constitution has never been completed to the point of calling a Convention, and since the calling of a convention in this manner is an exercise of the basic sovereign right of each State, carrying with it the power to interpret Article V as it applies to this process, the General Assembly of the State of Delaware interprets Article V to mean that if two-thirds of all States make application for a convention to propose for ratification an amendment substantially similar to that contained in this Memorial, and such applications contain a limitation that the proposed amendment be the only matter before the Convention, then such Convention shall have the power only to propose the specified amendment and would be limited to such proposal and would not have any power to vary the text thereof, nor would it have power to propose other amendments on the same or different positions.

BE IT FURTHER RESOLVED that if the Article set forth in this Memorial, or one substantially similar to it, is adopted it shall be appended as a new section to Amendment VIII or Amendment XIV, or be included as a completely new amendment to the United States Constitution.

BE IT FURTHER RESOLVED that a duly attested copy of this Memorial be immediately transmitted by the Delaware Secretary of State to: the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State, and to each House of each State Legislature in the United States.

Approved June 22, 1976

CHAPTER 746

FORMERLY HOUSE JOINT RESOLUTION NO. 49

**TO ADOPT ENERGY CONSERVATION AS A STATE
POLICY AND TO SET GOALS FOR THE STATE
OF DELAWARE.**

WHEREAS, the energy crisis has dictated that all users of energy must conserve energy; and

WHEREAS, the Federal Government has failed to adopt an energy policy, it is the responsibility of the States to provide the leadership in setting energy conservation goals and establishing energy conservation programs.

BE IT RESOLVED by the House of Representatives of the 128th General Assembly, the Senate and the Governor concurring therein, that the State of Delaware adopt the conservation of energy as an official policy.

BE IT FURTHER RESOLVED that the State of Delaware, as a major energy user, set an example by:

- (1) Reducing energy use in state buildings.
- (2) Designing all new buildings and renovations to be energy saving.
- (3) Giving consideration to energy conservation and life cycle costing in all its purchasing.
- (4) Disposing of all items in an energy conserving manner.
- (5) Reducing energy use by state operated vehicles by (a) purchasing more efficient vehicles, (b) driving fewer miles, (c) encouraging car pools, and (d) observing 55 mph maximum speed limits.
- (6) Completing, as rapidly as possible, the Delaware

Reclamation Center which will, among other things, make fuel pellets to be used as a substitute for imported oil in generating electricity.

BE IT FURTHER RESOLVED that a copy of this resolution be distributed to all Divisions and Agencies and brought to the attention of all State employees.

BE IT FURTHER RESOLVED that all State employees are requested to extend their fullest cooperation and show ingenuity to conserve energy in all their activities.

Approved July 7, 1976

CHAPTER 747

FORMERLY HOUSE JOINT RESOLUTION NO. 54

REQUESTING THE DEPARTMENT OF PUBLIC INSTRUCTION AND THE STATE BOARD OF EDUCATION TO DEVELOP A NEW SYSTEM OF PUPIL TRANSPORTATION THAT WILL REDUCE THE PRESENT COST.

WHEREAS, a study of the costs to provide pupil transportation was undertaken during the 128th General Assembly under the authority of House Joint Resolution No. 26; and

WHEREAS, the study disclosed that the costs for pupil transportation are increasing several fold compared with normal rates of inflation; and

WHEREAS, this study showed that the rate of increase commenced when the current formulas were established; and

WHEREAS, it is important that the costs of pupil transportation be brought under control.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 128th General Assembly, the Governor concurring herein, that the Department of Public Instruction and the State Board of Education be requested to develop a new system or formula for purchasing pupil transportation which will (1) control costs within normal rates of inflation, (2) provide incentives for contractors to maintain their equipment and provide safe, reliable service, and (3) provide an equitable profit to contractors who manage their business effectively.

BE IT FURTHER RESOLVED that the Department of Public Instruction and the State Board of Education be

requested to take all the steps necessary so that all contracts for pupil transportation will be under the new system of formulas for the fiscal year commencing July 1, 1977.

Approved July 7, 1976

CHAPTER 748

FORMERLY SENATE JOINT RESOLUTION NO. 66
AS AMENDED BY
HOUSE AMENDMENT NO. 1

DIRECTING THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO TAKE POSITIVE ACTION IN THE MATTER OF PROTECTING JOBS WHILE ABATING AIR POLLUTION IN THE STATE.

WHEREAS, the economy of the State of Delaware depends upon its citizens finding and maintaining productive employment; and

WHEREAS, the quality of the environment in Delaware must be improved and maintained to protect the health and welfare of the citizens of Delaware; and

WHEREAS, the Secretary of the Department of Natural Resources and Environmental Control must enforce the laws of the State of Delaware; and

WHEREAS, Phoenix Steel Corporation, a major employer in the State of Delaware has not been able to meet the Environmental Control regulations of the State because of severe financial problems; and

WHEREAS, the new owners of the Phoenix Steel Corporation, Creusot-Loire have requested 81 months of time to comply with Environmental Control regulations.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 128th General Assembly of the State of Delaware, with the approval of the Governor as attested by his signature affixed hereto, that the Secretary of the Department of Natural Resources and Environmental Control is directed to enter into a Consent Decree with

Phoenix Steel Corporation under the auspices of the appropriate court or courts, provided that:

- (1) Within thirty (30) days after notification by the Secretary of the required interim steps, Phoenix Steel Corporation shall furnish the Department with a completion schedule encompassing the interim steps to assure compliance with State laws and regulations under 7 Delaware Code, Chapter 60 within fifty-seven (57) months.
- (2) Failure to achieve compliance with the interim steps shall be deemed as non-compliance with the Consent Decree.
- (3) The Secretary shall take prompt legal action as necessary to assure compliance with State laws and regulations under 7 Delaware Code, Chapter 60 should Phoenix Steel Corporation fail to enter into the Consent Decree within sixty (60) days from the date of notification by the Secretary or fail to meet the compliance schedule specified in the Consent Decree.

Approved July 7, 1976

CHAPTER 749

FORMERLY SENATE JOINT RESOLUTION NO. 57

AUTHORIZING THE ESTABLISHMENT OF AN ADVISORY COUNCIL ON THE PORT PENN - AUGUSTINE BEACH PROJECT TO SERVE IN AN ADVISORY CAPACITY UNTIL COMPLETION OF THE PROJECT, AND NAMING THE MEMBERS THERETO.

WHEREAS, the Division of Fish and Wildlife of the Department of Natural Resources and Environmental Control has determined that the Port Penn - Augustine Beach area is in need of substantial improvements and renovations to stabilize the beach areas; and

WHEREAS, the Capital Improvement Bond Bill of 1975 provided funds for the design and engineering of the project; and

WHEREAS, the Division of Fish and Wildlife is prepared to advertise for bids for the design and engineering of new facilities for the Augustine Beach fishing access area; and

WHEREAS, it is essential that citizens of the area have continuous input into the design and location of the facilities planned.

NOW, THEREFORE:

BE IT RESOLVED by the members of the Senate of the 128th General Assembly of the State of Delaware, the Governor concurring therein, that an advisory council is hereby formed to enable the citizens of the area to have input into the design and location of the facilities at the Port Penn - Augustine Beach area until the project is completed. The Advisory Council shall consist of ten members composed of the following individuals: Senator J. Donald Isaacs, Representative Winifred Spence, David E. Arm-

strong, John R. Finnegan, John Martyniack, Jr., J. Kent Murphy, Emory C. Reader, Jr., Julia L. Sidwell, William S. Sidwell, and Donald H. Williams, Sr.

Approved July 21, 1976

CHAPTER 750

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

EXECUTIVE ORDER NUMBER SEVENTY-SIX

TO: Heads of All State Departments and Agencies**RE: Establishment of a Single Organizational Element to
Carry out the Functions, Duties and Responsibilities
of Child Support Enforcement**

WHEREAS, pursuant to §7903(7), Title 29, Delaware Code, the Secretary of Health and Social Services, with the concurrence of the Governor, has the power to "establish, consolidate, abolish, transfer or combine the powers, duties and functions of the Divisions subdivisions and offices within the Department as the Secretary, with the written approval of the Governor, may deem necessary, providing that all duties and functions required shall be provided for and maintained"; and

WHEREAS, Public Law 93-647, enacted by the Senate and House of Representatives of the United States of America on January 4, 1975 amended Title IV of the Social Security Act by adding a new Part D - Child Support and Establishment of Paternity - for the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support; and

WHEREAS, said Public Law requires the State to establish and designate a single and separate organizational unit to administer a State plan for child support enforcement; and

WHEREAS, Public Law 93-647 amendments to Title IV-A provides, et al, that as a condition of eligibility for aid, each applicant or recipient will be required to assign the State any rights to support from any other person such

applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid and (ii) which have accrued at the time such assignment is executed; and

WHEREAS, Public Law 93-647 also . . . amends Title IV-A of the Social Security Act to provide that the States have in effect a plan approved under Part D and operate a child support program in conformity with such plan.

NOW, THEREFORE, I, SHERMAN W. TRIBBITT, upon the recommendation of the Secretary of Health and Social Services, after his due consultation with the Chief Justice and the Attorney General, and by virtue of the authority vested in me as Governor, do hereby declare and order as follows:

1. The creation of the Bureau of Child Support Enforcement as a single and separate organizational element within the Division of Business Administration and General Services of the Department of Health and Social Services. It shall be assigned those functions and duties essential to the implementation and administration of an effective State plan for child support as set forth in Public Law 93-647 as well as those functions henceforth assigned it by law or the Secretary of Health and Social Services.
2. The Bureau of Child Support Enforcement shall be known as the State IV-D Agency. Said Bureau shall enter into cooperative arrangements with appropriate courts and law enforcement officials of the State of Delaware as are necessary to assist the Bureau in administering the plan and with respect to any other matters of common concern to such courts or officials and this Bureau.
3. Effective date of the creation of the Bureau of Child Support enforcement shall be July 1, 1975.

Approved June 30, 1975

CHAPTER 751

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

EXECUTIVE ORDER NUMBER SIXTY-EIGHT

TO: Heads of All State Departments and Agencies**RE: Delaware Transportation Activities**

WHEREAS, great emphasis is being directed, both in the State of Delaware and nationwide, toward the provision of adequate and efficient public transportation services; and

WHEREAS, Chapter 268, Volume 59, Laws of Delaware, authorized the creation of Local Transportation Authorities, such as the Delaware Authority for Regional Transit (DART); and

WHEREAS, Chapter 306, Volume 59, Laws of Delaware, authorized the creation of a Specialized Transportation Authority, to wit, the Delaware Authority for Specialized Transportation (DAST); and

WHEREAS, Executive Order No. 52, July 19, 1974, created the Governor's Task Force for Aviation; and

WHEREAS, there was created in March 1972, the Governor's Transit Task Force for Northern Delaware, as was mandated by the Urban Mass Transportation Administration of the United States Department of Transportation, as a provision of the Delaware Transit Technical Study Grant DE-09-0002; and

WHEREAS, numerous Federal laws, regulations, and policies, such as the Federal-Aid Highway Act of 1962, the Urban Mass Transportation Act of 1964, the National Environmental Policy Act of 1969, the Airport and Airway Development Act of 1970, the Regional Rail Reorganization Act of 1973, the Federal-Aid Highway Act of 1973,

and the National Transportation Assistance Act of 1974, require certain actions at the State government level, with respect to transportation activities.

NOW, THEREFORE, I SHERMAN W. TRIBBITT, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order as follows:

1. The Secretary of Highways and Transportation or his designee is authorized to act for the Governor and the State of Delaware in transportation and aviation matters affecting the State of Delaware.
2. The Secretary of Highways and Transportation or his designee shall assure that maximum coordination, and cooperation is maintained with the Wilmington Metropolitan Area Planning Coordinating Council (WILMAPCO), the State Planning Office, and the various Federal Transportation and Aviation activities.
3. The Secretary of Highways and Transportation or his designee shall exercise overall policy, management, and administrative supervision over all statewide transportation and aviation matters. In this capacity, the Department of Highways and Transportation will:
 - a. Coordinate all transportation policies and procedures for the State of Delaware with the objective of providing a balanced transportation system at optimum efficiency and cost;
 - b. Perform all planning of transportation activities for the State of Delaware and conduct such continuing, comprehensive, and coordinated transportation planning activities as shall be necessary to satisfy the requirements of the various Federal laws and regulations;
 - c. Coordinate all transportation budgets and grants for the State of Delaware;
 - d. Coordinate the activities of Transportation

Authorities created by the State to avoid competition, overlap and duplication of service;

e. Monitor transportation management actions to assure the optimum utilization of transportation services within the State at a minimum total transportation cost to the State of Delaware; and

f. Act as the technical supervisor of all State transportation functions;

g. Prepare for the Governor, certification as to the social, economic, and environmental impacts of transportation projects within the State of Delaware as may be required to satisfy all applicable State and/or Federal laws;

h. Hold public hearings, for any transportation activities as may be required to satisfy the various State and Federal laws;

i. Conduct or contract for studies, plans or designs as may be required to satisfy the various Federal regulations and laws;

j. Assure the optimum utilization of all available Federal funds for transportation.

Approved February 28, 1975

CHAPTER 752

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

EXECUTIVE ORDER NUMBER NINETY-NINE

**TO: The Honorable Henry R. Folsom, Jr., President,
New Castle County Council and The Honorable
Melvin A. Slawik, New Castle County Executive.**

**RE: Article XV, Section 6, Constitution of the State of
Delaware.**

WHEREAS, on Tuesday, March 9, 1976, a Federal jury convicted New Castle County Executive Melvin A. Slawik of three counts of Perjury; and

WHEREAS, as New Castle County Executive Melvin A. Slawik is a public officer; and

WHEREAS, said convictions are of an infamous crime; and

WHEREAS, upon the considered advice of the Attorney General of the State of Delaware, it is my mandatory obligation as Chief Executive of the State of Delaware under the Constitution Article XV, Section 6 to "remove from office any public officer convicted of misbehavior in office or of any infamous crime";

NOW, THEREFORE, I, SHERMAN W. TRIBBITT, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby remove New Castle County Executive Melvin A. Slawik from the office of New Castle County Executive and declare that office vacant as of 5:00 P.M. E.S.T., March 11, 1976.

Approved March 11, 1976

CHAPTER 753

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)EXECUTIVE ORDER NUMBER
ONE HUNDRED FIVE**TO: Heads of All State Departments and Agencies****RE: Pro-Rata Budget Reductions**

WHEREAS, the General Assembly made certain assumptions and estimates in passage of the F.Y. 1977 budget; and

WHEREAS, the actual figures are now available; and

WHEREAS, the total of the Budget bill including the supplementals exceeds the anticipated revenues; and

WHEREAS, the General Assembly delegated the authority to me to make pro-rata reductions in all areas to which funds were appropriated;

NOW, THEREFORE, I, SHERMAN W. TRIBBITT, by virtue of the authority vested in me as Governor of the State of Delaware and exercising my authority as delegated in Section 73 of Chapter 511, Volume 60, Laws of Delaware, do hereby declare and order the following:

UNTIL AMENDED, REVISED OR CANCELLED BY SUBSEQUENT ANNOUNCEMENT FROM THIS OFFICE:

1. All areas receiving an appropriation under Chapter 511, Volume 60, Laws of Delaware, are hereby directed to submit pro-rata reductions of one (1) percent of their appropriations less line-item salaries and debt service.
2. These reductions must be submitted jointly to the

Budget Director and Controller General for their review by July 31, 1976.

3. The reductions must be shared proportionately by all sections, sub-divisions or divisions of each area receiving an appropriation.
4. Fringe benefits may be reduced only in proper proportion to reductions in salaries and wages.
5. The Budget Director and the Controller General shall have the authority and responsibility to determine the amount and propriety of the reductions.

Approved July 19, 1976

CHAPTER 754

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

PROCLAMATION

I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, pursuant to Article III, Section 16, of the Constitution of the State of Delaware, do hereby convene the House of Representatives and Senate of the 128th General Assembly of the State of Delaware into Special Session on Monday, July 28, 1975, at 1:00 p.m., to consider, inter alia, an Omnibus Amendment to the 1976 Budget Appropriation Act originally designated Senate Bill 431, and accompanying matters supporting same.

IN WITNESS WHEREOF, I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, have hereunto set my hand and caused the great Seal of the said State to be hereunto affixed at Dover this 22nd day of July in the year of our Lord, one thousand nine hundred and seventy-five and of the Independence of the United States of America, the two hundredth.

CHAPTER 755

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

PROCLAMATION

I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, pursuant to Senate Joint Resolution No. 59 of the 128th General Assembly (Second Session - 1976) of the State of Delaware, do hereby issue a call unto the members and officers of the 128th Session of the General Assembly, as individuals, to convene together at 10:00 A.M. on the 15th day of June, A.D., 1976, in the House of the 1st Delaware General Assembly in the City of New Castle, Delaware and there to hold a "Delaware Bicentenary Separation Day Session" to commemorate the commitments and sacrifices our forefathers suffered in making such a Separation Decision, creating a separate government of the people, for the people, and by the people of the independent State of Delaware, and, that such session's actions shall be commemorative only.

IN WITNESS WHEREOF, I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 25th day of May in the year of our Lord, one thousand nine hundred and seventy-six, and of the Independence of the United States of America, the two hundredth.

CHAPTER 756

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

PROCLAMATION

WHEREAS, according to Title 15, Delaware Code, section 4303, the Governor is required during October of each Presidential election year, to make know by proclamation the number of Presidential electors to be chosen and the day of election;

NOW, THEREFORE, I, Sherman W. Tribbitt, Governor of the State of Delaware, do hereby proclaim that three (3) Presidential electors shall be chosen at the general election which will be held on Tuesday, the second day of November 1976.

IN WITNESS WHEREOF, I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 1st day of October in the year of our Lord one thousand nine hundred and seventy-six and of the Independence of the United States of America, the two hundredth and first.

CHAPTER 757

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
(DOVER)

PROCLAMATION

I, SHERMAN W. TRIBBITT, Governor of the State of Delaware, pursuant to Article III, Section 16, of the Constitution of the State of Delaware, do hereby convene the House of Representatives and Senate of the 129th General Assembly of the State of Delaware into Special Session on Tuesday, January 4, 1977, at 1:00 p.m.

IN WITNESS WHEREOF, I, Sherman W. Tribbitt, Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 23rd day of December in the year of our Lord one thousand nine hundred and seventy-six and of the Independence of the United States of America, the two hundred and first.

INDEX

Abandoned Property Fund (Chapter 598)
 abortion (Chapter 544)
 abuse of children (Chapter 494)
 accounting and distribution of a decedent's estate (Chapter 199)
 Administrative Procedures Act (Chapter 585)
 admission of children on premises which serve alcoholic beverages
 (Chapter 67)
 adoption and termination of parental rights (Chapter 241)

ADULT CORRECTIONS

bill of rights for inmates (Chapter 744)
 conduct of parole application hearings (Chapter 64)
 consecutive sentences (Chapter 308)
 diagnostic and detention center (Chapter 49)
 employment of personnel (Chapters 654, 706)
 escape and attempted escape (Chapter 707)
 establishment of Department of Correction (Chapter 251)
 furloughs (Chapter 704)
 Institutional Classification Board (Chapter 703)
 mandatory training of correctional officers (Chapter 617)
 pension benefits for corrections employees (Chapters 6, 148, 593,
 663)
 pre-sentence investigation (Chapter 114)
 pre-trial detainees' center (Chapter 30)
 prison discipline and security (Chapter 741)
 renovations to Sussex Correctional Institute (Chapter 348)
 supplementary appropriation (Chapter 717)
 transfers of funds across budget lines to Adult Corrections
 (Chapters 718, 719)
 Women's Prison (Chapter 739)
 work release program (Chapter 705)
 Advanced Planning Fund (Chapter 685)
 Advisory Council on Port Penn - Augustine Beach project (Chapter
 749)

Agency Bond Reversion Account (Chapters 359, 366)

AGRICULTURE

Agricultural Museum (Chapters 70, 83, 656)
 co-operatives (Chapter 174)
 farm laborers (Chapter 156)
 farm trucks (Chapter 500)
 Farmland Assessment Act
 annual review (Chapter 105)
 Constitutional amendment (1) (Chapter 437)
 Constitutional amendment (2) (Chapter 438)
 pension to Lawrence Thompson, Department of Agriculture
 (Chapter 42)

- promotion of apples (Chapter 664)
- registration and classification of pesticide products (Chapter 671)
- use of mobile homes on farms (Chapters 134, 672)
- aid to municipalities for streets
 - expenditures of funds by municipalities (Chapters 113, 421)
- ALCOHOLIC LIQUORS**
 - Alcoholic Beverage Control Commission (Chapter 265)
 - clubs and multiple-activity clubs (Chapter 67)
 - license to purchase for re-sale (Chapter 242)
 - licenses for caterers (Chapter 466)
 - refund of taxes paid by importers and wholesalers (Chapter 322)
- American Legion (Chapter 62)
- Anatomical Gift Act (Chapter 344)
- annual Lottery budget, elimination of State overview functions (Chapter 92)
- antique vehicle license plates (Chapter 179)
- appointment of an Acting Lottery Director (Chapter 93)
- Appoquinimink Reorganized School District (Chapter 735)
- architects (Chapter 480)
- Ardentown, Ardencroft
 - Village of Ardentown (Chapter 140)
 - Village of Ardencroft (Chapter 515)
- Artizans' Savings Bank (Chapter 489)
- Authority on Radiation Protection (Chapter 698)
- automobile loans, maximum finance charges (Chapter 53)
- Baen, Charles T. (Chapter 27)
- bank charter amendments
 - Artizans' Savings Bank (Chapter 489)
 - Farmers Bank of the State of Delaware (Chapter 351)
- BANKING**
 - banks permitted to issue preferred stock (Chapter 349)
 - escheat of private bank accounts to the State (Chapter 119)
 - facilitates bank's ability to declare dividends for preferred stock (Chapter 458)
 - Farmers Bank's shareholders (Chapter 365)
 - hypothecated funds (Chapter 374)
 - receivership of certain banks by F.D.I.C (Chapter 376)
 - State Bank Commissioner (Chapter 268)
 - voting powers of capital stockholders (Chapter 350)
- Bank of Delaware (Department of Transportation bonds) (Chapter 665)
- Beckett, Richard C. (Chapter 112)
- Bellevue Manor Estate (Chapter 369)
- BETHANY BEACH, TOWN OF**
 - beach improvement canal (Chapter 315)
 - charter amendment (Chapter 303)
 - election of town officers (Chapter 514)

- sanitary sewer district (Chapter 100)
- volunteer fire company (Chapter 309)
- Bicentennial Memorial Park (Chapter 343)
- BICENTENNIAL, OBSERVANCE OF**
 - American Revolution Bicentennial Commission (Chapter 181)
 - Bicentennial Park Committee (Chapters 732, 737)
 - Delaware Bicentennial Bank (Chapter 730)
 - Delaware Bicentenary Separation Day Session (Chapter 755)
- BIDDING REQUIREMENTS FOR PUBLIC WORKS**
 - exemption for Delaware Reclamation Project (Chapter 99)
 - exemption for libraries (Chapter 77)
 - Professional Services Negotiation Act (Chapter 589)
- bill of rights for utility users (Chapter 726)
- Black Man's Development Center (Chapter 260)
- Blades, Town of
 - Blades Fire Department (Chapter 321)
 - voting in annexation elections (Chapter 453)
- blind persons exempt from dog fees and kennel licenses (Chapter 85)
- Blue Cross-Blue Shield
 - overpayments by pensioners (Chapter 572)
 - rates and rating organizations (Chapter 388)
- BONDS**
 - appropriation to meet State bond deficiencies (Chapter 478)
 - authorization for Department of Community Affairs & Economic Development (Chapter 211)
 - authorization for various Sussex County sewer districts (Chapter 100)
 - authorization limited to 75% of previous principal retirement (Chapter 709)
 - authorization to sell State bonds at private sales for "negotiated prices" rather than at the going market rate (Chapter 372)
- BOND BILL AMENDMENTS**
 - Bethany Beach Improvement Canal (Chapter 315)
 - Capital Improvements Acts (Chapters 7, 721)
 - Delaware Technical & Community College, Wilmington Campus (Chapter 73)
 - Health & Social Services, corrections diagnosis center (Chapter 49)
 - renewal notes (Chapter 352)
- BOND REVERSION ACCOUNTS**
 - Agency Bond Reversion Account (Chapters 359, 366)
 - all reversion accounts (Chapters 135, 666)
 - School Bond Reversion Account (Chapters 718, 719)
- Bowers, Town of (Chapter 304)
- BUDGET APPROPRIATION ACT (1975)**
 - Amendments
 - judicial appropriations (Chapter 57)
 - Juvenile Corrections, Division of (Chapter 37)

- the "May Report" (Chapter 59)
- salaries for public school employees (Chapter 33)
- soil and water conservation (Chapter 326)
- State employee's pay increase (Chapters 94, 97)
- BUDGET APPROPRIATION ACT (1976) (Chapter 113)**
 - Amendments
 - Delaware National Guard (Chapter 425)
 - eliminating fringe benefits from local supplements (Chapter 120)
 - Finance, Department of (Chapter 153)
 - Howard Career Center (Chapter 510)
 - Office of the Budget (Chapter 502)
 - omnibus appropriations amendment (Chapters 289, 754)
 - Public Service Commission (Chapter 380)
 - re-allocation of appropriated funds (Chapter 378)
 - school bus contracts (Chapter 305)
 - Welfare Recipient Employment Program (Chapter 147)
- BUDGET APPROPRIATION ACT (1977) (Chapter 511)**
 - Amendments
 - Delaware State College (Chapter 569)
 - health-related professional licensing (Chapter 716)
 - budget and fiscal regulations for State agencies (Chapter 187)
 - Bureau of Child Support Enforcement (Chapter 750)
- Campaign Finance and Disclosure Act (Chapter 110)
- Capital Improvement Bond Act of 1969 (Chapter 666)
- Capital Improvement Bond Act of 1970 (Chapter 721)
- Capital Improvement Bond Act of 1972 (Chapter 393)
- CAPITAL IMPROVEMENT BOND ACT OF 1976 (Chapter 271)**
 - Bellevue Manor Estate (Chapter 369)
 - Justice of the Peace building (Chapter 538)
 - Port Penn bulkhead and recreational area (Chapter 554)
 - water tower for Town of Newport (Chapter 549)
- Capital Improvement Bond Act of 1977 (Chapter 691)
 - Concord Pond Dam (Chapter 720)
- "Capital Improvement Acts" (Chapter 135)
- CAPITAL INVESTMENT FUND**
 - Advanced Planning Fund (Chapter 685)
 - withdrawal of funds to finance agricultural museum (Chapter 656)
 - withdrawal of funds to finance Farmers Bank crisis (Chapter 360)
 - withdrawal of funds to finance reorganization of Department of Highways & Transportation (Chapter 503)
- capital punishment (Chapter 745)
- Capital School District
 - drainage and parking facilities at Dover High School (Chapter 580)
 - West Dover Elementary School renovation project (Chapter 354)

- capital shareholders of bank stock (Chapters 349, 350)
- Capitol Square (Chapters 732, 737)
- central office for Federal-State transportation activities (Chapter 751)
- certified public accountants (Chapter 198)
- Cervical Cancer Control Program (Chapter 160)
- Chambers, William M. and Betty L. (Chapters 724, 725)
- child support (Chapters 334, 455, 750)
- chronically ill adults, supplementary appropriation (Chapter 29)
- CITY CHARTERS
 - City of Dover (Chapters 301, 311, 456)
 - City of Harrington (Chapters 320, 479)
 - City of Newark (Chapter 305)
 - City of New Castle (Chapters 312, 354)
 - City of Rehoboth Beach (Chapters 121, 556, 622, 623)
 - City of Seaford (Chapters 71, 111, 516)
 - City of Wilmington (Chapters 88, 184)
- claims against insolvent insurance carriers (Chapter 189)
- colleges and universities (Chapter 151)
- COMMERCE AND TRADE
 - debtor-creditor relations (Chapters 618, 619, 644)
 - "door-to-door" sales practices (Chapter 543)
 - Fair Trade (Chapter 470)
 - landlord-tenant relationships (Chapters 625, 645, 646)
 - outdoor advertising (Chapter 290)
 - sales of domestic and foreign animals, birds, reptiles and insects (Chapter 244)
 - sales of mattresses, pillows and bedding (Chapter 356)
- compensation of General Assembly members (Chapter 82)
- concealed deadly weapons (Chapter 419)
- Concord Pond Dam (Chapter 720)
- conduct of parole application hearings (Chapter 64)
- confidential information, unemployment compensation (Chapter 72)
- Conner, Roland S. (Chapter 154)
- CONSTITUTIONAL AMENDMENTS
 - absentee ballots (Chapter 520)
 - active judicial duty by retired judges (Chapter 592)
 - change of venue (Chapter 519)
 - compensation of General Assembly members (Chapters 48, 52)
 - exemption of property from taxation (Chapter 521)
 - Farmland Assessment Act (Chapters 437, 438)
 - increasing number of Supreme Court justices (Chapter 540)
 - moral, philosophical and religious activity in public schools (Chapter 50)
- construction of sewage treatment plants, State advancements (Chapter 258)
- continuing legal education (Chapter 627)
- Controlled Substances Act (Chapter 583)

- the "May Report" (Chapter 59)
- salaries for public school employees (Chapter 33)
- soil and water conservation (Chapter 326)
- State employee's pay increase (Chapters 94, 97)
- BUDGET APPROPRIATION ACT (1976) (Chapter 113)**
 - Amendments
 - Delaware National Guard (Chapter 425)
 - eliminating fringe benefits from local supplements (Chapter 120)
 - Finance, Department of (Chapter 153)
 - Howard Career Center (Chapter 510)
 - Office of the Budget (Chapter 502)
 - omnibus appropriations amendment (Chapters 289, 754)
 - Public Service Commission (Chapter 380)
 - re-allocation of appropriated funds (Chapter 378)
 - school bus contracts (Chapter 305)
 - Welfare Recipient Employment Program (Chapter 147)
- BUDGET APPROPRIATION ACT (1977) (Chapter 511)**
 - Amendments
 - Delaware State College (Chapter 569)
 - health-related professional licensing (Chapter 716)
 - budget and fiscal regulations for State agencies (Chapter 187)
 - Bureau of Child Support Enforcement (Chapter 750)
- Campaign Finance and Disclosure Act (Chapter 110)
- Capital Improvement Bond Act of 1969 (Chapter 666)
- Capital Improvement Bond Act of 1970 (Chapter 721)
- Capital Improvement Bond Act of 1972 (Chapter 393)
- CAPITAL IMPROVEMENT BOND ACT OF 1976 (Chapter 271)**
 - Bellevue Manor Estate (Chapter 369)
 - Justice of the Peace building (Chapter 538)
 - Port Penn bulkhead and recreational area (Chapter 554)
 - water tower for Town of Newport (Chapter 549)
- Capital Improvement Bond Act of 1977 (Chapter 691)
 - Concord Pond Dam (Chapter 720)
- "Capital Improvement Acts" (Chapter 135)
- CAPITAL INVESTMENT FUND**
 - Advanced Planning Fund (Chapter 685)
 - withdrawal of funds to finance agricultural museum (Chapter 656)
 - withdrawal of funds to finance Farmers Bank crisis (Chapter 360)
 - withdrawal of funds to finance reorganization of Department of Highways & Transportation (Chapter 503)
- capital punishment (Chapter 745)
- Capital School District
 - drainage and parking facilities at Dover High School (Chapter 580)
 - West Dover Elementary School renovation project (Chapter 354)

capital shareholders of bank stock (Chapters 349, 350)
 Capitol Square (Chapters 732, 737)
 central office for Federal-State transportation activities (Chapter 751)
 certified public accountants (Chapter 198)
 Cervical Cancer Control Program (Chapter 160)
 Chambers, William M. and Betty L. (Chapters 724, 725)
 child support (Chapters 334, 455, 750)
 chronically ill adults, supplementary appropriation (Chapter 29)

CITY CHARTERS

City of Dover (Chapters 301, 311, 456)
 City of Harrington (Chapters 320, 479)
 City of Newark (Chapter 305)
 City of New Castle (Chapters 312, 354)
 City of Rehoboth Beach (Chapters 121, 556, 622, 623)
 City of Seaford (Chapters 71, 111, 516)
 City of Wilmington (Chapters 88, 184)

claims against insolvent insurance carriers (Chapter 189)
 colleges and universities (Chapter 151)

COMMERCE AND TRADE

debtor-creditor relations (Chapters 618, 619, 644)
 "door-to-door" sales practices (Chapter 543)
 Fair Trade (Chapter 470)
 landlord-tenant relationships (Chapters 625, 645, 646)
 outdoor advertising (Chapter 290)
 sales of domestic and foreign animals, birds, reptiles and insects
 (Chapter 244)
 sales of mattresses, pillows and bedding (Chapter 356)
 compensation of General Assembly members (Chapter 82)
 concealed deadly weapons (Chapter 419)
 Concord Pond Dam (Chapter 720)
 conduct of parole application hearings (Chapter 64)
 confidential information, unemployment compensation (Chapter 72)
 Conner, Roland S. (Chapter 154)

CONSTITUTIONAL AMENDMENTS

absentee ballots (Chapter 520)
 active judicial duty by retired judges (Chapter 592)
 change of venue (Chapter 519)
 compensation of General Assembly members (Chapters 48, 52)
 exemption of property from taxation (Chapter 521)
 Farmland Assessment Act (Chapters 437, 438)
 increasing number of Supreme Court justices (Chapter 540)
 moral, philosophical and religious activity in public schools
 (Chapter 50)
 construction of sewage treatment plants, State advancements (Chapter
 258)
 continuing legal education (Chapter 627)
 Controlled Substances Act (Chapter 583)

CONVEYING OF PUBLIC LANDS

- docking facilities to Port Mahon Wharf Company (Chapter 659)
- educational television building (Chapter 266)
- Georgetown motor vehicle inspection lane (Chapter 420)
- Kent County borrow pit (Chapter 167)
- land in South Bethany to persons not named (Chapter 482)
- Owens Corner School (Chapter 61)
- portion of Greenbank prison grounds (Chapter 370)
- property to Cranston Heights Fire Company (Chapter 261)
- Union School (Chapter 307)
- Viola School #156 (Chapter 693)
- Warwick School #203 (Chapter 84)
- Warwick School #225 (Chapter 62)
- corporal punishment (Chapter 662)
- Corporation Franchise Tax (Chapter 353)
- Corporation Income Tax
 - requiring 50% payment by December 15 (Chapter 15)
 - underpayment of estimated tax (Chapter 193)

CORPORATIONS

- agricultural cooperatives (Chapter 174)
- insurance corporations
 - holding companies (Chapter 616)
 - merger and consolidation (Chapter 176)
- investments by insurance companies (Chapter 347)
- liquor licenses for corporations with underage shareholders (Chapter 242)
- telephone and telegraph corporations (Chapter 196)
- tender offers (Chapter 371)
- cosmetologists
 - cosmetologists (Chapter 439)
 - licensing of (Chapter 102)
- cost-of-living salary supplements for State employees (Chapter 690)
- Council on Aging (Chapter 525)

COUNTIES

- adding member to Board of Assessment Review, New Castle County (Chapter 45)
- attachment of land for payment of taxes (Chapter 170)
- building permits in Kent County (Chapter 245)
- composition of county government (Chapter 468)
- County Library Agency (Chapter 162)
- county officers (Chapter 11)
- delinquent real estate taxes (Chapter 424)
- exception to one-year limitation on operating budget expenditures (Chapter 219)
- expenditure limitations for regional planning (Chapter 233)
- garbage collection in Kent County (Chapter 329)
- Kent County building code (Chapter 605)

New Castle County taxes, penalty for late payment (Chapter 106)
permission for mobile homes in New Castle County (Chapter 134)
property subject to county taxation (Chapter 194)
Recorders (Chapters 234, 277)
redemption of real estate by owner after tax sale (Chapters 171, 172)
requirements for out-of-State contractors (Chapter 293)
salary of Sheriff's "chief deputy" (Chapter 202)
sanitary and water districts in Sussex County (Chapter 601)
slum clearance and redevelopment (Chapter 34)
Sussex County sewer and water bonds (Chapter 600)
Sussex County tax ditches (Chapter 563)
tax exemption for elderly (Chapter 430)
voting procedure for New Castle County Council (Chapter 131)
zoning, exemption for general hospital facilities (Chapter 661)

COURTS AND JUDICIAL PROCEDURE

active judicial duty by retired judges (Chapter 592)
Administrative Office of the Courts (Chapters 325, 669)
change of venue (Chapter 519)
court costs and fines (Chapter 465)
Court of Chancery (Chapter 217)
Court of Common Pleas (Chapters 197, 559, 629)
divorce and annulment (Chapter 335)
exemption and attachment of wages (Chapter 618)
Family Court (Chapters 47, 279, 647, 657, 658)
Federal courts (Chapter 676)
grand and petit juries (Chapter 225)
interpreters for deaf persons (Chapter 541)
judicial branch, all courts
 pensions for members of the judiciary (Chapter 649)
 supplementary appropriation (Chapter 159)
Justices of the Peace (Chapters 143, 253, 298, 475, 553, 619, 708)
legal representation for public officials (Chapter 474)
Prothonotaries, salaries (Chapter 481)
rape cases, admissibility of evidence (Chapter 257)
"State of the Judiciary" messages (Chapter 182)
State Supreme Court (Chapter 540)
Superior Court fees (Chapter 481)
supplementary appropriations (Chapters 57, 159, 325)
transfers of funds between all lines and courts (Chapter 391)
travel money for Constables (Chapter 87)

COURT OF COMMON PLEAS

appointment of additional employees for Court (Chapter 629)
increase in civil jurisdiction (Chapter 197)
increase in number of judges (Chapter 559)
credit unions, issuance of food stamps (Chapter 80)
Creusot-Loire, Ltd. (Chapter 748)

CRIMES AND CRIMINAL PROCEDURE

- capital punishment (Chapter 745)
- consecutive sentences for multiple crimes (Chapter 308)
- court costs and fines (Chapter 465)
- cunnilingus (Chapter 416)
- escape after conviction (Chapter 707)
- felony "thresholds" (Chapter 590)
- illegal sales practices (Chapter 543)
- motor vehicle offenses (Chapters 432, 603, 702, 708)
- obscenity (Chapter 445)
- obstruction of governmental operations (Chapter 542)
- possession of a deadly weapon during commission of felony (Chapter 306)
- rape (Chapter 257)
- robbery by juveniles (Chapter 658)
- robbery in the first degree (Chapter 240)
- sale of transferred recorded sounds (Chapter 611)
- smoking on public conveyances (Chapter 66)
- unclassified misdemeanors (Chapter 401)
- unlawful use of State vehicles (Chapter 660)
- voluntary intoxication as a defense against criminal liability (Chapter 680)

DEBTOR-CREDITOR RELATIONSHIPS

- attachment of wages (Chapter 618)
- garnishment proceedings (Chapter 619)
- post-judgment wage attachments (Chapter 644)
- decedents' estates
 - accounting and distribution of the estate (Chapter 199)
 - inheritance taxes (Chapters 346, 697)
- Deferred Compensation Program (Chapter 146)
- Delaware Agricultural Museum Association, Inc. (Chapters 70, 83)
- Delaware American Revolution Bicentennial Commission (Chapter 181)
- Delaware Authority for Regional Transit
 - free public transportation for the blind (Chapter 210)
 - supplementary appropriation (Chapter 38)

DELAWARE CODE

- adoption of (Chapter 56)
- annual supplements (Chapter 295)
- distribution of (Chapter 220)
- Delaware Econometric Model (Chapter 681)
- Delaware Health Facilities Authority (Chapter 565)
- Delaware Home and Hospital for the Chronically Ill at Smyrna, change of name (Chapter 207)
- Delaware Institute of Veterinary Medical Education (Chapters 137, 655)

- Delaware Memorial Bridge (Chapter 555)
- Delaware National Guard
 - exemption from uniform salary rates (Chapter 425)
 - immunity from civil and criminal liability (Chapter 400)
- Delaware Noise Control Act (Chapter 648)
- Delaware Society for the Prevention of Cruelty to Animals (Chapter 209)
- Delaware Solid Waste Authority
 - method for appointment of director (Chapter 558)
 - Statewide solid waste management services (Chapter 288)
- DELAWARE STATE COLLEGE
 - legal representation (Chapter 476)
 - required financial disclosure to Governor and Auditor of Accounts (Chapter 594)
 - salaries of employees (Chapter 32)
 - salary supplements for certain employees (Chapter 608)
 - sewage treatment project (Chapter 415)
 - supplementary appropriation (Chapter 151)
- Delaware State Employees' Credit Union (Chapter 167)
- Delaware State Hospital, involuntary commitment (Chapter 95)
- Delaware State Housing Authority (Chapter 444)
- DELAWARE TECHNICAL & COMMUNITY COLLEGE
 - dental clinic for Wilmington Campus (Chapter 73)
 - Kent Campus (Chapter 367)
 - salary appropriation (Chapter 32)
 - tuition payments for night school (Chapter 408)
- Delaware Trademark Act (Chapter 612)
- Delaware Turnpike
 - reduction in number of toll payments (Chapter 638)
 - toll exemption for handicapped (Chapter 635)
- De La Warr School District (Chapter 410)
- Delmar School District
- transfers across budget lines (Chapters 43, 418)
- DELMAR, TOWN OF
 - annexation (Chapter 472)
 - authority to enact ordinances (Chapter 74)
 - maximum borrowing capacity (Chapter 12)
 - open registration for Town elections (Chapter 123)
- demolition of buildings by public expenditure (Chapter 684)
- dentistry and oral hygiene (Chapter 471)
- DEPARTMENT OF PUBLIC INSTRUCTION
 - moratorium on busing of ineligible school pupils (Chapter 728)
 - permission for out-of-State students to attend Delaware Schools (Chapter 212)
 - study of the costs of pupil transportation (Chapter 747)
- Dewey Beach

- beach maintenance program (Chapter 109)
- sanitary sewer district (Chapter 100)
- direct primary elections (Chapters 712, 713)
- division of powers and duties between State and local police (Chapters 103, 284, 310, 377)

DOMESTIC RELATIONS

- adoption and termination of parental rights (Chapter 241)
- child support agreements (Chapters 455, 750)
- desertion and support (Chapter 332)
- divorce and annulment (Chapters 331, 333)
- extension and continuance of child support payments (Chapter 334)
- reciprocal enforcement of support (Chapter 643)
- truancy and truant behavior (Chapter 449)
- Uniform Child Custody Jurisdiction Act (Chapter 368)
- "door-to-door" sales practices (Chapter 543)
- Dougherty, Charles A. (Chapter 239)

DOVER, CITY OF

- annexation voting qualifications (Chapter 301)
- Mayor and City Council vacancies (Chapter 311)
- municipal elections (Chapter 456)

DRIVER'S LICENSES

- fee for renewal (Chapter 339)
- license for minors 16 years of age (Chapter 626)
- space to designate anatomical gifts (Chapter 344)
- suspension and revocation (Chapters 603, 606, 615)

DRUGS

- controlled substances (Chapter 583)
- Drug Product Selection Act (Chapter 330)
- use during eye examinations (Chapter 252)

EDUCATION

- acceptance of non-resident students by public schools (Chapter 212)
- corporal punishment (Chapter 662)
- "free enterprise system" as a required course (Chapter 246)
- fringe benefits from local supplements (Chapter 120)
- General Assembly committee (Chapters 689, 740)
- Interim School Board (Chapter 492)
- moral, philosophical and religious activity (Chapter 50)
- penalty for late payment of school taxes (Chapter 161)
- pupil transportation (Chapter 747)
- salary schedule for custodians (Chapter 33)
- salary schedules for school employees (Chapter 31)
- severely mentally handicapped children (Chapter 571)
- special bond bill (Chapter 361)

- students transferring between school districts (Chapter 486)
- truancy and truant behavior (Chapter 449)
- tutors for students with impaired hearing (Chapter 628)
- units of pupils (Chapter 652)
- vocational school tax funds (Chapter 435)

Educational Television Building (Chapter 266)

ELECTIONS

- absentee ballots (Chapter 520)
- certificates of nomination (Chapter 412)
- conduct of mobile registration (Chapter 396)
- custody of voting machines (Chapter 403)
- direct primaries (Chapters 712, 713)
- limitation on requirement of open polls (Chapter 561)
- nomination of candidates by parties (Chapter 447)
- number of Presidential Electors (Chapter 756)
- primary elections (Chapter 398)
- registration by mail (Chapter 392)
- registration of voters (Chapter 414)
- size of election districts (Chapter 405)
- supplying of voter registration lists only to major political parties (Chapter 446)

Emergency Capital Improvements Act of 1975 (Chapter 7)

emergency employment benefits (Chapter 2)

energy crisis

- emergency powers of Governor (Chapters 5, 272)
- steps taken by the State of Delaware (Chapter 746)

ENVIRONMENTAL CONTROL

- air pollution (Chapter 748)
- Delaware Reclamation Project (Chapter 99)
- Delaware Solid Waste Authority (Chapter 288)
- Environmental Appeals Board (Chapter 201)
- Environmental Protection Officers (Chapter 40)
- noise control and abatement (Chapter 648)

Episcopo, Rocco A. (Chapter 186)

equal rights to housing (Chapter 523)

ESCHEAT

- Abandoned Property Fund (Chapter 598)
- intestate property (Chapter 292)
- private bank accounts (Chapters 118, 119)

EVANS VS. BUCHANAN LITIGATION

- Interim School Board (Chapter 492)
- merging of school districts (Chapter 735)
- special legislative committee on desegregation (Chapters 487, 733)
- students transferring from one public school district to another (Chapter 486)

executive branch budget reductions (Chapter 753)

EXECUTIVE ORDERS APPEARING IN THIS VOLUME

- Executive Order No. 68
 - Delaware transportation activities (Chapter 751)
- Executive Order No. 76
 - Establishment of a single organizational element to carry out the functions, duties and responsibilities of child support enforcement (Chapter 750)
- Executive Order No. 99
 - Behavior of public officers; removal for misbehavior or infamous crime (Chapter 752)
- Executive Order No. 105
 - Pro-rata budget reductions (Chapter 753)
- exotic avian species (Chapter 244)

Fair Trade Laws (Chapter 470)

FAMILY COURT

- additional judge (Chapter 47)
- children, visitation rights (Chapter 647)
- child support enforcement (Chapter 279)
- desertion and support (Chapter 332)
- divorce and annulment (Chapter 335)
- jurisdiction over support agreements (Chapter 455)
- mandatory commitment of minors adjudicated to be delinquent (Chapter 657)
- robbery by juveniles (Chapter 658)
- sole jurisdiction over domestic relations cases (Chapter 297)

FARMERS BANK

- appointing directors (Chapter 724, 725)
- conditions and collateral for deposits by the State (Chapter 375)
- elimination of General Assembly Directors (Chapter 351)
- statutory receiver for banks unable to meet obligations (Chapter 376)
- transfer of certain balances to State General Fund (Chapters 118, 119)

FARMERS BANK FAILURE

- borrowing of money by State to purchase Farmers Bank shares (Chapter 358)
- contract with F.D.I.C. to restore Farmers Bank (Chapter 742)
- diversion of funds previously appropriated (Chapter 360)
- establishing a Farmers Bank Commission (Chapter 357)
- indemnification of Farmers Bank Commission members against any suit or investigation (Chapter 485)
- postponing date for sale of State education bonds (Chapter 361)
- postponing date for sale of 1970 State capital improvement bonds (Chapter 362)

- postponing date for sale of 1971 State capital improvement bonds (Chapter 363)
- pre-existing pre-emptive rights of Farmers Bank shareholders (Chapter 365)
- withdrawal of funds from additional State accounts (Chapter 359)
- Farmland Assessment Act (Chapter 105)
- February 1 budget deadline (Chapter 1)
- Federal Food Stamp Program (Chapter 80)
- FEES AND LICENSES**
 - antique vehicle license plates (Chapter 179)
 - concealed deadly weapons (Chapter 419)
 - dogs and kennels (Chapters 85, 397)
 - health-related professional licensing (Chapter 716)
 - inspection of Public Safety records (Chapter 469)
 - licenses for caterers (Chapter 466)
 - mobile home parks (Chapter 546)
 - motor boats (Chapter 224)
 - Motor Carriers' Fuel Purchase Law (Chapter 216)
 - motor vehicle overweight fee (Chapter 264)
 - occupational and business fees (Chapter 24)
 - primary election fees (Chapter 398)
 - proceedings in Superior Court (Chapter 481)
 - pro-rating of occupational fees (Chapter 562)
 - Recorder of Deeds (Chapter 221)
 - registration fee for trailers and semi-trailers (Chapters 192, 382)
 - retail license fees (Chapter 545)
 - school bus drivers' licenses (Chapter 394)
 - State parks and recreational areas (Chapter 243)
 - suspension of business license (Chapter 445)
 - tobacco products (Chapter 506)
- Finerty, Martin J., service pension benefits (Chapter 10)
- FIRE DEPARTMENTS AND COMPANIES**
 - Cranston Heights Fire Company (Chapter 261)
 - false reporting of a fire (Chapter 542)
 - line-of-duty death benefits (Chapter 389)
 - technical assistance from Insurance Commissioner (Chapter 130)
 - uniform expenses exempt from Personal Income Tax (Chapter 270)
- First State Society, Inc. (Chapter 68)
- fiscal projections, required time of attachment (Chapter 58)
- food processors (gross receipts tax) (Chapter 23)
- food warehouse facility (Chapter 378)
- Fort Delaware (Chapters 250, 723)
- Foundation for the Appreciation of American Indian Cultures (Chapter 68)
- fraternal benefits societies (Chapter 215)
- Freedom of Information Act (Chapter 641)

- fuel adjustment clause
 - applications for change-of-rate (Chapter 431)
 - computation hearings (Chapter 499)
- funding for Public Service Commission (Chapter 104)
- funeral service practitioners (Chapter 177)

GENERAL ASSEMBLY

- committee on adult and juvenile corrections (Chapter 739)
- committee on public education (Chapters 689, 740)
- desegregation committee (Chapters 487, 733)
- pay increases for members (Chapters 48, 52, 82)
- special sessions (Chapters 754, 755, 757)
- General Obligation Bonds (Chapter 709)
- Geologists, State Board of (Chapter 324)
- GEORGETOWN, TOWN OF
 - Court No. 3, Justice of the Peace (Chapter 538)
 - floating debt (Chapter 417)
 - vehicle inspection lanes (Chapter 420)
 - volunteer fire company (Chapter 399)
- Geriatric Services of Delaware, Inc.
 - supplementary appropriation (Chapter 526)
 - supplementary appropriation to alleviate fiscal problems of Geriatric Services (Chapter 108)

GOVERNOR

- calling special session prior to new General Assembly (Chapter 757)
- deadline for Budget Appropriation Bill (Chapter 1)
- power to implement Federal energy programs (Chapters 5, 272)

GOVERNOR'S PROCLAMATIONS APPEARING IN THIS VOLUME

- convening of special session after general elections but before organization of the new General Assembly (Chapter 757)
- convening of General Assembly to consider the Omnibus Amendment to the 1976 Budget Appropriation Act (Chapter 754)
- convening special session of General Assembly ("Delaware Bicentenary Separation Day Session") (Chapter 755)
- proclaiming the number of Presidential Electors (Chapter 756)
- Grand Opera House
 - supplementary appropriations (Chapters 8, 566)
- Grants-in-Aid (appropriations to private, corporate and other non-State agencies) (Chapters 205, 206, 227, 228, 229, 230, 232, 235, 236, 262, 287, 314, 527, 528, 529, 530, 531, 532, 533, 534, 535, 687, 722)
- Gritz, Francine (Chapter 364)

GROSS RECEIPTS TAX

- exempting taxes paid on tobacco products (Chapter 273)
- for commercial and retail entities (Chapter 24)
- for commercial lessors (Chapter 507)
- for lessors of tangible personal property (Chapter 163)
- for manufacturers (Chapter 22)
- for professional corporations and associations (Chapter 223)

HANDICAPPED PERSONS

- disabled veterans (Chapter 557)
- exemption from turnpike tolls (Chapter 635)
- handicapped peddlers (Chapter 637)
- orthopedically handicapped children (Chapter 577)
- physically handicapped, building construction standards (Chapter 402)
- severely mentally handicapped children (Chapter 571)
- tutors for students with impaired hearing (Chapter 628)
- visually handicapped
 - D.A.R.T. free transportation for blind (Chapter 210)
 - seeing-eye dogs excluded from dog licenses and taxes (Chapter 85)
- World Wheelchair Symbol (Chapters 636, 743)
- Harbin, Roland R. (Chapter 522)
- harness racing dates (Chapter 4)
- Harrington, City of
 - collection of all fees (Chapter 479)
 - separate garbage fee (Chapter 320)
- HEALTH AND SAFETY**
 - abortion (Chapter 544)
 - abuse of children (Chapter 494)
 - community health services (Chapter 428)
 - Delaware Health Facilities Authority (Chapter 565)
 - Drug Product Selection Act (Chapter 330)
 - health care malpractice insurance and litigation (Chapter 373)
 - health service corporations (Chapter 388)
 - hospitals for mentally ill (Chapter 204)
 - mattresses, pillows and bedding (Chapter 356)
 - standards of construction for the physically handicapped (Chapter 402)
 - State-owned helicopters (Chapter 340)
- hearing aid dealers (Chapter 461)
- helicopter, restrictions on use (Chapters 101, 340)
- Henlopen Acres, Town of (Chapter 317)
- HIGHWAYS**
 - acquisition and sale of real property (Chapter 550)
 - dedication of roads to public use (Chapters 450, 630)

- entrances to and exits from State highways (Chapter 620)
- regulation of outdoor advertising (Chapter 290)
- "rules of the road" (Chapters 700, 701, 702)
- suburban community improvements
 - assessment on real property in community (Chapter 609)
 - new streets to conform to State standards (Chapter 185)
- vacating of highways and roads (Chapter 338)
- Home Improvement Insurance Fund (Chapter 286)
- Hopkins, Lois K. (Chapter 575)
- HOUSE JOINT RESOLUTIONS
 - HJR 7 - pay plan for State psychiatrists, physicians and dentists (Chapter 727)
 - HJR 21 - special legislative committee to study school desegregation proposals (Chapter 733)
 - HJR 24 - status and future of collective bargaining for State employees (Chapter 734)
 - HJR 36 - extending reporting date for committee on public schools (Chapter 740)
 - HJR 39 - adopting World Wheelchair Symbol as State symbol (Chapter 743)
 - HJR 43 - capital punishment amendment to United States Constitution (Chapter 745)
 - HJR 45 - plan for State and F.D.I.C. to restore Farmers Bank (Chapter 742)
 - HJR 49 - adopting energy conservation as a State policy (Chapter 746)
 - HJR 54 - plan which will reduce the cost per pupil in public school transportation (Chapter 747)
- hypothecated funds (Chapter 374)
- illegal aliens (Chapter 517)
- income tax refunds (Chapter 55)
- increase in lottery prizes (Chapter 9)
- increase in salary for Lieutenant-Governor (Chapter 98)
- increase in withholdings by the State (Chapter 91)
- Inheritance Taxes (Chapters 346, 697)
- Institutional Classification Board (Chapters 703, 704)
- Institutional Release Classification Board (Chapters 704, 705)
- INSURANCE
 - basic "readability" requirements for automobile insurance forms (Chapter 441)
 - branch offices for Insurance Commissioner (Chapter 283)
 - claims against insolvent insurers (Chapter 189)
 - Health Service Corporations (Chapter 388)
 - insurance assistance for volunteer fire companies (Chapter 130)
 - insurance holding companies (Chapter 616)

- insurance premium financing (Chapter 406)
- investments by insurers in other insurance companies (Chapter 347)
- life insurance policy loans (Chapter 195)
- line-of-duty death benefits (Chapters 389, 595)
- merger and consolidation of insurance companies (Chapter 176)
- registration of motor vehicles (Chapter 337)
- sales by representatives of fraternal benefit societies (Chapter 215)
- self-insurance for owners of 15 or more vehicles (Chapter 433)
- supplementary appropriation (Chapter 323)
- interest rates
 - increase in rates permitted to be charged by insurers to persons borrowing against a life insurance policy (Chapter 195)
- international symbol of access for the handicapped (Chapters 636, 743)
- involuntary commitment of mentally ill persons (Chapters 39, 95)
- itemized expenditures list submitted by Governor to General Assembly (Chapter 59)

Johnson Community Center (Chapter 84)

juries, grand and petit (Chapter 225)

JUSTICE OF THE PEACE COURTS

- continuing legal education (Chapter 627)
- costs (Chapter 475)
- fee for processing traffic and criminal cases (Chapter 298)
- garnishment proceedings (Chapter 619)
- jury trials (Chapter 253)
- motor vehicle violations (Chapters 553, 708)
- placing certain employees within Merit System of Personnel Administration (Chapter 624)
- salaries of Justices (Chapter 143)
- supplementary appropriation (Chapter 87)
- Juvenile Corrections
 - custody of persons 18 years of age and over (Chapter 142)
 - salaries of Juvenile Corrections employees (Chapter 37)

KENT COUNTY

- application for construction permits (Chapter 293)
- Board of Assessment (Chapter 245)
- enforcement of building codes (Chapter 605)
- garbage collection (Chapter 329)
- Kent County Airport (Chapter 144)
- Kent County Recorder of Deeds (Chapter 221)
- Kent County Regional Planning Commission (Chapter 233)
- Kent County Society for the Prevention of Cruelty to Animals (Chapter 209)

- liens for unpaid taxes (Chapter 607)
- monition (Chapter 675)
- Kenton, Town of (Chapter 69)

LABOR

- collective bargaining for public employees (Chapter 734)
- prohibitions against illegal aliens (Chapter 517)
- Statewide average weekly wage (Chapter 138)
- triggering on, triggering off (Chapter 2)

LANDLORD-TENANT CODE

- installation of new lock by tenant (Chapter 625)
- security deposit (Chapter 645)
- stop-and-desist orders (Chapter 646)

- landscape architects (Chapter 190)

- land surveyors (Chapter 275)

- Laurel, Town of

- changing certain statutory "due dates" (Chapter 125)
 - increasing the maximum limit of Town borrowing (Chapter 122)

- legal holidays

- Memorial Day (Chapter 634)

- Return Day (Chapter 602)

- Legislative Council of Delaware

- repair of cupola (Chapter 238)

- supplementary appropriation (Chapter 3)

- Lenhoff, Joseph A. (Chapter 256)

- Lewes, Town of

- annual municipal election, absentee voting (Chapter 127)

- reduction of residency requirement for certain offices (Chapter 126)

LIBRARIES

- county library agency (Chapter 162)

- district libraries (Chapter 285)

- exemption from public works bidding laws (Chapter 77)

- Lieutenant-Governor (Chapter 98)

- Litter Control Law (Chapter 613)

- lobbyists, registration (Chapter 715)

- local school taxes (Chapters 161, 328)

- local transportation authorities (Chapter 210)

- long-term birth defects treatment program (Chapter 63)

- Lum's Pond State Park (Chapter 79)

- Maintenance & Communications, contractual services appropriation (Chapter 13)

- mandatory retirement for public employees (Chapter 254)

- Marine Police

- death benefits (Chapter 132)
- supplementary appropriation (Chapter 75)
- maximum permitted weight for certain vehicles (Chapters 54, 264)
- Medicaid (Title XIX)
 - increasing reimbursement rates (Chapters 117, 278)
 - payments to physicians and hospitals (Chapter 86)
- Medical Malpractice Act (Chapter 373)
- Medical Practices Act (Chapter 462)
- Memo of Understanding, rescue of Farmers Bank (Chapter 742)
- Memorial Day (Chapter 634)
- mental illness
 - mentally ill persons (Chapters 39, 95)
 - strikes statute providing for patient's escrow fund (Chapter 204)
- MERCANTILE TAX
 - computation of the tax on motor fuels (Chapter 274)
 - exemption for tobacco products (Chapter 273)
 - for wholesalers (Chapter 25)
 - handicapped peddlers (Chapter 637)
 - sales of agricultural goods (Chapter 23)
 - transient retailers (Chapter 505)
- MERIT SYSTEM OF PERSONNEL ADMINISTRATION
 - Corrections officers to remain in Merit System, but be hired solely by the Department (Chapter 654)
 - hiring of non-classified personnel for Natural Resources & Environmental Control (Chapter 448)
 - leave for injuries caused by nature of State employment (Chapter 247)
 - placing certain magistrate court employees within Merit System (Chapter 624)
 - preference for State residents (Chapter 599)
 - retroactive admittance of deputy fire marshals (Chapter 551)
 - veterans' preference (Chapter 318)
- Milford School District (Chapter 128)
- Millsboro, Town of (Chapter 457)
- Milton, Town of
 - annexation procedures (Chapter 299)
 - increasing amount which Council can borrow (Chapter 581)
- Minquas Fire Company (Chapter 208)
- MOBILE HOMES
 - license to operate a mobile home park (Chapter 546)
 - New Castle County Board of Adjustment (Chapter 672)
 - number permitted per acre (Chapter 134)
 - taxation and assessment (Chapter 584)
- MOTOR CARRIERS' FUEL PURCHASE LAW
 - identification marker and registration fee (Chapter 216)
 - penalty assessments, payable by mail (Chapter 610)
 - private motor carriers (Chapter 488)

MOTOR FUELS AND MOTOR FUEL TAXES

- appropriation to Motor Fuel Tax Division (Chapter 116)
- exemption for taxicabs (Chapter 642)
- increase in motor fuel taxes (Chapter 14)
- monthly tax reports and payments (Chapters 191, 667)
- penalty for failure to file report or pay tax (Chapter 422)
- renewable licenses (Chapter 473)

MOTOR VEHICLES

- antique vehicle license fees (Chapter 179)
 - arrests for motor vehicle violations (Chapter 423)
 - criminal offenses (Chapters 432, 603, 702)
 - fees
 - driver's license fees (Chapter 339)
 - fee for reinstatement of driver's license (Chapter 387)
 - trailer and semi-trailer fees (Chapters 192, 382, 385)
 - finest payable by mail (Chapter 509)
 - lamps on parked vehicles (Chapter 384)
 - maximum finance charges (Chapter 53)
 - motor vehicle registration
 - dealer re-assignment forms (Chapter 336)
 - optional 5-year registration plates for trailers (Chapter 294)
 - registration exemption for disabled veterans (Chapter 557)
 - registration for out-of-State commercial vehicles (Chapter 597)
 - registration of trailers (Chapter 385)
 - sale of registration plates (Chapter 604)
 - vehicle registration expiration notice (Chapter 381)
 - operator's license or registration
 - insurance requirement prior to registration (Chapter 337)
 - license for minors 16 years of age (Chapter 626)
 - reinstatement of driver's license (Chapter 387)
 - school bus drivers' licenses (Chapter 394)
 - suspension of driver's license (Chapters 606, 615)
 - public sale of excess agency vehicles (Chapter 65)
 - reciprocal agreements (Chapter 451)
 - size, weight and load of vehicles (Chapters 409, 596)
 - tax registration of vehicles (Chapter 291)
 - transportation of railroad company employees (Chapter 653)
 - waiving inspection for farm trucks (Chapter 500)
 - waiving inspection for small trailers (Chapter 442)
 - weights permitted for 4-axle vehicles (Chapter 54)
 - weights permitted for 3-axle vehicles (Chapter 264)
- Mount Nebo Methodist Church (Chapter 60)
- Mount Pleasant School District
 - American Youth in Concert (Chapter 141)
 - transfer of funds from local debt service account to local current operating account (Chapters 263, 524)

MUNICIPALITIES

- demolition of buildings by public expenditure (Chapter 684)
- municipal elections (Chapter 561)
- slum clearance and redevelopment (Chapter 34)
- taxation of improvements on municipally-owned lands (Chapter 129)

Municipal User Tax (Chapter 621)

National Guard

- immunity from civil and criminal liability (Chapter 400)
- supplementary appropriations (Chapters 41, 668)

NATURAL RESOURCES

- hunting, trapping and fishing licenses (Chapters 169, 411)
- Petersburg Wildlife Area (Chapter 736)
- protected wildlife (Chapter 674)
- shellfish (Chapter 513)
- snapping turtles (Chapter 493)
- Soil and Water Conservation Bond Act (Chapter 692)
- Solid Waste Authority (Chapters 288, 558)

Newark, City of (Chapter 305)

Newark Reorganized School District (Chapter 735)

New Castle, City of

- removes Mayor from salaries determined by the Council (Chapter 454)
- salary of Mayor and Council (Chapter 312)

NEW CASTLE COUNTY

- Board of Assessment Review (Chapter 45)
- collection of county taxes (Chapter 106)
- conflicts between county and State police (Chapters 103, 377)
- County Council, alphabetical voting (Chapter 131)
- public officers (Chapter 752)
- redemption of real estate by owner after tax sale (Chapter 170)
- right of redemption by lienholder (Chapter 171)
- separate budget for Federal and State grants (Chapter 219)
- vested powers of county departments (Chapter 34)
- zoning, exemption for general hospital facilities (Chapter 661)

New Castle Gunning-Bedford School District

New Castle Middle School (Chapter 393)

transfer of funds across budget lines (Chapter 282)

"no-fault" divorce (Chapter 333)

nomination for office (Chapter 412)

Norman G. Wilder Conservation and Wildlife Area (Chapter 736)

occupational therapists (Chapter 679)

OCCUPATIONS AND PROFESSIONS

- certified public accountants (Chapter 198)
- dentistry and oral hygiene (Chapter 471)
- electrologists (Chapter 439)
- funeral service practitioners (Chapter 177)
- geologists (Chapter 324)
- hearing aid dealers (Chapter 461)
- landscape architects (Chapter 190)
- land surveyors (Chapters 275, 460)
- licensing of "users of ionizing radiation" (Chapter 698)
- Medical Practices Board
 - Board of Medical Practice (Chapter 686)
 - license requirements (Chapter 462)
 - temporary certificate to practice (Chapters 40, 46)
- occupational therapists (Chapter 679)
- optometry
 - Board of Optometry (Chapter 460)
 - drugs used in eye examinations (Chapter 252)
 - Optometric Institutional Aid (Chapter 591)
- pharmacy (Chapter 586)
- professional education for veterinarians (Chapter 137)
- psychiatrists, physicians and dentists employed by the State (Chapter 727)
- real estate brokers and salemen (Chapters 259, 714)
- river pilots (Chapter 614)
- social workers (Chapter 650)
- State Board of Cosmetology (Chapter 102)
- Ocean View, Town of (Chapter 319)
- Octagonal Schoolhouse (Chapter 666)
- Odessa, Town of (Chapter 676)
- "oil depletion allowance" (Chapter 18)
- old Chesapeake and Delaware Canal lock facilities (Chapters 250, 723)
- OPTOMETRISTS
 - examinations, use of drugs (Chapter 252)
 - payments for attending Board meetings (Chapter 460)
 - payments to students taking optometry courses (Chapter 591)
- outdoor advertising (Chapter 290)
- out-of-State students attending public schools (Chapter 212)
- "pass-through" public utilities taxes (Chapters 16, 152)
- pay increases for State legislators and employees (Chapters 94, 97)
- Pea Patch Island, improvement and restoration (Chapters 250, 723)
- pension benefits for Corrections employees (Chapters 148, 593)
- pension benefits for former members of the General Assembly (Chapter 214)
- pension benefits for persons not otherwise eligible (Chapter 711)

pension benefits for Public Safety employees (Chapters 157, 694)
pension exclusions (modifications of adjusted gross income) (Chapter 269)

Perrotti, Michael J. (Chapter 249)

PERSONAL INCOME TAX

 limitation on itemized deductions (Chapter 504)
 "oil depletion" allowance (Chapter 18)
 pension exemptions (Chapter 269)
 uniform allowances (Chapter 270)
 withholding of tax by employer (Chapters 17, 276)

pesticides (Chapter 671)

Phillips, William L. (Chapter 688)

Phoenix Steel Corporation (Chapter 748)

Police Retirement Fund

 automatic cost-of-living increases (Chapter 694)
 "pay in" raised to 5% of gross salary (Chapter 695)

political parties (Chapter 446)

Port Mahon Wharf Company (Chapter 659)

Port Penn

 improvements on bulkheads and recreational facilities (Chapter 554)

 Port Penn - Augustine Beach project (Chapter 749)

pre-sentence investigation for murder, rape and drug offenses (Chapter 114)

Presidential Electors (Chapter 756)

PRIMITIVE WEAPONS

 primitive weapons season (Chapter 169)
 single-shot, muzzle-loading pistols (Chapter 463)
 telescopic sights (Chapter 459)

Prisoners' Bill of Rights (Chapters 741, 744)

Professional Services Negotiation Act (Chapter 589)

Public Defender (Chapter 443)

Public Guardian (Chapter 570)

PUBLIC OFFICERS AND EMPLOYEES

 additional pensions for employees who become elected officials (Chapter 560)

 cost-of-living salary supplements (Chapter 690)

 employment of Corrections personnel (Chapter 706)

 legal representation for public officials (Chapters 474, 676)

 line-of-duty death benefits (Chapter 595)

 pay plan for psychiatrists, physicians and dentists (Chapter 727)

 removal of public officer from office (Chapter 752)

 salaries of General Assembly members (Chapters 48, 52, 82)

PUBLIC RECORDS AND MEETINGS

 Administrative Procedures Act (Chapter 585)

 public examination of registration, license and drivers' performance records (Chapter 469)

“Sunshine Act” (Chapter 641)

PUBLIC UTILITIES

fuel adjustment rate (Chapter 431)

gross receipts tax or tariff charges (Chapter 35)

notice requirement prior to service cut-off (Chapter 452)

Public Service Commission

Regulatory Revolving Fund (Chapters 104, 380)

requiring each utility to publish customer bill of rights (Chapter 726)

salaries of Public Service Commissioners (Chapter 383)

telephone and telegraph companies (Chapters 16, 196)

purchase of library books by State agencies (Chapter 77)

qualifications for renewal of farmland assessment privileges (Chapter 105)

quarterly business taxes (Chapter 21)

rape

admissibility of evidence (Chapter 257)

cunnilingus (Chapter 416)

ratification of illegal promotions in Department of Highways & Transportation (Chapter 213)

Real Estate Guaranty Fund (Chapter 259)

reassessment of property in New Castle County (Chapter 45)

recodification of Delaware Code, Annotated (Chapter 56)

REFERENDA

Kent County Airport (Chapter 144)

local school taxes (Chapter 582)

slot machines (Chapter 390)

Register of Wills, salary of “chief deputy” (Chapter 218)

registration of legislative agents (Chapter 715)

registration of voters (Chapter 414)

REHOBOTH BEACH, CITY OF

annexation procedures (Chapter 622)

Commissioners to establish fiscal year (Chapter 623)

deadline for registration (Chapter 556)

procedure for referendum (Chapter 21)

removal of public officers for infamous crimes (Chapter 752)

retirement benefits, Division of Adult Corrections (Chapter 6)

Return Day (Chapter 602)

revenue anticipation notes, interest due (Chapter 139)

Rossiter, George (Chapter 60)

Rubella fever (Chapter 342)

“RULES OF THE ROAD”

lamps on parked vehicles (Chapter 384)

motor vehicle offenses (Chapter 702)
National Uniform Vehicle Code amendments (Chapter 700)
regulation of traffic (Chapter 701)

- Scatasti, Dominick E. (Chapter 495)
School Bond Reversion Account (Chapters 718, 719)
SCHOOL BUS CONTRACTORS
 additional payments from Marshallton-McKean (Chapter 305)
 Stapleford, Charles E. (Chapter 578)
 supplementary appropriation (Chapter 567)
SEAFORD, CITY OF
 increase in amount City is permitted to borrow (Chapter 516)
 qualifications for Mayor and City Council (Chapter 111)
 qualifications for voters (Chapter 77)
SENATE CONCURRENT RESOLUTIONS APPEARING IN THIS VOLUME
 SCR 6 - extension of "unique hazards moratorium" for one year (Chapter 728)
 SCR 19 - appointing Directors for Farmers Bank (Chapter 724)
 SCR 20 - changing Directors for Farmers Bank (Chapter 725)
 SCR 28 - each utility to establish procedures for resolving customer complaints (Chapter 726)
SENATE JOINT RESOLUTIONS APPEARING IN THIS VOLUME
 SJR 2 - renovations for Fort Delaware, Pea Patch Island, and the lock facilities for old Chesapeake & Delaware Canal (Chapter 723)
 SJR 21 - directing State agencies to contract with, and purchase from, Delaware-based firms (Chapter 731)
 SJR 25 - proposal to merge Appoquinimink School District with Newark School District (Chapter 735)
 SJR 26 - appointing Sussex Central Junior High School Band as official Bicentennial Band (Chapter 730)
 SJR 30 - use of State Dredge to assist maintenance of South Shore Marina (Chapter 729)
 SJR 32 - establishing a committee to study Capitol Square as a site for a Bicentennial Park (Chapter 732)
 SJR 35 - changing name of Petersburg Wildlife Area to Norman G. Wilder Conservation and Wildlife Area (Chapter 736)
 SJR 38 - extending reporting date for Bicentennial Park Committee (Chapter 737)
 SJR 47 - suspension of all work on Women's Prison while awaiting the recommendations of the Committee on Adult and Juvenile Corrections (Chapter 739)
 SJR 48 - committee to study possible changes in State Employees' Pension Plan (Chapter 738)
 SJR 57 - establish the Advisory Council on Port Penn - Augustine Beach project (Chapter 749)

- SJR 58 - coinciding Prisoners' Bill of Rights with discipline and safety required in administration of State correctional institutions (Chapter 741)
- SJR 61 - reporting date for *ad hoc* committee to study Prisoners' Bill of Rights (Chapter 744)
- SJR 66 - proposing a capital punishment amendment to the Constitution of the United States (Chapter 745)
- Sharpe, George T. (Chapter 496)
- Sheriff, salary of "chief deputy" (Chapter 202)
- Shockley, Harvey (Chapter 508)
- Slaughter Beach, Town of (Chapter 300)
- slum clearance and redevelopment (Chapter 34)
- smoking on public conveyances (Chapter 66)
- "Smyrna Five" litigation (Chapter 673)
- Smyrna School District, transfer of funds (Chapter 69)
- social workers (Chapter 650)
- Soil and Water Conservation Bond Act (Chapter 692)
- Soil & Water Conservation Districts
 - appropriation from Sussex County (Chapter 563)
 - correction of sediment damages (Chapter 183)
- SOUTH BETHANY, TOWN OF
 - change of annual election date (Chapter 552)
 - conveying of deeds to various persons (Chapter 482)
 - qualifications for voting (Chapter 78)
 - sanitary sewer district (Chapter 100)
- South Shore Marina (Chapter 729)
- SPECIAL FUEL TAX
 - increase in tax imposed (Chapter 14)
 - monthly reports and payments by retailers (Chapter 191)
 - monthly reports of distributors (Chapter 440)
 - refusal or failure to file report when due (Chapter 423)
 - retention of records (Chapter 477)
- special Constables for railroad companies (Chapter 484)
- SPECIAL PENSIONS "FOR NON-CONTRIBUTING, INELIGIBLE BENEFICIARIES"
 - Beckett, Richard C. (Chapter 112)
 - Dougherty, Charles A. (Chapter 239)
 - Episcopo, Rocco A. (Chapter 186)
 - Finerty, Martin J. (Chapter 10)
 - General Assembly members who served prior to 1970 (Chapter 214)
 - Lenhoff, Joseph A. (Chapter 256)
 - Rossiter, George (Chapter 60)
 - Teal, Howard M. (Chapter 188)
 - Thompson, Lawrence (Chapter 42)
 - Wimbrow, Walter R. (Chapter 222)
 - various new special pensions and increased benefits (Chapter 711)

SPORT AND AMUSEMENTS

fishing

removes free fishing privileges for non-resident women
(Chapter 411)

shellfish (Chapter 513)

gambling

slot machines (Chapter 390)

harness racing

racing date (Chapter 4)

tax on pari-mutuel and totalizator pools (Chapter 345)

horse racing

tax on pari-mutuel and totalizator pools (Chapters 164, 426,
512)

hunting and trapping

game animals (Chapter 493)

primitive weapons (Chapters 169, 459)

protected wildlife (Chapter 674)

red foxes (Chapter 587)

single-shot muzzle-loading pistols (Chapter 463)

wearing of hunter orange (Chapter 302)

State Lottery

Acting Lottery Director (Chapter 93)

qualifications and salary of Director (Chapter 539)

supplementary appropriations (Chapters, 89, 90)

Stacy, Gail (Chapter 141)

State Agency Collective Bargaining Committee (Chapter 734)

State Bicentennial Band (Chapter 730)

State Board of Education (Chapter 145)

State Boat Act (Chapter 75)

State Dredge (Chapter 729)

STATE EMPLOYEES' PENSION PLAN

"1976 Pension Act" (Chapter 483)

additional pensions for employees who become elected officials
(Chapter 560)

legislative committee (Chapter 738)

mandatory retirement of public employees (Chapter 254)

payments from Pension Fund to General Assembly members
(Chapter 214)

survivor's pensions for widowers (Chapter 203)

State Fire Marshal

automobile identification exemption (Chapter 588)

"deputy fire marshals" (Chapter 551)

STATE GOVERNMENT

Administrative Procedures Act (Chapter 585)

Administrative Services

excess salary payments to personnel (Chapter 501)

supplementary appropriations (Chapters 150, 670)

- Alcoholic Beverage Control Commission (Chapter 265)
- Blue Cross-Blue Shield premium payments (Chapter 572)
- compensation for members of General Assembly (Chapters 48, 52, 82)
- Correction, Department of (Chapters 251, 427, 717)
- Council on Aging (Chapter 525)
- Deferred Compensation Council (Chapter 146)
- Delaware Hospital for the Chronically Ill (Chapter 207)
- Delaware National Guard (Chapters 41, 400, 668)
- Delaware River and Bay Authority (Chapter 555)
- Delaware State College (Chapters 476, 594)
- District Library Commission (Chapter 285)
- energy conservation programs (Chapter 746)
- Environmental Appeals Board (Chapter 201)
- executive branch budget reductions (Chapter 753)
- General Fund of the State (Chapter 434)
- Health & Social Services, transfer between lines (Chapter 36)
- Highways & Transportation, Department of (Chapters 65, 343, 386)
- hiring by agencies, bypassing Merit System (Chapter 599)
- Home Improvement Insurance Fund (Chapter 286)
- Housing, Department of (Chapter 699)
- Immunization Activities Program (Chapter 573)
- Insurance Commissioner (Chapter 323)
- Justice, Department of (Chapters 682, 683)
- Mental Retardation, Division of (Chapter 677)
- Merit System of Personnel Administration (Chapters 247, 318, 599)
- National Campers and Hikers Association (Chapter 498)
- Natural Resources & Environmental Control (Chapter 497)
- Office of Health-Related Professional Licensing (Chapter 716)
- Pharmacy, Board of (Chapter 586)
- psychiatrists, physicians and dentists employed by the State (Chapter 727)
- Public Service Commission (Chapters 104, 380, 383)
- salaries and wages
 - credit union employees (Chapter 267)
 - members of the General Assembly (Chapter 48)
 - State Highways employees (Chapter 341)
- Solid Waste Authority (Chapters 288, 558)
- State Bank Commissioner (Chapter 268)
- State Fire Marshal (Chapter 551)
- State Geologist (Chapter 226)
- State Treasurer, Credit Union employees (Chapter 267)
- Tax Appeal Board (Chapter 173)
- Transportation, Department of (Chapter 436)
- use of State-owned vehicles (Chapter 660)

- Violent Crimes Compensation Board (Chapter 436)
- State Housing Authority (Chapter 699)
- STATE LOTTERY FUND**
 - Acting Lottery Director (Chapter 93)
 - elimination of overview of Director's budget (Chapter 92)
 - increase in lottery "take" by the State to 50% (Chapter 91)
 - limitation on amounts to be deducted for prize money (Chapter 9)
 - qualifications and salary of Director (Chapter 539)
- "State of the Judiciary" messages (Chapter 182)
- State Police Compensation Schedule (Chapter 696)
- STATE POLICE**
 - conflicts with local police (Chapters 103, 284, 310, 377)
 - pension benefits (Chapters 694, 695)
 - repair of Troop No. 2 barracks (Chapter 366)
 - salaries (Chapters 407, 696)
 - supplementary appropriation (Chapter 149)
 - use of helicopters (Chapters 82, 101)
- State Public Assistance Code (Chapter 280)
- State subsidy for veterinary students (Chapters 137, 655)
- State Treasurer
 - salaries of Credit Union employees (Chapter 267)
 - salaries of State Highways employees (Chapter 341)
- State underwriting of "commercial development" (Chapter 211)
- Streptococcal Detection Program
 - Infectious Disease Laboratory (Chapter 491)
 - supplementary appropriation (Chapter 107)
- Suburban Streets Act
 - election to authorized bond issue (Chapter 609)
 - new streets to conform to State standards (Chapter 185)
- SUPPLEMENTARY APPROPRIATIONS**
 - Administrative Office of the Courts (Chapters 325, 669)
 - Administrative Services, Department of (Chapters 150, 490, 670)
 - Adult Corrections, pre-trial detainees' center (Chapter 30)
 - Appoquinimink School District (Chapter 96)
 - architects (Chapter 480)
 - Baen, Charles T. (Chapter 27)
 - Baynard, Kenneth (Chapter 490)
 - benefits for 29 Special Pension recipients (Chapter 711)
 - Bethany Beach Volunteer Fire Company (Chapter 309)
 - Biddle, Linda (Chapter 467)
 - Black Man's Development Center (Chapter 260)
 - Blades Fire Department (Chapter 321)
 - bond obligations (Chapter 478)
 - Commissioner of Elections (Chapter 110)
 - community health services (Chapter 428)
 - Cook, Nancy (Chapter 576)
 - Correction, Department of (Chapters 427, 673)

- cost-of-living salary supplements (Chapter 187)
- Coulbourn, Linda (Chapter 467)
- Delaware American Revolution Bicentennial Commission (Chapter 181)
- Delaware Authority for Regional Transit (Chapter 38)
- Delaware Econometric Model (Chapter 681)
- Delaware National Guard (Chapters. 41, 668)
- Delaware State College, contractual services (Chapter 151)
- Delaware State College, salary increases (Chapter 32)
- Delaware State College, sewage treatment project (Chapter 415)
- Delaware Technical & Community College, salary increases (Chapter 32)
- De La Warr School District (Chapter 155)
- Educational Contingency Fund, school salaries (Chapter 31)
- Emily P. Bissell Hospital (Chapter 29)
- Family Court, additional judge (Chapter 47)
- Family Court (Chapter 297)
- "first-phase" virus diagnostic laboratory (Chapter 651)
- Fish & Wildlife, Division of, creating new positions (Chapter 75)
- fuel adjustment computation hearings (Chapter 499)
- Georgetown Volunteer Fire Company (Chapter 399)
- Geriatric Services of Delaware, Inc. (Chapters 108, 526)
- Grand Opera House (Chapters 8, 566)
- Gritz, Francine (Chapter 364)
- Gumboro Volunteer Fire Company (Chapter 231)
- Harbin, Roland R. (Chapter 522)
- Health & Social Services, "adolescent program" (Chapter 355)
- Health & Social Services, Division of Mental Health (Chapter 249)
- Health & Social Services, Division of Social Services (Chapter 255)
- Health & Social Services, Medicaid (Chapters 117, 278)
- Health & Social Services, rubella (Chapter 342)
- Hopkins, Lois K. (Chapter 575)
- Immunization Activities Program (Chapter 573)
- interest due on bond and revenue anticipation notes (Chapter 139)
- judicial branch, all courts (Chapter 159)
- Justice, Department of (Chapters 682, 683)
- Justice of the Peace Courts (Chapter 87)
- Legislative Council of Delaware (Chapter 3)
- Legislative Council of Delaware, Legislative Hall cupola (Chapter 238)
- long-term birth defects treatment program (Chapter 63)
- Lum's Pond State Park, land purchase (Chapter 79)
- Maintenance & Communications, Division of (Chapter 13)
- Medical Malpractice Act (Chapter 373)
- Minquas Fire Company (Chapter 208)

- Mount Pleasant School District (Chapter 141)
- Natural Resources & Environmental Control, beach maintenance (Chapter 109)
- Natural Resources & Environmental Control, improve recreational boating (Chapter 237)
- Office of the Budget (Chapter 502)
- Office of Public Guardian (Chapter 570)
- Osowski, Alexander (Chapter 574)
- Phillips, William L. (Chapter 688)
- Public Defender (Chapter 443)
- Public Health, Division of (Chapter 160)
- Public Safety, Capitol Security Office (Chapter 154)
- Public Safety, for a helicopter (Chapter 101)
- Public Safety, operational expenses (Chapter 116)
- Scatasti, Dominick E. (Chapter 495)
- school bus contractors (Chapter 567)
- Sharpe, George T. (Chapter 496)
- Shockley, Harvey (Chapter 508)
- Smith, William R. (Chapter 574)
- Soil & Water Conservation, Division of (Chapter 51)
- State Board of Education (Chapters 568, 652)
- State Board of Education, increasing payment for Board meetings (Chapter 145)
- State Board of Education, severely mentally handicapped children (Chapter 571)
- State Election Commissioner (Chapter 447)
- State Lottery Office, outstanding debts and unfunded obligations (Chapter 89)
- State Police (Chapter 149)
- State Police, overtime (Chapter 407)
- State Treasurer, for Revenue refunds (Chapters 54, 379, 579)
- Streptococcal Detection Program (Chapters 106, 491)
- Thomas Collins Service Center (Chapter 564)
- Town of Bowers Beach (Chapter 518)
- Unemployment Security Commission (Chapter 464)
- University of Delaware (Chapter 151)
- Veterans' Military Pay Act (Chapters 26, 710)
- survivors' pensions (Chapter 203)
- Sussex Central Junior High School Band (Chapter 730)
- SUSSEX COUNTY
 - sanitary and water districts (Chapter 601)
 - sewer and water bonds (Chapter 600)
 - soil and water conservation (tax ditch work) (Chapter 563)
 - Sussex Correctional Institute (Chapter 348)
- Szothiewicz, John E. (Chapter 40)

TAXATION

- apple tax (Chapter 664)
- commercial buildings erected on public lands (Chapter 129)
- contractors' license requirements and taxes (Chapter 21)
- Corporation Franchise Tax (Chapter 353)
- Corporation Income Tax (Chapters 15, 193)
- county taxes, all counties generally (Chapters 172, 194, 277, 424, 430)
- county taxes, Kent County only (Chapters 607, 675)
- county taxes, New Castle County only (Chapters 106, 170, 171)
- exemption of property from taxation (Chapter 521)
- importers and wholesalers of alcoholic beverages (Chapter 322)
- Inheritance Tax (Chapters 346, 697)
- leases of tangible personal property (Chapter 163)
- local school taxes (Chapters 161, 328, 582)
- manufacturers' license requirements and taxes (Chapters 22, 548)
- mobile homes (Chapter 584)
- Motor Fuel Tax (Chapters 76, 81, 116, 422, 473, 642, 667)
- Municipal User Tax (Chapter 621)
- occupational and business licenses and taxes (Chapters 24, 223, 296, 507, 546, 562)
- out-of-State contractors (Chapter 293)
- pari-mutuel and totalizator pool (Chapters 19, 164, 165, 345, 426, 512)
 - Personal Income Tax (Chapters 17, 18, 269, 270, 276, 504)
- public utilities taxes (Chapters 152, 431, 547)
- real estate transfers (Chapter 234)
- reduction of Capital Gains Tax (Chapter 639)
- registration of commercial vehicles (Chapter 291)
- retail merchants' license requirements and taxes (Chapters 23, 274, 505, 545)
- Special Fuel Tax (Chapters 14, 191, 423, 440, 477)
- Tax Appeal Board (Chapter 173)
- telephone and telegraph excise tax (Chapter 16)
- Tobacco Products Tax (Chapter 506)
- vocational school taxes (Chapter 429)
- wholesaler license requirements and taxes (Chapter 25)
- wholesaler license requirements and taxes, exemption for tobacco products (Chapter 273)
- Teal, Howard M. (Chapter 188)
- temporary certificate to practice medicine (Chapter 46)
- tender offers (Chapter 371)
- Terry Children's Psychiatric Center (Chapter 155)
- Thompson, Lawrence (Chapter 42)
- three-year fiscal projections, time of attachment (Chapter 58)
- toll express highways (Chapter 665)
- TOWN CHARTERS
 - Town of Bethany Beach (Chapters 303, 514)
 - Town of Blades (Chapter 453)

Town of Bowers (Chapter 304)
 Town of Delmar (Chapters 12, 74, 123, 124, 472)
 Town of Georgetown (Chapter 417)
 Town of Henlopen Acres (Chapter 317)
 Town of Laurel (Chapters 122, 125)
 Town of Lewes (Chapters 126, 127)
 Town of Millsboro (Chapter 457)
 Town of Milton (Chapters 299, 581)
 Town of Ocean View (Chapter 319)
 Town of Odessa (Chapter 678)
 Town of Slaughter Beach (Chapter 300)
 Town of South Bethany (Chapters 78, 552)

TRANSFERS OF FUNDS ACROSS BUDGET LINES

Alfred I. duPont School District (Chapter 313)
 Capital School District (Chapters 354, 580)
 Chief Justice of Supreme Court (Chapter 391)
 Committee on Public Education (Chapter 689)
 Delaware State College (Chapter 569)
 De La Warr School District (Chapters 410)
 Delmar School District (Chapters 43, 418)
 Finance, Department of (Chapter 153)
 Health & Social Services, Department of (Chapter 36)
 Highways & Transportation, Department of (Chapter 549)
 Marshallton-McKean School District (Chapter 305)
 Milford School District (Chapter 128)
 Mount Pleasant School District (Chapters 263, 524)
 New Castle Gunning-Bedford School District (Chapter 282)
 outdated Farmers Bank checks to the General Fund (Chapter 118)
 Public Safety, Department of (Chapter 157)
 School Bond Reversion Account to Department of Correction
 (Chapters 718, 719)
 Woodbridge School District (Chapters 44, 413)

TRANSPORTATION

Delaware Authority for Regional Transit (Chapters 38, 210)
 Delaware Turnpike (Chapters 635, 638)
 Kent County Airport (Chapter 144)
 railroads (Chapters 484, 653)
 rates charged by river pilots (Chapter 614)
 "rules of the road" (Chapters 700, 701, 702)
 State highways and throughways (Chapters 620, 630)
 Tucker, Bernadette M. (Chapter 40)

UNEMPLOYMENT COMPENSATION

Statewide average weekly (Chapter 138)
 supplementary appropriation (Chapter 464)
 Unemployment Security Commission (Chapter 72)

- Uniform Child Custody Jurisdiction Act (Chapter 368)
- uniform mileage payments (Chapter 11)
- Uniform Reciprocal Enforcement of Support Act (Chapter 643)
- Unique Hazards Committee (Chapter 728)
- United Cerebral Palsy of Delaware (Chapter 307)
- Use Lease Tax (Chapter 547)

- vacating of public roads and bridges (Chapter 338)
- vehicle dealer re-assignment forms (Chapter 336)
- vehicle registration expiration notice (Chapter 381)
- veterans
 - disabled veterans (Chapter 557)
 - Veterans' Military Pay Act (Chapters 26, 710)
- Viola School No. 156 (Chapter 693)
- Violent Crimes Compensation Board (Chapter 436)
- virus diagnostic laboratory (Chapter 651)
- vocational-technical high schools
 - maximum tax to be assessed (Chapter 429)
 - Vocational School Tax Fund (Chapter 435)
- voluntary intoxication as a defense against criminal liability (Chapter 680)
- voluntary separation (Chapter 331)
- voter registration, central and mobile registration (Chapter 392)
- voting machines
 - custody of machines (Chapter 403)
 - preparation of machines (Chapter 404)
- voting procedure for New Castle County Council (Chapter 131)

- wagering or betting by pari-mutuel machines or totalizators (Chapters 19, 164, 165)
- Walker, Donald (Chapter 96)
- WELFARE
 - Child Support Enforcement Account (Chapter 281)
 - Child Support Enforcement and Paternity Program (Chapter 280)
 - physicians and hospitals receiving Medicaid payments (Chapter 86)
 - Welfare Recipient Employment Program (Chapter 147)
- WHITE CLAY CREEK COUNY PARK
 - purchase by Natural Resources & Environmental Control (Chapter 248)
 - re-named Walter S. Carpenter State Park (Chapter 640)
 - stream gauge (Chapter 226)
- Wilder, Norman G. (Chapter 736)
- WILMINGTON, CITY OF
 - branch office for Insurance Commissioner (Chapter 283)

- giving Mayor power to release certain property from tax liability
(Chapter 184)
- penalties, property taxes and school taxes (Chapter 88)
- Wimbrow, Walter R. (Chapter 222)
- withholding of income taxes (Chapter 17)
- Woodbridge School District
 - transfers of funds across lines (Chapters 44, 413)
- World Wheelchair Symbol (Chapters 636, 743)
- Workman's Compensation
 - domestic servants and farm laborers (Chapter 156)

**END
OF
VOLUME**